

# Delegate Report – Planning Scheme Assessment



Planning Application No. P164B-17

Responsible Officer: Nicole Embling, Senior Coordinator Planning

## Conflict of Interest

After reading the definitions of a general or material conflict of interest as defined by the *Local Government Act 2020*, do you have a conflict of interest?

Yes  No

<b>PROPOSAL</b>	Use and development of land for a car wash; development of land for a shop; and alteration of access to a road in a Transport Zone 2
<b>PROPERTY ADDRESS</b>	140 High Street, Mansfield
<b>LAND DESCRIPTION</b>	Lot 13 on Plan of Subdivision 618349L

## Mansfield Planning Scheme and Context Assessment

Mansfield Planning Scheme seeks to ensure that the objectives of planning in Victoria (as set out in Section 4 of the *Planning and Environment Act 1987*) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

## Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF)

### Commercial Development:

<i>Affected Clauses</i>	
<b>CLAUSE 02.03-1</b>	Settlement
<b>CLAUSE 02.03-7</b>	Economic Development
<b>CLAUSE 11.01-1L-01</b>	Mansfield township
<b>CLAUSE 17.02-1S</b>	Business
<b>CLAUSE 17.04-1L</b>	Facilitating Tourism

The application seeks to amend the current permit to allow the construction of an additional shop and car wash. Overall, the planning scheme seeks to encourage the provision of additional commercial services in well serviced and accessible locations. The proposal would

intensify commercial activity on a site located adjacent to the commercial core and CBD of Mansfield Township and along a major road. The potential impacts on traffic flow and safety risks to pedestrians crossing the road adjacent the site outweigh any net community benefit from the additional services. It is considered that on balance the proposal is not acceptable in respect of its potential impact on the major approach road into Mansfield township.

The Maroondah Highway into High Street is the most commonly driven route into Mansfield and to get to the alpine areas of Mt Buller and Mt Stirling, as well as all of the other key tourist attractions of Mansfield Shire. This route is already at capacity during peak periods and the potential traffic conflict from an additional 'attractive' Shop could further the issue of traffic queueing.

Amenity:

<i>Affected Clauses</i>	
<b>CLAUSE 02.03-3</b>	Environmental risks and amenity
<b>CLAUSE 13.05-1S</b>	Noise Management
<b>CLAUSE 13.07-1S</b>	Land use compatibility

The proposal abuts sensitive uses to the south, with the four lots to the south developed with detached dwellings. While all lots are subject to the Commercial 1 Zone, consideration must still be given to the compatibility of the two different land uses.

The intensity of proposed activity is anticipated to result in increased noise activity, especially in regard to the additional car wash. As such the applicant has submitted an updated acoustic report to include the noise impacts of the car wash. It is worth noting that the acoustic report states that both the service station and the car wash will not operate at "night", which is defined as from 10pm to 7am. However, this is at odds with the planning report which is proposing 24 hour operation.

Given that the acoustic levels for night operation have not been measured, any operation beyond 10pm and before 7am would not be supported as the application has not demonstrated that it can meet EPA noise limits at night.

Beyond noise, the additional potential amenity impacts relate to:

- Lighting
- Overshadowing
- Privacy
- Traffic

The Carwash would be in close proximity to sensitive land uses resulting in unacceptable amenity impacts. The layout would direct traffic along the southern boundary resulting in potential fumes, noise and light amenity impacts on the adjoining dwellings.

The application does not adequately demonstrate that noise and amenity impacts can be adequately mitigated and are not in keeping with clauses 02.03-3, 13.05-1S and 13.07-1S as they relate to land use conflicts and noise management.

Matters relating to traffic will be addressed separately in this report.

Building Design:

<i>Affected Clauses</i>	
<b>CLAUSE 02.03-5</b>	Built environment and heritage
<b>CLAUSE 15.01-1S</b>	Urban design
<b>CLAUSE 15.01-1L</b>	Urban design in Mansfield Township CBD
<b>CLAUSE 15.01-2S</b>	Building design
<b>CLAUSE 15.01-5S</b>	Neighbourhood character

The proposed shop would be of similar design of the currently approved service station. The shop would be constructed of the same materials and style as the service station building. The proposed amendments are generally in keeping with the preferred single storey built form for High Street.

Specifically, the Strategic Directions for Building Environment and Heritage include ensuring development along the Maroondah Highway is sensitive to the gateway to the Alpine Area. Whilst it is considered that the design of the proposal would not impede the township approach, the effect of traffic queueing could negatively impact on the approach into Mansfield, which is discussed further in this report.

The proposal is seen as generally consistent with the clauses of the planning scheme as they relate to building design.

The site is subject to the Design and Development Overlay. A more detailed response to the buildings design can be found under the response to that clause, as the requirements of the DDO1 are more prescriptive in their requirements.

Traffic:

<i>Affected Clauses</i>	
<b>CLAUSE 02.03-5</b>	Built Environments and Heritage
<b>CLAUSE 02.03-8</b>	Transport
<b>CLAUSE 18.01-1S</b>	Land Use and Transport Integration
<b>CLAUSE 18.02-4S</b>	Roads

The proposal is inconsistent with the relevant clauses that address traffic. The proposal would have an unacceptable impact to the traffic flow along the Maroondah Highway and High Street and the addition of a Shop would encourage pedestrian crossing of the Maroondah Highway from the Visitor Information Centre adjacent at a location with no dedicated pedestrian crossing or connection.

The proposal would generate an unreasonable level of traffic, with a significant risk of traffic queuing, on an existing busy road network during peak periods, which has not been suitably addressed.

The proposal is also inconsistent with the Purpose and Decision Guidelines of the Commercial 1 Zone discussed below as they relate to traffic.

**Zoning**

**Clause 34.01: Commercial 1 Zone**

**Purpose**

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

Officer Response:

A permit requirement is triggered for the use of land for the service station and the car wash, along with the associated buildings and works.

The use and development of the service station is unchanged from the original proposal. The subject of assessment is solely the shop and car wash.

It is considered that the addition of the shop would increase traffic generated along High Street and introduce traffic hazard and conflict within the development. The movement of pedestrians and cyclists within the development has not been adequately addressed with potential customers for the shop having to navigate a shared space with vehicles as there is no dedicated pedestrian access to the shop from High Street.

The proposal is generally consistent with the other decision guidelines under the zone.

On balance the amendment introduces an unacceptable outcome as it relates to traffic and pedestrian safety.

**Overlays**

**Clause 43.02: Design and Development Overlay – Schedule 1**

**Purpose**

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas which are affected by specific requirements relating to the design and built form of new development.

Officer Response:

A permit requirement is triggered under this overlay.

The schedule of this overlay that applies seeks to govern *“building siting, design, form, height, appearance, scale and materials that are compatible with the role of land as an alpine approach or gateway to and from Mansfield Township”*.

An assessment against the buildings and works requirements can be found below:

Criteria under the DDO1	Assessment
Be of a design, form, appearance and scale that complements an alpine approach and township gateway theme ie use of natural materials and colour schemes that complement the	The proposed new shop structure is in keeping with the design of the existing approved service station.  As such it would utilise natural materials for the external cladding (River Stone) and features a

surroundings, pitched roof designs rather than flat or skillion roofs only.	pitched roof. The use of shale grey coloured cladding for the rest of the materials would also compliment the desired character of the township gateway.
Have at least one active frontage (i.e. entries, windows, external activities) and not have solid walls and solid fencing facing the road/s.	All proposed structures have an active frontage facing High Street, with no solid walls facing the road.
Be of natural or muted materials and colours that complement an alpine approach and township gateway theme, that is timber, stone, colourbond, brick or earth based materials. Zincalume materials are prohibited. Galvanised iron materials may only be permitted when it can be demonstrated that the building will have minimal visual impact.	As discussed above the proposed structure would be constructed of the same materials as the service station building which was approved under the DDO1.  It would utilise stone for the external cladding (River Stone). The use of shale grey coloured cladding for the rest of the materials would also compliment the desired character of the township gateway.
Not exceed single storey in height, with the maximum height allowable being 6 metres from natural ground level to the upper point of the building roofline.	The proposed shop is single storey and under 6 metres in height (5.75 metres).
Create visual interest and enhance alpine and gateway character.	The materials are in keeping with the visual character of the existing approved service station.
Be sited to have sufficient building setbacks to allow a sense of space, lineal corridor and alpine landscape to be retained.	The proposed shop and carwash are significantly setback from the street frontage of the site and are located at the rear of the site.
Have a setback/s to accord with (or exceed) the setbacks of building/s on adjoining properties.	As discussed above, the proposed buildings are located at the rear of the site and significantly exceed the setbacks of adjacent developments.
Allow pedestrian access, and vehicle parking and landscaping at the frontage of the land.	The proposal remains unchanged with regard to the frontage of the land.
Have a strong emphasis on environmental sustainability and energy efficiency.	The approved Service Station includes electric car charging facilities and the proposed car wash would be able to use recycled water in its operation, as described in the application documents.
Have any storage area and parking for large vehicles away from road frontages.	The loading bay for the site is located at the rear corner of the lot.
Provide landscaping that creates an attractive environment that is consistent with and complements an alpine theme and gateway approach into a high country tourist town, especially on the Maroondah Highway frontage.	No amended landscape plan has been submitted as part of this proposal.

Enable high levels of accessibility, including access for people with a disability.	The proposed shop would be accessible for people with a disability or mobility issues. The entry is at ground level.
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As such the proposal is seen as generally compliant with the requirements for the Design and Development Overlay – Schedule 1, provided the existing approved Landscape Plan is amended accordingly to reflect the updated proposal.

## Particular Provisions

### Clause 52.05: Signs

#### Purpose

- To regulate the development of land for signs and associated structures.
- To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.
- To ensure signs do not contribute to excessive visual clutter or visual disorder.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

#### Officer Response:

The approved sign is not proposed to be changed as part of this amendment. Therefore, the signs are outside the scope of this application.

### Clause 52.06: Car parking

#### Purpose

- To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

#### Officer Response:

Shop	140sqm	4 per 100sqm of floor area. 1.4 x 4 = 5.6 spaces	= 5 spaces required
Industry (car wash)	44sqm	2.9 per 100sqm of floor area. 0.44 x 2.9 = 1.28 spaces	= 1 space required

As per clause 52.06-5, the proposed shop and car wash combined are required to add at least 6 car parking spaces. The applicant is proposing 6 spaces.

The existing amount of car parking spaces for the proposed service station is remaining unchanged at 13 spaces.

As such the proposal meets the requirements for car parking.

#### **Clause 52.29: Land adjacent to the principal road network**

##### **Purpose**

- To ensure appropriate access to the Principal Road Network or land planned to form part of the Principal Road Network.
- To ensure appropriate subdivision of land adjacent to Principal Road Network or land planned to form part of the Principal Road Network.

##### Officer Response:

The access into and out of the site is remaining unchanged from the original proposal.

The application does not suitably address the effect of the proposal, and the intensification of development on the operation of the road and on public safety, in accordance with this clause.

An assessment of the submitted O'Brien Traffic Impact Assessment (TIAR) has determined that the report reflects an inaccurate number of approved fuel bowsers and includes an assumption that the bowser number is being reduced. This is not true and does not provide for a suitable assessment.

The TIAR provides for 4,400 vehicles per day across a 7-day average however, Council records show that consistently across the past 5-years there has been a significantly higher 7-day average, up to 6,828 vehicles per day along High Street.

The TIAR uses data that is considered to be significantly understated and does not reflect the existing conditions of the road and expected operating conditions for when the approved Service Station opens. The data submitted is based on Transport for NSW and the area of the

site (assuming 2 to 3 vehicle trips per 100sqm). No consideration has been made for the local conditions, extreme peak periods and seasons and existing traffic impact from nearby land uses. The TIAR does not provide for any peak hour volumes.

The TIAR states that as the end user of the Shop is not known accurate traffic assumptions are not able to be made. Given the high flow of traffic along High Street, particularly in the late afternoon during Winter the proposed Shop could draw significant vehicle numbers and cause queueing along High Street. This has not been detailed through the application and is therefore considered to be unacceptable.

### **Clause 52.34: Bicycle Facilities**

#### **Purpose**

- To encourage cycling as a mode of transport.
- To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

#### Officer Response:

The planning scheme prescribes a number of bicycle facilities if a shop is over 1000 square metres in leasable floor area. As the proposed shop is 140 square metres, it falls well under the requirement to provide bicycle parking.

The planning scheme prescribes a number of bicycle facilities if a service industry (car wash) is over 800 square metres in leasable floor area. As the proposed car wash is 44 square metres, it falls well under the requirement to provide bicycle parking.

The plans submitted for consideration do not show any provision for bicycle facilities.

Given that there are no prescribed requirements, the proposal is in accordance with the clause as it relates to bicycle facilities.

### **Clause 53.18: Stormwater management in urban development**

#### **Purpose**

- To ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.

#### Officer Response:

The application was referred to the Environmental Protection Authority, Goulburn Murray Water and Goulburn Valley Water. None objected to the proposal subject to conditions with a number relating to the management of stormwater and runoff on site.

The EPA noted that their conditions on the original permit (Conditions 33 to 37) could be deleted as those guidelines are now legislated under The Environmental Protection Act.

As such “if a business engages in activities that may give rise to a risk to human health or the environment from pollution or waste, they must understand those risks and take action to minimise them as far as reasonably practicable. This involves a continuous, preventative approach and should be undertaken with the understanding that where an operation presents low-level risks, or already has appropriate risk mitigation measures in place, further mitigation measures may still be necessary at a future point.” – EPA.

## General Provisions

### Clause 65.01 – Approval of an Application or Plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- *The matters set out in section 60 of the Act.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *The Municipal Planning Strategy and Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the environment, human health and amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*
- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*
- *The impact the use or development will have on the current and future development and operation of the transport system.*

#### Officer response:

The matters set out at Section 60 of the Act have been considered. All decision guidelines have been addressed through the previous assessments.