



22 May 2023

Nicole Embling

Coordinator Statutory Planning
Mansfield Shire Council

By email: Nicole.Embling@mansfield.vic.gov.au
council@mansfield.vic.gov.au

Dear Nicole,

Address: 195 Mt Buller Road, Mansfield
Planning Permit: P032/21 – Use of land for service industry (commercial laundry)
Proposal: Section 72 Amendment

PLANNING SUBMISSION

Mecone acts for the permit applicant and on their behalf, we enclose an application to amend (retrospectively) Planning Permit P032/21 in accordance with Section 72 of the *Planning and Environment Act 1987*.

Council has since issued two requests for further information letters dated 22 February 2023 and 28 April 2023. In response to the second RFI letter, dated 28 April 2023, we seek to pursue Option C to amend the application as part a s50A amendment. This involves the following changes (but not limited to):

- The storage containers (3 and 4) have been relocated northwest of the existing building (west of the trolley storage area).
- Free standing trellis of 2m in height (or as appropriate) is proposed around the eastern and southern façade of Container 2.
- Car parking and access plan have been amended to include the following:
 - Staff and customer parking have been identified
 - Swept paths from the nominated car parking and loading spaces have demonstrated that vehicles could enter and exit the site in a forward motion.
 - Convex mirror to be incorporated in the suggested location (or as appropriate).

The submission below replaces the report previously submitted and takes into account some of the changes made to plans.

Accompanying the application is the following:

- Completed Section 72 Amendment Application Form;

- Architectural Plans prepared by Sawmill Designs;
- Landscape Plan prepared by Sawmill Designs;
- Car Parking and Access Plan prepared by Sawmill Designs;
- Planning Submission prepared by our office (below).

Background

1. Planning Permit P032/21 was issued allowing for the 'use of land for service industry (commercial laundry)' and plans were endorsed on 9 June 2021.
2. The permit applicant has since been operating under this permit as a commercial laundry.
3. Following the issue of the above planning permit, the business has grown and subsequently the applicant has undertaken buildings and works to the rear (north) of the existing building as well as the addition of four (4) shipping containers to accommodate the growth in business operations.
4. As a result of the above, Council has visited the site several times to assess the operation and works against the planning permit. This resulted in Council raising various compliance issues and requesting the applicant apply for a planning permit. We have reviewed the compliance files notes and the key issues raised are:
 - i. proposed works (additions) to the rear of the existing building
 - ii. four new shipping containers located to the east/southeast of the existing building
 - iii. the site has not been kept tidily with several laundry machines being placed at the front of the site
 - iv. existing signage located to the south-eastern corner of the site has not been removed according to condition 13 of the permit
 - v. failure to submit a suitable landscape plan for endorsement and not completing landscaping works in accordance with conditions 11 and 12 of the permit
5. The on-site changes are due to an unforeseen expansion in business which required immediate on-site changes to accommodate the new demand in laundry services. The change in demand is due to the closure of the other laundry business in the area. As a result, there is a greater demand on our client's operation to service the laundry needs of local businesses and residents. The operator has been focused on keeping up with demand and servicing clients and has not been able to address the planning permit requirements (until now).
6. Council noted that no actions were taken by the permit applicant to address the several compliance notices. In response, Council is seeking an enforcement order pursuant to Section 114(1) of the *Planning and Environment Act 1987*(reference no. P1763/2022).
7. We have been advised by the permit applicant that they visited the Council office back in October 2022 attempting to submit documentation to amend a planning permit to address issues raised. The Council officer at the counter advised them that they would get back to them on how to lodge and amend. The permit applicant never heard back.
8. We have also been advised that a Landscape plan was prepared in accordance with conditions 11 and 12 of the permit and hard copies were submitted for endorsement after receiving the permit.

Proposal

The proposal seeks to amend the plans to include the following but not limited to:

Permit

- deletion of Condition 13 of the permit, P032/21 relating to the removal of existing signage located to the southern corner of the site.

Plans

Permit required:

- buildings and works to the rear (north) of the existing building, containing the trolley storage area (pavers with lightweight structure)
- four (4) shipping containers to be used for storage
- construct a covered loading area, located between the containers

No permit required:

- increase the existing 1.8m high chain mesh fence to 2.2m high
- propose new 2.2m high chain mesh fence along the eastern and northern boundaries
- replacement of the landscaping along the southern boundary (fronting Mt Buller Rd).

The proposal will also remove the additional signage (unpermitted) located to the south of the existing building.

For a detailed list of changes, please refer to the submitted plans.

Subject Site

The subject site is known as 195 Mt Buller Road, located at the corner of Mt Buller Road and Timothy Lane. The site is formally known as Lot 1 on LP215446, encompassing an area of approximately 2,313 square metres. The site is irregular in shape and currently contains a single storey office building (approved by permit P032/2021) and four shipping containers. The site is relatively flat and is generally void of vegetation, except for the northern and western boundaries. Access into the site is via an existing crossover accessed from Timothy Lane.

The surrounding area is varied in nature, consisting of a mix in commercial, industrial, mixed use and residential land uses. The surrounding built form is relatively low scale, typically containing a single storey building constructed in materials and finishes that are muted. The surrounding area within the commercial land generally contains several buildings and outbuildings.



Figure 1 Aerial of the subject site and surrounding area (Source; Mecone Mosaic)

Planning Policy Framework

Zoning

The subject site is located within the Commercial 2 Zone.

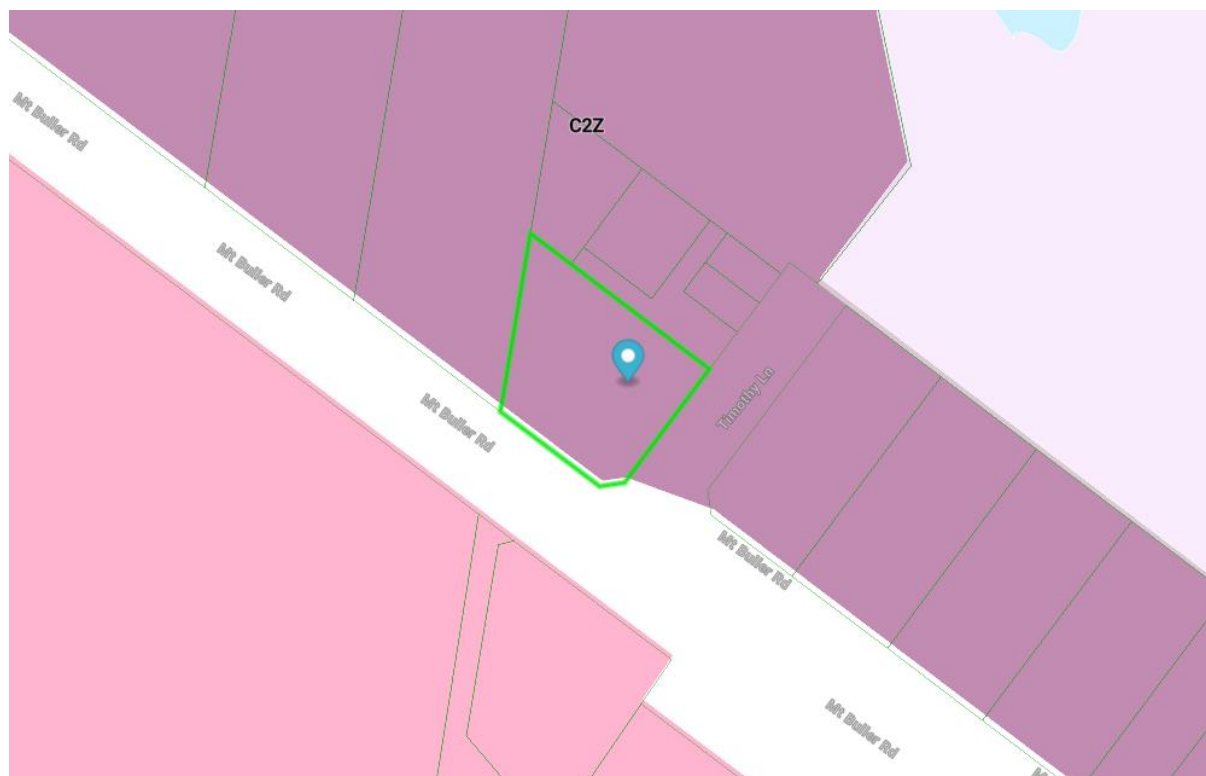


Figure 2 Zoning – Commercial 2 Zone (Source: Mecone Mosaic)

The proposed amendment will not trigger a permit requirement under Clause 34.02-1 for the use of land for service industry (commercial laundry) as the amendment does not change the existing use.

The purpose of the amendment is to seek retrospective planning approval. A permit is required to construct a building or construct or carry out works pursuant to Clause 34.02-4.

Pursuant to Clause 34.02-6, the application will not be exempt from notice requirements as the site is within 30m of a residential zoned land.

Overlays

The subject site is located within the following overlays:

Design and Development Overlay (DDO1)

The site is within the Design and Development Overlay – Schedule 1 (DDO1).

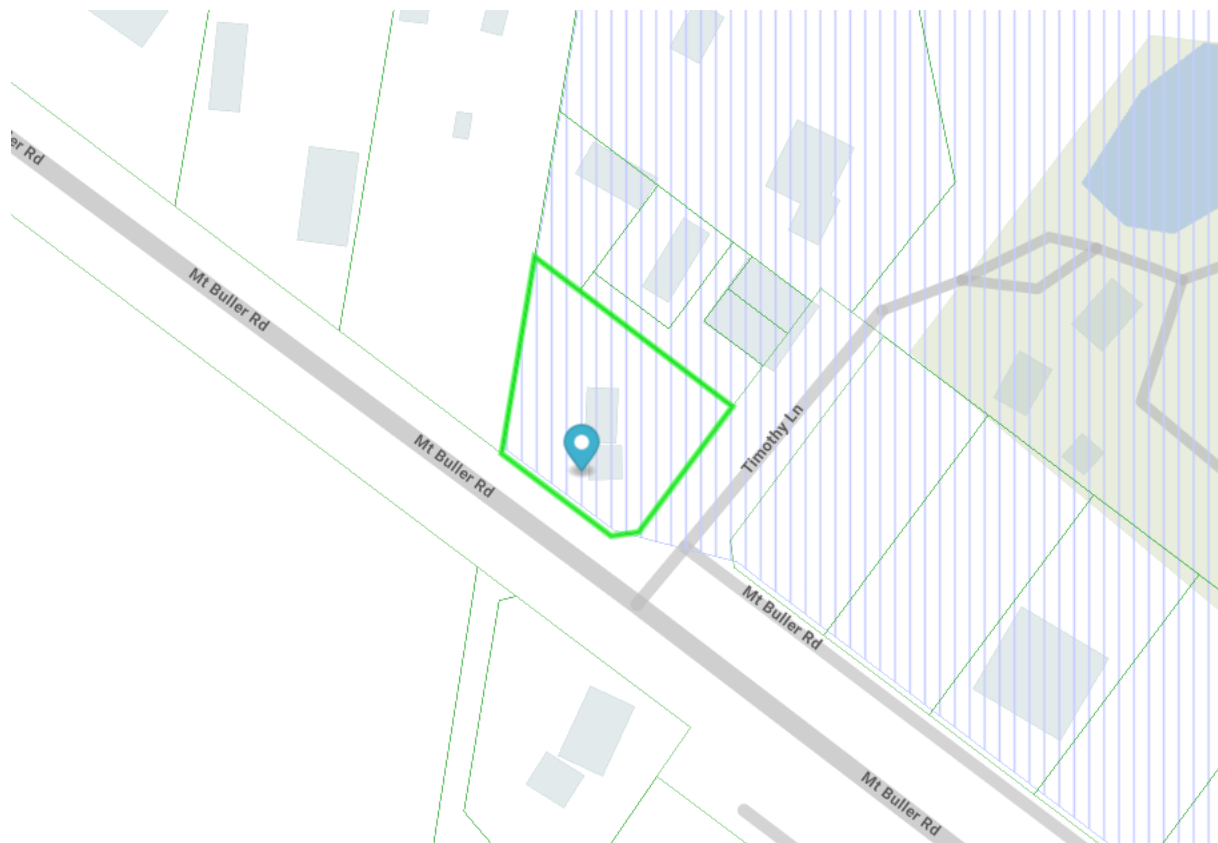


Figure 3 Design and Development Overlay Map (Source: Mecone Mosaic)

Pursuant to Clause 43.02-2, a permit is required to construct a building or construct or carry out works unless it specifically states that a permit is not required under the schedule. The schedule does not state a permit is not required and therefore, a permit is required.

Any new building or works must be constructed in accordance with Clause 2.0 of Clause 43.02 as follows:

- *Be of a design, form, appearance and scale that compliments an alpine approach and township gateway theme ie use of natural materials and colour schemes that complement the surroundings, pitched roof designs rather than flat or skillion roofs only.*
- *Have at least one active frontage (i.e. entries, windows, external activities) and not have solid walls and solid fencing facing the road/s.*
- *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.*
- *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.*
- *Create visual interest and enhance alpine and gateway character.*
- *Be sited to have sufficient building setbacks to allow a sense of space, lineal corridor and alpine landscape to be retained.*
- *Have a setback/s to accord with (or exceed) the setbacks of building/s on adjoining properties.*

- Allow pedestrian access, and vehicle parking and landscaping at the frontage of the land.
- Have a strong emphasis on environmental sustainability and energy efficiency.
- Have any storage area and parking for large vehicles away from road frontages.
- 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.
- Enable high levels of accessibility, including access for people with a disability.

Clause 4 of the schedule to the DDO specifies requirements for a sign, separate from clause 52.05, which are:

- Be of a size that does not dominate or compromise the existing landscape or design of a building.
- Not be internally illuminated. External lighting will be considered, provided proposed lighting does not interfere with amenity and usage of adjoining or nearby properties, or vehicular movement and safety on the adjoining road reserve.
- Not be a reflective sign as defined in Clause 73.02 of the Mansfield Planning Scheme.
- Not exceed a height of 5 metres above ground level.
- Not be located between a building line setback and a front boundary.

Land Subject to Inundation Overlay (LSIO)

A portion of the site is subject to the Land Subject to Inundation Overlay (LSIO).

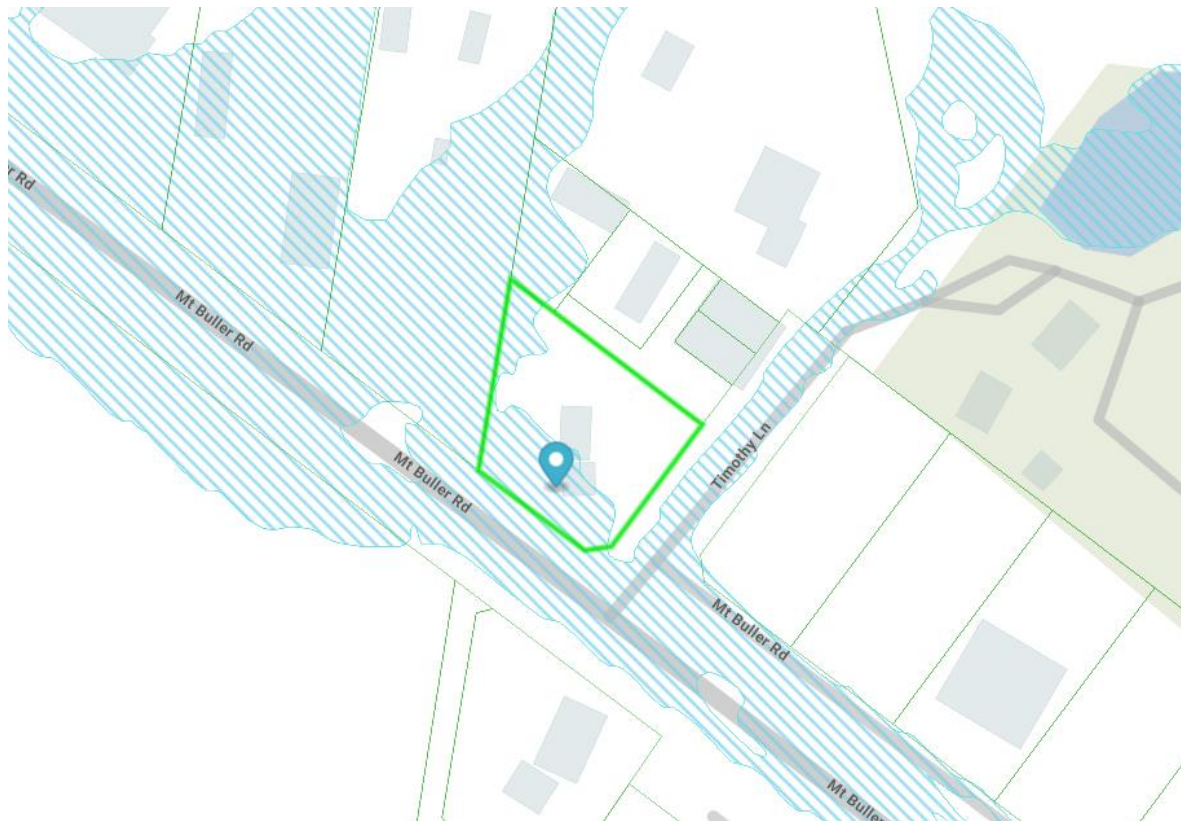


Figure 4 Land Subject to Inundation Overlay Map (Source: Mecone Mosaic)

Pursuant to Clause 44.04-2, a permit is required to construct a building or to construct or carry out works including fence unless the schedule specifically states that a permit is not required. The schedule to the overlay states a permit is not required to construct a building or to construct or carry out works including open type fencing. The proposed 2.2m high along the north-eastern boundary therefore does not require a planning permit.

The proposed works to the rear of the building and four containers are located outside of the LSIO and therefore no permit is required.

Notwithstanding, Council prefers the containers to be located to the rear of the site (northwest). If containers are placed in the northwest, a permit will be required under the LSIO.

Particular Provisions

The amendment involves the following particular provisions:

- Clause 52.05 – Signs
- Clause 52.06 – Car Parking
- Clause 53.10 – Uses with adverse amenity impacts

Signs (Clause 52.05)

Any signs within the C2Z are subject to Category 1 requirements under Clause 52.05-11.

For business identification sign, a total display area of all signs to each premises must not exceed 8sqm. This does not include a sign with a display area not exceeding 1.5sqm that is below a verandah or, if no verandah, that is less than 3.7m above pavement level.

The existing signage on site does not require a permit and can be retained in accordance with clause 52.05-5. This is given that the existing signage has been on the site for approximately 30 years and will remain as business identification sign, with no changes proposed to the size or display area.

Car Parking (Clause 52.06)

Pursuant to Table 1 of Clause 52.06, Industry use must provide a minimum of 2.9 car parking spaces to each 100sqm of net floor area. The proposal seeks to amend the required number of parking spaces within the site due to the increase in net floor area of approximately 163.3sqm, resulting in a total floor area of 379.8sqm.

Previously, the proposal required a minimum of 4 parking spaces to be provided, which was provided on-site. However, the location of retrospective works has resulted in the loss of six (4) parking spaces shown in the endorsed plans. The amendment is now required to provide a minimum of 11 parking spaces. The proposal will only provide eight (8) parking spaces along the north-east boundary of the site and east of the existing building, which does not comply with the parking requirements.

Uses with Adverse Amenity Impacts (Clause 53.10)

Pursuant to Clause 53.10-1, *laundry for commercial and institutional customers, or in bulk quantities* requires a threshold distance to the nearest sensitive use of 100 metres. The land to the south, across Mt Buller Road is zoned General Residential Zone 1. As this threshold is not met, the application must be referred to the EPA under section 55 of the Act.

Despite the number of customers increasing, the number of washing machines and operation hours are not changing and therefore the intensity of the use remains the same. The shipping containers are merely used for storage and so, a referral to the EPA is not required.

Assessment

Planning Policy

The planning policies contained in the following clauses are relevant considerations for the proposed amendments:

- Clauses 02.03-3 and 13 (Environmental Risks and Amenity) states:

“Council strategic directions for environmental risks and amenity are to...discourage use and development in areas where an environmental hazard has been identified and cannot be sufficiently mitigated.”

The LSI0 to the western side of the site is an effective way to identify the area is exposed to flood risk. The proposed location of the containers is therefore in line with the council direction, by locating outside of the identified flood risk area. This allows floodwater to be dispersed accordingly across the site, without disrupting the existing storage and operations of the business.

- Clauses 02.03-5 and 15 (Built environment and Heritage) states:

“Development of land along the Maroondah Highway and other major routes such as Mount Buller Road in the Shire need to be sensitive to their role as gateways to the Alpine areas.”

The containers are located to front Timothy Lane to avoid presenting to Mt Buller Road, which is consistent with this policy. The proposed siting is therefore consistent with the overall desire to protect the main road as a gateway to the Alpine area.

- Clause 11.01-1L-01 (Mansfield Township) states:

“Support the development of the northern side of Mount Buller Road on the eastern side of Mansfield Township as the preferred linear corridor for business, commercial, mixed use and service industry.”

Given the nature of business remains as existing (commercial laundry – service industry), except for its business area increasing, the proposal is considered consistent with this policy. This is given that service industry is being maintained along the linear corridor along Mt Buller Road.

- Clause 12.05-2L (Significant landscapes, ridgelines and alpine approaches) states:

“To protect the environmental, landscape and visual significance of landscapes, alpine approaches and significant ridgelines particularly in areas of high visual amenity.”

The topography of the site is relatively flat and is located approximately 325mAHD, above ground level which is way below the highest point of Mount Buller (southeast of the site), being 1780mAHD. The built form is not located on any exposed ridgelines and is setback appropriately from the property boundaries, minimising visual amenity impact. The proposal will utilise muted materials and colours to blend in with the existing landscape and streetscape character, complementing the alpine approach. The development will be low scale with a maximum height 2.4m, ensuring significant views of the alpine will not be obstructed from the public realm. The proposal is therefore designed to be sensitive to their role as gateways to the alpine areas.

Built Form and Amenity Considerations

The proposal responds appropriately to the relevant strategies under the Design and Development Overlay (DDO1):

- The purpose of the shipping containers is to accommodate the unforeseen increase in business. It is merely a quick fix to meet community demand and the containers are not permanent structures. Nonetheless, the proposed built forms remain low scale, being single storey with a maximum height of 2.4m, measured from the natural ground level. The proposed works are therefore not bulky, which will not obstruct any significant views of the alpine approach and township gateway when viewed from the public realm.
- The proposal utilises shipping containers and will be constructed in muted colours (monument colorbond). This will complement the alpine approach and township gateway theme. This ensures visual amenity of the surrounding area is protected.
- Despite the containers having flat roof forms, it is not a permanent structure as noted above. Given its temporary in nature, the roof form should not be considered a feature of the structure itself. Notwithstanding, the site currently contains a combination of pitched and flat roof forms, which enhances the overall visual interest of the site when viewed from the public realm. Furthermore, there are flat roof forms present along Mt Buller Road, noting 165, 205 and 221 Mt Buller Road. The proposal will therefore not detract from the streetscape character along Mt Buller Road.
- Although some containers are located to front Timothy Lane, free standing trellis (2m or higher) is proposed as screening measure around the containers. It continues to maintain a large setback that provides a sense of space. Notwithstanding, the street setbacks along Timothy Lane and Mt Buller Road are varied in nature, with no consistent setback character. There are buildings built up against the site boundaries, noting 197-233 Mt Buller Road, with its front setback dedicated to parking and access, which is similar to the proposal. The siting and setbacks of the proposed works are therefore considered appropriate within the streetscape. Nevertheless, the buildings within the site are located on an angle, which reduces the true extent of bulk form when viewed from the streetscape. This ensures the visual amenity of the alpine approach will be protected.
- In relation to landscaping, there are limited landscaping along the northern and eastern sides of Mt Buller Road, particularly along the site boundaries. The extent of proposed landscaping is therefore considered appropriate and will continue to respect the existing landscape character of the area. The addition of free-standing trellis around container 2 will help create some visual interest to the street frontages, while respecting the alpine approach theme.
- The purpose of having the loading bay fronting Timothy Lane is to improve accessibility during pick up and drop off. The areas south and southeast of the existing building are already constructed for vehicle access and a large part of the operation requires access from vehicles for loading and the transportation of items on trolleys. Additionally, by utilising the existing gravel driveway, as opposed to lawn, is practical and functional to service the business operations. The loading bay is well setback from the existing tree canopy, ensuring adequate on-site manoeuvring area is provided for loading van to enter and exit the vehicle in a forward motion.
- The proposal also does not contain any parking for large vehicles near the road frontages. The locations of parking spaces are appropriately setback from Timothy Lane and Mt Buller Road, with sufficient on-site manoeuvring area provided.
- The proposal contains at least one active frontage, with the office opening towards Timothy Lane and Mt Buller Road (southeast of building) as well as the loading area fronting Timothy Lane. The south-western boundary remains largely the same to ensure

existing active frontage and streetscape character is maintained along Mt Buller Road. The proposal is therefore considered to incorporate an active frontage, with passive surveillance provided.

Regarding amenity considerations, conditions 6 and 10 of planning permit, P032/21 state the following:

6. *The subject land must be kept neat and tidy at all times and its appearance must not, in the opinion of the Responsible Authority, adversely affect the amenity of the locality.*
10. *Goods must not be stored or left exposed outside the building so as to be visible from any public road or thoroughfare to the satisfaction of the Responsible Authority.*

By approving the retrospective works including the containers, this will provide additional floor area to accommodate more storage areas required by the laundry business. The additional storage areas will allow laundry appliances and trolleys to be kept away from street frontage, which in turn keeps the site neat and tidy. This ensures visual amenity of the locality is protected and continue to be respectful to the character of the area. This allows the proposal to maintain visual amenity of the alpine approach gateway.

Land Subject to Inundation

Noting above, the permit applicant will retain the existing location of the containers. Pursuant to Clause 44.04-8, Council is required to consider as appropriate:

Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside of this overlay.

We acknowledge that there is sufficient space to locate the containers to the north-western (rear) of the site. However, this area is subject to the LSIO. Based on the above, we consider the location of containers to be appropriate as it is located on flood-free area. Given that the nearby laundry business has closed, it is important to maintain this business to sufficiently service residents of Mansfield. This means avoiding any potential risks (i.e. flooding) by locating the containers to the southeast (fronting Timothy Lane), which is outside of the LSIO area. This will ensure business operations will not be disrupted in an event of flooding.

We are of the view that should the containers be approved in the existing location any flooding risk to the surrounding locality and on-site plant and equipment will be mitigated.

Landscaping

The failure to comply with conditions 11 and 12 of planning permit P032/21 remains uncertain as the applicant has advised that a landscape plan was submitted for endorsement some time ago. The Council has acknowledged that there is no endorsed landscape plan on file and this planning application seeks to rectify this issue. Noting above, the surrounding C2Z and DDO1 sites along Mt Buller Road have limited landscaping provided, particularly along the site boundaries (as shown in photos above). The extent of proposed landscaping will therefore not detract from the existing landscape character of the area. However, the incorporation of trellis as visual screening of the

containers will help enhance the landscape character of the area.

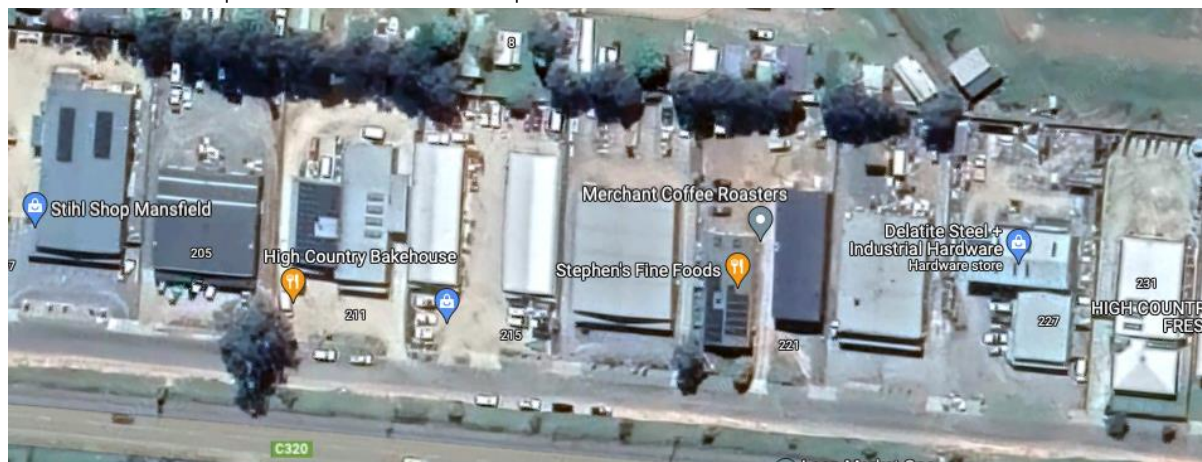


Figure 5 Front boundaries with limited landscaping

The existing street frontage to Mt Buller Rd currently does not contain any boundary fence (Figure 6). A 2.2m high chain mesh fence is therefore proposed to be installed along the eastern and northern boundaries to help deter vandalism occurring within the site (Figure 7). This is due to its location, being in a corner and on a main road, the site is heavily exposed with a lot of foot and vehicular traffic passing the site. The higher fence will improve the overall safety and security of the site. Furthermore, the fence will also maintain any business related items to be kept within the site, ensuring that the streetscape will be kept tidy. The permit applicant has also advised that new landscaping will be incorporated within the fence area to create visual interest when viewed from the streetscape.



Figure 6 Existing front boundary (along Mt Buller Rd) situation without boundary fence



Figure 7 Vandalism on the applicant's vehicle

Signage

In relation to the removal of existing signage required under condition 13, the permit applicant is seeking to delete condition 13 of the permit. Pursuant to Clause 52.05-5, it states:

A sign that was lawfully displayed on the approval date or that was being constructed or put up for display on that date may be displayed or continue to be displayed and may be repaired and maintained.

The content of a lawfully displayed sign may be renewed or replaced. However, a permit is required if:

- *The display area is to be increased.*
- *The renewal or replacement would result in a different type of sign.*
- *A sign that is reconstructed must meet the relevant sign requirements.*

The applicant is seeking confirmation that the existing signage can be retained and that they can utilise the existing signage located on the southern corner of the site. The operator wishes to use the sign and update the content of the sign, which is allowable under the above clause.

The applicant previously agreed to condition 13 as they had no intention to utilise the existing signage and Council recommended removal as it is considered unsightly to the neighbourhood character of the area.

Since the issue of the permit, a large TAC sign was put in place by the Victorian State Government that obstructs views of the laundry business. This prompted the applicant to utilise the existing signage on the southern corner to promote their business to any vehicles or pedestrians passing by. However, the applicant was unaware that a permit was required to amend the signage or delete condition 13 from the permit as they assumed it was permitted given its existing use rights (it

has been on the land for approximately 30 years). This amendment therefore seeks to delete condition 13 to retain the existing signage.

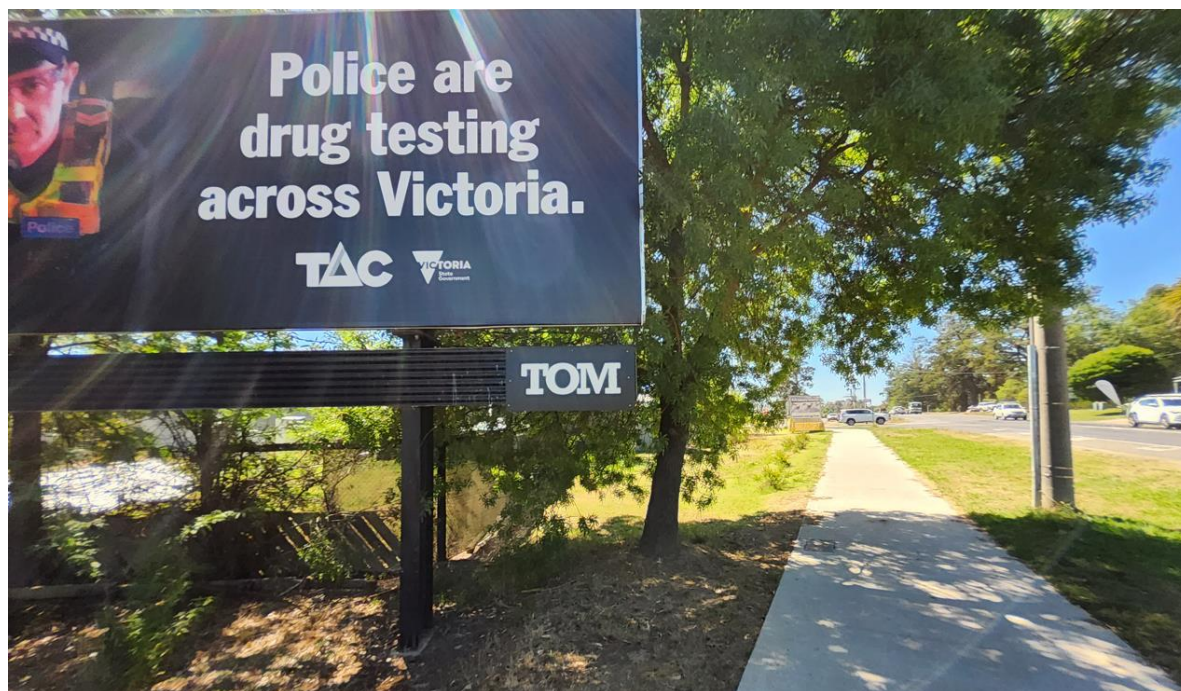


Figure 8 TAC sign obstructing views of the applicant's laundry business

The updating of the existing signage is considered acceptable as it retains its existing size and location, which technically has existing use rights. Given the large TAC sign being constructed near the site, it is reasonable for the applicant to utilise the existing signage to allow better identification of the site. The signage will therefore not impede on the vistas and views of the surrounding alpine and landscapes. Additionally, the signage does not contain any moving images ensuring traffic safety is maintained. By retaining this signage will therefore not cause any adverse effects on the amenity of the locality.

Car Parking

Although there is a reduction of 3 parking spaces within the site, it is acceptable given the nature of the business where any vehicles entering the site will be used to pick-up and drop-off laundry only. This means that customers will be visiting the site temporarily and will generate minimal traffic and parking requirements. Additionally, parking bays 2 – 8 will be used as 'customer parking only', which could be included as a condition on permit. This ensures sufficient parking will be provided, addressing any existing parking issues between the adjoining businesses. The proposed parking provision for the laundry business is therefore sufficient and acceptable.

A dedicated loading area (6m x 6m) has been provided as shown in the site plan and is well setback from the tree and site boundary. This ensures sufficient on-site maneuvering is provided for loading van to enter and exit the site in a forward manner.

The existing U-shaped access arrangement remains unchanged, and the shipping containers are located in an area that will not obstruct the existing access. The proposal will continue to provide sufficient on-site maneuvering area when entering and exiting the site, ensuring traffic safety is maintained and will not disrupt the surrounding transport network.

Conclusion

The proposed amendment seeks to allow for the retrospective buildings and works to accommodate the unforeseen expansion in business. Whilst there are views of the proposed works, the development has been carefully designed and managed to limit off-site impacts on adjoining properties and consideration of existing buildings, access and inundation areas. The amendment will respect the existing built form context and will continue to respect the alpine approach and township gateway theme of the area.

We trust that the amended application and enclosed material satisfies Council and if you have any questions, please do not hesitate to contact the undersigned.

Yours sincerely,



Rubin Winograd
Associate Director