

CM13.2. Development Application 10.2021.38310.1 Alterations and Additions to Existing Medical Centre - Car Park Extension and Demolition of Residence 807 and 799 Mate Street, North Albury (Lot 100 DP 1259827 and Lot B 153681)

| | | | |
|--------------------------|-----------------------------------|----------------------|------------|
| DATE | 30 June 2021 | FIL REFERENCE | AF21/01501 |
| CONFIDENTIAL | No | | |
| FURTHER ENQUIRIES | David Christy City Development | PHONE | 6023 8711 |
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Summary

This report is presented for Council's determination as it relates to Development Application 10.2021.38310.1 regarding land described as Lot 100 on DP 125827 and Lot B on DP 153681 and situated at 807-799 Mate Street, North Albury. The Development Application was receipted by Council on 9 March 2021 and proposes the construction of car park associated with an existing approved Osteopath (O-Health).

Fifteen objections were received in relation to this development application. Consequently, this report is presented for Council's determination as the development has received more than five submissions.

The application is recommended for approval subject to conditions detailed in attachment 5 to this report.

People

Habitat Planning on behalf of Cocamba Pty Ltd.

Cost

\$324,500.

Development Description

The proposal for 807-799 Mate Street, North Albury is shown in the development plans (included as attachment 1) and described in the Statement of Environmental Effects (included as attachment 2). Refer to Figure 1 Proposed Development and Figure 2 Locality Plan.

The proposed works include:

- Demolition of an existing dwelling; and
- Construction of a car park
 - o landscaping

- o stormwater drainage infrastructure.

The site is zoned *R1 General Residential* (R1) under *Albury Local Environmental Plan 2010 (ALEP 2010)*.

A copy of the objections was provided to the applicant on 15 April 2021, and a further information letter was sent to the applicant on 13 May 2021. The further information letter advised that the car park required a turn facility; designated pedestrian access; and information regarding the future use of the 'existing residential garage'.

In response to the further information letter and objections, the Development Application was amended on 26 May 2021. Additional information was also provided on 18 June 2021 (included as attachment 2).

The proposal as amended, is shown in the development plans (included as attachment 1) and as described in the Statement of Environmental Effects (SEE) and supporting documentation (included as attachment 2).

The proposed development has been assessed against the requirements of Section 4.15 of the *Environmental Planning and Assessment Act 1979*. This has involved consideration of the requirements of relevant State Environmental Planning Policies, *ALEP 2010* and *Albury Development Control Plan 2010 (ADCP 2010)*. It is considered that the proposed development can be supported for the reasons detailed in the Assessment Report at attachment 3 to this report.

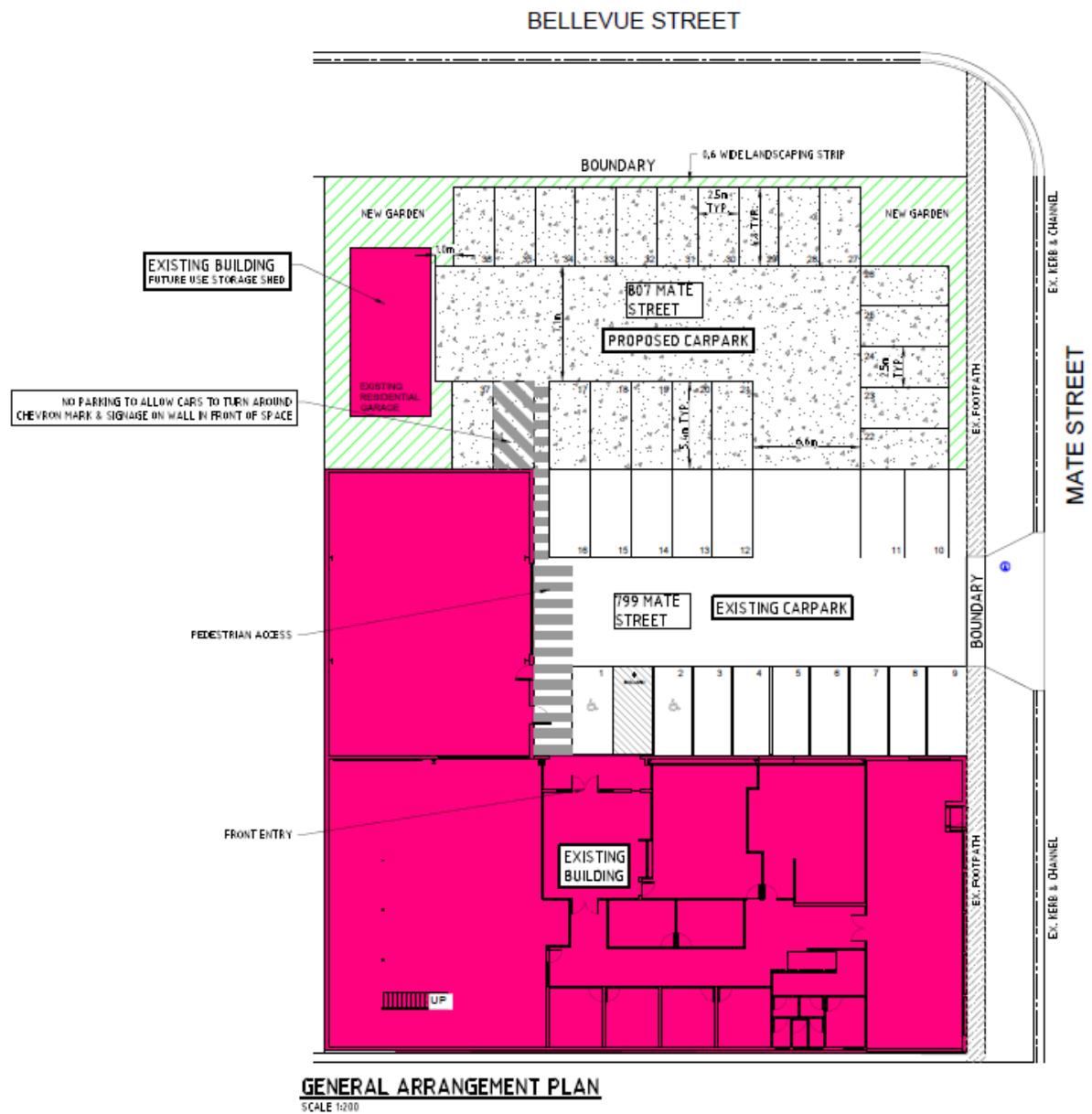




Figure 1 – Proposed Development

Site and Locality Description

The site is described as Lot B, DP: 153681, 807 Mate Street, North Albury and Lot 100, DP: 1259827, 799 Mate Street, North Albury.

The site is located in North Albury, on the West side of Mate Street, between Bellevue and Smith Street, in an established General Residential Zone R1.

807 Mate Street currently contains a single residential dwelling and detached garage. 799 Mate Street currently contains an Osteopath (medical centre) known as O-health and associated car park (25 spaces).

The site is located approximately one kilometre north of the CBD (as defined by the CBD Master Plan 2009). The area is a mix of residential and various non-residential uses along Mate Street.

Multi-dwelling residences adjoin the site to the West. A childcare centre and a heating and cooling business are situated to the East. A car yard is situated to the South of the subject lots.



Figure 2 – Locality Plan

Key Issues

ADCP non-compliances

i. Objectives

Objectives for development to which Division H applies are to be considered by Council when a development application is determined. The objectives are, to:

- a. *Ensure non-residential development permitted in residential zones responds to the environmental conditions of the site and the locality.*
- b. *Enable non-residential development permitted in residential zones to be compatible with the streetscape and to contribute positively to the character of the locality in which development is proposed.*
- c. *Create reasonable amenity for occupants of non-residential development permitted in residential zones without causing unreasonable impacts on the amenity of neighbours.*

ii. Non-residential development in residential zones

- a. *This clause applies to:*
 - i. *Erection of new buildings, alterations and additions to and adaptation of existing buildings, for all types of non-residential development permitted in residential zones.*

- ii. *Ancillary development, as defined by the Codes SEPP, that is not exempt or complying development under that policy or any other environmental planning instrument, and*
 - iii. *Land to which the LEP's Schedule 1 Additional permitted uses, applies.*
- b. *This clause provides specific design guidance for:*
 - i. *Bed and breakfast accommodation,*
 - ii. *Exhibition homes and villages, and*
 - iii. *Neighbourhood shops.*
- d. *This clause has two Development Guidelines Tables:*
 - i. *Development Guideline Table A – applies to all types of development described by cl. 2a and cl. 2b.*
 - ii. *Development Guideline Table B – applies to types of development described by cl. 2b, in addition to the provisions of Development Guidelines Table A.*
- e. *Satisfaction of performance criteria is to be demonstrated to justify departures from numerical guidelines and non-numerical guidelines as set out in the Development Guidelines Table to this clause.*
- f. *Where there is no guideline for a design element, information is to be provided with a development application to demonstrate that relevant performance criteria are satisfied.*

Development Guidelines Table A

| Division H cl. 2 Non-residential development in residential zones | | | |
|--|---|---|---|
| Design elements | Guidelines | Performance criteria | Response |
| a. Site planning. | | | |
| i. Min. landscaped area. | 30% of lot area. | Adequate landscaped area is provided, to ensure: | Variation sought. |
| Min. width of landscaped areas (to count as part of min. landscaped area). | 1m. | <ul style="list-style-type: none"> Space for growing plants, including trees, | Approximately 20% of lot area is proposed as landscaping. |
| Min. proportion of the primary street setback to be landscaped area. | 25%. | <ul style="list-style-type: none"> Absorption of rainwater into the ground, Reasonable amenity for residents, | The development provides areas for landscaping between the car park and public domain and includes a new 35m ² garden on the corners of Bellevue and Mate Street. |
| Refer to Figure 13 in the Schedule. | Erection of ancillary development is not to reduce the min. landscaped area to an amount less than that required for the lot. | <ul style="list-style-type: none"> Lots are not over-developed with buildings, structures and paving, and Paving and buildings do not dominate the streetscape. | <p>The landscaped areas will provide space for growing plants, including trees, enable absorption of rainwater into the ground, and provide a high level of amenity for surrounding residents and businesses. The landscaping strips bordering each boundary will be compatible with the public domain and the character of the locality.</p> <p>The landscaping will enable the retention of traffic sightlines and access safety for both vehicles and pedestrians.</p> <p>The siting of the car park and retention of the existing shed has allowed additional landscaping to be provided on the Western boundary which will afford a greater buffer to the residential development adjoining the Western boundary, resulting in increased amenity for adjoining residences.</p> <p>The variation is considered acceptable in this instance.</p> |

As per the general controls of Division H, specifically Clause 2(d), satisfaction of performance criteria is to be demonstrated to justify departures from numerical guidelines and non-numerical guidelines as set out in the Development Guidelines Table to this clause.

It is considered the applicant has appropriately demonstrated that the performance criteria can be achieved, as outlined in Table A, and therefore it is appropriate to vary the numerical guideline in this instance.

Submissions

The Development Application was publicly exhibited from 30 March 2021 to 13 April 2021. To date, 15 objections have been received.

An on-site community meeting was held at the O-Health premises on 10 June 2021 to allow the submitters and other residents to meet with Council Officers, the applicant and owner of the O-Health business in an informal setting to discuss the application.

The meeting was attended by approximately fifteen submitters/residents, two Council Planning Staff, two O-Health staff, and one representative from Habitat Planning.

The issues raised in the submissions and on-site meeting included:

Traffic concerns/questions

- Question of traffic; and traffic safety, noise particularly in Bellevue Street.
- Concerns about parking in Bellevue Street, particularly near the intersection with Mate Street.
- Concerns about parking in Mate Street, particularly near the intersection with Bellevue Street.
- Several police incidents involving pursuits through Bellevue Street.
- Concerns about the use of Polkinghorne and Muntz Lanes.
- Can removal of access to Bellevue Street from Mate Street be considered?
- Are there options for traffic calming in Bellevue Street or traffic restrictions?
- Is Bellevue Street on the list for potential footpath installation?
- Concerns over future plans for entry/exit from car park onto Bellevue Street.

Planning response:

It was evident after meeting with the submitters and residents that the vast majority of contention and concern in the community stems from traffic related matters, specifically volume, infringements and general amenity impacts.

A number of the traffic related matters are beyond the purview of this application. A summary of the traffic concerns and copy of submissions has been provided to Council's Traffic and Transport Team, and the team have begun investigating the issues raised.

This Development Application does not intensify the use in terms of patronage, usable floor space or staff numbers. Traffic in the area is not expected to increase as a result of this development proposal. It is expected the development, specifically the additional 12 on-site car spaces will alleviate some of the on-street parking issues raised by submitters, particularly on Bellevue and Mate Streets.

At the community meeting, the applicant advised there was no intention to have future access direct from the car park onto Bellevue Street, the applicant agreed to formalise this by entering into an 88B agreement to restrict future access. Should Council resolve to grant consent, a condition of consent will require the applicant to formally enter an agreement to restrict access.

Other

- Precedent;
- Depreciation of house prices;
- Opposition to demolition of the 'red brick dwelling';
- Development inappropriate for residential zone;
- Business operating outside of approved operating hours, specifically Saturdays;
- Car park out of character; and
- Landscaping/boundary fencing.

Planning response:

The proponent has re-purposed a vacant commercial building to facilitate their business. This has been assessed previously against the requirements of ADCP 2010.

A number of businesses are located along Mate Street, despite the residential zoning, and the character of Mate Street could be considered mixed use. The demolition of the dwelling for the purposes of additional car parking is not considered out of character in the area. The application has been assessed under Division H of the ADCP and is considered an appropriate non-residential use in a residential zone. Council has previously concluded that the medical centre does provide a service to meet the day to day needs of the local and broader community.

Retention and re-use of period homes for commercial premises is encouraged in heritage areas/buildings. However, there are no heritage controls on this site. Significant built heritage studies have been undertaken across the municipality in the past. These studies have identified heritage areas and places of significance. The subject site has not been identified as having significant heritage value, nor is it located within a heritage conservation area.

The impact on property values is speculative and is not a Planning consideration and does not form part of the assessment of any development application.

Any future proposals in the area will need to be considered on their merits. The current proposal will not create a precedent for future development.

In terms of Saturday trading, Council's Compliance Team received a complaint that the O-health business was not operating in accordance with the approved hours of operation of Development

Consent 10.2021.38310.1. The proponent claims this was an oversight and has since lodged a modification application to amend the current approved hours of operation. The proposed modification is currently under assessment at the time of writing this report.

At the community meeting, the applicant agreed to fencing upgrades and additional landscaping to improve the residential amenity of the adjoining neighbours. Should Council resolve to grant consent, conditions are proposed to address these matters.

Options

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, the minimal impacts and benefits to the local community arising from the proposed development, this report recommends that Council resolves to approve the application subject to the conditions contained in the Draft Determination, included as attachment 5 to this report and as per Option 2.

Conclusion

Council staff have assessed the proposed development with regard to the submitted information, issues raised during public notification, and planning controls and requirements contained within ALEP2010, ADCP2010 and 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 car parking area is associated with a quality designed building that is consistent with the objectives of the R1 Zone and will provide a use to serve the needs of the Albury community.

This 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 Development Consent to Development Application 10.2021.38310.1 proposing the demolition of an existing dwelling and construction of a car park on the subject site described as Lot B, DP: 153681, 807 Mate Street, North Albury and Lot 100, DP: 1259827, 799 Mate Street, North Albury subject to the conditions contained in the Draft Determination, included as attachment 5 to this report.

Attachments

1. Development Plans (DOC21/129343).
2. Statement of Environmental Effects and Further Information (DOC21/139115).
3. Development Application Assessment Report (DOC21/138990).
4. Submissions (DOC21/138999).
5. Draft Determination (DOC21/141843).