CM13.4. Development Application 10.2024.41052.001 - Change of Use - Animal Care Facility - 581 Hovell Street, South Albury

DATE	29 October 2024	**FIL REFERENCE**	AF24/03655
CONFIDENTIAL	No		
FURTHER ENQUIRIES	David Christy City Development	**PHONE**	6023 8111
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Summary

This report is presented for Council's consideration and determination of Development Application 10.2024.41052.1, for a Community Facility managed by Albury Wodonga Animal Rescue (AWAR) at 581 Hovell Street, Albury (Lot 1 DP 501326). AWAR are a community-based, not-for-profit companion animal rescue charity and adoption facility who work in the Albury Wodonga community.

This report is presented to Council for determination as the Development Application has received six submissions opposing the development during the public notification period. The key issues highlighted in the submissions relate to the potential impacts of the proposed development.

The concerns raised by the submissions can be broadly grouped into the following themes:

- operating prior to obtaining Development Consent;
- noise impacts from dogs barking;
- unauthorised vegetation removal;
- visual appearance and suitability of the site;
- display of (unauthorised) signage at the front of the property;
- odour and management of animal waste;
- increase in traffic and lack of on-site parking;
- de-valuation of surrounding properties; and
- aggressive dogs held on site.

A detailed consideration of these matters is provided in the submissions section of this report. On the basis of a consideration of the submissions and the application assessment, the proposal is regarded as consistent with the relevant planning provisions including the *Albury Local Environmental Plan (LEP) 2010* and the *Albury Development Control Plan (DCP) 2010* and it is recommended to Council for approval to be granted, subject to conditions.

People

Rae Smith - Albury Wodonga Animal Rescue (AWAR).

Cost $

No cost.

Development Description

The applicant is seeking development consent for a Community Facility to be operated by Albury Wodonga Animal Rescue (AWAR). AWAR provides a community-based, not-for-profit animal welfare service for the Albury/Wodonga region by rescuing and re-homing companion animals. AWAR is a recognised Office of Local Government Approved Re-homing Organisation. AWAR is currently operating from the subject site, primarily caring for cats awaiting adoption. They also temporarily house surrendered or rescued dogs until they can be placed in off-site foster homes or meet potential adopters through AWAR's adoption program.

The application and supporting materials (see Attachments 1 and 2) propose that AWAR will care for up to 25 cats on-site at any given time. All cats will be kept indoors in various rooms, and the site is intended to serve as a viewing and administrative centre for AWAR's adoption program.

The proposal also includes four outdoor holding cages which have already been erected in the rear yard for keeping of dogs on a short-term basis while they are processed into off-site foster homes, with no dogs proposed to be kept on-site overnight. The proposed hours of operation are Monday – Sunday (7 days per week) 9am - 6pm.

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 (LEP) 2010* and the *Albury Development Control Plan (DCP) 2010*. It is considered that the proposed development can be supported for the reasons outlined throughout the report.

One variation to the *Albury DCP 2010* controls in relation to car parking has been proposed. Having regard to the objectives of the *Albury DCP 2010,* the overall design of the development and the discussions later in the report, the proposed variation is considered to achieve an acceptable planning outcome.

Accordingly, it is recommended that Development Application 10.2024.41052.1 be approved for a community facility (animal care facility) in accordance with the 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 site is described as Lot 1 DP 501326 and has a total area of 632m². The site is currently occupied by AWAR as operations commenced prior to Development Consent being obtained. The site supports a commercial factory/workshop at the rear, and a former residence fronting Hovell Street, which has previously been occupied by commercial uses for a number of years. The site is located in an area with a variety of land uses including residential, commercial and outdoor recreation. The site is zoned MU1 Mixed Use under the *Albury LEP 2010* and the proposed development is permissible in the zone with consent.



Figure 1 – Areal image of site

Key Issues

- *Albury LEP 2010* Compliance.

  Part 2: Permitted or prohibited development

  While AWAR's operations centre around the caring and sheltering of rescued companion animals awaiting adoption, they are a not-for-profit community-run organisation and therefore do not align with the commercial nature of an *animal boarding or training establishment* as defined under the *Albury LEP 2010*.

  animal boarding or training establishment *means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.*

  AWAR provides an essential service to the community by rescuing and re-homing companion animals within the Albury/Wodonga region. AWAR has been operating in Albury for over 20 years and plays an important role in the Albury/Wodonga community, helping to save the lives of surrendered and stray dogs and cats through rescuing, veterinary checking, facilitating the adoption of cats and dogs into new homes and assisting members of the community to care

for companion animals during time of personal crisis. AWAR is a registered charity in NSW and is wholly reliant on fundraising and community events for the generation of operating income to support their operations. Based on this information it is considered that the use of the site better aligns with the definition of a *community facility,* as defined under the *Albury LEP 2010*.

community facility *means a building or place—*

(a) owned or controlled by a public authority or non-profit community organisation, and

(b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

Community facilities are permissible with development consent in the MU1 Mixed Use zone, however as mentioned the proponent has already commenced operating from the subject site without development consent being obtained.

- *Albury DCP 2010* Compliance

Part 17: Off-street car parking

The applicant has provided a site plan which identifies the location of two allocated on-site car parking spaces at the rear of the occupied building, between the front and rear tenancies. The site inspection undertaken on 24 September 2024 revealed that the space is only large enough to realistically fit one vehicle on site. This does not meet the *Albury DCP 2010* Part 17 provisions which require four car parking spaces.

Part 17 of the *Albury DCP 2010* requires community facilities to provide one car parking space per 10m² of gross floor area (GFA) or one per five seats, whichever is greater. Council has recently notified a revised Part 17 of the *Albury DCP 2010*. Within the draft amendment Council proposes to reduce the car parking provision requirement for community facilities to one space for 30m² of GFA. On the basis of the exhibited controls only two car spaces would be required.

Considering that the site appears to have been operating for a number of years by a series of hairdressing businesses and most recently occupied by a NDIS community service provider (Infinity) it can be assumed that the available parking on site and surrounding street parking has absorbed the shortfall of parking from previous uses. Parking demand for the site's previous uses would be calculated on the basis of a 'business premise', which both the current and drafted amendment to Part 17 of the *Albury DCP 2010* requires a parking provision rate of one car space per 40m² of GFA.

The provided floor plan identifies the various uses for each room within the tenancy (as shown below). The parking demand for the use will mainly be generated by the volunteers visiting the site and people coming to adopt animals. The rooms/areas within the tenancy that will be used for AWAR's adoption program are the meet and greet, office and adoption rooms, as shown below. The total area of the above-mentioned rooms combined is 42m².

In summary, under the current requirements of the *Albury DCP 2010* Part 17, the proposed development has a parking shortfall of three spaces, however under the revised Part 17, it would only be considered to be a shortfall of less than one space. The proposed development is not considered likely to cause a significant increase in the site's traffic volumes and parking demand compared to its previous occupants. Volunteers and potential adopters attending the site are also likely to visit on an ad-hoc and infrequent basis, which will assist in reducing the potential for the demand to overwhelm the available on site and street parking.

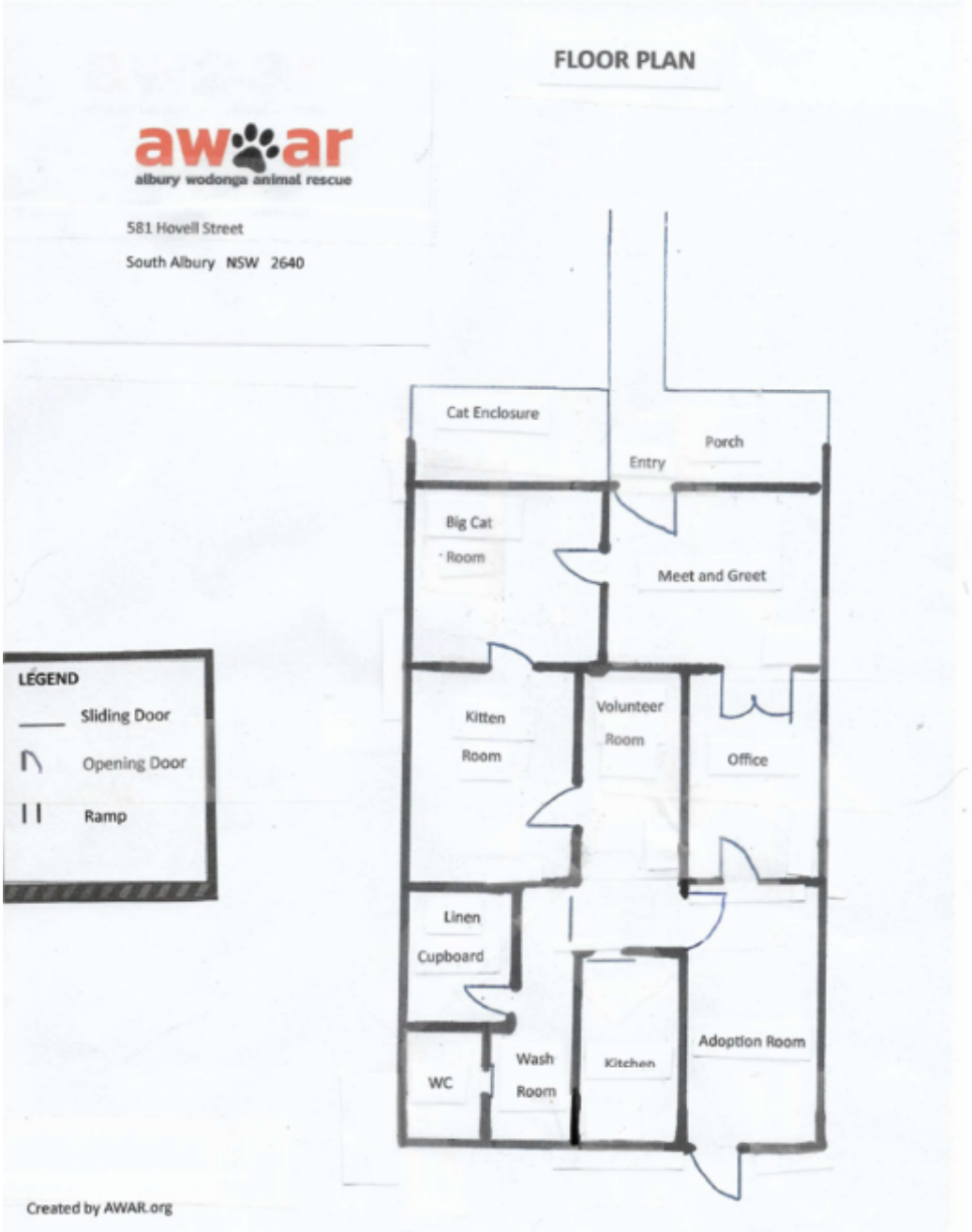


Figure 2 – Proposed floor plan

- Noise & Vibration

  Noise (dogs)

  As discussed earlier, the proposal includes keeping dogs on site temporarily while administrative procedures are undertaken to admit the dogs into AWAR's off-site foster care program to await adoption. A maximum of four dogs are proposed to be kept on site at any given time, however the application states that the number of dogs typically held on site at one time would normally only be one or two. In the majority of cases, dogs will only be brought to site after contact with AWAR has been made and arrangements with an off-site foster carer are already underway, so the dogs will ideally only be required to attend the site for short periods of time. Dogs are not proposed to be kept on-site overnight. In addition to this, another requirement of keeping dogs on-site is for there to be a volunteer present on-site at all times and a prominently displayed contact number of a contactable person to receive noise complaints and quieten any barking dogs should it occur. As the proposed use of site itself is predominantly for housing cats, and given the above limitations proposed by the applicant regarding dogs on-site, the proposal is not considered to result in an unreasonable noise impact to surrounding residences. In addition to the conditions of any prospective consent, should approval be granted, the applicant has a responsibility to ensure noise levels are not offensive as defined by the *Protection of the Environment Operations Act 1997*.

- Waste management

  The provided Statement of Environmental Effects states that all waste is managed on-site and collected weekly by a private waste collection contractor (North East Bin Hire). Waste produced by cats on site is collected inside the facility and sealed in bags before being taken to the on-site skip bin located at the rear of the property where it is collected by the waste collection contractor. The location of the bin is screened from view and not considered likely to produce odours, if managed correctly. The site inspection undertaken by the assessing officer revealed that the internal and external waste areas appear to be managed in an effective manner.

Submissions

The Development Application was publicly exhibited from 12 September 2024 to 25 September 2024. Six submissions opposing the proposed development were received during the public notification period.

A summary of the issues raised in the submissions is listed below:

#	Issue
	Council Comments
1.	**Operating prior to obtaining development consent** Multiple submissions have expressed frustration that AWAR have commenced operating from the site prior to obtaining consent from Council through this application.
	Council's Compliance Team is aware that AWAR have commenced operating prior to obtain Development Consent. The applicant has explained that AWAR was forced to relocate at short notice and had no option but to relocate the animals (15 cats) currently in their care to an alternative location. Any issues in relation to the current occupation prior to consent will be appropriately investigated and actioned by Council's Education and Compliance Team, in accordance with Council's Enforcement Policy.
2.	**Noise impacts from dogs barking** Submitters have expressed concern that dogs kept at the premises will result in an unreasonable level of noise, and the duration and frequency of which is considered likely to impact the amenity of residences in the area.
	AWAR's operation at the subject site predominantly involves rescuing and rehoming cats. AWAR is a small-scale, community-based animal rescue that will only have cats on-site overnight. Cats will be fully contained and are not expected to be significantly noisy. Dogs will only be brought to the site temporarily for administrative processing before the dogs are taken to off-site foster care homes while they await adoption. No dogs will be kept on-site overnight or on a permanent basis, and a maximum of four dogs (albeit more likely one or two dogs at any one time as explained by the applicant) will be kept on site, which is recommended to be stipulated within a condition of consent. In addition to this, another requirement of keeping dogs on-site will be for there to be a volunteer present on-site at all times and a prominently displayed contact number of a contactable person to receive noise complaints and quieten any barking dogs should it occur. Dogs will occasionally be brought to site from the foster homes to meet with potential adopters. Dogs will essentially only be on-site to be received into or re-homed through AWAR's adoption program. If the development is to be approved, a condition of consent will be recommended to be imposed to restrict dogs from being held on-site outside of the staffed hours (9am - 6pm) unless there is a contactable volunteer or staff member present at all times.
3.	**Unauthorised vegetation removal**
	The removal of one large tree and mature yucca plants from the front yard were undertaken by the landowner prior to AWAR occupying the premises and is not a consideration under this assessment.

4.	**Security camera pointing towards a neighbouring property window**
	The site inspection conducted on the 24 September 2024 revealed that one of the external security cameras is oriented towards the adjoining neighbour but is in fact pointed downwards towards the ground and not into the window of the submitter. As a precautionary measure, and to avoid any perceived privacy infringements, the applicant has agreed to move the camera in question to another location and orient it away from the submitter's property.
5.	**Visual appearance of site**
	The removal of vegetation at the front of the site (which was undertaken by the landowner prior to AWAR occupying the site) has visually exposed the condition of the existing building and accentuated the prominence of new structures (cages and a small garden shed) that have been installed in the rear yard. The site is not considered to be unreasonably untidy nor dissimilar to the appearance of a residential property or other use that is permissible in the MU1 Zone.
6.	**Suitability of site**
	Some submitters are displeased that *'Cats are held in cramped cages on the front verandah and there is no room for dogs to move freely'*. As mentioned earlier, AWAR's operation at the subject site predominantly involves rescuing and rehoming cats, with only cats being kept on site for extended periods of time. The site inspection revealed that the site can comfortably house the proposed maximum number of cats (25) in a quality environment where they have the freedom to roam and use the outdoor 'catio' for direct sunlight during staffed hours. Dogs are only proposed to be held on-site temporarily while being processed into off-site foster homes, and therefore do not require large outdoor areas for long term stay.
7.	**Display of (unauthorised) signage at the front of the property**
	AlburyCity's Compliance team have already been in contact with the applicant regarding the matter and the sign has since been removed. The sign in question was transported from AWAR's previous site and erected by volunteers, apparently unaware of the due process for obtaining approval for signage. The sign has been removed and approval is not sought for it to be installed as part of this application. One small business identification sign remains on the eastern (Townsend Street) façade of the building which meets the requirements for exempt signage and therefore does not require consent.
8.	**Odour and management of animal waste**
	All waste generated by the proposed development will be collected once a week via a private waste contractor, North East Bin Hire. All animal waste is sealed in bags before being placed in an outdoor skip bin. Waste is collected from the cat trays inside the facility and from the cages in the rear yard on a daily basis. The site inspection did not reveal any smell or odour to indicate that waste is not being managed effectively. All bins, inside and out, appeared to be cleaned and maintained and the site kept in reasonably tidy condition. No adverse impact to any adjoining properties is foreseen. Conditions are recommended to be imposed on the drafted consent in relation to the management of waste, and for an animal management plan to be submitted to Council outlining how nuisances from noise, odour, waste and pests will be managed.

9.	**Increase in traffic and lack of onsite parking**
	As mentioned within the report, the site provides space for one on-site car park. The parking demand for the use will mainly be generated by the volunteers attending the site and people participating in AWAR's adoption program. The proposed development is not considered likely to a create a significant increase in traffic volumes and parking demand compared to its previous occupations. Volunteers and potential adopters attending the site are also likely to visit the site on an ad-hoc and infrequent basis, which will assist in reducing the potential for the demand to overwhelm the available on site and street parking.
10.	**De-valuation of surrounding properties**
	Property value is not a planning consideration under 4.15 of the *Environmental Planning and Assessment Act 1979* and therefore cannot be considered in the assessment of the proposal.
11.	**Aggressive dogs held onsite**
	It is unreasonable to assume that the community facility is going to cause increased safety risks due to aggressive animal behaviour. A submitter described a situation where a leashed dog who was displaying aggressive behaviour towards the submitter and their dog was required to be moved inside to de-escalate the situation. This interaction is not viewed as being reflective of a wider safety issue associated with the facility. Dogs held temporarily on-site will be secured, and any dogs attending the site either with volunteers or members of the general public will be required to comply with AlburyCity's requirements for dogs to be leashed at all times in public places.

Options

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

1. Approve the application; **Not Recommended.**
2. Approve the application subject to conditions; **Recommended.**
3. Defer the application for further information or redesign; **Not Recommended** or
4. Refuse the application. **Not Recommended.**

Based on the assessment of the application and the manageable impacts 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, as per Option 2.

Conclusion

Council officers have assessed the proposed development in accordance with Section 4.15 of *Environmental Planning and Assessment Act 1979*. This has involved consideration of the submitted information and planning controls and requirements contained within the *Albury LEP 2010*, the *Albury DCP 2010*, and the relevant State legislation.

It is the role of Council staff to objectively weigh and consider the submitted information. This involves balancing the issues identified by all parties, including any expert evidence provided, and will not always result in agreement with the noted opinion of any of these parties.

This assessment has concluded that the application, as submitted, can be supported, subject to the imposition of appropriate conditions.

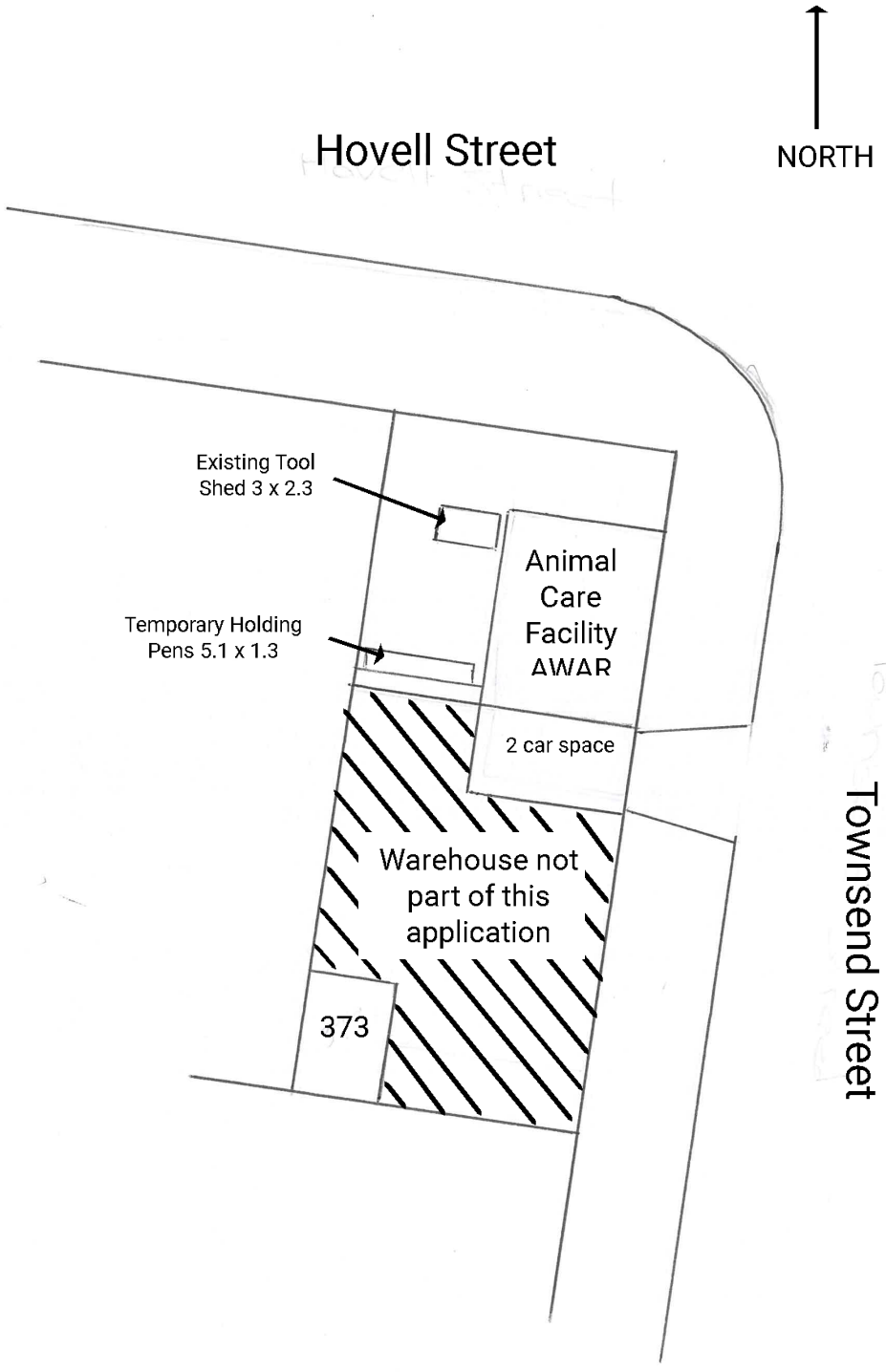
Recommendation

That Council:

a. receives the contents of this report; and
b. grants consent to Development Application 10.2024.41052.1 for a Community Facility situated at 581 Hovell Street, Albury, described as Lot 1 DP 501326, subject to the conditions contained in the Draft Determination, included at Attachment 5 to this report.

Attachments

1. Development Plans (DOC24/217396).
2. Statement of Environmental Effects (DOC24/214837).
3. Submissions (DOC24/262429).
4. Development Application Assessment Report (DOC24/250445).
5. Draft Determination (DOC24/255867).



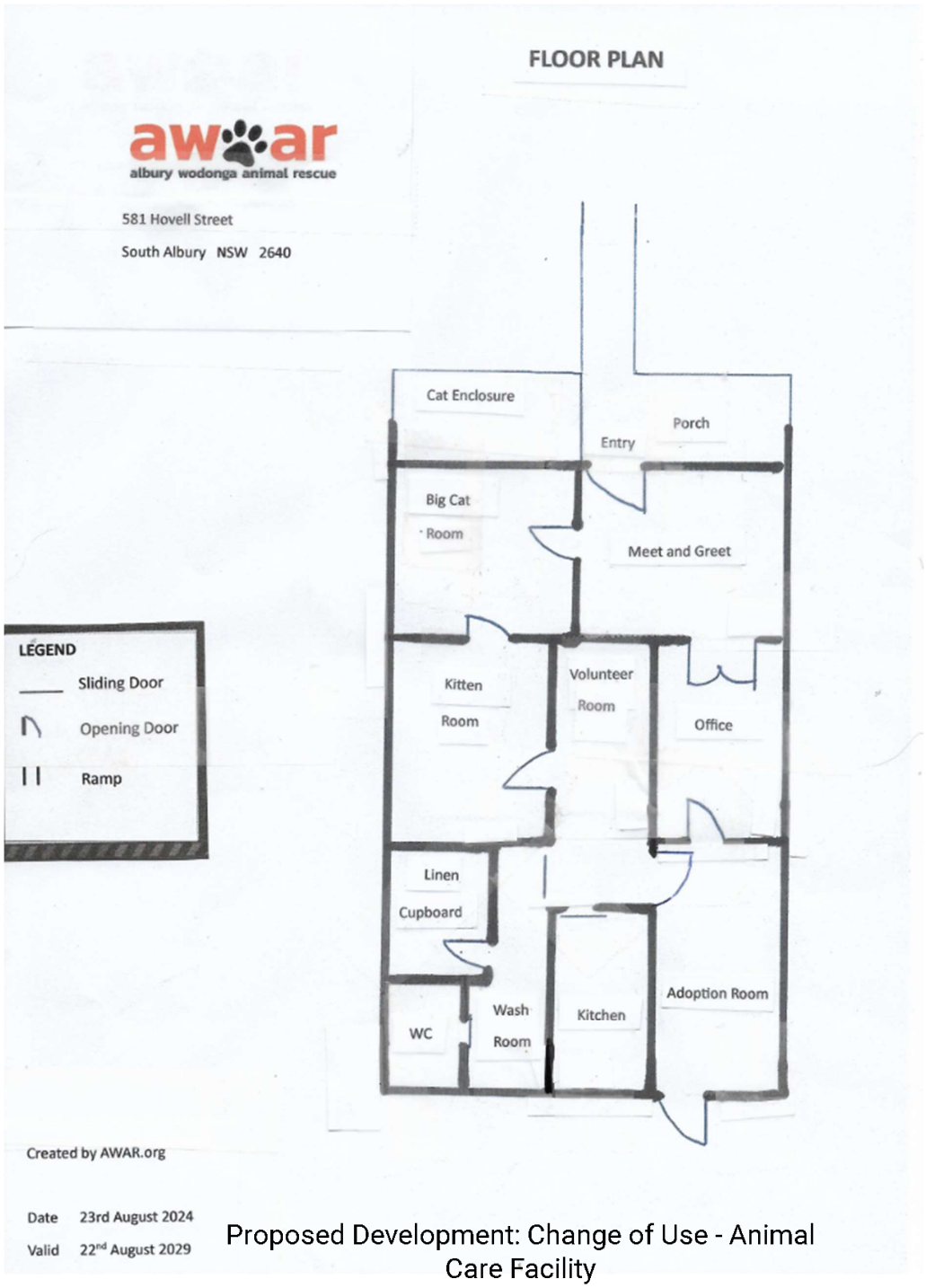
Proposed Development: Change of Use - Animal Care Facility
Plan Type: Site Plan
Address: 581 Hovell Street
Drawing No: 1
Revision: A
Drawn by: AD
Date: 12/09/2024

awaar
albury wodonga animal rescue

581 Hovell Street South Albury NSW 2640

SITE PLAN





Proposed Development: Change of Use - Animal Care Facility
Plan Type: Floor Plan (No change to floor plan from existing)
Address: 581 Hovell Street
Drawing No: 2
Revision: A
Drawn by: AWAR
Date: 12/09/2024



Planning Report &
Statement of Environmental Effects

Change of Use to Community Facilities (Community based not-for-profit companion animal rescue charity and adoption facility)

Unit 1, 581 Hovell Street
SOUTH ALBURY NSW 2640
Lot 1/DP501326

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APPENDICES

APPENDIX 1 – Site Plan, Floor Plan & Evacuation Plan

APPENDIX 2 – Land Owners Written Consent & Additional SEE Info

APPENDIX 3 – Site Photos

APPENDIX 4 – Property Report

1. INTRODUCTION

This Report and Statement of Environmental Effects has been prepared on behalf of Albury Wodonga Animal Rescue (AWAR) to accompany a Development Application for a change of land use to Community Facility on land located at Unit 1, 581 Hovell Street, South Albury. The site is surrounded by a mix of land uses, including public tennis courts to the rear of the site, Lambert Park directly diagonal to the north- east, the North East Victorian branch of Murray PHN and a handful of residential properties opposite to the north, next door to the west and on the opposite side of Townsend Street to the east.



Above: Lambert Park directly to the north east of the subject site (source: Google maps)

As will be outlined within this report it is contended that this proposal represents an example of orderly planning consistent with the strategic intent of the Albury LEP for the Zone MU1- Mixed Use (MU1). The development is not only compliant with the technical aspects of the planning instrument but also on a merits basis, it represents a good development outcome for the subject land and the locality.

2. SUBJECT LAND

The subject land comprises a rectangular shaped parcel described as Lot 1/DP501326 that is located on the south- western corner of the intersection of Hovell Street and Townsend Street in South Albury. There are two tenancies occupying the subject land, and AWAR is proposing to operate from Unit 1 only which occupies the front half of the site. The tenancy to the rear is occupied by a large storage unit, which is leased to a different tenant independent of AWAR.

The subject land is situated amongst a range of different land uses in the immediate vicinity at the intersection of Hovell Street and Townsend Street in South Albury. The land is described as Lot 1 DP501326. The property has a primary street frontage to Hovell Street and a secondary street frontage to Townsend Street, including gated driveway access to the rear of the property and car parking for up to two vehicles off street.



Figure 1: Locality Plan. Subject land outlined in red (source Six-maps)

The subject land is located within the Zone MU1 – Mixed Use and is surrounded by a number of commercial and recreational land uses. The adjacent land directly to the south comprises of the Zone RE2 and contains a number of tennis courts for recreational use. On the opposite side of Townsend Street to the east is the Zone R1 – Residential. There are 3 dwellings directly opposite the subject site that are located within the MU1 zone, as well as one dwelling located next door to the subject site.

3. DEVELOPMENT PROPOSAL

The proposal relates to a change in land use to Community Facility for the purposes of a not-for-profit community facility focussing on companion animal rescue. Albury Wodonga Animal Rescue (AWAR) has been in operation in Albury for over 20 years, and is a vital part of the Albury Wodonga community, helping to save the lives of surrendered and stray dogs and cats through rescuing, veterinary checking and facilitating the adoption of cats and dog into new homes.

Until recently, the rescue was based at a premises on Wagga Road, Lavington, connected to the Albury Animal Hospital (formerly Dr Jana's Pet Hub). The rescue premises allowed for a number of cats to reside in the rescue hub and obtain onsite veterinary treatment and services whilst awaiting adoption.

Earlier this year, Albury Animal Hospital decided to expand their veterinary clinic which has resulted in the need for Albury Wodonga Animal Rescue (AWAR) to find an alternate location and premises for the operation of their rescue. A new premises at Unit 1, 581 Hovell Street, South Albury has become available to AWAR to become their new rescue headquarters, and has been identified as being suitable to the needs of the rescue whilst still remaining within the heart of the Albury township to continue helping the local community.

AWAR has a strong reputation in the Albury Wodonga community for helping people and their pets in times of crisis. They have a good relationship and connection with the Albury Animal Care Facility (Albury City pound), and the rangers at Albury City Council have built a strong partnership with local rescue groups, including AWAR, to help rescue and rehome unwanted or surrendered animals.

AWAR's services to the community extend not only to taking in unwanted and surrendered dogs and cats, but also to helping the people behind those pets including facilitating community desexing programs and offering assistance to people facing crisis situations, such as facing homelessness, or to those leaving domestic violence situations or facing unexpected illness (i.e. a hospital stay) to temporarily look after their pets until their owners are in a position to care for them again. This is a vital resource in the community that receives no government grants or funding and is managed and operated entirely by volunteers.

In this regard, AWAR is an essential community service for local people and their pets. AWAR is not a commercial business that profits from boarding animals onsite or offering animals for sale for profit (e.g. breeding animals for profit). AWAR is a registered charity in NSW, and is wholly reliant on fundraising and community events for the generation of operating income. AWAR is not a business that generates profit or has paid staff who are employed by the rescue. It is 100% run by volunteers who donate their time to the cause of rescuing local companion animals. The rescue does not operate for a commercial purpose, as it does not generate any profit from rescuing animals. Funds generated through animal adoption fees are used to pay for the ongoing veterinary costs of desexing, vaccinating, health checking and microchipping of animals coming into the rescue in preparation for them to be placed for adoption into new homes. In most instances, the funds generated through adoption fees do not cover the full scope of veterinary costs that the rescue incurs and AWAR often needs to find other avenues of raising money, such as community fundraising events, to cover the costs of proper basic veterinary care for the animals taken in by the rescue.

AWAR is managed by Director, Rae Smith, and assisted by her husband Kevin, who attend the premises 7 days a week to care for any cats in care. AWAR also has a small team of volunteers who attend the premises on various days to assist with feeding cats and cleaning and changing litter trays. The facility provides for up to 25 cats to be housed temporarily within AWAR's facility until they are ready to placed for adoption. The facility does not charge a fee for housing rescued cats, and is not a commercial business offering pet accommodation services for profit such as a cattery or boarding facility. AWAR is not a breeding facility. If anything,

AWAR strongly advocates for the desexing of animals to prevent unwanted litters and to break the cycle of cats breeding.

AWAR also facilitate the adoption of stray and surrendered dogs. All dogs are cared for through in-home foster care with various families throughout the Albury-Wodonga region. No dogs are held overnight at the premises and any dogs visiting the premises will be held for only an hour or two at any one time during the day while their veterinary or adoption paperwork is being processed and then they are taken off site to their foster home whilst awaiting adoption.

AWAR's hours of operation are:
Sundays to Saturdays (7 days per week): 9am – 11am and 3pm – 5pm
(cat feeding, cleaning and administration work by Rae, Kevin and/or 2 to 4 volunteers)
Cat adoptions at the hub are by appointment only.

Volunteers:
2 permanent (Rae & Kevin), with 2 to 4 volunteers throughout the day to assist with cleaning, animal feeding, animal transport to veterinary appointments and administration tasks.

Signage:
A small sign is proposed to be installed on the front of the building as well as a small sign attached to the building on the Townsend Street elevation. Dimensions of each sign are approximately 90cm long x 50cm high and are printed on aluminium sheeting with AWAR's identification logo in black, white and orange.



Figure 2: Hovell Street frontage of the proposed Community Facility.

4. STATUTORY ASSESSMENT PROCESS

4.1 Environmental Planning and Assessment Act 1979

4.1.1 Section 1.3 Objects

It is considered that the proposed development is consistent with relevant objects of the Act including:

The objects of this Act are as follows
(c) to promote the orderly and economic use and development of land

4.1.2 Section 4.14 Consultation and development consent – Certain bush fire prone land

The subject land is not identified as being subject to Bush Fire Risk as per Albury City Council's Bush Fire Prone Land Map (BFPLM) (Figure 3).



Figure 3 – Albury Bushfire Prone Land Map extract (Certified & Updated 22 November 2022)

4.1.3 Section 4.15 Evaluation

The Act provides that in determining a development application, the following matters where relevant to the development are to be taken into consideration, namely:

(1) Matters for consideration - general
(a) the provisions of:
(i) any environmental planning instrument, and
(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
(iii) any development control plan, and

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

that apply to the land to which the development application relates,

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.

In respect of the consideration of a Development Control Plan the Act provides as follows:

(3A) Development control plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

(c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, standards include performance criteria.

4.1.4 Section 4.46 Integrated Development

Comment: The proposal is not regarded as an Integrated Development as defined by Section 4.46 of the Act requiring approval from any other relevant authority.

4.2 Town Planning Assessment

Assessment of the development proposal has been undertaken in respect to relevant considerations arising from Section 4.15 of the *Environmental Planning and Assessment Act 1979* as follows:

4.2.1 (a)(i) Environmental Planning Instruments

State Environmental Planning Policies (SEPP)

Comment: There are a range of SEPP's that generally apply to the subject land. Of those that cover the property the following are of relevance requiring more detailed response.

- **SEPP (Exempt and Complying Development Codes) 2008**

Comment: The proposed development is not classed as exempt or complying development as it does not meet all of the development requirements.

Albury Local Environmental Plan 2010 (ALEP 2010)

Part 1 Preliminary

Clause 1.2 Aims of Plan

Comment: The ALEP 2010 is the principal environmental planning instrument within the City. The particular aims of this Plan include:

> *(a) to give effect to the desired outcomes, principles and actions contained in the Council's adopted strategies and policy documents, and*
> *(c) to promote a city for the people, with a high level of social and physical amenity and a diversity of activities and uses.*

The proposal is not inconsistent with these aims.

Clause 1.9A Suspension of covenants, agreements and instruments

Comment: Noted.

Part 2 Permitted or prohibited development

Clause 2.3 Zone objectives & Land Use Table (development permissibility)

As noted below at Figure 3 the subject land is zoned MU1 – Mixed Use under ALEP 2010. A Community Facility for the purposes of a not-for-profit companion animal rescue and adoption facility within the MU1 – Mixed Use zone is permissible with consent.

Objectives of the MU1 – Mixed use zone that are satisfied and relevant to the proposal for a Community Facility in this zone include:

- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public open spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non- residential land uses on the ground floor of buildings*

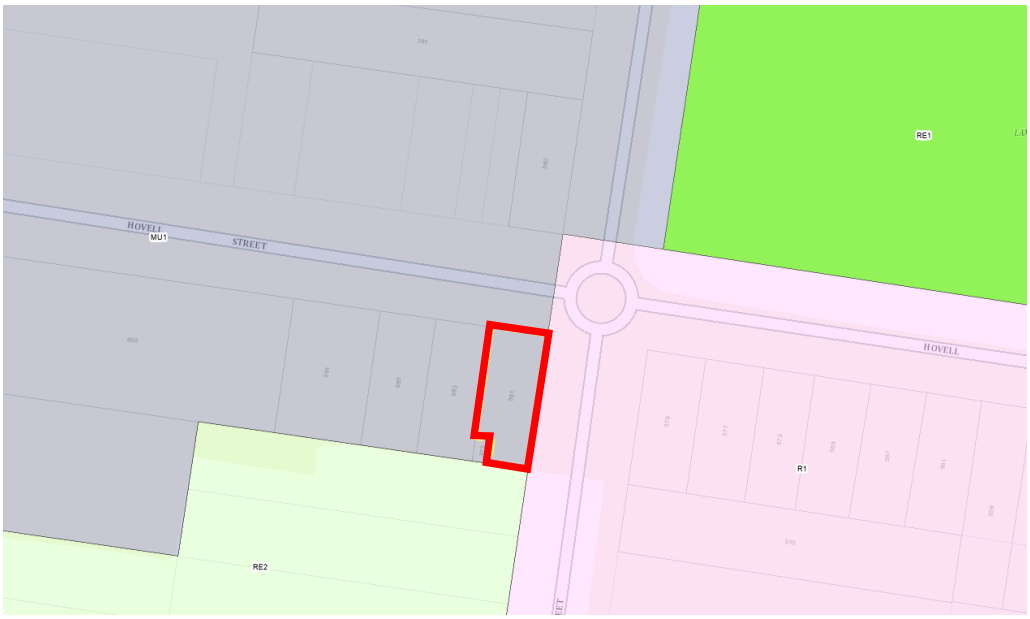


Figure 3 – Albury LEP Zone Map (extract)

Comment: The proposal is consistent with relevant zone objectives in the ALEP 2010 warranting consideration on a merits basis. The proposed Community Facility is considered to be a land use suitable for the subject site, being of a low scale in terms of the intensity of activity on the land, and aligning with the intent of the varied commercial and business uses of land surrounding the subject site in the MU1- Mixed Use zone.

As a consequence it is considered that there are no matters raised in respect of the proposal that could be considered to be inconsistent with the LEP.

In particular it is considered that the proposal complies with the relevant development standards and decision guidelines of the Albury Local Environmental Plan 2010 as follows:

Clause 2.7 Demolition requires development consent

Comment: Not applicable. No demolition activities will be occurring on the site.

Clause 2.8 Temporary use of land

Comment: Not applicable.

Part 3 Exempt and complying development

Provision	Comment
Clause 3.1 Exempt Development	*Not applicable*

Clause 3.2 Complying Development	*Not applicable*
Clause 3.3 Environmentally sensitive areas excluded	*Noted*

Part 4 Principal development standards

Provision	Comment
Clause 4.1 Minimum subdivision lot size	*Not applicable*
Clause 4.1AA Minimum subdivision lot size for community title schemes	*Not applicable*
Clause 4.1A Exceptions to minimum lot sizes for certain residential development	*Not applicable*
Clause 4.1B Minimum subdivision lot sizes for certain split zones	*Not applicable*
Clause 4.2 Rural Subdivision	*Not applicable*
Clause 4.2A Strata subdivisions in certain rural, environmental and residential zones	*Not applicable*
Clause 4.2B Erection of dwelling houses on land in certain residential, rural and environmental protection zones	*Not applicable*
Clause 4.2C Exceptions to minimum subdivision lot sizes for certain rural zones	*Not applicable*
Clause 4.3 Height of buildings	*Not applicable per Height of Buildings Map – Sheet HOB_004C*
Clause 4.4 Floor Space Ratio	*Not applicable per Floor Space Ratio Map – Sheet FSR_004C*
Clause 4.5 Calculation of floor space ratio and site area	*Not applicable*
Clause 4.6 Exceptions to development standards	*Noted*

Part 5 Miscellaneous provisions

Provision	Comment
Clause 5.1 Relevant acquisition authority	*Noted*
Clause 5.2 Classification and reclassification of public land	*Noted*
Clause 5.3 Development near zone boundaries	*Noted*
Clause 5.4 Controls relating to permissible uses	*Not applicable*
Clause 5.5 Development within the coastal zone	*Not applicable*
Clause 5.6 Architectural roof features	*Not adopted*
Clause 5.7 Development below mean high water mark	*Not applicable*
Clause 5.8 Conversion of fire alarms	*Noted*
Clause 5.9 , 5.9AA	*Repealed*
Clause 5.10 Heritage conservation	*The site does not contain any known items of Environmental Heritage Significance.*
Clause 5.11 Bush fire hazard reduction	*Noted*
Clause 5.12 Infrastructure development and use of existing buildings of the Crown	*Noted*
Clause 5.13 Eco-tourist facilities	*Not applicable*
Clause 5.14 Siding Spring Observatory—maintaining dark sky	*Not adopted*
Clause 5.15 Defence communications facility	*Not adopted*
Clause 5.16 Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones	*Not applicable*
Clause 5.17 Artificial waterbodies in environmentally sensitive areas in areas of	*Not applicable*

Provision	Comment
operation of irrigation corporations	
Clause 5.18 Intensive livestock agriculture	*Not applicable*
Clause 5.19 Pond-based, tank-based and oyster aquaculture	*Not applicable*
Clause 5.20 Standards that cannot be used to refuse consent – playing and performing music	*Noted*
Clause 5.21 Flood planning	*Noted*
Clause 5.22 Special flood considerations	*Not adopted*
Clause 5.23 Public bushland	*Not applicable*
Clause 5.24 Farm stay accommodation	*Not applicable*
Clause 5.25 Farm gate premises	*Not applicable*

Part 6 Urban Release Areas

Provision	Comment
Clause 6.1 Arrangements for designated State public infrastructure	*Not applicable*
Clause 6.2 Public utility infrastructure	*Not applicable*
Clause 6.3 Development control plan	*Not applicable*
Clause 6.4 Relationship between Part and remainder of Plan	*Not applicable*

Part 7 Additional local provisions

Provision	Comment
Clause 7.1 Earthworks	*Not applicable*
Clause 7.2 Water	*Not applicable*
Clause 7.3 Protected regrowth	*Not applicable for the MU1 – Mixed Use zone*
Clause 7.4 (Repealed)	*Repealed*

Clause 7.5 Development on river front areas	*Not applicable*
Clause 7.6 Essential services	*Complies. The subject land has suitable access to a public road via an existing driveway crossover to Townsend Street at the rear of the main building. The land is also connected to legal points of discharge. It also has access to water, sewer and services from existing assets currently available to the land.*
Clause 7.7 Landfill Buffer Area	*Noted*
Clause 7.8 Airspace operations	*Not applicable. The proposal relates to a change in land use for the purposes of a Community Facility, and will not result in a development that will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Albury Airport.*
Clause 7.9 Development in areas subject to airport noise	*Not applicable. The subject land currently contains an existing building which is proposed to be used as the Community Facility. The proposal relates to the use of the land for the purposes of a Community Facility only and is not considered to be a noise- sensitive development that may affect or be affected by aircraft noise any more than the surrounding business and residential properties in South Albury would be. The proposed use of the land will not hinder or have any other adverse impact on the ongoing, safe and efficient operation of the airport.*
Clause 7.10 Location of sex services premises	*Noted*
Clause 7.11 Development requiring the preparation of a development control plan – Willowbank Road, East Albury	*Not applicable*
Clause 7.12 Groundwater – Willowbank Road, East Albury	*Not applicable*

Schedules

Provision	Comment
Schedule 1 Additional permitted uses	*Not applicable*
Schedule 2 Exempt development	*Not applicable*
Schedule 3 Complying development	*Not applicable*
Schedule 4 Classification and reclassification of public land	*Not applicable*
Schedule 5 Environmental heritage	*Noted*
Schedule 6 Pond- based and tank based aquaculture	*Not applicable*

4.2.1 (a)(ii) Proposed instruments

Comment: There are a number of draft amendments to ALEP 2010 that have been the subject of public consultation under the Act. While these draft amendments apply to land within Albury City Council it is noted that none of these amendments specifically change the provisions affecting the subject land. As a consequence there are no relevant issues identified.

4.2.1 (a)(iii) Any development control plan

Comment: The Albury DCP 2010 applies to land within the City of Albury. Relevant to this Development Application are the following Parts of the DCP:

- *Part 3 – Development Notification Policy*
- *Part 11 – Development in the Commercial Zones*

Part 3 – Development Notification Policy

The DCP provides that Council will notify the owner or occupier of adjoining land or any other land it considers will be affected by the proposed development.

Comment: It is acknowledged that public notice of the proposal will be given.

Part 11 – Development in the Commercial Zones

Comment: Part 11.7 of the DCP includes controls in respect of commercial type developments in the former B4 Mixed Use Zone, which is now the current MU1 – Mixed Use Zone (as of 26 April 2023). In response to relevant controls applicable to the Hovell Street locality:

- *The subject land at 581 Hovell Street, South Albury is located outside of the designated land use diagram for Albury shown in Figure 11.7. In this regard, the subject site complies with the Land Use Plan in Figure 11.7, as well as any land use requirements specified in the LEP.*

- *The proposed change of use to Community Facilities is not a form of residential development, and therefore Part 10 of the DCP does not apply to this application. Further, the proposal does not relate to a mixed-use development and is neither a retail or a commercial business.*
- *The subject land is not characterised by heritage listed detached residential dwellings that require adapted buildings to be compatible in the streetscape.*
- *The proposal relates to the use of an existing building on the land, that is of single storey in height. The subject land is located outside of the Building Height Plan area within Figure 11.8, and therefore the specified building heights do not apply.*
- *The proposal does not relate to a detached house or a midblock infill site or a terrace house, and as mentioned above, will occupy an existing building that is of single storey building height within a mixed streetscape that displays a range of building heights of greater scale than the building proposed for use in this application.*
- *No buildings or structures will obstruct radio transmissions between local transmission structures.*
- *All buildings of structures on the site comply with the Obstacle Limitation Surface Plan as contained in Part 18 of the DCP to ensure that buildings and other structures do not exceed the safe operation of the Albury Airport.*
- *The overall building heights of the buildings included in this change of land use application comply with the Street Wall Heights and Upper Level Setback requirements contained in Section 11.7.4.*
- *Street wall heights comply with the Street Wall Height Plan contained in Figure 11.9 as the subject land is located outside of the specified area covered by the Plan. There are no upper levels to the existing building.*
- *The Floor Space Ratio complies with the FSR Plan contained within Figure 11.10 as the subject land is located outside of the specified area covered by the Plan. The subject land is the size of an average urban residential allotment, and is not situated on a site that is greater than 5000m² in area.*
- *There are no new buildings proposed (other than a small garden shed in the rear yard) that make a significant presentation to the streetscape. All buildings comply with the requirements of Section 11 regarding appropriate setbacks, heights, FSR, landscaping, open space and other building design requirements.*
- *The existing building is positioned on a corner site fronting to Hovell Street with a secondary frontage to Townsend Street. The existing building proposed to be used for a Community Facility is articulated to address each street frontage.*
- *The building is existing on the land, and there are no changes to the street wall setbacks or build to lines. The subject land is located outside of the specified area shown in Figure 11.11.*
- *There are no party walls applicable to the buildings on the land.*
- *The building depth of the existing building complies with that of commercial and office uses. Notwithstanding that the proposed Community Facility is not*

a commercial business, there are no windows to offices with a building separation of less than 12 metres.

- *The subject land is diagonally opposite Lambert Park, and the main building fronts to Hovell Street which overlooks the public space to encourage the provision of passive surveillance.*
- *No significant trees are proposed to be removed from the site.*
- *There are no significant car parking facilities required as the Community Facility is a very small scale operation. As discussed earlier in this report, only two (2) main volunteers are present most days on the site, with an extra two (2) to four (4) volunteers onsite at any one time. There is not a significant demand for car parking, and parking of volunteer's vehicles can be accommodated on the site as there is room for two car parking spaces. The rear car parking is easily accessible for both pedestrians and motorists.*
- *Schedule 2 of the LEP provides that most advertisements do not require the consent of Council provided that certain basic conditions are met. The subject land is not a heritage item and the small proposed signage as discussed earlier in this application is for identification purposes that does not detract from the style or character of other individual buildings or places. No signage is to be placed so that it is attached to the front verandah. A small sign is proposed to be attached to the front face of the building on private land, as well as on the Townsend Street building façade which does not encroach upon public or Council land.*
- *The subject land is not part of the Key Sites – Albury precincts (Railway land and Council Depot sites), of which specific building controls will apply.*
- *The subject land is not identified as being an 'Opportunity Site' as specified within the Albury CBD Masterplan 2009 as an area subject to redevelopment.*
- *The existing building or any other structure proposed for the change in land use does not encroach upon Council land and complies with Council's Encroachment on Council Land Policy.*

4.2.1 (a)(iiia) Any Planning Agreements

Comment: No planning agreements apply.

4.2.1 (a)(iv) The regulations

Comment: The regulations have been considered in the assessment of this application. It is considered that the application is consistent with the objectives of the regulations.

4.2.1 (a)(v) Coastal Zone Management Plan

Comment: Not applicable.

4.2.2 (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Comment: There will be no adverse impacts on either the natural and built environments as a consequence of approval of this proposal. Until recently the site

was a vacant commercial premises that was previously occupied by a NDIS community service provider (Infinity) up until November 2023 and prior to that, the building was occupied by a hairdressing salon. It is expected that the rescue operations will have little or no consequence on the adjoining properties as no dogs will be kept outside in the holding pens overnight and therefore barking will not be an issue. All cats are kept indoors and do not have free access to roam and therefore are unlikely to be of any impact to nearby neighbouring properties. The subject land is located amongst business and commercial buildings, and the anomaly in the locality is the odd residential dwelling within the MU1 – Mixed Use Zone precinct along the western side of Townsend Street. The land is also adequately serviced with existing utility connections, including water and sewer to an appropriate standard. All waste is managed onsite (kept at the rear of the premises away from public view), and a special skip bin for waste is leased from North East Bin Hire and collected every Friday from the premises.

Refer also to the Statement of Environmental Effects. The land does not provide a significant habitat that would necessitate a flora and fauna assessment in respect of the proposed development.

From an analysis of relevant sections of the Albury Local Environmental Plan 2010 it is clear that the proposal is not inconsistent with the LEP.

4.2.3 (c) The suitability of the site for the development

Comment: Refer to above discussion. The subject land is suitable for the proposed development in the MU1- Mixed Use zone.

4.2.4 (d) any submissions made in accordance with this Act or the regulations,

Comment: This matter will be dealt with by Council as a part of the due process.

4.2.5 (e) The public interest.

Comment: It is contended that there is nothing against the public interest that would prevent Council making a favourable determination in this matter. No detrimental issues exist in relation to the public - private land interface, including the road frontages to Hovell and Townsend Streets.

5. STATEMENT OF ENVIRONMENTAL EFFECTS

Clause 2(1)(c) of Part 1 of Schedule 1 to the *Environmental Planning and Assessment Regulation 2000* provides that a statement of environmental effects must accompany a development application.

Subclause 2(4) specifies the matters to be addressed in a statement of environmental effects as follows:

> *(a) the environmental impacts of the development,*
>
> *(b) how the environmental impacts of the development have been identified,*
>
> *(c) the steps taken to protect the environment or to lessen the expected harm to the environment,*
>
> *(d) any matters required to be indicated by any guidelines issued by the Director-General for the purpose of this clause.*

It is noted that there are no guidelines issued by the Director-General applicable to this proposal.

5.1 Impact Identification

The following assessment of impacts associated with the proposed development, have been identified by way of site analysis and consideration of Council Planning instruments and policy.

The development is considered to have the following environmental effects.

- ***Context and siting –*** *Satisfactory. The proposed community facility for the purposes of a companion animal rescue and adoption facility is consistent with the existing zone provisions and for all intents and purposes will have no impact upon the existing mixed character of commercial, business and residential allotments in the immediate locality.*
- ***Design –*** *Satisfactory. There is no change to the existing building, which is responsive to the existing MU1- Mixed Use zone arrangements without prejudicing the surrounding prevailing land uses.*
- ***Environmental Impacts –*** *Satisfactory. No trees are proposed to be removed from the site as a result of the occupation of the premises by the Community Facility. The proposal will not impact upon any threatened species, populations or ecological communities, or their habitats.*
- ***Natural Environment*** *– Satisfactory. The development will not adversely impact upon the urban setting and/or any native vegetation on site.*
- ***Built Environment –*** *Satisfactory. No buildings are proposed for the subject land as the proposal seeks to occupy the existing building on the land. Additionally, the subject land is surrounded by a prevalence of other commercial and business properties fronting to Hovell Street, and is unlikely to impact upon residential dwellings in the R1 zone to the east.*
- ***Social & Economic Impacts -*** *Satisfactory. The proposed Community Facility will support and promote the ongoing welfare of dogs and cats and their owners in the community. The strong presence of AWAR in the community helps to reduce the volumes of unwanted cats and kittens through desexing programs and is demonstrated to actively reduce the rate of companion animal euthanasia through their rescue and adoption programs. The benefit to the community and support AWAR provides people struggling to care for their pets is invaluable and the Albury LGA and community will be significantly disadvantaged for losing such a desperately needed community resource should they cease to operate.*
- ***Amenity –*** *Satisfactory. It is submitted that there will be no adverse impact upon the amenity of the area. Noise is unlikely to be a significant issue due to the low scale operations of the facility. Smell and odour is also unlikely to be an impact as volunteers clean and maintain the premises every day. Waste bin is housed appropriately away from public view and is collected every Friday.*
- ***Hazardous Materials*** *– Satisfactory. None required and no issues raised.*

- ***Access & Traffic –*** *Satisfactory. Vehicular access to the site is located at the rear of the building, and is via the existing driveway access off of Townsend Street. It is not anticipated that this arrangement will cause any undue disruption to traffic flow past the site.*
- ***Noise –*** *Satisfactory. The proposed change in use is unlikely to provide significant noise disruptions to the nearby business, commercial and residential allotments around the Hovell and Townsend Street intersection. AWAR is a small scale community based animal rescue that will only have cats onsite overnight. Cats will be fully contained and are not expected to be significantly noisy. Public tennis courts located on the adjacent site behind. It is likely that public recreational facilities in the locality will generate more noise during daytime hours than the proposed community facility. Noise levels are not anticipated to be over and above existing background levels.*
- ***Waste –*** *Satisfactory. No issues raised. All waste is managed by weekly bin collections organized by North East Bin Hire.*
- ***Heritage*** *– Satisfactory. The site is not subject to any heritage conservation provisions.*
- ***Aboriginal Cultural Heritage*** *– Satisfactory. No known items identified on the subject land. In any event statutory requirements would trigger contingency measures if any cultural heritage was subsequently identified.*
- ***Bushfire Hazard*** *– Satisfactory. The site is not located in a Bushfire Prone Area and does not present a bushfire hazard.*
- ***Water Quality & Stormwater*** *– Satisfactory. The site is capable of discharge to a legal point to Council's satisfaction.*
- ***Soils*** *– Satisfactory. No issues raised*
- ***Flora & Fauna*** *– Satisfactory. No elements of critical habitat will be impacted upon nor will the proposal impact upon any threatened species, populations or ecological communities, or their habitats.*
- ***Utilities*** *– Satisfactory. The site is capable of connection to all required services.*

5.2 Impact Minimisation

Comment: No adverse impacts are identified that would preclude approval of the application subject to appropriate conditions.

6. CONCLUDING COMMENTS

The proposal is seen as a relatively straight forward planning proposal that is consistent with the objectives of the MU1 – Mixed Use Zone as set out in the Albury LEP 2010.

The proposal represents an orderly planning outcome that seeks to support the local Albury-Wodonga community by allowing AWAR to continue to have home in the heart of Albury. The rescue provides enormous benefit to the local community, supporting people and their pets, and reducing the rates of euthanasia of unwanted animals in the community. They are a highly regarded and desperately

needed community resource that would be of significant disadvantage to the Albury-Wodonga community if they were no longer permitted to operate.

The use of the land for the purposes of a Community Facility is considered to be a form of development that will enhance the greater benefit and wellbeing of the community and should be granted approval to continue their good work rescuing animals across the region.

Prepared on behalf of
Rae Smith, Lorraine Webb,
Michelle Ingram & Danielle Maclean
AWAR Directors
05 September 2024

APPENDIX 1

SITE PLAN, FLOOR PLAN & EVACUATION PLAN

APPENDIX 2

LAND OWNERS WRITTEN CONSENT & ADDITIONAL SEE INFO

APPENDIX 3

SITE PHOTOS

APPENDIX 4

PROPERTY REPORT

Statement of Environmental Effects
COMMERCIAL AND SHOP PREMISES

This form can be used for the minor development of, or alteration to, commercial and shop premises including a change of use

- ✓ Attach this form to your Application for Development
- ✓ If a **new building** is proposed then a more detailed statement of environmental effects is to be submitted

1. INTRODUCTION
ADDRESS
UNIT 1 581 HOVELL STREET SOUTH ALBURY NSW 2640
GENERAL / RELEVANT INFORMATION
ALBURY WODONGA ANIMAL RESCUE (AWAR) INCORPORATING ALBURY CAT RESCUE (ACR) NSW OFFICE OF LOCAL GOVERNMENT REGISTERED R251000002 REHOMING ORGANISATION UNDER SECTION 88B ATTACHMENT
PREVIOUS OR EXISTING USE(S): including approximate duration of vacancy
INFINITY ABN 67645101444 NDIS PROVIDER LEASED 1/7/2020 TO APPROX NOVEMBER 2023 VACANT UNTIL 27/7/2024 AWAR LEASED PRIOR HAIRDRESSER/BEAUTY SALON ATTACHMENT
PROPOSED USE(S):
ALL VOLUNTEER Proposed staff numbers: 2 PERMANENT 2-4 THROUGHOUT DAY Car Parking: Existing: 2 Proposed: — Disabled: — Proposed Days & Hours of operation: 7 DAYS BUSINESS HOURS Plant or machinery to be installed: NIL Goods – type, size and quantity of goods to be retailed, manufactured and/or stored: NIL

1. POTENTIAL IMPACTS (Consider all relevant topics and their potential to cause an impact on the environment including:)
INFRASTRUCTURE Where are the pipes, drains, cables, wires and easements in relation to the proposal? Where are the water meters? In what condition is the kerbing, footpaths, street trees, street furniture, vehicle and pedestrian crossings and other visible infrastructure? Are any of these affected by the proposal?
NO IMPACT ON INFRACTURE BY OUR USAGE

Statement of Environmental Effects
COMMERCIAL AND SHOP PREMISES

SITE SUITABILITY Consider adjacent land use, slope, access to site, utility services, drainage, landslip, soil erosion, flora & fauna, solar access, flooding, bushfire, slope, soil contamination and similar risks.
PREMISES ESTABLISHED 29/11/62 WE HAVE LEASED FROM DIXON COMMERCIAL REAL ESTATE. ALL SERVICES ELECTRICITY, GAS, WATER, NBN VERY WELL ESTABLISHED. WE DO NOT PROPOSE ANY CHANGES ATTACHMENT
CONTEXT & SETTING What is the proposals relationship and compatibility to the adjoining and nearby land uses? Such considerations shall include, but are not limited to - 1) design/streetscape compatibility 2) overlooking/overshadowing 4) bulk & scale 5) relationship to surrounds.
OUR ORGANISATION OPERATES WITHIN LEASED AREA. DOGS BEHIND FENCES CATS HOUSED WITHIN 112.0M2 FLOOR SPACE OR ENCLOSED VERANDAH. NO IMPACT ON SURROUNDS
SIGNAGE Advise the type, location, colour, wording and size of proposed advertising signage including any illumination. Indicate whether the signage is a new structure or a replacement over previous signage. (Scaled Plans must be presented)
1) TOWNSEND STREET 50 x 90 REPLACE OTHER COMPANY SIGNAGE 1) FRONT VERANDAH 10 x 30 2) [illegible] ATTACHMENT
ACCESS SERVICING & PARKING Will there be an increase in traffic, will the development affect the access and movement patterns of vehicles. If loading and unloading provide detail of facilities, vehicle type, frequency and times expected.
NO INCREASED IMPACT NO UNLOADING/LOADING OF RETAIL MATERIALS
UTILITIES Consider whether existing utility services are adequate and what impact your proposal will have on such services.
EXISTING SERVICES MORE THAN ADEQUATE
HERITAGE Do you consider the proposal will have adverse impacts on the heritage significance of the building, a conservation area or adjoining items?

NIL IMPACT

Statement of Environmental Effects
COMMERCIAL AND SHOP PREMISES

Statement of Environmental Effects
COMMERCIAL AND SHOP PREMISES

WASTE What waste is produced - solid/airborne/liquid. How much waste will be produced? How will it be managed while on site and how will it be disposed of?
ATTACHMENT.
NOISE What noise is likely to be produced from your proposal? Relevant considerations may include vehicle movements, air conditioning units and other plant or machinery. How will it be managed? And what measures will be used to prevent noise impacting on neighbouring properties?
ATTACHMENT
SAFETY & SECURITY Consider whether your proposal impacts on pedestrian amenity and safety, on perceptions of safety and security, as well as actual opportunities for crime. Such considerations could include, active street frontages, street address, pedestrian comforts, solar access, street surveillance
WE HAVE NO IMPACT ON PEDESTRIAN MOVEMENT - NO FOOT PATHS AROUND PREMISES. AWAR WOULD HELP REDUCE CRIME AS BUILDING WAS VACANT VOLUNTEERS ONSITE 2 DAYS A WEEK. AWAR INSTALLED SECURITY CAMERAS AND SOLAR FLOOD LIGHTS
POLLUTION CONTROL & VISUAL QUALITY Consider whether your proposal is likely to prejudice the health, amenity and safety of the community and the environment. Relevant considerations may include vegetation removal, outdoor storage, emissions (such as steam, smoke, odour, dust, particulates etc), noise and vibration, refuse, trade effluent.
NO NEGATIVE IMPACT ON COMMUNITY OR ENVIROMENT. AWARS PRENSE OFFERS CALMING EFFECTS TO COMMUNITY. AWAR RUN MANY COMMUNITY BASED PROJECTS AT NO COST
ATTACHMENT
ADJACENT LAND Describe why you consider the proposal will not have adverse impacts on adjoining properties, surrounding areas and public domain.
AWAR HAVE VISITORED AND INTRODUCED OUR SELVES TO ALL NEIGHBORS. NO OBJECTIONS RECEIVED. POSITIVE HAPPY EFFECT
BUILDING FORM (Consider the building setbacks, appearance, materials used, colours and other land uses etc)
AWAR ARE CURRENTLY WORKING WITH VOLUNTEERS IMPROVING APPEARANCE AND SAFETY ISSUES

Statement of Environmental Effects
COMMERCIAL AND SHOP PREMISES

DISABLED ACCESS - How would the building provide access and facilities for the disabled? Compliance with *DISABILITY DISCRIMINATION ACT*
AWAR RESPECT AND APPRECIATE ALL PEOPLE. WE AREA NON-DISCRIMINATION ORGANISATION. BY COMMUNICATION AND UNDERSTANDING WE HAVE ALWAYS SUPPORTED INDEPENDENT GROUPS. ALL POTENTIAL ADOPTEES MUST COMPLETE AN ADOPTION FORM. 1 OF OUR VOLUNTEERS MAICE CONTACT TO VERIFY AND DISCUSS SUITABLE OPTIONS. AT THE POINT BEST OPTIONS ARE AGREED.
OTHER Please note any other possible impacts from your development
NIL

3. IMPACT IDENTIFICATION - How have these impacts been identified? (Site analysis, council planning instruments, discussions with planners, discussions with neighbours, professional advice, photographs)
DISCUSSIONS WITH ALL NEIGHBOURS

4. IMPACT MINIMISATION
Describe how any negative impacts listed above are to be addressed

NIL

Statement of Environmental Effects
COMMERCIAL AND SHOP PREMISES

CONSTRUCTION IMPACT - What are the impacts of construction activities in terms of site safety, noise, emissions and the like? What are the proposed environmental protection measures?

NIL CONSTRUCTION

SETUP BUSINESS HOURS

BUILDING CODE OF AUSTRALIA - How does the building and its proposed use comply, including compliance with fire safety provisions?

UNCHANGED FROM PREVIOUS USE

ATTACHMENT

FIRE SAFETY PROVISIONS *(cf Clause 2(1)(i) Part 1, Schedule 1, Environmental Planning & Assessment Regulation 2000)* Change of use of a building (other than a dwelling-house or a building or structure that is ancillary to a dwelling-house)

(i) A list of the Category 1 fire safety provisions that currently apply to existing building(s),

UNCHANGED FROM PREVIOUS USE

(ii) A list of the Category 1 fire safety provisions that are to apply to the building following a change of use

UNCHANGED FROM PREVIOUS USE.

DEPATURES FROM DEVELOPMENT CONTROL PLAN REQUIREMENTS – Every departure must be soundly argued, or offset. You can access most of Council's development control plans via council's website

UNCHANGED FROM PREVIOUS USE.

Statement of Environmental Effects
COMMERCIAL AND SHOP PREMISES

5. CONCLUSION

Please note any other information useful for your assessment

ATTACHMENT

Applicants should be aware more exhaustive information may be required depending on the developments building envelope and the sites development context. In preparing applications for a development, regard must be had to the provisions in Council's Development Control Plan 2010 (DCP2010).
To view the DCP2010, visit Council's website at www.alburycity.nsw.gov.au and search under Building and Planning, then Strategic Plans and Policies.

Legal Reference

- Section 78A(9) of the *Environmental Planning and Assessment Act 1979* states that the regulations may specify what is required to be submitted with a development application.
- Section 50(1)(a) of the *Environmental Planning and Assessment Regulation 2000* states that development applications must contain information and documents specified in schedule 1, part 1.
- Schedule 1, part 1, subclause 2(1)(c) of the *Environmental Planning & Assessment Regulation 2000* requires the submission of Statements of Environmental Effects (SEE's) with all Development Applications (other than designated development)
- Schedule 1, part 1, subclause 4 of the *Environmental Planning & Assessment Regulation 2000* states that such SEE's must show
  - The environmental impacts of the development

Statement of Environmental Effects
COMMERCIAL AND SHOP PREMISES

- How the impacts have been identified
- The steps to be taken to protect the environment or lessen the expected harm to the environment
- Any matters required to be indicated by any guidelines issued by the Director-General.

Signature: _____

Name: *(Print)* JULIE FILER Date 27/ 8 / 2024

Note: I understand that it is my responsibility to seek assistance if I have any difficulty interpreting the above.

Office Use Only
Date received .....
Customer Service Officer .....
Associated DA.....

Jaclyn Muntz

From:	info@alburycity.nsw.gov.au
Sent:	Friday, 20 September 2024 9:11 AM
To:	info@alburycity.nsw.gov.au
Subject:	10.2024.41052.1_Submission and Acknowledgement_Oppose[redacted] - Brittany and William Blomeley
Attachments:	Capture.PNG; 458580009_835904208702514_4111033100447437032_n.jpg
Categories:	Green Category

Dear Brittany and William Blomeley,

Thank you for your submission.

Your submission will be taken into consideration as part of the Development Assessment process. Once the proposal has been determined, you will be notified of Council's decision in writing.

Summary of Submission details.

Name: Brittany and William Blomeley
[redacted]
Submission: Oppose
Grounds For Objection or Support: We, Brittany and William Blomeley, oppose the submission for 10.2024.41052.1. We currently live[redacted]doors away from the site and we are aware that AWAR moved into the facility prior to receiving a DA, which is not compliant with the NSW Government's legislation. AWAR also advised neighbours that the DA had already been approved, which was extremely disappointing to hear when we found out that it in fact hadn't even been lodged. Since moving in, a number of trees and plants have been removed without a vegetation removal permit being sought, this has significantly impacted the aesthetics of the site (see document 1 prior to the removal). The large tree which was also removed to the right provided habitat for a number of native bird species, such as magpies. Throughout the day, people are parking along the unbroken line near the roundabout, making it dangerous for vehicles travelling along both Hovell St and Townsend St. There needs to be more sufficient parking for a facility of this nature because people visiting the site are blocking critical access and posing a significant risk to drivers and pedestrians. I have seen multiple dogs at the facility throughout the day and there was one occasion where I was walking past and one was extremely aggressive and the lady holding the lead could barely restrain the dog as it barked and growled so she had to move inside. This made me extremely concerned for myself and my dog's safety as we walked past. I've also heard dogs barking at all hours of the day when walking past the facility. AWAR also erected a large sign for a week or so before being asked to remove it by Lynda from Albury City Council (see document 2). The measurements of this sign far exceed what is stipulated in the application so I am interested to know if this is the same sign they are planning to re-erect because if it is, the measurements are not accurate. Given the location of the site, I'd be interested to know more about how AWAR is disposing of animal faeces appropriately with approximately 25 cats on site and a number of dogs throughout the day. The space is also relatively small to accommodate that many animals, especially if they aren't utilising the shed to the rear. I would think that more space is required to give the animals space to move around freely. We'd like to reiterate that AWAR do a wonderful job in our local community to rehome stray animals and we are

extremely supportive of this service, but we don't believe the current facility is appropriate given the location. Warm Regards, Brittany and Will

You can continue to follow the progress of this application through the Application Tracking service on AlburyCity's website.

Please note: This is an automatically generated email, please do not reply/respond.

Jaclyn Muntz

From: info@alburycity.nsw.gov.au
Sent: Sunday, 22 September 2024 10:24 AM
To: info@alburycity.nsw.gov.au
Subject: 10.2024.41052.1_Submission and Acknowledgement_Oppose [redacted] - Gary Dyball

Dear Gary Dyball,

Thank you for your submission.

Your submission will be taken into consideration as part of the Development Assessment process. Once the proposal has been determined, you will be notified of Council's decision in writing.

Summary of Submission details.

Name: Gary Dyball
[redacted]
Submission: Oppose
Grounds For Objection or Support: As my property is located [redacted] to the facility where this application has been submitted i am strongly opposing this application. This application should have been submitted prior to this facility being occupied as i made enquiries when we first heard whispers that there was an animal rescue shelter going there. I was told when i made the enquiry that this application and the opportunity for me to oppose this would be done again prior to them occupying and not after, i feel this was done in a lot of haste as the Rescue Team would of known that this would of been opposed. Opposing this application is due to the fact that 1. we have dogs barking constantly and other noises that impact our work life 2. we have on a daily basis people parking near our driveway which obstructs our vision when reversing from our property. 3 This facility being a animal rescue should never have been considered in this area as i believe there needs to be more space for the animals to be housed comfortably, this is not the case at the property in question as cats are in cages on the front verandah and there is very little room for dogs move freely. By having this rescue facility here i believe it will impact on my property value due to the fact that it is an eye sore and not a tidy and clean environment as mentioned before there are animals in cages out on the front verandah Having said all of the above, again i strongly oppose this application and again this should not be in this area.

You can continue to follow the progress of this application through the Application Tracking service on AlburyCity's website.

Please note: This is an automatically generated email, please do not reply/respond.

Jaclyn Muntz

From: info@alburycity.nsw.gov.au
Sent: Saturday, 21 September 2024 11:59 AM
To: info@alburycity.nsw.gov.au
Subject: 10.2024.41052.1_Submission and Acknowledgement_Oppose_[redacted] Keith Parkin

Dear Keith Parkin,

Thank you for your submission.

Your submission will be taken into consideration as part of the Development Assessment process. Once the proposal has been determined, you will be notified of Council's decision in writing.

Summary of Submission details.

Name: Keith Parkin
[redacted]

Submission: Oppose
Grounds For Objection or Support: To whom it may concern, I am writing to express concerns regarding the proposed change in land use at 581 Hovell Street, Albury, and its potential impact on our commercial property located at [redacted] Street. While we understand that the proposal involves the operation of Albury Wodonga Animal Rescue (AWAR) from Unit 1 of the premises, we have several concerns specific to the operation of our commercial business: Traffic and Parking Congestion: The property at 581 Hovell Street has limited off-street parking, accommodating only two vehicles. With the additional foot traffic generated by AWAR's operations, we are concerned that the spillover of vehicles onto the street could affect access to parking spaces essential for our commercial operations, particularly during business hours. Increased vehicle activity may also lead to congestion on Hovell Street and Townsend Street, affecting delivery services and customer access. Noise Impact: Although the proposal indicates that dogs will not be housed overnight and their presence will be temporary during the day, the increased noise associated with the presence of animals, such as barking, could disrupt the daily operations at our commercial premises. This noise could be particularly disruptive if the volume or frequency of animals visiting the premises increases. Compatibility of Commercial Activities: Given that our property at [redacted] Street operates as a commercial site, we are concerned about the compatibility of a community-based animal rescue facility operating nearby. The nature of AWAR's activities may not align with the business environment in this area, and could potentially affect the professional atmosphere required for our operations. Impact on Commercial Tenants and Clients: Our commercial tenants and clients may be negatively affected by the potential disturbances arising from increased animal-related activity in the immediate vicinity. Any concerns about noise, parking, or access disruptions could impact our ability to maintain high-quality tenant relationships and professional business services. We respectfully request that the council consider these concerns during its review of the proposed land use change. It would be helpful to explore measures to minimize potential disruptions, including additional parking solutions, noise mitigation strategies, and ongoing management of waste and odour. Thank you for your time and consideration. We look forward to further information on the matter and any opportunities for further consultation. Yours sincerely, Keith Parkin Commercial Property Address – [redacted] Street, South Albury

You can continue to follow the progress of this application through the Application Tracking service on AlburyCity's website.

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Jaclyn Muntz

From:	[redacted]
Sent:	Monday, 23 September 2024 4:27 PM
To:	info@alburycity.nsw.gov.au
Subject:	Response to notification of proposed development - 581 Hovell St, South Albury (attention Jordan Knox)
Attachments:	Development application.docx
Categories:	Green Category

I refer to your letter of the 12th instant and now enclose our response to same.

Michael and Cathy McGlone
[redacted]

[redacted]

19th September, 2024.

Mr David Christy,

Service Leader City Development

Infrastructure, Planning and Environment

ALBURYCITY

Re: Submission Notification to proposed development

Description of Proposal: - Change of Use - Animal Care Facility

Property address: 581 Hovell Street SOUTH ALBURY

Application Year: 2024 Application Number 41052

Applicant Name: The Trustee for Albury Wodonga Animal Rescue Trust

We refer to your letter of the 12th September instant and now make the following submission:

1) This correspondence was not received by us until today's date. Obviously this makes it virtually impossible to meet with other affected residents, the occupants of the building, to seek legal advice or to correspond with the Land and Environment Court;
2) Contrary to the claims made in the application, we were not approached by the applicant. Worse still, neither were the Blomleys, who live immediately next door to us, nor did they receive a copy of your letter;
3) You will note a picture of the subject premises included with the application. The premises are ugly and run-down. The construction of the cat cages on the verandah makes a lie of the claim that there will be no future construction on the site. It's already happened SO WHY WAS THE APPLICANT ALLOWED TO ALTER THE USE OF THE PREMISES PRIOR TO THE APPLICATION BEING GRANTED;
4) We are also advised that major trees have been removed from close to the premises, although we are unable to confirm that. But if it is true, then 3) comes into play;
5) We were unaware of the changes to the premises until we noticed the presence of a large and ugly sign. This was later replaced by smaller signs. However the original sign remains, tossed on the front lawn of the premises;
6) It is obvious that the nature of the structure on the premises will have a deleterious effect on the property values of the surrounding residences; and
7) It is interesting to note the idyllic picture included in the application showing a view of Lambert Park. Interesting because it shows an area subject to heavy flooding. Sooner or later, this will affect the subject premises; and

8) We are not convinced that there will be an absence of noise and odors emanating from the subject premises. In fact, dogs can be heard whining in the mornings and at other times.

While we are sympathetic to the work that AWAR does – and we say that sincerely - the manner in which the application was lodged and the work that was done prior to its approval, makes a mockery of the council's planning regulations and by-laws.

Please advise us, and the other objectors, of the result of your inquiries as soon as possible.

Yours faithfully,

M.A and C.J. McGlone

Jaclyn Muntz

From:	info@alburycity.nsw.gov.au
Sent:	Monday, 23 September 2024 8:51 PM
To:	info@alburycity.nsw.gov.au
Subject:	10.2024.41052.1_Submission and Acknowledgement_Oppose[redacted]- Fiona Blomeley
Categories:	Green Category

Dear Fiona Blomeley,

Thank you for your submission.

Your submission will be taken into consideration as part of the Development Assessment process. Once the proposal has been determined, you will be notified of Council's decision in writing.

Summary of Submission details.

Name: Fiona Blomeley
[redacted]
Submission: Oppose
Grounds For Objection or Support: I am appalled that are already operating without approval. The noise is a major problem which by all accounts is already an issue to adjacent and nearby residents. What is the enviromental waste management plan? The safety of the community of the sercurity of the animals and the which have shown aggressive behaviour out the front already. Inadequate parking, as they are already parking illegally over paths and on the nature strip. This type of shelter should be in a heavy industrial zoned area not right next and opposite peoples homes this is a totally unsuitable and unnecessary business to be in virtual central Albury location! Please regard these as major reasons that this application should never be approved! Yours sincerely Fiona Blomeley.

You can continue to follow the progress of this application through the Application Tracking service on AlburyCity's website.

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Jaclyn Muntz

From:	info@alburycity.nsw.gov.au
Sent:	Wednesday, 25 September 2024 2:50 PM
To:	info@alburycity.nsw.gov.au
Subject:	10.2024.41052.1_Submission and Acknowledgement_Oppose_[redacted] - William Edward Brouwer

Dear William Edward Brouwer,

Thank you for your submission.

Your submission will be taken into consideration as part of the Development Assessment process. Once the proposal has been determined, you will be notified of Council's decision in writing.

Summary of Submission details.

Name: William Edward Brouwer
[redacted]
Submission: Oppose
Grounds For Objection or Support: I strongly oppose this submission, and my reasons are as follows :- AWAR approached me back in May/June this year (as i am the closest and most affected neighbour) suggesting they were looking at renting next door subject to Council approval pending a "DA" which they were submitting, I said to them i wouldn't tolerate distressed barking dogs all hours of the day and night, that's not fair on anyone, they assured me that wouldn't happen, I also said i felt that "it" being in a residential was wrong and that the facility needed to be in an industrial area for example, they didn't comment ! I never received anything from Council and then at the end of July they basically moved in and started operating saying they had signed a 3 year lease. Upon learning that they had moved in illegally and a number of 6 - 8metre trees were removed (without a permit no doubt) and an extremely large ugly sign erected i was very disappointed given they clearly have no regard for the "due process" ! Since then the look of the property has deteriorated dramatically, patched up fences, cages everywhere, it's become an eyesore and certainly will de-value my property and the neighbouring properties. My eldest son resides with me and works for remotely from home. My office window looks at their backyard. He is enduring distressed barking, whimpering, and whining dogs in cages and roaming free all hours of the day. The volunteers sit out on the front verandah and just ignore the ongoing commotion. He has spoken to them on occasion and the dogs are quietened for a short period, and then the barking continues. This is affecting his work dramatically. There is also a camera looking directly at our office window and this is an invasion of our privacy, as far as i'm concerned. I fear that in time these distressed dogs will be left overnight in these cages and we will be expected to tolerate barking dogs throughout the night. Should this occur i will have no option but to proceed with legal action! And i'm quite prepared to do so - if required! I also bring to your attention the 'Albury Local Environmental Plan 2010', specifically the definition of zone MU1 (Mixed Use), which states that 'animal boarding or trainee establishments' are prohibited. So clearly it appears that this facility is in breach of that very legislation! I am in full support of what they do - rehoming abandoned dogs and cats - is very much needed in our community, but definitely not in a predominately residential area surrounded by houses and units. I sincerely hope common sense will prevail in this matter and they are relocated to a more suitable area.

You can continue to follow the progress of this application through the Application Tracking service on AlburyCity's website.

Please note: This is an automatically generated email, please do not reply/respond.

Development Application

Assessment Report

Preliminaries: Environmental Planning & Assessment Regulation 2021 cl24(1)(a)

Responsible Officer: J T Knox

Development Application No: 10.2024.41052.1 **Parcel Number:** 16149

Street Address: 581 Hovell Street SOUTH ALBURY

Written Consent Environmental Planning & Assessment Regulation 2021 cl24**:** *YES*

Description: Change of Use – Community Facility (Animal Care Facility)

Public Notification: 10 days **Submission period ending:** 25th September 2024

Number of submissions received: 6 submissions – discussed under Section 4.15(1)(d) at the end of the report

Date of site visit: 24th September 2024

Number of jobs created with the development: Full time Nil Part time Nil

Dollar value of the development: $0.00

See plans and application form for further details.

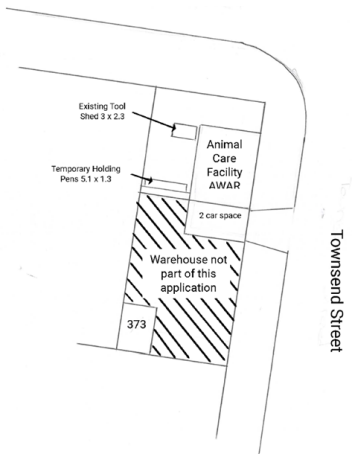
Site Description

The site comprises of 632 m^2 of MU1 - Mixed Use zoned land pursuant to the Albury Local Environment Plan 2010 (ALEP) and is located at 581 Hovell Street SOUTH ALBURY and is legally described as LOT: 1 DP: 501326 (the site).

Site Image



Site Plan



Description of Development

The applicant is seeking development consent for a Community Facility operated by Albury Wodonga Animal Rescue (AWAR). AWAR provides a community based non-for-profit animal welfare service for the Albury/Wodonga region by rescuing and rehoming companion animals. AWAR is currently operating the from the subject site which predominately shelters cats awaiting adoption but also includes keeping dogs on site temporarily while administrative procedures are undertaken to admit the dogs into AWAR's offsite foster care program to await adoption. The site supports a commercial factory/workshop at the rear, and a former residence fronting Hovell Street which has been occupied by a variety of commercial uses for a number of years.

Planning Controls

Land Use Zoning:	MU1 - Mixed Use Zone

T 02 6023 8111
F 02 6023 8190
info@alburycity.nsw.gov.au
alburycity.nsw.gov.au

PO Box 323
553 Kiewa Street
Albury NSW 2640
ABN 92 965 474 349

Development Application

Assessment Report

Heritage Conservation Area:	Not applicable
Heritage Conservation Item:	None applicable
Relevant Local Environmental Plan:	Albury LEP 2010
Relevant SEPPs/REPs:	Biodiversity Conservation SEPP 2021 – Not relevant in this instance
	State Environmental Planning Policy (Resilience and Hazards) 2021
	State Environment Planning Policy (Sustainable Buildings) 2022
Relevant DCPs/Policies:	Albury DCP 2010

Comment/Previous DAs:

N.16149	BA Erection of building – Dairy & Milking Sheds	Determination date: 10/07/1940
No. unknown	Alterations & Additions (residence)	Determination date: 12/10/1962
DA No. 1207	Auto Electrician Workshop	Determination date: 25/10/1983
N.920657	BA Factory – add/alts	Determination date: 21/09/1992

No planning approvals found within Council's records; however the site (residence) appears to have been occupied by a series of hair dressing businesses in recent years, namely Urban Hair & Beauty, Doll Hurt and Betty Boo. The site also appears to have been most recently occupied by NDIS community service provider Infinity.

Assessment in Terms of EP&A Act 1979

Section 4.15 Assessment
Section 4.15(1)(a)(i) – Any EPI
Albury LEP 2010
Part 2: Permitted or prohibited development
The subject land is zoned MU1 - Mixed Use Zone under the ALEP 2010.

1 Objectives of zone

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To increase the permanent population and encourage the provision of affordable housing in mixed use areas.*

The proposed development is defined as *community facility* under ALEP 2010 and is permissible in the zone with consent.

While AWAR's operations centre around the caring and sheltering of rescued companion animals awaiting adoption, they are a not-for-profit community run organisation and therefore do not align with the commercial nature of an *animal boarding or training establishment* as defined under the ALEP 2010.

animal boarding or training establishment *means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.*

AWAR provides an essential service to the community by rescuing and re-homing companion animals within the Albury/Wodonga region. AWAR has been operating in Albury for over 20 years and play an important role in the Albury/Wodonga community, helping to save the lives of surrendered and stray dogs and cats through rescuing, veterinary checking, facilitating the adoption of cats and dogs into new homes and assisting members of the community to care for companion animals during time of personal crisis. AWAR is a registered charity in NSW and is wholly reliant on fundraising and community events for the generation of operating income to support their operations. Based on this information it is considered that the use of the site better aligns with the definition of a *community facility,* as defined under the ALEP 2010.

community facility *means a building or place—*
(a) owned or controlled by a public authority or non-profit community organisation, and
(b) used for the physical, social, cultural or intellectual development or welfare of the community,
but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

Community facilities are permissible with development consent in the MU1 Mixed Use zone, however as mentioned the proponent has already commenced operating from the subject site without development consent being obtained.

Part 3: Exempt or complying development
Comment: The development is not defined as Exempt and/or Complying Development.

Part 4: Principal development standards
Comment: No Principal Development Standards are applicable to the proposed development.

Part 5: Miscellaneous provisions
Comment: No Miscellaneous Provisions are applicable to the proposed development.

Part 6: Urban release areas
Comment: The site is not within an urban release area.

Part 7: Additional local provisions
7.6 Essential services
The site is adequately serviced by all required utilities and infrastructure including; electricity, telecommunications, water, sewer and drainage. No change to the existing servicing arrangement is proposed.

Section 4.15(1)(a)(ii) – Any proposed instrument

There are no proposed instruments applicable to this development.

Section 4.15(1)(a)(iii) – Any DCP
Albury Development Control Plan 2010

Part 3: Development Notification Policy – The development application was publicly notified between the 12/09/2024 and the 25/09/2024 in accordance with Council's Community Participation Plan. To date, six (6) submissions were received during the public notification period. In line with Council's delegation policy, Council officers do not have the delegation to determine development applications that have received more than five (5) objections. The application will be determined at the AlburyCity Council meeting held on the 11th of November 2024.

Part 4: Developer Contributions Plans – Council's Infrastructure Contributions Plan 2014 does not apply to the proposed development for the following reasons:

Section 12

Section 7.12 contributions are not applicable to *Works undertaken for charitable purposes or by a registered charity* as specified under Section 3.7.1 of Council's *Infrastructure Contributions Plan 2014*. AWAR is a not-for-profit community run organisation, but also a registered charity with the Australian Charities and Not-for-profits Commission (registered as Albury Wodonga Animal Rescue Trust) - and therefore exempt from 7.12 contributions. In any case, the cost of works associated with the change of use identified within the application was $0.00.

Section 64 Contributions:

Since no additional water or sewer connections are proposed, and considering the infrastructure demand of the new community facility is likely similar to domestic facilities, it seems reasonable to conclude that the change of use won't significantly increase demand on the site's infrastructure, especially given the site has been occupied by a number of hairdressing business in recent years.

Part 5: Tree Preservation – No vegetation is proposed to be removed as part of the proposed development. It is noted that vegetation from the front of the site has been recently removed without consent from Council. The applicant has provided an email from Dixon Commercial Real Estate (DOC24/253409) as evidence that the removal of the vegetation (multiple large Yuccas and one (1) large tree, pictured below) was removed prior to the applicant occupying the site.




Before removal




After removal

Part 6: Planning for Hazards – The subject land is not identified as contaminated, bushfire prone but is however subject to low hazard flood risk. Although the subject building was originally constructed as a residence, it is currently occupied by as a non-habitable use with no building alterations proposed and therefore no specific flood protection requirements are applicable to the proposed development.

Part 7: Heritage Conservation – The subject land is not a heritage item or within a heritage conservation area as defined by the ALEP 2010.

Part 11: Development in Commercial Zones
11.7.1 Development in the B3 Commercial Core and B4 Mixed Use Zones
General Objectives

- *To maintain and enhance Albury and Lavington's economic, social and cultural role in the region.*
- *To reinforce the structure and legibility of Albury and Lavington through a clear street hierarchy and urban form.*
- *To promote and encourage a high design quality of buildings.*
- *To ensure that the siting of new developments are appropriate to their setting and use, particularly in regards to overlooking and overshadowing of residential areas.*
- *To manage the transition in building use and scale within low-scale residential and multi-use areas.*
- *To provide a high level of pedestrian amenity to create vibrant, safe and easy-to-navigate streets.*
- *To promote the amalgamation of small sites to deliver better quality development and adequate on-site parking.*
- *To respect the existing scale and view corridors of heritage streetscapes in regards to new development.*
- *To improve and promote the use and safety of laneways for both vehicle service access and pedestrian access to building frontages.*
- *To promote and encourage safer public spaces.*
- *To promote landmark buildings at gateways and entry points.*
- *To simplify visual clutter, enhance tree planting and identify areas for public art and new public spaces.*
- *To create a destination for tourists from which to experience and enjoy Albury.*

Comment: The proposed development is consistent with the general objectives of the zone. The site is located within an established mixed use area within close proximity to Albury's CBD. As the built form is existing and no significant building modifications are proposed, many of the controls under this part which pertain to the development of built form are not relevant to the development proposed.

11.7.2 Land Use Precincts
Comment: The subject land is located outside of the land use precincts area (Albury) as shown in Figure 11.7

11.7.3 Building Heights - Albury
Comment: The subject land is located outside of the building height map area (Albury) as shown in Figure 11.8

11.7.4 Street Wall Heights and Upper Level Setbacks – Albury
Comment: The subject land is located outside of the street wall height plan area (Albury) as shown in Figure 11.9.

11.7.5 Floor Space Ratio (FSR) – Albury
Comment: The subject land is located outside of the FSR area (Albury) as shown in Figure 11.10.

11.7.6 Building Design – Albury
Comment: The controls within this part are not relevant to the development as the application seeks consent to occupy an existing building with the only change proposed being the addition of an outdoor cat cage on the front veranda of the building.

11.7.7 Building Setbacks – Albury
Comment: No changes are proposed to the setbacks of the existing building

11.7.8 Building Depth – Albury
Comment: No changes are proposed to the sitting of the existing building.

11.7.9 Building Separation – Albury
Comment: No changes are proposed to the sitting of the existing building.

11.7.10 Open Space and Landscaping – Albury

Objectives

1. *To encourage the maintenance and enhancement of existing and proposed public open spaces within the City Centre and its surrounds.*
2. *To ensure appropriate access to all public spaces is available and to 'activate' these spaces through passive surveillance.*
3. *To promote green roofs and their use not only for the better environmental performance of buildings but also as communal open space/s.*

Comment: The proposal does not involve an existing or proposed public space however is located adjacent to Lambert Park.

Controls

i. *Public open space areas shall be developed in a cohesive and coordinated manner for the benefit of the public.* **The development does not include any existing or proposed public spaces.**

ii. *Development adjoining public open spaces shall address and overlook these areas to encourage use and provide passive surveillance.* **The site currently has views to Lambert park and offers a significant contribution to passive surveillance of the immediate area being a corner site with low boundary treatments.**

iii. *Communal open spaces for mixed use buildings, commercial offices and residential buildings shall be provided for those occupants of the building. Communal open space areas above ground level (green roofs) are desirable for mixed use residential buildings.* **Not relevant to the site as the building is existing.**

iv. *Where car parking structures are proposed it is encouraged that communal open space may be located above these on a podium.* **No relevant to the proposal as the on-site car parking area is existing.**

v. *Any development or redevelopment of a site shall seek to retain significant existing trees, where possible.* **The applicant has provided evidence that existing vegetation which has been recently removed from the site was undertaken prior to the proponent occupying the site.**

vi. *Landscape plantings shall be provided for large scale developments and incorporated within the front setback, particularly for residential type developments.*
Again not relevant to the proposal as the application pertains to a change of use rather the built form development.

11.7.11 Car Parking, Traffic and Access – Albury

Objectives

1. *To consolidate car parking areas into a series of concentrated central locations as identified in the Albury CBD Masterplan 2009 and the Lavington CBD Masterplan 2009.*
2. *To locate car parking areas on main transport links and to clearly inform and direct motorists as to the location of car parking facilities.*
3. *To contribute to the provision of a compact, accessible and connected retail core.*
4. *To ensure that developments that are known to produce significant parking demands, make sufficient car parking provision on the actual development site.*
5. *To ensure car parking facilities are both pedestrian and motorist friendly.*

Comment: The proposal and the attributes of the chosen site are considered consistent with the objectives of this part where relevant. Parking will be further discussed under Part 17 of the DCP.

Part 16: Advertising Signage

Comment: Although a sign has been erected on the site prior to the applicant obtaining consent, the sign has been since removed at the direction of Council's Education & Compliance team. The sign was brought to site from the property where the AWAR previously occupied and the applicant has opted to not include the sign with this application. And advisory condition would be placed on the consent to remind the applicant of their obligation to obtain development consent for any sign not meeting the exempt provisions.

Part 17: Off-street car parking

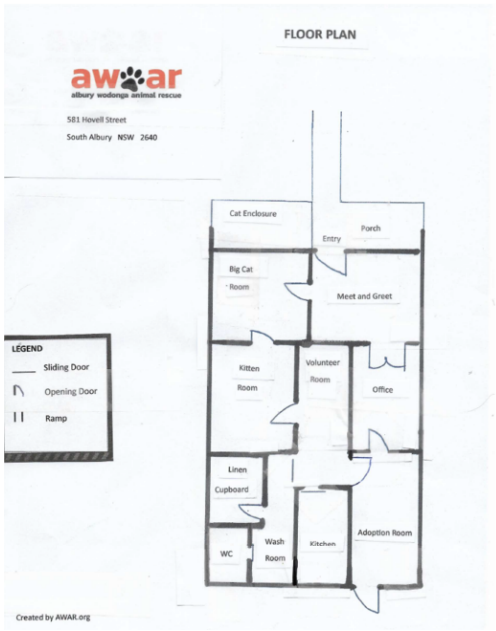
The applicant has provided a site plan which identifies the location of two (2) allocated on-site car parking spaces at the rear of the occupied building, between the front and rear tenancies. The site inspection undertaken on the 24/09/2024 revealed that the space is only large enough to realistically fit one (1) vehicle on site. This does not meet the ADCP 2010 Part 17 provisions which require four (4) car parking spaces.

Part 17 of the ADCP requires community facilities to provide one car parking space per 10m² of GFA or 1 per 5 seats, whichever is greater. Council has recently notified a revised Part 17 of the DCP. Within the draft amendment Council proposes to reduce the car parking provision requirement for community facilities to 1 space for 30m² of GFA. On the basis of the exhibited controls only two car spaces would be required.

Considering that the site appears to have been operating for a number of years by a series of hairdressing businesses and most recently occupied by a NDIS community service provider (Infinity) it can be assumed that the available parking on site and surrounding street parking has absorbed the shortfall of parking from previous uses. Parking demand for the site's previous uses would be calculated on the basis of a 'business premised', which both the current and drafted amendment to Part 17 of the ADCP requires a parking provision rate of 1 car space per 40m² of GFA.

The provided floor plan identifies the various uses for each room within the tenancy (as shown below). The parking demand for the use will mainly be generated by the volunteers visiting the site and people coming to adopt animals. The rooms/areas within the tenancy that will be used for AWAR's adoption program are the meet and greet, office and adoption rooms, as shown below. The total area of the above-mentioned rooms combined is 42m².

In summary, under the current requirements of the ADCP Part 17, the proposed development has a parking shortfall of 3 spaces, however under the revised Part 17, it would only be considered to be a shortfall of less than 1 space. The proposed development is not considered likely to cause a significant increase in the site's traffic volumes and parking demand compared to its previous occupants. Volunteers and potential adopters attending the site are also likely to visit on an ad hoc and infrequent basis, which will assist in reducing the potential for the demand to overwhelm the available on site and street parking.



Development Application

Assessment Report

Section 4.15(1)(a)(iiia) – Any Planning Agreement

No planning agreement relates to the site or to the proposed development.

Section 4.15(1)(a)(iv) – The Regulations

There are no matters prescribed by the Regulations applicable to this development.

Section 4.15(1)(b) – Any likely impacts of that development

	Satisfactory	Not Satisfactory	Not Relevant	Comment
Context & Setting	☒	☐	☐	No adverse impacts are foreseen to the context and setting of the area. As mentioned throughout the report, the site is located in an establish mixed use area and after taking to account the operational limitations proposed, development is considered to be compatible with the variety of surrounding land uses that existing in the area.
Streetscape	☒	☐	☐	No significant streetscape impacts as a result of the development proposed.
Traffic, access and parking	☒	☐	☐	As discussed within the report no significant increase in traffic related impacts are foreseen.
Public Domain	☐	☐	☐	No adverse impacts foreseen to the public domain provided the development is carried out and managed in accordance with drafted conditions of consent.
Utilities	☒	☐	☐	Existing and available. No change to servicing arrangement required or proposed.
Heritage	☐	☐	☒	Not relevant to the site.
Other land Resources	☒	☐	☐	None identified.
Water Quality & Stormwater	☒	☐	☐	No change to stormwater management proposed.
Soils, soil erosion	☒	☐	☐	No significant building works or site disturbance proposed.
Air and microclimate	☒	☐	☐	No changes identified.
Flora and Fauna Trees	☒	☐	☐	No removal proposed as part of this application as discussed throughout the report.
Waste	☒	☐	☐	Waste management procedures discussed throughout the report. An animal management plan is required by a condition of consent to be provided to Council for approval. No adverse impacts foreseen in relation to waste management.
Energy	☒	☐	☐	No significant change to energy consumption on the site.
Noise & vibration	☒	☐	☐	Potential noise impacts addressed throughout the report.
Hours of operation	☒	☐	☐	Monday - Sunday (7 days): 9am – 6pm
Natural hazards - Flooding - Bushfire Prone Area Map	☒	☐	☐	No adverse impacts associated with the low-hazard flooding that impacts the site, as discussed with the report.
Technological Hazards	☒	☐	☐	None identified.

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Safety, security and crime prevention	☒	☐	☐	No adverse impacts identified.
Social impact in locality	☒	☐	☐	Positive social impact foreseen as a result of increased awareness of AWAR services in the area.
Economic Impact in Locality	☒	☐	☐	Minimal.
Site design and internal design	☒	☐	☐	No significant change to the existing building proposed.
Overlooking - overshadowing	☒	☐	☐	No increased overshadowing or overlooking impacts as no structural building modifications proposed.
Landscaping	☒	☐	☐	Apart from the recently removed vegetation on the site, no reduction in the amount of existing landscaping.
Construction	☒	☐	☐	No significant building works proposed.
Private open space	☐	☐	☒	Not relevant to the development.
Cumulative Impacts	☐	☐	☐	None identified.
Disabled access	☒	☐	☐	The building has an existing accessible ramp installed at the primary building entrance facing Hovell Street. 
Signage	☒	☐	☐	No consent for signage sought as part of this application.
Setbacks, Building Envelopes	☒	☐	☐	No change to existing setbacks of the building.

Section 4.15(1)(c) – The suitability of the site for the development

The subject land is considered suitable for the proposed development having regard to the site attributes and generally being in accordance with Council's policies.

Section 4.15(1)(d) – Any submissions made in accordance with the Act or the Regulations:

6 submissions opposing the proposed development were received during the public notification period. A summary of the key issues raised in the submissions is listed below:

Issue
Council Comments
Operating prior to obtaining development consent Multiple submissions have expressed frustration that AWAR have commenced operating from the site prior to obtaining consent from Council through this application.
Council's compliance team are aware that AWAR have commenced operating prior to obtain development consent. The applicant has explained that AWAR was forced to relocate at short notice and had no option but to relocate the animals (15 cats) currently in their care to an alternative location. Any issues in relation to the occupation prior to consent will be appropriately investigated and actioned by Council's Education and Compliance Team in accordance with Councils enforcement policy.
Noise impacts from dogs barking Submitters have expressed concern that dogs kept at the premises will result in an unreasonable level of noise, and the duration and frequency of which is considered likely to impact the amenity of residences in the area.
AWAR's operation at the subject site predominantly involves rescuing and rehoming cats. AWAR is a small-scale community based animal rescue that will only have cats onsite overnight. Cats will be fully contained and are not expected to be significantly noisy. Dogs will only be brought to the site temporarily for administrative processing before the dogs are taken to off-site foster care homes while they await adoption. No dogs will be kept on site overnight or on a permanent basis, and a maximum 4 dogs (albeit more likely 1-2 dogs at any one time as explained by the applicant) will be kept on site, which is recommended to be stipulated within a condition of consent. In addition to this, another requirement of keeping dogs on site will be for there to be volunteer present on site at all times and a prominently displayed contact number of a contactable person to receive noise complaints and quieten any barking dogs should it occur. Dogs will occasionally be brought to site from the foster homes to meet with potential adopters. Dogs will essentially only be onsite to be received into or re-homed through AWAR's adoption program. If the development is to be approved, a condition of consent will be recommended to be imposed to restrict dogs from being held on site outside of the staffed hours (9am - 6pm) unless there is a contactable volunteer or staff member present at all times.
Unauthorised vegetation removal
The removal of one large tree and mature yucca plants from the front yard were undertaken by the landowner prior to AWAR occupying the premises and is not a consideration under this assessment.
Security camera pointing towards a neighbouring property window
The site inspection conducted on the 25/09/2024 revealed that one of the external security cameras is oriented towards the adjoining neighbour but is in fact pointed downwards towards the ground and not into the window of the submitter. As a precautionary measure, and to avoid any perceived privacy infringements, the applicant has agreed to move the camera in question to another location and oriented away from the submitter's property.
Visual appearance of site
The removal of vegetation at the front of the site (which was undertaken by the landowner prior to AWAR occupying the site) has visually exposed the condition of the existing building and accentuated the prominence of new structures (cages and a small garden shed) that have been installed in the rear yard. The site is not considered to be unreasonably untidy nor dissimilar to the appearance of a residential property or other use that is permissible in the MU1 Zone.
Suitability of site

Some submitters are displeased that *'Cats are held in cramped cages on the front verandah and there is no room for dogs to move freely'*. As mentioned earlier, AWAR's operation at the subject site predominantly involves rescuing and rehoming cats, with only cats being kept on site for extended periods of time. The site inspection revealed that the site can comfortably house the proposed maximum number of cats (25) in a quality environment where they have the freedom to roam and use the outdoor 'catio' for direct sunlight during staffed hours. Dogs are only proposed to be held on site temporarily while being processed into off-site foster homes, and therefore do not require large outdoor areas for long term stay.

Display of (unauthorised) signage at the front of the property

AlburyCity's Compliance team have already been in contact with the applicant regarding the matter and the sign has since been removed. The sign in question was transported from AWAR's previous site and erected by volunteers apparently unaware of the due process for obtaining approval for signage. The sign has been removed and approval is not sought for it to be installed as part of this application. One small business identification sign remains on the eastern (Townsend Street) façade of the building which meets the requirements for exempt signage and therefore does not require consent.

Odour and management of animal waste

All waste generated by the proposed development will be collected once a week via a private waste contractor, North East Bin Hire. All animal waste is sealed in bags before being placed in an outdoor skip bin. Waste is collected from the cat trays inside the facility and from the cages in the rear yard on a daily basis. The site inspection did not reveal any smell or odour to indicate that waste is not being managed effectively. All bins, inside and out, appeared to be cleaned and maintained and the site kept in reasonably tidy condition. No adverse impact to any adjoining properties is foreseen. Conditions are recommended to be imposed on the drafted consent in relation to the management of waste, and for an animal management plan to be submitted to Council outlining how nuisances from noise, odour, waste and pests will be managed.

Increase in traffic and lack of onsite parking

As mentioned within the report, the site provides space for one (1) onsite car park. The parking demand for the use will mainly be generated by the volunteers attending the site and people participating in AWAR's adoption program. The proposed development is not considered likely to a create a significant increase in traffic volumes and parking demand compared to its previous occupations. Volunteers and potential adopters attending the site are also likely to visit the site on an ad hoc and infrequent basis, which will assist in reducing the potential for the demand to overwhelm the available on site and street parking.

De-valuation of surrounding properties

Property value is not a planning consideration under 4.15 of the Environmental Planning and Assessment Act 1979 and therefore cannot be considered in the assessment of the proposal.

Aggressive dogs held onsite

It is unreasonable to assume that the community facility is going to cause increased safety risks due to aggressive animal behaviour. A submitter described a situation where a leashed dog who was displaying aggressive behaviour towards the submitter and their dog was required to be moved inside to de-escalate the situation. This interaction is not viewed as being reflective of a wider safety issue associated with the facility. Dogs held temporarily on site will be secured, and any dogs attending the site either with volunteers or members of the general public will be required to comply with AlburyCity's requirements for dogs to be leashed at all times in public places.

Development Application

Assessment Report

Section 4.15(1)(e) – The public interest

The public interest is a broad consideration relating to many issues and is not limited tothe demand upon public services and infrastructure. Taking into account the full range of matters for consideration under Section 4.15C of the Environmental Planning and Assessment 1979 (as discussed within this report) it is considered that approval of the application is consistent with the public interest.

Further Information Received on

26/10/2024 - Comments: The applicant provided a response to the received submissions that were provided by Council in a further information request issued on the 04/10/2024.

Referrals

Environmental Health Officer: Conditions reccomended.

Land and Environment Court Planning Principles

None applicable

(Reference: www.lawlink.nsw.gov.au/lawlink/lec/ll_lec.nsf/pages/LEC_planningprinciples)

Conclusion

This assessment was undertaken in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 and has determined that the development is appropriate on this site.

Recommendation

Approval with conditions as stated in the DA consent

ASSESSING OFFICER	**DELEGATED APPROVAL**
Sign: Jordan Knox	**Sign**
Name: J T Knox	**Name:**
Position: Town Planner **City Development**	**Position: Team Leader** **City Development**
Date: 24/10/2024	Date:

Development Application

Assessment Report

While the information contained in this report ("Information") has been prepared with all due care for the benefit of the user, Albury City Council, its officers, employees, and agents ("Council") do not warrant or make representations in relation to its accuracy. The Information is made available on the understanding that Council shall have no liability for any loss whatsoever that might arise as a result of use of the Information by the reader or any third parties who receive the Information directly or indirectly. It is the user's responsibility to make his or her own investigations, decisions and enquiries about the Information.

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alburycity.nsw.gov.au

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	10.2024.41052.1 PAN-468402
Applicant	The Trustee for Albury Wodonga Animal Rescue Trust 581 Hovell Street SOUTH ALBURY NSW 2640
Description of Development	Change of Use – Community Facility (Animal Care Facility)
Property	LOT: 1 DP: 501326 **581 Hovell Street SOUTH ALBURY**
Determination	Approved Consent Authority: Council
Date of determination	XX October 2024
Date from which the consent operates	XX October 2024
Date from which the consent lapses	XX October 2029
Approval bodies that have given general terms of approval	Nil

Under Section 4.18(1) of the Environmental Planning & Assessment Act 1979 (EP&A Act), notice is given that the above development application has been determined by the granting of consent using the power in Section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

Reasons for approval

The following matters were taken into consideration in making this decision:

- The relevant matters listed in Section 4.15 of the Act and any additional relevant matters in a statutory context, including Albury Local Environmental Plan 2010 and Albury Development Control Plan 2010;
- The prescribed matters under the Environmental Planning and Assessment Regulation 2021;
- The objects of the Act;
- All information submitted to Council during the assessment of the Development Application;
- The findings and recommendations in Council's Assessment Report; and
- The views of the community about the project.

Right of appeal / request a review of determination.

If you are dissatisfied with this determination:

Request a Review

You may request a review of the consent authority's decision under Section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under Section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under Section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW Planning Portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.



David Christy

Service Leader City Development

Person on behalf of the consent authority

For further information, please contact AlburyCity's Officer, Jordan Knox, contact phone number (02) 6023 8111.

Terms and Reasons for Conditions

Under Section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions proscribed under Section 4.17(11) of the EP&A Act. The terms of conditions and reasons are set out below.

GENERAL

A. GENERAL CONDITIONS

(A1) **Approved plans and supporting documentation**

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans				
Plan number	**Revision number**	**Plan title**	**Drawn by**	**Date of plan**
1	A	Site Plan	AD	12/09/2024
2	A	Floor Plan	AWAR	12/09/2024

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development. *(A001)*

CHANGE OF USE

B. ONGOING USE

(B1) **Storage of goods**

During ongoing use of the premises, all goods must be stored wholly within the premises and must not be stored or displayed outside the premises, including any public place, without Council's approval.

Condition reason: To protect public interest, the environment and existing amenity of the locality. *(BW5-020)*

(B2) **Environmental – Plant and equipment noise**

The operating noise level of any plant or equipment is to not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

Condition reason: To protect public interest, the environment and existing amenity of the locality. *(BW5-033)*

(B3) **Environmental – Sound proofing of plant and equipment**

Any external plant or equipment must be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to Council.

Condition reason: To protect public interest, the environment and existing amenity of the locality. *(BW5-427)*

(B4) **Noise control**

Noise levels at the boundary of the site area shall not be offensive, as defined by the Protection of the Environment Operations Act 1997, at any time so as to ensure that noise levels associated with the development do not disturb people in surrounding areas.

Condition reason: To protect public interest, the environment and existing amenity of the locality. *(BW5-665)*

(B5) **Delivery and service vehicles**

During ongoing use of the premises, all delivery and service vehicles generated by the development,

(a) are limited to the approved days and times of operation
(b) only occur in designated loading and unloading areas on the property
(c) do not occur on the street
(d) do not obstruct other operations
(e) minimise disruption to public spaces
(f) maintain a clear service vehicle dock, car parking spaces and access driveways at all times; and

Condition reason: To protect public interest, the environment and existing amenity of the locality. *(BW5-995)*

(B6) **External lighting during ongoing use**

The level of illumination and/or lighting intensity is to be minimised to ensure that excessive light spill or nuisance is not caused to any nearby premises.

Condition reason: To protect public interest, the environment and existing amenity of the locality. *(BW5-996)*

(B7) **Environment and amenity**

The approved development must not adversely affect the amenity and environment of the neighbourhood in any way including:

(a) The appearance of any buildings, works or materials used.
(b) The parking or movement of motor vehicles.
(c) The transporting of materials or goods to or from the site.
(d) The hours of operation.
(e) Noise, air, lighting, and water discharges from the site.
(f) Electrical interference.
(g) The storage and handling of garbage, fuels, chemicals, pesticides, gasses, waste products or other materials.
(h) Emissions or discharges into the surrounding environment including, from wastewater, sediment, dust, vibration, odours, or other harmful products.

Condition reason: To protect public interest, the environment and existing amenity of the locality. *(BW5-997)*

(B8) **Waste storage and collection**

During ongoing use of the premises:

(a) an adequate number of bins must be put on the premises to manage the amount of waste generated and as directed by Council.
(b) all garbage and recyclable materials generated from the premises must be stored wholly within any approved storage area and must not be stored outside the premises (including any public place) at any time.
(c) arrangements must be implemented for the separation of waste into the following waste streams – organic, recyclables and general waste. Each waste stream must be separated and clearly labelled.
(d) all waste storage bins must be fitted with closing lids and the waste storage area must be appropriately maintained to prevent litter, odour, and the entry of pests and vermin.
(e) where the collection of garbage and recyclable materials from the premises is undertaken by a licensed contractor, it must only occur between 8am and 5pm Monday to Friday, excluding public holidays.
(f) any liquid trade waste discharged to the sewerage system, must comply with any trade waste approval issued by the relevant authority if required.
(g) all liquid trade waste pre-treatment devices must be regularly maintained to remain effective in accordance with the conditions of the liquid trade waste approval issued by the relevant authority.

Condition reason: To protect public interest, the environment and existing amenity of the locality. *(BW5-996)*

(B9) **Out of hours - contact details**
Current contact details for the responsible person(s) outside of the regular hours of operation (9am - 6pm) must be provided to the Council. In the event that community concerns arise, the relevant centre staff member/volunteer/person will be contacted by Council Rangers.

Condition reason: To protect public interest, the environment and existing amenity of the locality *(BW5-994)*

(B10) **Maximum number of animals to be kept on site**
The total number of animals that may be kept on site at any one time must be limited the following:
Cats: 25
Dogs: 4

Note: All cats must be contained indoors, and all dogs must be safely and securely contained within the site.

Consent: To protect public interest, the environment and existing amenity of the locality.*(BW5-993)*

(B11) **Keeping of dogs on site**
No dogs are to be kept on site unless there is a contactable person present at all times.
At least one (1) person must be present at all times to supervise any dog kept on the premises.
A prominently displayed phone number must be available on-site at all times to ensure this person can be contacted in the case that noise complaints are received.

Consent: To protect public interest, the environment and existing amenity of the locality.*(BW5-993)*

(B12) **Animal Management Plan**
Prior to any animals being kept onsite, an Animal Management Plan detailing how nuisances from noise, odour, waste and pests will be managed is to be provided to Council. The Animal Management Plan is required to incorporate the following:

- Details of animal waste disposal and storage between collection, including litter and bedding, that may include composting.
- Details of food storage such as in sealed vermin proof containers and must not be left uncovered.
- Details on how vermin and other pests are controlled.
- Details on how offensive odours are controlled.
- Details on how offensive noise is controlled.
- Details of enclosure to ensure all animals are housed in purpose-built facilities and appropriately enclosed to prevent escape.
- Details in relation to drainage. Outside runs must be free draining, not to discharge to neighbouring properties and not be allowed to become muddy.
- Animals may not be kept within nine (9) metres of any premises or facility used for the commercial preparation or storage of food for human consumption.
- Any other information pertinent to how nuisances from noise, odour, waste and pests are prevented

A copy of the Management Plan is to be provided to Council for information purposes.

Condition reason: To protect public interest, the environment and existing amenity of the locality. *(BW5-992)*

(B13) **Signs – approval**
No signage is approved as part of this consent. Unless in accordance with the exemption signage provisions of the *State Environmental Planning Policy (Exempt and Complying) 2010*, no signage that requires Council's approval is to be displayed until Development Consent is issued. All signs shall be designed to complement development on-site and be maintained at all times in good order and condition.

Condition reason: To protect public interest and the amenity of the locality. *(BW5-800)*

NOTES

C. ADVISORY AND ANCILLARY MATTERS

(C1) **Alterations after consent**
Any alterations to the proposed development shall be submitted to AlburyCity Council for further assessment and approval prior to the issue of Development Consent. If such alterations are contemplated after the consent is issued, then details shall be subject to a development application for the modification of the Development Consent. *(I005)*

(C2) **Compliance**
It is the responsibility of the applicant to check, understand and seek assistance where needed so as to ensure full compliance with the conditions of this Development Consent. Please contact the AlburyCity's City Development Cluster on 02 6023 8111 if there is any difficulty in understanding or complying with any of the above conditions. *(I010)*

(C3) **Disability Discrimination Act, 1992**
It is the Applicants responsibility to ensure compliance with the requirements of the *Disability Discrimination Act, 1992* (DDA). Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA. You are advised to seek advice from the Human Rights and Equal Opportunity Commission (phone 02-9284 9600) in respect of your application. *(I025)*

(C4) **Underground assets – Before you Dig**
Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please refer to www.byda.com.au before excavating or erecting structures (this is the law in NSW). (I130)

(C5) **Telstra assets**
Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. *(I131)*

* * *

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation, and other legislation. Some of these additional obligations are set out in the Conditions of development consent: advisory notes. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.
AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.
Building work means any physical activity involved in the erection of a building.
Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.
Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.
Council means Albury City Council.
Court means the Land and Environment Court of NSW.
EPA means the NSW Environmental Protection Authority
EP&A Act means the *Environmental Planning and Assessment Act 1979*.
EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.
Independent Planning Commission means Independent Planning Commission of New South Wales constituted by Section 2.7 of the EP&A Act.
Local planning panel means – not applicable, Albury has no local planning panel.
Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.
Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under Section 6.6(1) or 6.12(1) of the EP&A Act respectively.
Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.
Stormwater drainage systems means all works and facilities relating to:
the collection of stormwater,
the reuse of stormwater,
the detention of stormwater,
the controlled release of stormwater, and
connections to easements and public stormwater systems.
Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion
Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.
Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirement of the EP&A Regulation.
Sydney district or regional planning panel means Southern Regional Planning Panel