

## CM13.2. Planning Proposal Opportunities for 7 Catherine Crescent, Lavington

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CONFIDENTIAL	No		
FURTHER ENQUIRIES	David Christy City Development	PHONE	6023 8111
AUTHOR	Chris Graham		

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### Purpose of Report

This investigation report outlines potential opportunities available to support the preparation of an owner-initiated Planning Proposal for 7 Catherine Crescent, Lavington that may enable the implementation of affordable housing outcomes.

### Background

7 Catherine Crescent, Lavington was the subject of a submission to the 'Albury Conservation Zoned Lands Review' (previously reported 22 July 2024). The submission sought the removal of the existing Conservation Zone (and replacement with a Residential Zone) on the basis that the subject property has low ecological value and that the existing zoning would be an impediment to future development plans as an 'Over 55s' land lease community development. A locality map showing the site and existing zoning is included as Attachment 1.

A Notice of Motion was carried at the Council Meeting dated 12 August 2024, as follows:

*That Council request a future report from the CEO, by December 2024, outlining opportunities (such as processing timeframes, review of application fees, review of zoning) to support the submission of a proponent – initiated Planning Proposal that may enable future affordable housing development at 7 Catherine Crescent, Lavington (Lot 2 DP 847519).*

This report responds directly to this Council resolution, including options relating to timeframes and fees, while noting 'review of zoning' is the purpose of any future Planning Proposal. It also provides some discussion around 'Affordable Housing' versus housing affordability.

### Strategic Alignment

The following documents provide strategic alignment in relation to affordable housing development:

*Towards Albury 2050* strategic actions under the theme of 'A Growing Sustainable Economy':

- 1.1 *Albury is a liveable city supporting sustainable population growth through the provision of high quality infrastructure, industry-leading services and high levels of amenity.*
  - 1.1.1 *Responsibly provide residential and commercial development options for our growing city, whilst prioritising sustainability.*

*Albury Local Housing Strategy (March 2023) objectives and strategies:*

- *There is a greater variety of housing options that offer households a wider range of market choices.*
- *Boost the proportion of overall housing stock that provides medium and high-density options.*
- *Incentivise the private market to provide a wider variety of dwelling types.*

*Two Cities One Community Strategy Action Plan 2022-2025 goals and actions:*

3.5 *We will advocate for increased housing diversity including affordable and sustainable developments.*

## **Issues**

### **Affordable Housing and housing affordability**

In considering the merits of those options outlined in this report to support the submission of a proponent – initiated Planning Proposal – it is important to note that while closely linked, there is a difference between Affordable Housing and housing affordability. As a result, there may be variations in the level of support that Council is willing to provide.

#### Affordable Housing and Affordable Rental Housing

The *Albury Local Housing Strategy (March 2023)* denotes Affordable Housing and Affordable Rental Housing as housing that households on very low to moderate income can afford, as defined in the *Environmental Planning and Assessment Act 1979* and *State Environment Planning Policy (Housing) 2021*:

- Very low – 50 per cent of median income.
- Low – 50 to 80 per cent of median income.
- Moderate – 80 to 120 per cent of median income.

Affordable Housing projects are generally provided by Community Housing Providers (CHPs), the Aboriginal Housing Office (AHO) or the Homes NSW(HNSW) that are involved in the development, management and maintenance of Affordable Housing and Affordable Rental Housing.

The *Albury Local Housing Strategy (March 2023)* notes that CHPs are not-for-profit organisations that build and/or manage Affordable Housing with three defining characteristics:

1. they are targeted to tightly defined eligible households;
2. they are let to tenants at a discount to market rents; and
3. they are typically delivered with government financial support.

The *Albury Local Housing Strategy* also confirms that as of June 2022, there were 176 registered CHPs in NSW, of which 25 are Tier 1 providers and 20 are Tier 2 providers. In addition, there are five CHPs which are known to have existing dwelling assets within Albury:

- Argyle Community Housing Ltd (Tier 1);
- Common Equity NSW Ltd (Tier 2);

- Homes Out West (Tier 2);
- St Vincent de Paul Housing (Tier 2); and
- Woomera Aboriginal Corporation Albury (Tier 3).

#### Housing affordability

The *Albury Local Housing Strategy* defines housing affordability as the ability of a household to afford the cost of housing compared with the financial situation of households, often measured using the proportion of households living in a given area who experience housing stress.

A household is considered to be in housing stress if it has an income in the bottom 40 per cent of either Greater Sydney's or Regional NSW's income distribution and is paying more than 30 per cent of its income in housing costs.

The planning consultants representing the landowner of 7 Catherine Crescent, Lavington, have indicated that the future development intention for the subject land is for the continuation of the existing Over 55s land lease community development.

A land lease community development is a type of residential or commercial development where the land is leased rather than owned outright. In these communities, the developer or property owner retains ownership of the land while individual residents or businesses lease the land for a specified period, often long-term (eg. 99 years).

Land lease communities typically offer residential accommodation at a lower price point to the housing market (residents do not need to purchase the land outright, dwellings are generally smaller or more efficiently designed, monthly lease payments are predictable and lower compared to traditional mortgages which typically lowers the initial cost of housing) and for this reason are considered to be a type of residential development that assists housing affordability. It is important to note that not all land lease communities are designed with affordability in mind.

The affordability of such developments will depend on factors like the cost of the lease, the overall design of the community, and the policies in place regarding rent increases and maintenance costs. In general, when structured thoughtfully, land lease communities can be a valuable tool in the broader affordable housing landscape.

As such, in order to qualify for further support (eg. application fee reduction), Council should consider whether any proponent-initiated Planning Proposal demonstrates that development outcomes will contribute to housing diversity and affordability.

#### Consideration of 7 Catherine Crescent proposal

The previous submissions received, and representations made on behalf of the landowner (as part of the Conservation Zone Lands Review Planning Proposal) cite benefits derived from the change in zoning would include supporting additional housing supply and diversity (affordability) with purpose-built housing that caters for the needs of aged residents.

As such, further consideration could be given to what extent support could be provided, and if such support should be conditional on a proponent-initiated Planning Proposal addressing the following matters:

- Demonstrate that any subsequent development and/or redevelopment of the subject land will facilitate either Affordable Housing (dedicated housing for low to moderate income households) or provide for housing diversity (via small independent dwellings), and in so doing, address housing diversity and in turn affordability issues.
- Demonstrate that the subject site satisfies site performance criteria under *Albury Local Housing Strategy*, specifically *Strategy Eight: Grow our supply of affordable rental housing* including proximity to public/active transport, social infrastructure, education, healthcare, retail services, open space and recreation that has been developed to identify most suitable locations in Albury for future affordable housing projects.

Note: A high-level review of the subject land against site performance criteria indicates that, with the exception of being isolated from a bus stop (note a bus route is directly accessible), the subject land (as a candidate site) largely satisfies site performance criteria.

- Demonstrate that, despite any intended redesign/redevelopment for the purposes of continued development as an Over 55s land lease community development on the subject land, that impacts on environmental attributes (biodiversity and habitat trees) on-ground are mitigated and effectively managed. This requirement recognises the existing Conservation Zone of the subject land and extensive vegetation on-site.

### **Planning Proposal (proponent-initiated)**

A landowner, developer or an individual seeking to amend the zoning or development standards that apply to their land may initiate a Planning Proposal (also known as a proponent-initiated Planning Proposal).

A Planning Proposal sets out the justification for any amendments to the LEP. It includes an assessment of the likely impacts of the proposal and is generally supported by technical information and investigations where necessary.

The information required to support the proposal, when proponent-initiated, is prepared by the landowner, developer or an individual, with the assistance of specialist consultants, and submitted to the relevant Council for consideration and assessment (consistent with any additional specifications from the NSW Department of Planning, Housing and Infrastructure).

There are fees that are due and payable to Council (as detailed in following sections of this report) and resources required by Council in the review, assessing and reporting processes of a Planning Proposal.

Options available to support any proponent-initiated Planning Proposal for 7 Catherine Crescent, Lavington, that seeks to enable Affordable Housing are outlined below:

Option 1 – Project Prioritisation (Resourcing)

In this option, AlburyCity could prioritise actions relating to any proponent-initiated Planning Proposal for 7 Catherine Crescent, Lavington, particularly with regard to pre-lodgement, post-Gateway, assessment and reporting processes, in an effort to reduce benchmark timeframes (outlined below).

Planning proposals can be categorised as either basic, standard, complex or principal Local Environment Plan (LEP) and the typical (benchmark) timeframes from lodgement to finalisation vary commensurate with the complexity of the Planning Proposal, outlined as follows:

<b>Planning Proposal Category</b>	<b>Benchmark Timeframe (working days)</b>
Basic	220 days
Standard	320 days
Complex	420 days
Principal LEP	420 days

Source: NSW Government: *Local Environmental Plan Making Guideline* (August 2023)

In recognition of the scale of adjustment sought for the subject land, and the technical information and investigations required, it is considered that any proponent-initiated Planning Proposal would most likely be categorised as 'Standard' (with an associated 320 working days benchmark timeframe).

It is acknowledged that other city planning projects may be delayed if resources are dedicated to this specific Planning Proposal. There is currently a large number of strategic plans and strategies being prepared or commencing in the next 12-24 months (eg. Thurgoona Wirlinga Precinct Structure Plan review, Infrastructure Contributions Plan review, Local Strategic Planning Statement review and Land Use Strategy, Heritage Study, Housing Strategy Implementation) that would be impacted by the prioritisation of a specific planning proposal. It is also recognised that, being a proponent-initiated Planning Proposal, it is difficult to estimate the extent of time savings that could be achieved (via dedicated resources) especially given that numerous actions (including document update or responding to further information) will remain the responsibility of the proponent, which is outside the control of AlburyCity.

Option 2 – Full or partial fee reduction

In this option, Council could provide a fee waiver (or partial reduction) for the Council application fees (outlined below) associated with a Planning Proposal. It is noted that a consequential Development Control Plan (DCP) Amendment is not anticipated for this proposal.

The *Albury Local Housing Strategy* (adopted 2023), specifically *Strategy Five: Incentivise the private market to provide a wider variety of dwelling types*, provides a trigger to explore waiving, reducing or reimbursing development fees in return for the inclusion of smaller dwellings in a development proposal. This Local Housing Strategy action has a medium timeframe (3 to 6 years) for

implementation so has yet to commence. As such it is not considered appropriate to make a pre-emptive decision in relation to this prior to a comprehensive investigation of appropriate options and opportunities within a policy document.

Assessment fees associated with a 'Standard' proponent-initiated Planning Proposal (accounting for Council time spent assessing, processing and reporting on the Planning Proposal) are outlined, as follows:

<b>Standard LEP Application</b>	<b>Fee (2024/25)</b>
Scoping Proposal	\$7,000
Lodgement of Application	\$7,000
Preparation/Processing of Planning Proposal	\$10,000
<b>Total</b>	<b>\$24,000</b>
Additional component (if required): - DCP Amendment (anticipated would not be required for this proposal)	\$10,000

Source:

*AlburyCity 2024-2025 Fees and Charges*

It is noted that this would not be defined as an Affordable Housing development (as delivered by a CHP, AHO or Homes NSW) but would contribute to the availability of diverse and lower cost housing.

Option 3 – Consider entering into a Voluntary Planning Agreement subject to lodgement of Development Application (DA)

While not part of the Planning Proposal phase, in this option, Council could explore an exemption to local infrastructure contributions which is available for Affordable Housing developments under the existing provisions of the *Albury Infrastructure Contributions Plan 2014*.

Affordable Housing projects in Albury are eligible for an exemption from paying local infrastructure contributions. Clause 3.7.1 of the *Albury Infrastructure Contributions Plan 2014* allows for Affordable Housing Development applicants to be exempted from section 7.11 (formerly section 94) contributions and section 7.12 levies (formerly section 94A). They are not exempt from Water and Sewer contributions under Section 64 of the *Local Government Act*.

With consideration to the information provided by the landowner's representative, development outcomes facilitated on the subject land by any proponent-initiated Planning Proposal are not considered to be Affordable Housing (as delivered by a CHP, AHO or Homes NSW), but will potentially contribute to housing diversity and affordability.

As such, whilst development outcomes sought would not qualify for any exemption from paying local infrastructure contributions (under the *Albury Infrastructure Contributions Plan 2014*), further consideration could be given via a Voluntary Planning Agreement. A Voluntary Planning Agreement (where entered into between Council and the proponent) formalises support to be provided in return for public benefit such as delivering agreed housing diversity and affordability outcomes.

A Voluntary Planning Agreement is an agreement entered into by a planning authority and a developer to deliver public benefits which could include the dedication of land, monetary contributions, public infrastructure, community facilities, affordable housing, or any other material benefit. Council's strategic objectives with respect to the use of Voluntary Planning Agreements, includes a more flexible development contributions system (to wholly or partly exclude the application of development contributions where appropriate) and to achieve planning benefits. A Voluntary Planning Agreement can be particularly useful in securing development outcomes that address a deficiency or provide a material public benefit. Any Voluntary Planning Agreement would need to align with Council's Voluntary Planning Agreement Policy.

#### Option 4 – No change (Normal Planning Proposal process)

In this option, no specific or extra support is provided, and as such, maintains the usual Planning Proposal fees, timeframes, assessment, reporting and determination processes.

It should be noted that potential future site zoning could also be considered as part of any future Council-led precinct-wide or LEP-wide review. A Council-initiated city-wide LEP review is currently scheduled to commence in 2026/27.

#### **Risk**

- **Business Risk** – Whilst the business risk is considered low to moderate, it is noted that any support provided to an organisation other than a Community Housing Provider (not for profit organisation) does expose Council to a risk of further requests of support from other commercial entities undertaking similar development proposals.
- **Corporate Risk** – There is a corporate risk to the public image/reputation of Council where it is perceived that support (financial or other) is being provided to a commercial entity that is primarily developing for commercial gain. Corporate risk can be managed to an extent via Council support being conditional on a demonstration that end-development addresses housing affordability issues, is an appropriate location and minimises environmental impacts.

While minimal, any reduction of fees or developer contributions will also impact the revenue of the City Development team and ultimately the financial position of Council. This impact could be magnified should additional requests arise for similar developments.

- **WHS and Public Risk** – There were no risks identified.
- **Environmental Risk** – Any proponent-initiated Planning Proposal that seeks to remove the existing Conservation Zone (and replace with a Residential Zone) to facilitate further development carries an inherent environmental risk with respect to likely vegetation removal. Environmental risk can be managed to an extent via Council support being conditional on a demonstration that end-development mitigates adverse impacts (supported by relevant technical reports). The Planning Proposal process will also require consultation with various NSW government agencies who may have concerns regarding environmental impact from the rezoning.

- **Delivery Program Risk** – Dedicated Council resources to reduce benchmark processing timeframes may impact other Planning Proposals received or other strategic planning work program priorities.

## **Engagement**

Any future Planning Proposal will require public exhibition and be undertaken in accordance with relevant planning legislation and guidelines, the AlburyCity Community Participation Plan and any conditions of Gateway Determination (to be issued by the NSW Department of Planning, Housing and Infrastructure).

## **Options**

As outlined earlier in this report, in relation to the potential Council support for the preparation of an owner-initiated Planning Proposal for 7 Catherine Crescent, Lavington, the following options are provided for further consideration:

Option 1 – Prioritise resourcing related to the assessment of any proponent-initiated Planning Proposal - **Not Recommended.**

Council resolve to prioritise resourcing relating to assessment of any proponent-initiated Planning Proposal.

Option 2 – Full or partial fee reduction (no adopted policy to support this option) - **Not Recommended.**

Council resolve to waive 25% Planning Proposal application fees.

Option 3 – Consider entering into a Voluntary Planning Agreement subject to lodgement of DA - **Not Recommended.**

Council resolve to consider entering into a Voluntary Planning Agreement regarding a reduction in local infrastructure contributions and levies as part of any future Development Application.

Option 4 – No change (Normal Planning Proposal process) - **Recommended.**

Council resolve to take no specific action and rely on existing Planning Proposal assessment, reporting and determination processes.

Based on the discussion earlier in this report it is recommended that Council proceed with Option 4, noting the impacts other options have on resourcing (potentially delaying other projects), Council income via fees, and precedence it may set noting the landowner/proponent is not a Community Housing Provider.



## **Conclusion**

This report provides an overview of the options (including project prioritisation (resourcing), fee reduction, infrastructure contribution exemptions or maintaining normal Planning Proposal processes) available to support a proponent-initiated Planning Proposal for 7 Catherine Crescent, Lavington that may enable future affordable housing development.

Any level of support should consider conditions relating to Affordable Housing and/or housing affordability outcomes that are proposed being delivered on-site, noting the landowner/proponent is not a Community Housing Provider.

## **Recommendation**

That Council:

- a. receive and note this report; and
- b. resolve to take no specific action and rely on existing Planning Proposal assessment, reporting and determination processes in relation to any proponent-initiated Planning Proposal for 7 Catherine Crescent, Lavington.

## **Attachment**

1. Locality Map – 7 Catherine Crescent, Lavington (DOC24/276100).