



Mansfield Shire

Additional Council Meeting

Tuesday 4 July 2023

Notice and Agenda of meeting livestreamed via the

[Mansfield Shire Council website](#)

Commencing at 9am

*Note: The time listed in the published agenda was incorrect and has been updated post meeting to reflect the advertised meeting time of 9.00am.

Our aspiration for our Shire and its community

We live, work and play in an inclusive, dynamic and prosperous place where community spirit is strong and people are empowered to engage in issues that affect their lives.

Councillors

Cr James Tehan (Mayor)
Cr Steve Rabie (Deputy Mayor)
Cr Mark Holcombe
Cr Paul Sladdin
Cr Rohan Webb

Officers

Kirsten Alexander, Chief Executive Officer
Melissa Crane, General Manager Infrastructure & Planning
Julie Williams, General Manager Business & Economic Development

Order of Business

1. Opening of the meeting

The Mayor, who chairs the meeting, will formally open the meeting and welcome all present.

2. Present

Where a meeting is held virtually, Councillors will confirm that they can see and hear each other.

3. Apologies

Where a Councillor is not present, his/her absence is noted in the Minutes of the meeting.

4. Statement of commitment

The Council affirms its commitment to ensuring its behaviour meets the standards set by the Mansfield Shire Councillor Code of Conduct and Councillor Charter.

5. Acknowledgement of Country

The Council affirms its recognition of the Taungurung people being traditional owners of this area, and pays respect to their Elders past and present.

6. Disclosure of conflicts of interest

In accordance with the *Local Government Act 2020*, a Councillor must declare any Conflicts of Interest pursuant to sections 126 and 127 Act in any items on this Agenda.

Council officers or contractors who have provided advice in relation to any items listed on this Agenda must declare a Conflict of Interest regarding the specific item.

7. Representations

Council receives or presents acknowledgements to the general public. Deputations may also be heard by members of the general public who have made submission on any matter or requested to address the Council. Council may also receive petitions from residents and ratepayers on various issues. Any petitions received since the previous Council meeting are tabled at the meeting and the matter referred to the appropriate Council officer for consideration.

8. Officer reports

8.1 Officer reports are presented to the Council, where required.

Detailed reports prepared by officers from the Infrastructure and Planning Directorate are considered by the Council. This includes reports from the following Departments:

Planning and Environment

- ▶ Operations and Capital Works
- ▶ Community Safety
- ▶ Field Services

A Council position is adopted on the matters considered.

9. Closure of meeting to members of the public

Whilst all Council meetings are open to members of the public, Council has the power under the Local Government Act 2020 to close its meeting to the general public in certain circumstances which are noted where appropriate on the Council Agenda. Where this occurs, members of the public are excluded from the meeting while the matter is being discussed.

10. Presentation of confidential reports

11. Reopen meeting to members of the public

The Mayor will reopen the meeting to members of the public.

12. Close of meeting

The Mayor will formally close the meeting and thank all present for attending.

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Agenda

1. Opening of the meeting

2. Present

3. Apologies

The Chair will call on the CEO for any apologies.

4. Statement of commitment

The Chair will read the statement and call on each Councillor to confirm their commitment:

“As Councillors of Mansfield Shire we are committed to ensuring our behaviour meets the standards set by the Mansfield Shire Councillor Code of Conduct and Councillor Charter. We will, at all times, faithfully represent and uphold the trust placed in us by the community.”

5. Acknowledgement of Country

The Deputy Mayor will recite Council’s Acknowledgement of Country:

“Our meeting is being held on the lands of the Taungurung people and we wish to acknowledge them as Traditional Owners. We would also like to pay our respects to their Elders, past and present, and Aboriginal Elders of other communities who may be here today.”

6. Disclosure of conflicts of interest

The Chair will call on each Councillor in turn and ask them to declare whether they have any conflicts of interest in relation to any agenda items:

- Councillor Holcombe
- Councillor Rabie
- Councillor Sladdin
- Councillor Webb

7. Representations

8. Officer reports

8.1. Infrastructure and Planning Directorate

8.1.1. P032A/21: 195 Mt Buller Road, Mansfield

File Number	DA571 P032A/21	Responsible Officer	Coordinator Statutory Planning, Nicole Embling
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Purpose

The purpose of this report is to seek Council's determination of planning permit amendment application P032A/21, lodged for use of land for a Service Industry (Commercial Laundry) and development of a semi-detached extension to the existing buildings and four Shipping Containers, and a reduction of car parking. This application is being referred to Council for determination as there are more than three (3) submissions objecting to the proposal.

Executive Summary

<i>Application Details</i>	
APPLICANT	AJs Laundry Services
APPROVED PERMIT ALLOWS	Use of land for Service Industry (Commercial Laundry) Permit issued – 9 June 2021
AMENDED PROPOSAL	Use of land for a Service Industry (Commercial Laundry) and development of a semi-detached extension to the existing buildings and four Shipping Containers, and a reduction of car parking
APPLICATION LODGED	8 February 2023
NOTICE AND SUBMISSIONS	Total of 35 Submissions received – 8 objections – 27 supporting submissions
<i>Property Details</i>	
PROPERTY ADDRESS	195 Mt Buller Road, Mansfield
LAND DESCRIPTION	Lot 1 PS 215446A
RESTRICTIVE COVENANTS	Nil
LAND AREA	2,230 sqm
EXISTING USE	Commercial Laundry
<i>Planning Provisions</i>	
MUNICIPAL PLANNING STRATEGY AND PLANNING POLICY FRAMEWORK	Clause 02.03-1 - Settlement, Mansfield Township Clause 02.03-3 - Environmental risks and amenity, Flooding Clause 02.03-4 - Natural resource management, Water and Declared Special Water Supply Catchments Clause 02.03-5 - Built environment and heritage, Township and neighbourhood character Clause 11.01-1L-01 – Mansfield Township

	<p>Clause 12.05-2L – Significant landscapes, ridgelines and alpine approaches</p> <p>Clause 13.03-1S – Floodplain management</p> <p>Clause 13.03-1L – Floodplain management</p> <p>Clause 13.05-1S – Noise management</p> <p>Clause 13.07-1S – Land use compatibility</p> <p>Clause 14.02-1S – Catchment planning and management</p> <p>Clause 14.02-1L – Catchment planning and management</p> <p>Clause 15.01-2S – Building design</p> <p>Clause 15.01-5S – Neighbourhood character</p> <p>Clause 15.01-5L – Mansfield Township Approaches</p> <p>Clause 17.03-1S – Sustainable industry</p> <p>Clause 17.03-1L – Industrial development</p> <p>Clause 19.03-3S – Integrated water management</p>
ZONE	Commercial 1 Zone (C1Z)
OVERLAYS	<p>Design and Development Overlay – Schedule 1 (DDO1 – Alpine Approaches and Township Gateways)</p> <p>Land Subject to Inundation Overlay (partial)</p>
PARTICULAR PROVISIONS	<p>Clause 52.05 - Signs</p> <p>Clause 52.06 – Car Parking</p> <p>Clause 52.29 – Land Adjacent to the Principal Road Network</p> <p>Clause 52.34 – Bicycle Facilities</p> <p>Clause 53.10 – Uses and Activities with Potential Adverse Impacts</p>
<i>Permit Triggers</i>	
PREVIOUS TRIGGERS	<p>Clause 34.02-1 Commercial 2 Zone – <i>Use of land for Industry, where the Condition is not met.</i></p> <p><i>The subject land is less than 100m from a residential zone and does not meet the requirements of Clause 53.10.</i></p>
ADDITIONAL TRIGGERS	<p>Clause 34.02-4 Commercial 2 Zone – <i>A permit is required to construct a building or construct or carry out works.</i></p> <p>Clause 43.02-2 Design and Development Overlay – <i>A permit is required to construct a building or construct or carry out works.</i></p> <p>Clause 52.06-3 Car Parking – <i>A permit is required to reduce the number of car parking spaces required under Clause 52.06-5.</i></p>
<i>Other</i>	
CULTURAL SENSITIVITY	The subject land is not in an area of Aboriginal Cultural Heritage Sensitivity:

A planning permit amendment application was submitted to Council on 8 February 2023 for the use of land for a Service Industry (Commercial Laundry) and development of a semi-detached extension to the existing buildings, and four Shipping Containers at 195 Mt Buller Road, Mansfield.

Subject Land

The site is 2,230 square metres in area and is irregularly shaped with dual frontage to Mt Buller Road and Timothy Lane. There is an existing building on the land which is currently being used by AJs Laundry Services for a Commercial Laundry which has been operating under the existing planning permit P032/21 (issued 9 June 2021). There is existing dual vehicle access from Timothy Lane and a small area for vehicle parking and unloading/loading. There are some native trees along the north and east boundaries and some large gas tanks in the rear yard, close to the northern corner of the land.

The land is in the Commercial 2 Zone and the Design and Development Overlay (Schedule 1 – Alpine Approaches and Township Gateways) applies to the land, and the Land Subject to Inundation Overlay applies to portions of the land along the southern and western boundaries.

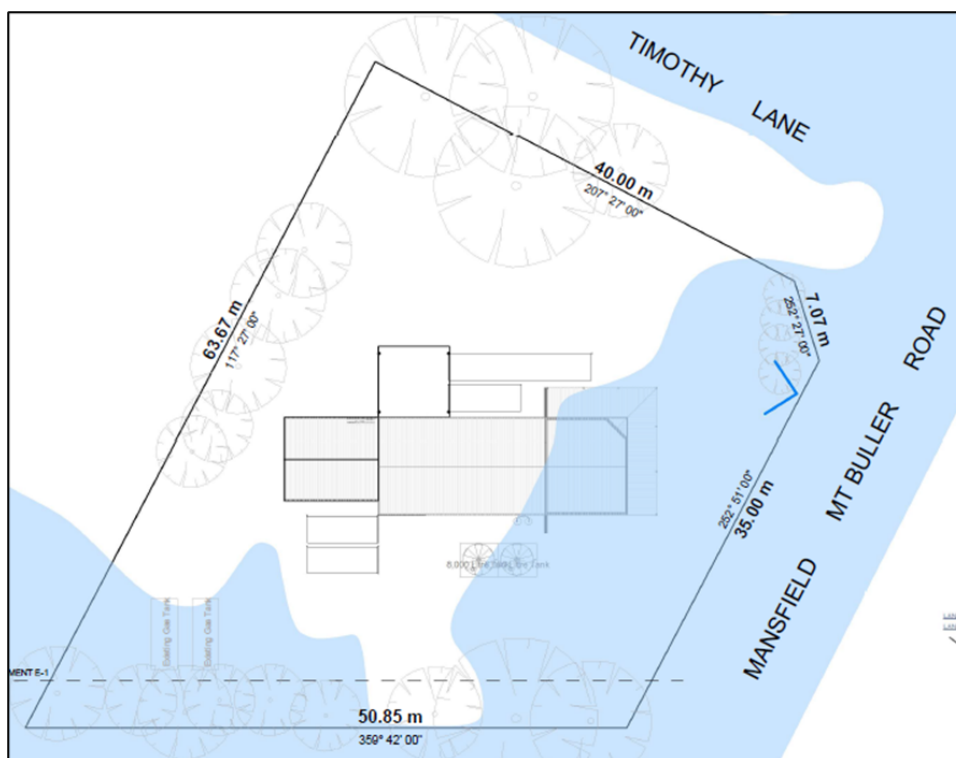


Figure 1: Land Subject to Inundation Overlay

The adjoining land to the north, east and west is also in the Commercial 2 Zone and is being used for Commercial-type businesses. Mt Buller Road is in the Transport Zone 2 and is a major tourist route between Mansfield and Mt Buller, also providing access to many tourist destinations including Jamieson, Goughs Bay, Mt Stirling, and Howqua. The adjacent land to the south, across Mt Buller Road, is in the General Residential Zone and has an existing Development Plan for residential development.

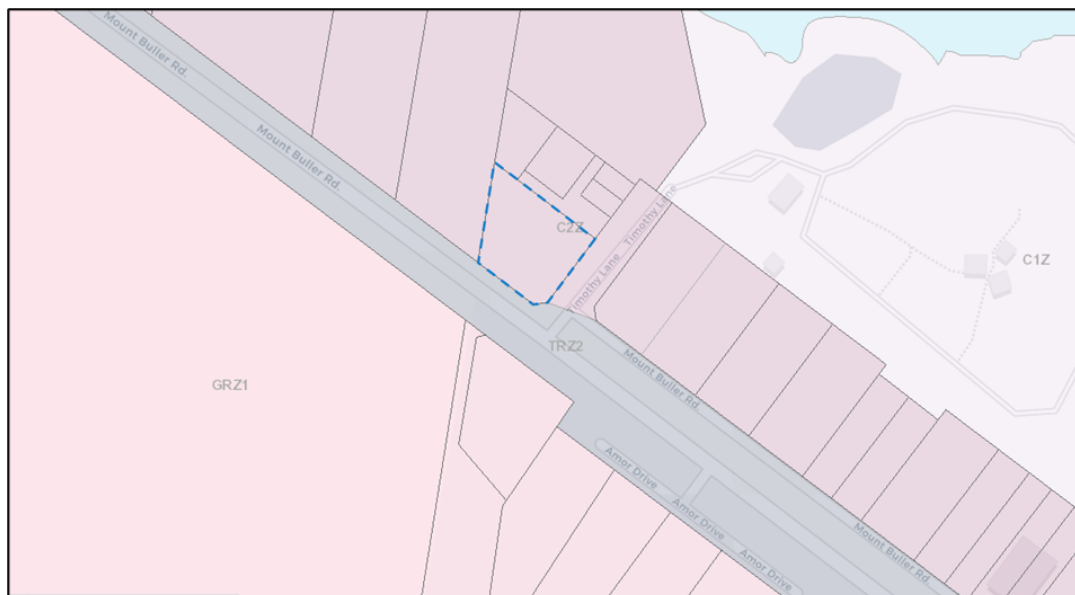


Figure 2: Zoning Map

History

The existing business has been operating and growing for approximately two years at this location. Shipping containers have been installed on the land and an extension constructed to the north of the existing building without the required Planning and Building Permits. Council has undertaken enforcement action and attempted to have the illegal buildings and works removed from the land.

This planning permit amendment application has been submitted in response to the enforcement action, to include the buildings and works retrospectively.

It is noted that conditions of the existing permit have not been complied with, including:

- Condition 4
The use of development hereby permitted shall not cause nuisance or injury to, or prejudicially affect the amenity of the locality, by reason of the transportation of materials, goods and commodities to and from the land, the appearance of any building, works, or materials on the land, the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or the presence of vermin or otherwise.
- Condition 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.
- Condition 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.
- Condition 11
Prior to the commencement of use, a landscape plan must be submitted to and approved by the responsible authority for the area on the southern boundary of the property, adjacent to Mt Buller Road. The plan must detail the type and number of plants to be used, and be designed to provide an improved presentation for the site, and buffering of the building from the properties to the south.

- Condition 12
Before the start of the use allowed, the area on the site adjacent to Mt Buller Road set aside for landscaping must be planted in accordance with the endorsed plan. This area must then be maintained to the satisfaction of the Responsible Authority, and must not be used for any other purpose except with the prior written approval of the Responsible Authority.
- Condition 13
Prior to the commencement of use the signage on the south eastern corner of the allotment must be removed to the satisfaction of the responsible authority.

Proposal

The planning permit amendment application proposes to amend what the current permit allows (use of land for a Service Industry) to include the retrospective development of an extension to the existing building and four Shipping Containers. The application provides that the Shipping Containers provide storage for the laundry as the main operations occur in the existing building, which does not provide sufficient space for the storage before and after washing. The Shipping Container (existing) proposed to be closest to Timothy Lane (shown as *Storage 2* on the submitted plans) is detailed on the plans to have lattice and screening to reduce the visual impacts of the Shipping Container.

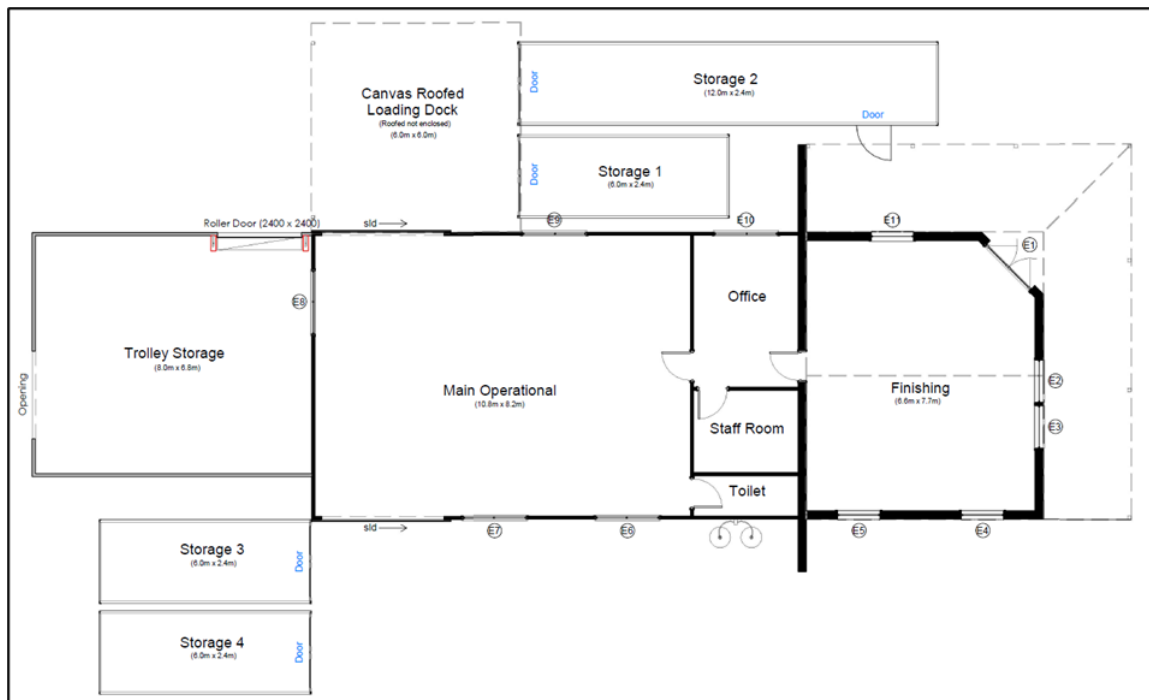


Figure 3: Proposed Floor Plan

A covered loading area is proposed to be constructed between the Shipping Containers, where there is currently a gazebo set up, this would be constructed with a canvas roof and would not be a permanent structure. This structure would provide shelter from the weather when customers are loading and unloading washing.

The application has requested to delete Condition 13 of the existing planning permit, which requires:

Prior to the commencement of use the signage on the south eastern corner of the allotment must be removed to the satisfaction of the responsible authority.

The proposal includes the existing works on the site and proposes to relocate two of the existing Shipping Containers from the Timothy Land frontage, to the rear of the land near the west boundary, and construct a lattice structure along the larger Shipping Container where it has frontage to Timothy Lane. Additionally, the existing banner hanging under the verandah is proposed to be removed, and the existing V-shaped sign near Mt Buller Road retained.

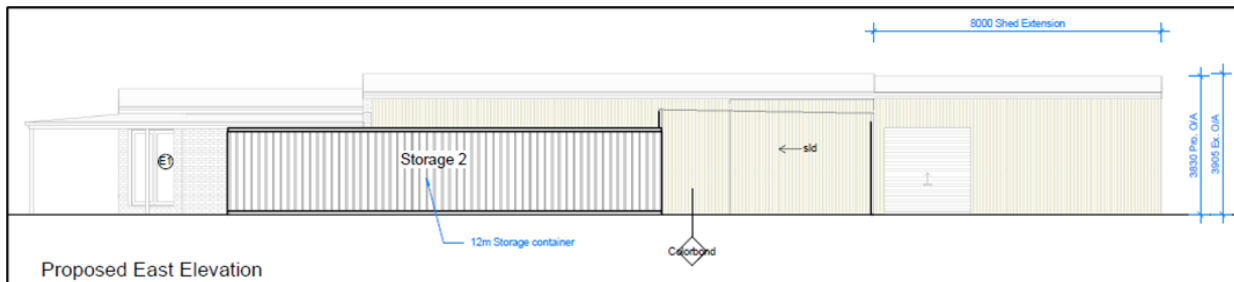


Figure 4: Proposed East Elevation, as viewed from Timothy Lane

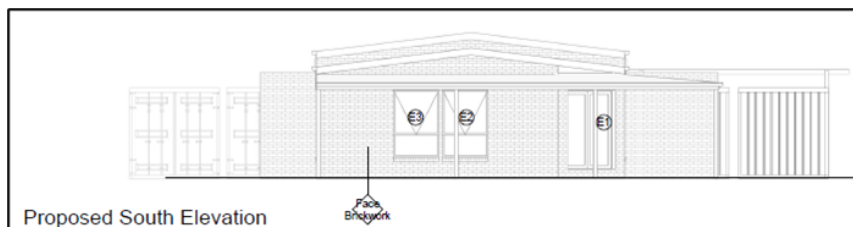


Figure 5: Proposed South Elevation, as viewed from Mt Buller Road

An amended planning permit is required in accordance with Clause 34.02-4 for buildings and works in the Commercial 2 Zone and Clause 43.02-2 for buildings and works in the Design and Development Overlay.

External Authorities

The amendment application has been referred to Environment Protection Authority (EPA) and Goulburn Valley Water (GVW) in accordance with the requirements of the Mansfield Planning Scheme and for consistency with the previous permit issued.

GVW have provided conditional consent to the granting of an amended permit.

EPA have provided consent to the granting of an amended permit and raised some matters regarding limitations of the site and proposal for Councils consideration, including:

- Application has not detailed any intensification of its operation however includes an expansion of the business.
- The application does not provide details of the types of materials stored in the shipping containers.
- Existing and future potential hazards include noise, contamination, dust, odour, fire, and waste management.
- Submitted plans do not provide for any risk management infrastructure on the site, or an Environment Management Plan.

Internal Referrals

The application has been reviewed by Council's Engineering Department.

Public Notice

The application was advertised with an onsite sign, and letters were sent to the owners and occupiers of all properties adjoining and surrounding the subject land, which included 18 properties.

Following the public notice period thirty-four (35) submissions were received.

The submissions include:

- Eight (8) objections to the amendment proposal.
- Twenty-seven (27) supporting submissions to the amendment proposal.

Officer Assessment

The amendment application for the retrospective buildings and works is not consistent with the relevant Local and State Planning policies, and in particular the requirements of the Design and Development Overlay. Furthermore, the non-compliance with the existing permit conditions has determined that this application does not have Council Officer support and is therefore recommended for refusal.

Key Issues

The submissions supporting the proposal are all from existing customers of the Laundry business who are concerned that if Council does not support the proposal, the business would reduce capacity and some customers may be turned away. The supporting submissions do not include any planning considerations or comments relating to the existing compliance matters outstanding.

Council officer assessment of the objections is as follows:

Concern: *Visual amenity impacts.*

Response: The subject land in its current layout and operations does not suitably reflect the character of the area and is impacting on surrounding properties, the approach to alpine areas, and the gateway to Mansfield in a negative way. The proposed Shipping Containers do not provide a suitable design outcome that responds to the surrounding area and are considered visually obtrusive in the landscape.

Concern: *Temporary structures (gazebo) are not secured and are unsafe.*

Response: The submissions objecting to the proposed amendment provided photographic evidence of previous temporary (gazebo) structures damaged and stored in the rear yard, suggesting a turnover of structures due to damage. It is not clear if this damage is caused by vehicles hitting them, or from weather damage.

As the structures do not conform to Building Regulations, they are considered temporary works and should not be placed on the land for any permanent reason. The use of a temporary structure to provide shelter for loading is considered inappropriate.

Concern: *Inconsistency with Alpine Approaches policy*

Response: As previously discussed in this report, the proposed amendment application does not align with Clause 43.02 Design and Development Overlay, Schedule 1 – Alpine Approaches and Township Gateways. The application provides solid walls along street frontages, limited landscaping, loading area in front of the building and flat roofed Shipping Containers.

Concern: *Storage of materials under the verandah.*

Response: The storage of materials outside the buildings has been previously discussed in this report and is non-compliant with the existing conditions of the planning permit. Furthermore, the storage of materials outside is visually unappealing and inconsistent with relevant local policies.

Concern: *Overflow of parking into Timothy Land is unsafe at the intersection of the Service Road opposite.*

Response: It is considered that the street front adjoining the subject land is an inappropriate location for vehicles to park, given the proximity to the intersection. However, through a planning permit Council does not have any capacity to restrict on-street parking. The submitted application provides for eight (8) car parking spaces within the site, which would be an increase by five (5) spaces on the current available space. The creation of five additional spaces would require items stored outside to be removed from the land and the Shipping Containers as proposed, to be moved to the rear yard. The proposed car parking is considered to be appropriate and would reduce the necessity for customers and staff to park in the street.

Concern: *Buildings do not comply with the existing character of the area.*

Response: The proposed building extension, Shipping Containers, and temporary canvas structure are proposed to be mostly located at the eastern frontage of the site and would be visible from Timothy Lane and Mt Buller Road. The extension to the existing shed, north of the main building, would be constructed in the same materials and colours and is considered appropriate providing additional storage. However, the Shipping Containers and temporary canvas structure are visually obtrusive and generally do not comply with the character of the area, especially as the Shipping Containers have solid walls and flat roofs.

Concern: *Proposed car parking is not suitable with the location of buildings on the site.*

Response: The existing and proposed location of car parking for staff and customers on the site utilises the Timothy Lane access, which is also the only available access for pedestrians. The car parking area where there are spaces directly in front of the building is a relatively poor design and poses traffic risks to other vehicles and pedestrians. However, the proposed additional five (5) car parking spaces along the north boundary are more suitable and would be able to provide safe parking for customers with the ability to enter and exit the property in a forward direction.

Recommendation

THAT COUNCIL issue a Refusal to Grant a Permit for Planning Application P032A/21 for use of land for a Service Industry (Commercial Laundry) and development of a semi-detached extension to the existing buildings and four Shipping Containers, and a reduction of car parking on Lot 1 PS 215446A, commonly addressed as 195 Mt Buller Road, Mansfield in based on the following grounds.

1. Proposal does not comply with the strategies of Clause 12.05-2L Significant Landscapes, Ridgelines and Alpine Approaches, including:
 - a. Minimise the environmental and visual impact of development including buildings, sheds, driveways and associated earthworks.
 - b. Retain existing mature scattered native and exotic trees and encourage the use of substantial landscaping to further complement development and reduce the visual impact of buildings on the landscape.
 - c. Use building materials with external finishes that:

- i. Blend with the natural surrounding environment whether this be in natural form or via a tailored paint scheme that reflects the colours and textures evident in the natural environment.*
 - ii. Have a low reflectivity to minimise glare and visual impact.*
2. Proposal does not comply with the strategies of Clause 13.07-1S Land Use Compatibility, particularly:
 - a. Ensure that use or development of land is compatible with adjoining and nearby land uses.
 - b. Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.
3. Proposal does not comply with the strategies of Clause 15.01-2S Building Design, including:
 - a. Ensure development responds and contributes to the strategic and cultural context of its location.
 - b. Minimise the detrimental impact of development on neighbouring properties, the public realm and the natural environment.
 - c. Encourage water efficiency and the use of rainwater, stormwater and recycled water.
 - d. Ensure the form, scale, and appearance of development enhances the function and amenity of the public realm.
 - e. Ensure buildings and their interface with the public realm support personal safety, perceptions of safety and property security.
 - f. Ensure development is designed to protect and enhance valued landmarks, views and vistas.
 - g. Ensure development provides landscaping that responds to its site context, enhances the built form, creates safe and attractive spaces and supports cooling and greening of urban areas.
4. Proposal does not comply with the objective and strategies of Clause 15.01-5S Neighbourhood Character.
5. Proposal does not comply with the strategies of Clause 15.01-5L Mansfield Township Approaches, particularly:
 - a. Ensure future development within identified township approach corridors meets stipulated built form design outcomes.
 - b. Retain and enhance the landscape qualities of each approach.
 - c. Minimise the impact of visual clutter from signs through controls to ensure local streetscapes and key view lines to the surrounding alpine foothills are retained and enhanced over time.
6. Proposal does not comply with the purpose and decision guidelines of Clause 34.02 Commercial 2 Zone as the submitted proposal includes buildings and works that are not suitably designed and sited to respond to the context of the area.
7. Proposal does not comply with the decision guidelines and design objectives of Clause 43.02 Design and Development Overlay – Schedule 1, Alpine Approaches and Township Gateways as the design and appearance of the proposed building are not in keeping with the character of the area and the design is not compatible with surrounds.

Support Attachments

1. Section 72 Delegate Assessment Report [8.1.1.1 - 39 pages]
2. Submitted Plans [8.1.1.2 - 13 pages]
3. Submitted Planning Report [8.1.1.3 - 15 pages]
4. CONFIDENTIAL - Submissions Map [8.1.1.4 - 2 pages]
5. CONFIDENTIAL - Objections [8.1.1.5 - 27 pages]
6. CONFIDENTIAL - Supporting Submissions [8.1.1.6 - 31 pages]
7. CONFIDENTIAL - Applicant response to Objections [8.1.1.7 - 3 pages]
8. CONFIDENTIAL - Council response to Supportive Submissions [8.1.1.8 - 2 pages]
9. CONFIDENTIAL - Referral Responses [8.1.1.9 - 8 pages]

Considerations and Implications of Recommendation

Sustainability Implications

The application has been assessed against the provisions of the Mansfield Planning Scheme, which includes consideration of integrated water management and natural resource management, with the requirement to make the development as sustainable as possible within the current legislation.

Community Engagement

The application was advertised to nearby and adjoining landowners and had a notice of application placed on the site, in accordance with the provisions of the *Planning and Environment Act 1987* and Council's community engagement policy.

Collaboration

Not Applicable

Financial Impact

The application has been assessed within existing Council resources in the Statutory Planning Department. An application fee of \$1,185.00 was received for the application.

Legal and Risk Implications

Not Applicable

Regional, State and National Plans and Policies

The application has been assessed in accordance with the *Planning and Environment Act 1987* and the Mansfield Planning Scheme.

Innovation and Continuous Improvement

Not Applicable

Alignment to Council Plan

Theme 2: Vibrant Liveability Strategic Objective 3 Future focused: Intelligent land use and infrastructure

Strategy 3.1 Protect natural vistas and farmlets

Strategy 3.2 Enhance township character

Governance - Disclosure of Conflicts of Interest

The author of this report and officers providing advice in relation to this report do not have a conflict of interest to declare in this matter, in accordance with the Local Government Act 2020.

9. Closure of meeting to members of the public

Council has the power to close its meeting to the public in certain circumstances pursuant to the provisions of Section 66(2) of the Local Government Act 2020. The circumstances where a meeting can be closed to the public are:

- a) the meeting is to consider confidential information; or
- b) security reasons; or
- c) it is necessary to do so to enable the meeting to proceed in an orderly manner.

The definition of confidential information is provided in Section 3(1) of the *Local Government Act 2020*.

Recommendation

THAT COUNCIL close the meeting to members of the public under Section 66(2)(a) of the Local Government Act 2020 to consider Confidential Reports in accordance with section 66(2) of the Local Government Act 2020 for reasons set out in section 10 below.

10. Confidential Reports

10.1. Strictly Confidential: CEO Performance Review

Confidential

This report contains confidential information pursuant to the provisions of Section 66(2) of the Local Government Act 2020 under Section 3(f) - personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

11. Reopen meeting to members of the public

Recommendation

THAT COUNCIL reopen the meeting to members of the public.

12. Close of meeting