

**P118-23 – 35 Bayside Boulevard, Goughs Bay**

**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.

The following Planning Policies and Objectives are relevant to this application:

**Municipal Planning Strategy (MPS)**

**Clause 02.03-1 – Settlement**

*The settlement pattern in the Shire is characterised by Mansfield Township as the major urban centre, with a number of surrounding smaller settlements, significant areas for rural living and a number of isolated 'legacy' settlements principally located around the shores of Lake Eildon. The 4 major valleys: Upper Delatite, Upper Goulburn, Howqua and Jamieson provide a distinctive and valued landscape setting for all settlements.*

*The future growth of all towns will depend upon the provision of infrastructure, particularly reticulated sewerage. Mansfield Township, Bonnie Doon, Merrijig, Sawmill Settlement and Alpine Ridge are the only towns with reticulated sewerage. Development in other towns will be restricted to infill development provided wastewater can be managed on site.*

**Goughs Bay**

*Goughs Bay was originally planned to act as a settlement catering predominantly for non-resident land owners and holidaymakers. However, there is an increasing trend towards permanent occupation. There is no reticulated water or sewer so no additional land for residential development will be rezoned until such a time as the issue can be addressed satisfactorily.*

**Clause 02.03-3 – Environmental Risks and Amenity**

**Bushfire**

*Bushfires are a risk to life, property and community infrastructure. Risk is most significant in and around forested areas in mountainous topography. Other hazardous areas include extensive grassland areas, particularly along the urban and rural interface of existing settlements. Urban areas of Mansfield Township are generally unaffected.*

*Development pressure near forested land, often in locations where there is only one access road is a major risk. The bushfire risk is increasing in areas that are popular for residential and rural residential development, areas where there is a high number of non-resident landowners and where property maintenance can be variable, and in areas that may introduce vulnerable people to a location close to bushfire hazards.*

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*This is the case for the National Parks, which are densely vegetated, a major tourist attraction, and present high numbers of part time resident and non-resident landowners.*

*The following settlements have also been rated for their high to extreme bushfire risk under the Victorian Bushfire Risk Register:*

- *Jamieson (high bushfire risk) and its surrounding forest (extreme bushfire risk).*
- *Goughs Bay (very high bushfire risk).*
- *Sawmill Settlement, Alpine Ridge (extreme risk) and Pinnacle Valley (high bushfire risk).*
- *A1 Mine, Kevington and Gaffneys Creek (extreme bushfire risk).*

### **Clause 02.03-7 – Economic Development**

#### **Tourism**

*The proximity of Lake Eildon to Melbourne has also made its environs popular for the establishment of ‘weekenders’ and holiday homes, similarly to other local townships providing both close access to Melbourne, Mansfield infrastructure and services and nature.*

*The increasing number of visitors and added pressure to provide entertainment and recreation facilities that help reinforce Mansfield’s competitive advantage in the tourism sector can negatively impact the built and natural environment and landscape character of the area.*

*Council’s strategic directions for economic development are to (as relevant):*

- *Diversify the economic base, particularly to reinforce the role of the Shire as a year-round tourism destination.*
- *Attract high quality tourism development that is compatible with the environmental attributes and character of the area.*
- *Minimise the negative impact that tourism can have on the built and natural environment.*

#### **Comment:**

Discussion relating to the above listed MPS is contained under the relevant PPF below.

### **Planning Policy Framework (PPF)**

#### **Clause 11.01-1S – Settlement**

##### **Objective**

- *To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.*

#### **Clause 11.01-1L-02 – Settlement – Other local areas**

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### ***Goughs Bay and Mountain Bay strategy***

- *Facilitate development that supports foreshore improvements.*

#### **Clause 13.05-1S – Noise Management**

##### ***Objective***

- *To assist the management of noise effects on sensitive land uses.*

##### ***Strategy***

- *Ensure that development is not prejudiced and community amenity and human health is not adversely impacted by noise emissions.*
- *Minimise the impact on human health from noise exposure to occupants of sensitive land uses (residential use, child care centre, school, education centre, residential aged care centre or hospital) near the transport system and other noise emission sources through suitable building siting and design (including orientation and internal layout), urban design and land use separation techniques as appropriate to the land use functions and character of the area.*

##### ***Policy guidelines***

*Consider as relevant:*

- *The noise requirements in accordance with the Environment Protection Regulations under the Environment Protection Act 2017.*

#### **Clause 13.07-1S – Land Use Compatibility**

##### ***Objective***

- *To protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.*

##### **Comment:**

The subject site is located outside of the main settlement of Mansfield, within the Goughs Bay settlement fronting the Lake Eildon foreshore. The proposal is broadly consistent with Clause 11.01-1S given that it locates a service (hospitality) use within a small rural settlement area close to places of high touristic values to the municipality (i.e. Lake Eildon), in a way that does not produce unnecessary amenity impacts on existing residential properties surrounding and capitalises on the features of the area. The red line area would be located within the confines of the existing café building, sufficiently setback from nearby dwellings in the GRZ1. Moreover, the scale of the licensed premises would not exceed the scale of the existing café and, accordingly, there is unlikely to be a significant increase in noise pollution originating from the site as a result of the licensed premises operations proposed. Overall, the proposal is considered an appropriate response having regard to settlement and amenity-concerned planning policy.

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### **Clause 14.02-1S – Catchment planning and management**

#### Objective

*To assist the protection and restoration of catchments, waterways, estuaries, bays, water bodies, groundwater, and the marine environment.*

#### Strategies

- *Ensure the continued availability of clean, high-quality drinking water by protecting water catchments and water supply facilities.*
- *Consider the impacts of catchment management on downstream water quality and freshwater, coastal and marine environments.*
- *Retain natural drainage corridors with vegetated buffer zones at least 30 metres wide along each side of a waterway to:*
  - *Maintain the natural drainage function, stream habitat and wildlife corridors and landscape values,*
  - *Minimise erosion of stream banks and verges, and*
  - *Reduce polluted surface runoff from adjacent land uses.*
- *Undertake measures to minimise the quantity and retard the flow of stormwater from developed areas.*
- *Require appropriate measures to filter sediment and wastes from stormwater prior to its discharge into waterways, including the preservation of floodplain or other land for wetlands and retention basins.*
- *Ensure that development at or near waterways provide for the protection and enhancement of the environmental qualities of waterways and their instream uses.*
- *Ensure land use and development minimises nutrient contributions to water bodies and the potential for the development of algal blooms.*
- *Require appropriate measures to restrict sediment discharges from construction sites.*
- *Ensure planning is coordinated with the activities of catchment management authorities.*
- *Ensure that water quality infrastructure is designed to minimise risk of harm to surface waters and groundwater.*

#### Officer Response

As the subject land is in the Environmental Significance Overlay for the Special Water Supply Catchment area the application was referred to Goulburn Murray Water who have considered the proposal and have requested additional information. The information requested includes details of the existing onsite wastewater management system and its capacity to treat and dispose of any additional load from the additional liquor licence.

Council recognises that the subject site is highly constrained and requires measured consideration in assessing development proposals. The application does not include details on the existing servicing, nor how the addition of a liquor licence would increase the strain on that service.

### **Clause 14.02-1L – Catchment planning and management**

#### Policy Application

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*This policy applies to land within a Declared Special Water Supply Catchment Area, as shown on the Mansfield Shire catchments map to this clause.*

### Strategies

- *Minimise adverse impacts from wastewater management systems (both individually and cumulatively) on catchment health and water quality.*
- *Discourage land uses that would contribute to the degradation of downstream water quality.*
- *Discourage further development, particularly new rural residential estates on the lakes' shores.*
- *Support new development only where connection to reticulated sewerage infrastructure can be provided or it will not have a cumulative impact on nutrient and pathogen loads.*
- *Support redevelopment and extensions of existing unsewered dwellings only if an incremental cumulative benefit will be gained by way of upgrading the existing system.*
- *Incorporate integrated Water Sensitive Urban Design (WSUD) techniques and mitigation measures to reduce overall wastewater volumes and level of nutrients, pathogens and pollutants entering the catchment from use and development, particularly in high risk areas as per Schedule 1 to the Environmental Significance Overlay.*
- *Ensure any drainage scheme is consistent with the capability of the land.*

### Officer Response

The subject land is within the Lake Eildon Environs Area and is within very close proximity to Lake Eildon.

Any failure or overload of the onsite wastewater management system onsite could have significant impacts to the water quality of Lake Eildon.

## **Clause 17.01-1S – Diversified Economy**

### **Objective**

- *To strengthen and diversify the economy.*

Strategies (as relevant):

- *Facilitate growth in a range of employment sectors, including health, education, retail, tourism, knowledge industries and professional and technical services based on the emerging and existing strengths of each region.*
- *Improve access to jobs closer to where people live.*
- *Support rural economies to grow and diversify.*

### Comment:

The proposal would likely strengthen the viability of the existing business operating out of the subject land. It would also facilitate enhanced touristic possibilities for the site, thereby

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supporting the local economy and securing local jobs. This is generally consistent with the above stated policy relating to diversified economies.

### **Clause 17.04-1S – Facilitating Tourism**

#### **Objective**

- *To encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination.*

#### **Strategies**

- *Encourage the development of a range of well-designed and sited tourist facilities, including integrated resorts, accommodation, host farm, bed and breakfast and retail opportunities.*
- *Seek to ensure that tourism facilities have access to suitable transport.*
- *Promote tourism facilities that preserve, are compatible with and build on the assets and qualities of surrounding activities and attractions.*
- *Encourage investment that meets demand and supports growth in tourism.*

### **Clause 17.04-1R – Tourism – Hume**

#### **Strategies**

- *Support opportunities for nature-based tourism throughout the region, including in wetlands of national and regional significance, such as the Winton Wetlands, the Barmah Forest and the lower Ovens River.*
- *Support large commercial tourism uses in urban locations or rural areas of lower agricultural value and away from areas identified as strategic agricultural land.*
- *Facilitate rural tourism activities that support agricultural enterprises such as cellar door and farm gate sales and accommodation in appropriate locations.*

### **Clause 17.04-1L – Facilitating Tourism in Mansfield Shire**

#### **Diversification strategies**

- *Facilitate development that improves tourism links and facilities and capitalises on the through traffic along the Alpine approaches during peak holiday periods.*
- *Encourage the development of quality affordable short and long term accommodation for visitors and temporary staff.*
- *Support eco-tourism opportunities.*

#### **Location strategies**

- *Locate tourism use and development in areas that are highly accessible and preferably serviced with sealed road access.*

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- *Avoid any tourism development in areas prone to high fire risk, flooding and erosion.*
- *Discourage ribbon tourism development along the foreshore of Lake Eildon and Lake Nillahcootie as well as the Alpine Approaches and direct tourism development associated with these areas to existing settlements instead.*
- *Support tourism development in rural areas that is compatible with surrounding agricultural uses, such as bed and breakfasts, host farms or tourist uses related to the agricultural use of the land or natural setting.*

### **Design strategies**

- *Site and design tourism development to be unobtrusive and sympathetic to existing landscape features and complement the landscape character of the area.*
- *Provide internal all-weather road access to sites.*
- *Design signs for tourism uses to be sympathetic to the land on which it is to be located.*

## **Clause 17.04-2S – Coastal and Maritime Tourism and Recreation**

### **Objective**

- *To encourage a diverse range of strategically located and well-designed coastal and maritime tourism and recreational opportunities that strengthen people's connection with the marine and coastal environment.*

### **Comment:**

The proposal would be wholly consistent with planning policy relating to tourism development; with it providing enhanced hospitality options directly linked to a major economic driver for the municipality (being Lake Eildon) for prospective visitors to the area to experience. The location of the site is well serviced and located for such activities and does not compromise the natural features of the land. This is particularly consistent with policy at Clause 17.04-2S. Overall, the proposed use and development is considered an appropriate undertaking for the site considering the site's limitations and favourable location.

### **Zoning**

The subject land is zoned the following:

- General Residential Zone; and
- Low Density Residential Zone

A planning permit is not required under these zones for the proposal.

### **Overlays**

The subject land is affected by the following overlays:

- Bushfire Management Overlay; and
- Environmental Significance Overlay – Schedule 1.

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A planning permit is not required under these overlays for the proposal.

### **Particular Provisions**

#### **Clause 52.27 – Licensed Premises**

##### ***Purpose***

- *To ensure that licensed premises are situated in appropriate locations.*
- *To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.*

##### ***Scope***

These provisions apply to premises licenses, or to be licenses, under the *Liquor Control Reform Act 1998*.

##### ***Permit Requirement***

A permit is required to use land to sell or consume liquor if a licence is required under the *Liquor Control Reform Act 1998*.

##### ***Referral of applications***

*An application must be referred and notice of the application must be given in accordance with Clause 66 of this scheme.*

##### ***Decision guidelines***

*Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:*

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*
- *The impact of the hours of operation on the amenity of the surrounding area.*
- *The impact of the number of patrons on the amenity of the surrounding area.*
- *The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.*

##### **Comments:**

Planning Practice Note 61 (Licenses premises: Assessing cumulative impact) sets out guidelines that assist with assessing the cumulative impact of licensed premises as part of a planning permit application. That is, the following matters should be considered:

1. Planning policy context.
2. Surrounding land use mix and amenity.



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3. The mix of licensed premises.
4. Transport and dispersal.
5. Impact mitigation.

These have been considered in concert with the relevant decision guidelines to frame an assessment for this proposal.

The proposal is considered to be generally consistent with the MPS and PPF. The MPS and PPF have been addressed under separate headings in the body of this report. The zoning of the land contemplates other (non-residential) land uses. The application provides a scale of use (being a licensed premises) that is commensurate with the capabilities of the subject site and surrounding land and the expectations of the zoning and site context.

There is a limited number of licensed premises in the surrounding area (three (3) within 1.5 km in total). The sale and/or consumption of liquor on the site is to be directly associated with existing use of the land by the Goughs Bay Caravan Park for the Red Fin Inn Cafe. Based on an assessment against Planning Practice Note 61 (*Licensed Premises: Assessing cumulative impact*), it is regarded that the cumulative impact of any existing licensed premises and the proposal on the subject land is limited given:

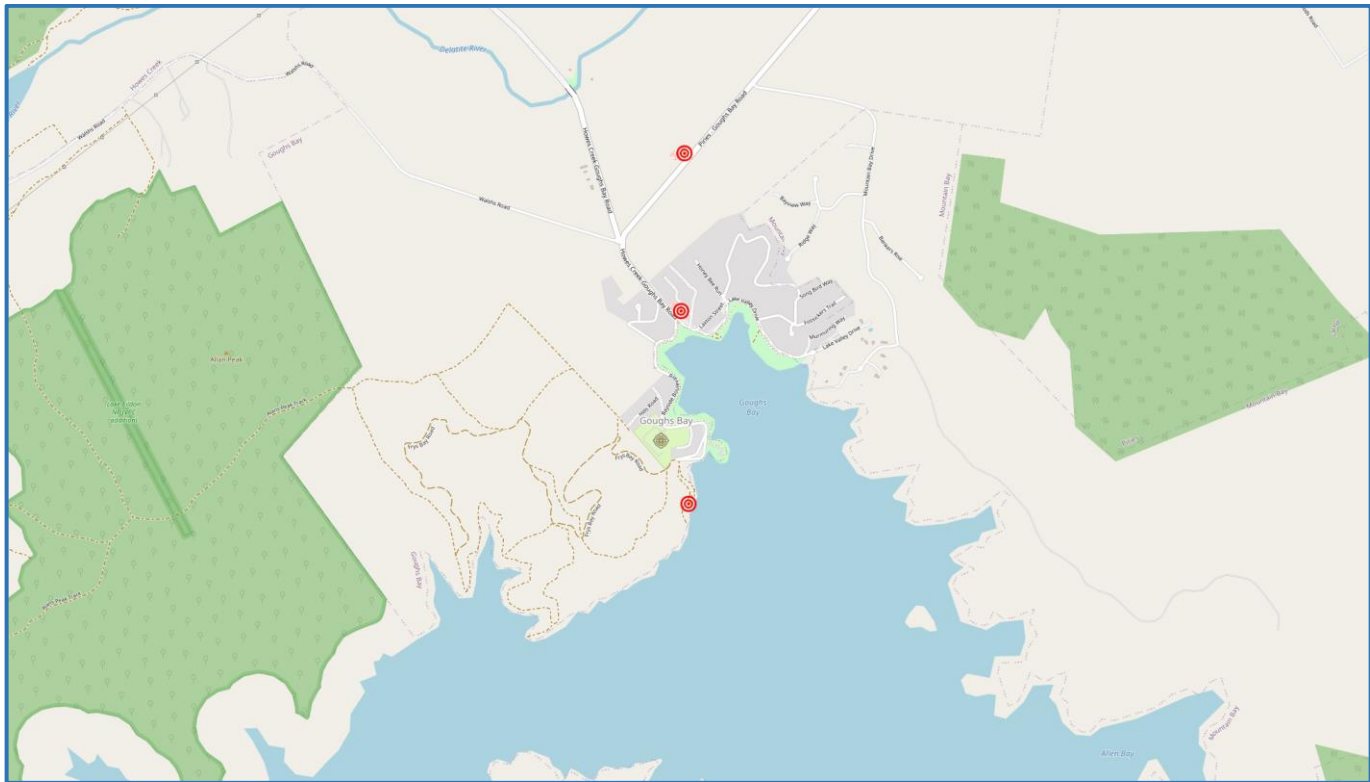
- The proposal would not result in a 'cluster' of licensed premises within the area, given there is only one (1) licensed premises – which is a limited licence – within a 100m and 500m radius of the subject land.
- With the exception of the proposed liquor license for the subject land, none of the licensed premises within 500 metres of the subject land are open past 11pm.
- The hours of operation are not considered to be excessive (being 11:00 am until 11:00 pm seven (7) days per week), noting that there is no change to the current operating hours. Therefore, it is considered the impact generated by the proposal will not cause detrimental impacts to the amenity of the surrounding area. Moreover, large patron numbers are not considered to be particularly prevalent owing to the periodic and fluctuating nature of the existing land use(s) on the site.
- The existing liquor license is associated with the use of land for a restaurant (café). The site surrounds comprise of an small established residential settlement, with the proposal expected to add to the vibrancy of the area. Furthermore, the liquor license trading area is not considered to generate amenity impacts beyond what is reasonable for the use of land.
- The applicant seeks a liquor licence for the existing restaurant, with no net increase in seated patrons.
- The area to which the red line area is to be provided is modest accounting for a total area of less than 700 sqm, which is to incorporate a proposed designated outdoor smoking area and back of house facilities.
- There is a likelihood that a large proportion of patrons using the venue will be guests to the camping and caravan park on site or nearby accommodation. Consequently, the dispersal of patrons is likely to be varied and unlikely to have any significant amenity

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impacts on matters such as traffic or loitering. It is noted that there existing car parking spaces as well as informal parking opportunities on the subject land should demand spike for patrons to the premises.

As such, the introduction of a further licensed premises as proposed is considered to be an appropriate model for the site and surrounds, noting that the extent of alcohol consumption associated with the proposed use and development is not considered to be excessive in nature, comparative to other types of licensed premises. Furthermore, the venue will ensure that responsible service of alcohol is observed at all times in accordance with the relevant legislative and liquor licencing requirements.

Based on the above, it is considered that the proposal is supported by the relevant purpose and decision guidelines of Clause 52.27 and is an appropriate use for the subject land having regard to this particular provision.



*Figure 8: Existing liquor licenses in the surrounding area (red) comparative to the subject land (yellow). Source: VGCCC website.*

**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.*

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- *The Municipal Planning Strategy and the 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.*

Comment:

The matters set out at Section 60 of the Act have been considered.

The MPS and PPF have been addressed under separate headings in the body of this report.

As discussed in this report, the proposal is considered to be generally accordant with the purpose of the zones and overlays.

It is considered the proposal is consistent with the existing use of the land as a Camping and Caravan Park, and does not propose anything which would contravene the orderly planning of the area and nearby land uses.

As discussed in this report, public land (Lake Eildon) is located to the east of the subject land but additional impacts on the environment, human health or amenity of the area are still required to be considered.

Particularly, given its location in a designated special water supply catchment area, it is integral to ensure the proposal does not have any impact on nearby waterways and catchment health.

The proposal does not seek to remove an existing vegetation from the site, nor involve the construction of any buildings or works.

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The scale of the development proposed is unlikely to impact the current and future operation of the transport system. The existing café onsite currently caters for 122 seated guests and this proposal would not see an increase to that number.

For the purposes of this Clause, the proposal provides an acceptable planning outcome for the site and surrounds.

### **Conclusions**

Having assessed the application against the relevant clauses of the Mansfield Planning Scheme, it is considered that the proposal responds appropriate to the direction of the Scheme in the MPS and PPF, and to the requirements of the Scheme with respect to Clause 52.27 (Licensed Premises) and the relevant General Provisions. The proposal would provide for an appropriate accompaniment to the existing use of the land, that is supported by planning policy and the relevant planning controls, subject to appropriate conditions.

The application has been assessed in accordance with the *Planning and Environment Act 1987*, which has been reviewed by the State Government and complies with the *Charter of Human Rights & Responsibilities Act 2006*.

The applicant has not provided sufficient information to ensure that the existing septic system on the property can support the increase in wastewater introduced through the provision of a Liquor License for a restaurant.

The application for permit is therefore recommended to be refused.