

**CM13.6. Development Application 10.2020.37934.1 - Residential Care Facility - 457 Bownds Street, Lavington**

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|--------------------------|-----------------------------------|----------------------|------------|
| <b>DATE</b>              | 29 November 2020                  | <b>FIL REFERENCE</b> | AF20/04461 |
| <b>CONFIDENTIAL</b>      | No                                |                      |            |
| <b>FURTHER ENQUIRIES</b> | David Christy<br>City Development | <b>PHONE</b>         | 6023 8111  |
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**Summary**

This report is presented for Council's determination of Development Application 10.2020.37934.1 regarding land situated at 457 Bownds Street, Lavington and described as Lot 3 in DP23672.

This report is presented for Council's determination as the Development Application has a value in excess of \$1,000,000.00 (\$1,155,000.00). The Development Application is lodged on behalf of Kirinari Community Services, who have provided accommodation and support services for people with disabilities and seniors since the 1980s, also delivering programs registered under the National Disability Insurance Scheme (NDIS).

The development proposes the demolition of the existing residence and to build a multi dwelling (three) housing development as a residential care facility. The proposal also includes car parking, landscaping and the removal of a palm tree at the front of the lot.

The site is zoned R1 General Residential under Albury Local Environmental Plan (ALEP) 2010 and the proposed development is permitted in the zone with consent.

The Development Application was publicly exhibited from 4 November 2020 to 18 November 2020. One submission was received during that period.

Having regard to the site context setting and the ultimate design outcomes achieved, the application is recommended for approval subject to conditions as contained in the Draft Determination, included as attachment 5.

**People**

Peter Bowen Homes on behalf of Kirinari Community Services Ltd.

**Cost**

\$1,155,000.00.

## Development Description

The development application proposes the demolition of the existing residence and the building of a multi dwelling (three) housing development as a residential care facility. The proposal also includes car parking, landscaping and the removal of a palm tree at the front of the lot.

The development includes:

- Proposed Residence 1: detached four-bedroom dwelling with attached double garage;
- Proposed Residence 2: attached three-bedroom dwelling with attached double/triple garage also attached to proposed Residence 3;
- Proposed Residence 3: attached one-bedroom dwelling with office (carer's unit), also attached to double/triple garage and proposed Residence 2;
- Driveways, vehicle maneuvering and car parking;
- Landscaping; and
- Ancillary development including water tanks, clothes lines, bollard lighting and fencing.

Development Plans of the proposed development is included in attachment 1. An extract from the plan set is provided in Figure 1 below (note that North is pointing downward).

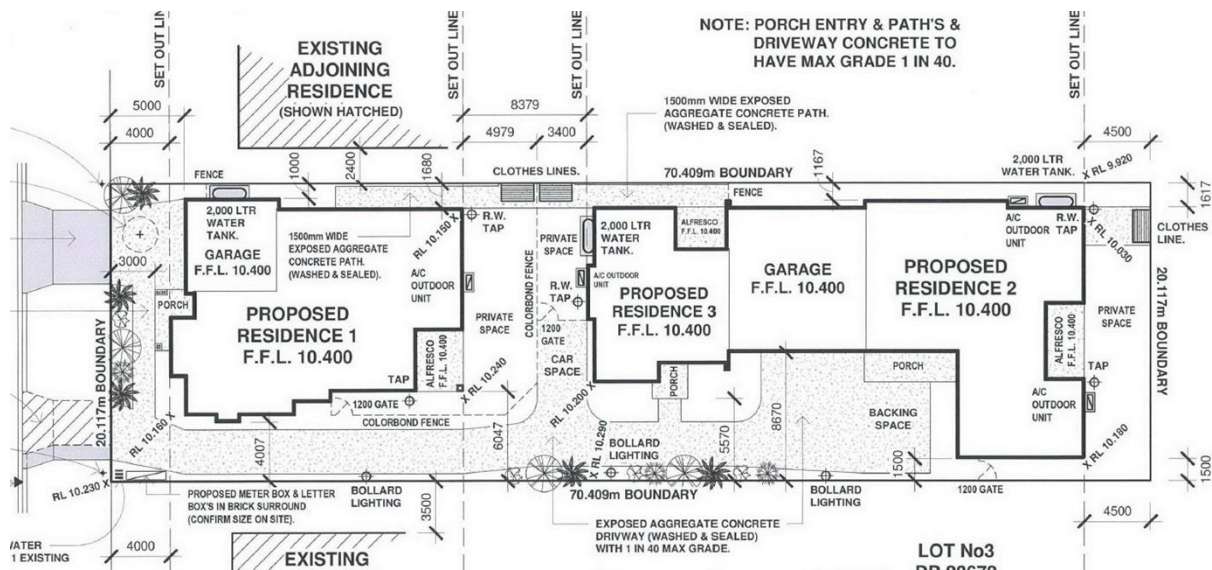


Figure 1 – Extract from plan set – Proposed site plan

The proposed development has been assessed against the requirements of Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The assessment has involved consideration of the requirements of relevant State Environmental Planning Policies, *Albury Local Environmental Plan (ALEP) 2010* and *Albury Development Control Plan (ADCP) 2010*. It is considered that the proposed development can be supported for the reasons outlined throughout the report.

Variations to the *ADCP 2010* controls have been proposed as outlined in the report. Having regard to the Performance Criteria of Division G *Residential Development enabled by a SEPP* of the *ADCP 2010*,

and the overall design of the development, the proposed variations are considered to achieve an acceptable planning outcome.

Accordingly, it is recommended that Development Application 10.2020.37934.1 for the demolition of the existing residence and the construction of a multi dwelling (three) housing development as a residential care facility, inclusive of car parking, landscaping and the removal of a palm tree at the front of the lot, be approved subject to conditions contained in the Draft Determination, included in this report at attachment 5.

The proposal is shown in the development plans included in attachment 1 and as described in the Statement of Environmental Effects included as attachment 2.

### Site and Locality Description

The subject land is located at 457 Bownds Street, Lavington, described as Lot 3 in DP 23672. The land is located in the “R1 General Residential Zone” under ALEP 2010 and approximately 900m from the Lavington CBD and shopping facilities that meet the day to day needs of residents in the locality. The immediately surrounding neighbourhood is characterised by residential housing in an urban setting with access to local roads and other infrastructure and utilities including reticulated water, sewer, electricity and telecommunications. Bownds Street is a constructed sealed and drained local road in Lavington. The buildings in Bownds Street typically comprise of detached single residential dwellings; however multi-dwelling housing does occur relatively regularly.



Figure 2 – Locality





Figure 3 – Existing site conditions and local context

### Key Issues

#### State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

This SEPP seeks to increase the supply and diversity of residences that meet the needs of seniors or people with a disability. It does this by setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in the Policy. The SEPP sets out the design principles that should be followed to achieve built form that responds to site characteristics and makes efficient use of existing infrastructure and services in an urban area.

The application **did not** specify that the application was made pursuant to the provisions of the SEPP and that Development Consent in accordance with and pursuant to the SEPP was sought. Therefore the proposal has been assessed against the relevant provisions of ALEP 2010 and ADCP 2010.

#### Proposed Office Use

The proposed development includes an administrative office component. Office premises are prohibited in the “R1 General Residential” zone.

#### **Comment:**

Given this office is limited in size (approximately 12m<sup>2</sup>) and only serves to provide administration functions for the residential care facility, it is considered an ancillary use, and not as **office premises** as defined in ALEP 2010.

The office will have no other commercial function nor will it accommodate any additional tenants. As such, the proposed office component is subservient to the dominant "Residential Care facility" use of the land and considered permissible.

#### Variations to ADCP 2010

A number of relatively minor variations to ADCP 2010 controls are sought:

##### *Minimum landscaped area*

Division G cl. 2 Design element (a) *Site Planning* requires a minimum of 30% landscaping to be provided. The proposed development fails to provide 30% landscaping, and instead is able to provide a total of approximately 379m<sup>2</sup> of landscaping, which constitutes 27% of the total lot area of 1,416m<sup>2</sup>.

##### **Comment:**

The variation is supported on the basis that the Performance Criteria is still met. Adequate landscaped area is provided to ensure:

- space for growing plants, including trees;
- absorption of rainwater into the ground;
- reasonable amenity for residents is provided;
- the lot is not considered overdeveloped, providing a suitable balance of building to open space ratio; and
- paving and buildings do not dominate the streetscape.

##### *Minimum primary street setback.*

Division G cl. 2 Design element (c) *Setbacks* requires the front setback to be the average setback of the two buildings closest to the lot, in the same street and on the same side of the street. A 4m setback is acceptable when averaging as set out above is impractical.

In this instance, the average setback of the two buildings closest to the lot, in the same street and on the same side of the street, is 8.3m, which is also the current setback of the existing dwelling, proposed to be demolished. The proposed setback is 4m. Averaging is not considered impractical in this instance and therefore a variation is sought.

##### **Comment:**

The variation is supported on the basis that the Performance Criteria is still met:

- The proposed setback of 4m is still compatible with the setback of neighbouring buildings, especially in consideration of the dwelling directly opposite the street. There are three other developments in the same street that have a front setback of 4m – 5m, with no significant impact on the streetscape; and

- The proposed setbacks contribute positively to the streetscape and character in the locality. The proposal represents a new development with an improved interface with the public domain, contributing positively to the streetscape.

*Private Open Space Minimum length and width.*

Division G cl. 2 Design element (e) *Resident amenity* requires all private open space to have a minimum width of 4m (to contribute toward the minimum area required).

Whilst proposed Residences 1 and 3 comply with this requirement, proposed Residence 2 has a minimum width of 3.4m for its private open space.

**Comment:**

The variation is supported on the basis that the Performance Criteria is still met:

- The length dimension exceeds the requirements and the area dimensions satisfy the overall required area; and
- The areas are sited and designed to accommodate outdoor leisure and dining, gardening and landscaping, clothes drying, and bin storage.

*Safer by design.*

Division G cl. 2 Design element (e) *Resident amenity* requires that Development Applications for seniors housing of more than six dwellings and/or beds are to be accompanied by a safer by design (crime prevention through environmental design) assessment. The Development Application did not include a safer by design assessment.

**Comment:**

The variation is supported on the basis that the Performance Criteria is still met:

- The risk of anti-social behaviour, criminal activity and reduced public safety is very low in this area;
- The proposed development is still relatively small (three dwellings with eight beds in total, of which one dwelling and one bed is for a carer) and presents similar to a regular residential development (where such a requirement would not apply); and
- The proposed development is liveable and safe for its occupants, with reasonably restricted access and a private internal layout.

**Submissions**

The Development Application was publicly exhibited from 4 November 2020 to 18 November 2020. One submission was received during that period. The submission states:

*I write to you with regards to the proposed development at 457 Bownds Street, Lavington. My wife and I live next door and are fully supportive of this. Our only concern is a common storm water drain (150mm diameter) which was jointly installed by John Strelec (457 Bownds Street), myself, and Colin Gourley (461 Bownds Street) approximately 35 years ago to relieve flooding of 459 and 461 Bownds Street. This drain was needed due to the previous owner of 457 Bownds Street, before Mr Strelec, spreading 80 cubic metres of fill in the rear of that yard. If this proposed development cuts off that common drain, 459 and 461 Bownds Street will again face severe flooding. I ask that this please be placed before the development committee for consideration.*

**Comment:**

The stormwater drain in question is not a Council asset and was installed under private agreement. As such, retention and maintenance of this drain remains a private matter between the developer and the neighbours. Council engineers are satisfied that standard conditions relating to stormwater drainage design will be adequate in this instance. It is noted that the area is not identified as being flood prone.

**Options**

The Council has the following options in relation to this report:

1. Approve the application; or
2. Approve the application, subject to conditions; or
3. Defer the application for further information or redesign; or
4. Refuse the application.

Based on the assessment of the application and the manageable impacts arising from the proposed development, this report recommends that Council resolve to approve the application subject to the conditions contained in Draft Determination, included as attachment 5 to this report, as per Option 2.

**Conclusion**

Council staff have assessed the proposed development with regard to the submitted information, additional information and planning controls and requirements contained within the ALEP 2010, ADCP 2010, State Environmental Planning Policy and other relevant State legislation. It is the role of Council staff to objectively weigh and consider the submitted information as well as any issues raised during public notification. This involves balancing the issues identified by all parties and will not always result in agreement with the noted opinion of any of these parties.

The development is considered appropriate to the context and setting of the site. The proposed development is considered consistent with the objectives of the R1 Zone, and the assessment has concluded that the proposed development provides a suitable and satisfactory planning outcome.

### **Recommendation**

That Council:

- a. Receives and notes the contents of this report; and
- b. Grants consent to Development Application 10.2020.37934.1 for the demolition of the existing residence and to build a multi dwelling (three) housing development as a residential care facility, including car parking, landscaping and the removal of a palm tree at the front of lot, situated at 457 Bownds Street, Lavington and described as Lot 3 in DP23672, subject to the conditions contained in the Draft Determination, included at attachment 5 to this report.

### **Attachments**

1. Development Plans (DOC20/252526).
2. Statement of Environmental Effects (DOC20/219173).
3. Submission (DOC20/252527).
4. Development Application Assessment Report (DOC20/247342).
5. Draft Determination (DOC20/247871).