



STRATHBOGIE SHIRE COUNCIL

PLANNING COMMITTEE

MINUTES

OF THE MEETING HELD ON TUESDAY 13 MAY 2014

COMMENCING AT 4.00 P.M.

AT THE EUROA COMMUNITY CONFERENCE CENTRE

Councillors: Malcolm Little (Chair)
Patrick Storer
Debra Swan
Robin Weatherald
Graeme (Mick) Williams

Officers: Steve Crawcour - Chief Executive Officer
Phil Howard - Director, Sustainable Development
Steven Hicks – Manager, Statutory Planning
Roy Hetherington – Director, Asset Services

Business:

1. Welcome
2. Acknowledgement of Traditional Land Owners

'In keeping with the spirit of Reconciliation, we acknowledge the traditional custodians of the land on which we are meeting today. We recognise indigenous people, their elders past and present'.

3. Apologies

Councillor Alister Purbrick
Councillor Colleen Furlanetto
Emma Kubeil – Manager, Economic Growth
Jennifer Dowling – Team Leader, Planning

4. Confirmation of Minutes of the Planning Committee meeting held on Tuesday 22 April 2014

39/14 **CRS WEATHERALD/WILLIAMS** : *That the Recommendation be adopted.*

CARRIED

5. Disclosure of Interests

Nil

EXCERPT FROM MEETING PROCEDURE LOCAL LAW NO. 1

CONDUCT OF PUBLIC

52. VISITORS

- (1) Visitors must not interject or take part in debate.
- (2) Silence shall be preserved in the gallery at all times.
- (3) If any visitor is called to order by the Chairperson and again acts in breach of this Local Law, the Chairperson may order that person to be removed from the gallery.

53. CALL TO ORDER

Any person who has been called to order including any Councillor who fails to comply with the Chairperson's direction will be guilty of an offence.

Penalty: \$500

54. REMOVAL FOR DISRUPTION

The Chairperson has discretion to cause the removal of any person including a Councillor who disrupts any meeting or fails to comply with a direction under the provisions of this Local Law.

6. Planning Reports
7. Other Business

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PLANNING COMMITTEE REPORT NO. 1 (TEAM LEADER, PLANNING – JENNIFER DOWLING)

6. PLANNING REPORTS

**6.1 Planning Permit Application No. P2014/008
- Use of Land for a Retail Premises (Café) and a Reduction of Car Parking ~
10 Bank Street, Avenel**

Application Details:

Application is for:	Use of land for a retail premises (café) and a reduction of car parking
Applicant's/Owner's Name:	Annie Bright
Date Received:	04 February 2014
Statutory Days:	53
Application Number:	P2014-008
Planner: Name, title & department	Jennifer Dowling Team Leader – Planning Sustainable Development
Land/Address:	Lot 1 on Title Plan 116470, Certificate of Title Volume 9701 Folio 728, 10 Bank Street, Avenel VIC 3664
Zoning:	Township Zone
Overlays:	No Overlay
Under what clause(s) is a permit required?	Clause 32.05-1 Clause 52.06-3
Restrictive covenants on the title?	n/a
Current use and development:	Residential/accommodation

Disclosure of Conflicts of Interest in relation to advice provided in this report

The author of this report and officers/contractors providing advice in relation to this report do not have a direct or indirect interest, as provided in accordance with the *Local Government Act 1989*.

Summary

- The proposal is for the use of land for a café with seating layout to accommodate 24 patrons in total operating Wednesday through to Sunday.
- The site is located in the Township Zone.
- The lot size is approximately 464 square metres.
- The character of the area is residential and commercial.

6.1 Planning Permit Application No. P2014/008
- Use of Land for a Retail Premises (Café) and a Reduction of Car Parking ~ 10
Bank Street, Avenel (cont.)

- The application was referred internally to Council's Health Officer who offered no objection, subject to conditions.
- An assessment against the Township Zone Decision Guidelines, State and Local Policies indicates the proposal is consistent with these provisions of the Strathbogrie Planning Scheme.
- The application was advertised to adjoining landholders, two objections have been received to date. The objections relate to insufficient car parking and privacy issues.
- The application is being presented to Planning Committee as the proposal has received objections.
- The application has been assessed within the 60 day statutory time period.
- It is recommended that Council resolve to issue a Notice of Decision to grant a permit in accordance with the Officer's recommendation.

RECOMMENDATION

That Council:

- **having caused notice of Planning Application No. P2014-008 to be given under Section 52 of the *Planning and Environment Act 1987* and the Strathbogrie planning scheme**

and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Issue a Notice of Decision to Grant a Permit under the provisions of Clause 32.05-1 Clause 52.06-3 of the Strathbogrie Planning Scheme in respect of the land known as Lot 1 on Title Plan 116470, Certificate of Title Volume 9701 Folio 728, 10 Bank Street, Avenel VIC 3664 for the use of land for a food premises (café) and a reduction of car parking, in accordance with endorsed plans, subject to the following conditions:

- 1. Prior to commencement of use, the food premises must be registered with the Responsible Authority under the *Food Act 1984*. The premises must comply with AS 4674-2004 Design, Construction and Fit-out of a food premises, to the satisfaction of the Responsible Authority**
- 2. The use must operate only between the hours of:**
 - **7.30am to 5pm, Wednesday to Sunday; except**
 - **Public holiday trading must comply with relevant Government Legislation**

The hours of operation may be altered by written consent from the Responsible Authority.

- 3. The use of the premises must comply with the *Food Act 1984*.**

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- Use of Land for a Retail Premises (Café) and a Reduction of Car Parking ~ 10
Bank Street, Avenel (cont.)

4. The use must be sited in accordance with the endorsed plans. These endorsed plans can only be altered or modified with the prior written approval of the Responsible Authority, or to comply with statutory requirements.
5. In the event of overflow car parking causing a nuisance, additional car parking areas must be provided on the site or in other locations within 3 months of the Responsible Authority requesting the same in writing.
6. The amenity of the area must not be detrimentally affected by the use, through the:
 - (a) Appearance of any building, works or materials;
 - (b) Transport of materials, goods or commodities to or from the land;
 - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil;
 - (d) Presence of vermin, and;
 - (e) Others as appropriate.
7. This permit will expire if one of the following circumstances applies:
 - (a) The use is not started within two (2) years of the date of this Permit,
 - (b) The use ceases for a period of two (2) years.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- before the permit expires; or
- within six months afterwards if the use or development has not yet started; or
- within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

Planning Notes:

- This Permit does not authorise the commencement of any building construction works. Before any such development may commence, the Applicant must apply for and obtain appropriate Planning or Building approval.
- This Permit does not authorise the removal of any native vegetation including for access. Before any such works may commence, the Applicant must apply for and obtain appropriate Planning approval.

40/14 CRS WILLIAMS/SWAN : *That the Recommendation be adopted.*

CARRIED

6.1 Planning Permit Application No. P2014/008
- Use of Land for a Retail Premises (Café) and a Reduction of Car Parking ~ 10
Bank Street, Avenel (cont.)

Proposal

The application proposes the use of the land for a café in the Township Zone. The café is proposed to be located in an existing dwelling to the centre of the subject site. The café will be accessed by a pedestrians only from Bank Street via an existing gate.

The proposed opening hours are 7.30am to 5pm Wednesday to Sunday. A total of 24 people can be seated at any one time, this includes both indoor and outdoor seating. No external music is proposed, background music is proposed only inside the café.

No car parking is proposed on site.

Subject site & locality

The subject site is located to the centre of Avenel Township. The site has an area of approximately 464 metres squared and is rectangular in shape. The site is currently occupied by butchers shop to the south and a dwelling to the rear of the shop. The rear of the site is vacant of any buildings.

The adjoining lots to the north, south, east and west vary in size and use. To the north of the site is a residential lot with an area of approximately 1360 metres squared. The site is accessed from Bank Street via a driveway running along the eastern boundary of the subject site. To the east is a residential lot with an area of 1869 metres squared. To the south there are a number of lots with a similar area to the subject site occupied by dwellings and a restaurant. Further south east is the Harvest Home Boutique Hotel. To the west are larger lots occupied by dwellings.

Permit/Site History

A search of Councils records indicates there is no relevant planning history for the site.

Public Notification

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of adjoining land.
- Placing a sign on site

The notification has been carried out correctly. Council has received two objections to date. The key issues that were raised in the objections are:

- Insufficient car parking on Bank Street and car parking in front of the driveways.
- Privacy issues and the need for fence six feet in height along the eastern and western boundary.

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- Use of Land for a Retail Premises (Café) and a Reduction of Car Parking ~ 10
Bank Street, Avenel (cont.)

Consultation

The objections were forwarded to the Applicant. To satisfy the concerns of the objectors the Applicant has proposed to construct two fences including a fence between the butchers shop and proposed café. This would limit the views between 8 Bank Street and the outdoor area and entrance to the proposed café. To the west the applicant proposes a fence along the western boundary to match the existing fence at the boundary of 12 and 16 Bank Street. The height of the fence would be 1.8m approximately 6 feet.

The Applicant's response to the car parking issue includes the following points:

- The peak car parking demand is in the evening. The proposed café will close at 5pm and therefore not conflict with evening trade of adjacent business.
- There is ample parking available on Bank Street and at Railway Station Car Park.
- There are currently 'no standing' signs at the driveways. An a-frame sign or signs to affix to the driveway gates will be supplied by the applicant if considered necessary.
- The proposed café is unlikely to attract a large number of patrons at any one time.

The response was forwarded to the objectors. The objections were not withdrawn.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals	n/a
Section 52 Notices	Public notice, two objections received

Internal Council Referrals	Advice/Response/Conditions
Environmental Health Officer	No objection, subject to conditions

Assessment

The zoning of the land and any relevant overlay provisions

Clause 32.05 Township Zone

Purpose

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for residential development and a range of commercial, industrial and other uses in small towns.

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- Use of Land for a Retail Premises (Café) and a Reduction of Car Parking ~ 10
Bank Street, Avenel (cont.)

To encourage development that respects the neighbourhood character of the area.

To implement neighbourhood character policy and adopted neighbourhood character guidelines.

To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

A permit is required for a retail premises including a café.

32.05-11 Decision guidelines

Before deciding on an application to use land or construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

General

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The protection and enhancement of the character of the town and surrounding area including the retention of vegetation.*
- *The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.*
- *In the absence of reticulated sewerage, the capability of the lot to treat and retain all wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.*
- *The design, height, setback and appearance of the proposed buildings and works including provision for solar access.*
- *The need for a verandah along the front or side of commercial buildings to provide shelter for pedestrians.*
- *Provision of car and bicycle parking and loading bay facilities and landscaping.*
- *The effect that existing uses on adjoining or nearby land may have on the proposed use.*
- *The scale and intensity of the use and development.*
- *The safety, efficiency and amenity effects of traffic to be generated by the proposal.*
- *Any other decision guidelines specified in a schedule to this zone.*

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- Use of Land for a Retail Premises (Café) and a Reduction of Car Parking ~ 10
Bank Street, Avenel (cont.)

Assessment

- The state and local policy is assessed below.
- The subject site is located in an area with a mixed character. The proposed use is consistent with the existing character and establishing character of the area. Ideally the proposed use would directly front Bank Street. However given the location to the rear of an existing retail unit it is considered appropriate.
- The subject site is currently connected to services and the proposed use will have access to these services.
- No external buildings and works are proposed (with the exception of the fence which does not require a planning permit)
- No car parking is proposed to be provided on site. An assessment of car parking provision is detailed below.
- Bicycle parking is not required under Clause 52.34 due to the size of the floor area of the proposed café. Informal bicycle parking would be available on site.
- The subject site is surrounded by residential and commercial uses. It is considered unlikely that existing uses would impact on the proposed café.
- The application does not propose any development. The proposed café will be located within an existing dwelling. The opening hours are considered to be standard business hours. No afterhours opening is proposed. The café is also not proposed to open on Monday and Tuesday. The type of use is likely to have limited noise and amenity impacts. Should a permit be issued a condition will be included to ensure the amenity of the area is not detrimentally affected.
- The proposal is likely to increase traffic to the area. Currently Bank Street is a relatively quiet street in terms of traffic volumes. The street would have the capacity to accommodate additional traffic.
- Bank Street is a Road Zone Category 1 and controlled by Vic Roads. The application does not propose to alter the access and therefore a referral to Vic Roads was not required.

The State Planning Policy Framework (SPPF)

Clause 17 Economic Development

Planning is to provide for a strong and innovative economy, where all sectors of the economy are critical to economic prosperity. Planning is to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development by providing land, facilitating decisions, and resolving land use conflicts, so that each district may build on its strengths and achieve its economic potential.

Assessment

The proposal is considered to be in accordance with State Policy by contributing to the economic well-being of a community.

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- Use of Land for a Retail Premises (Café) and a Reduction of Car Parking ~ 10
Bank Street, Avenel (cont.)

The Local Planning Policy Framework (LPPF) – including the Municipal Strategic Statement (MSS) and local planning policies

Clause 21.03-1 Avenel

Objective

To promote and support the sustainable growth of Avenel

Strategies

- *Encourage a more distinct town centre that allows for future expansion and encourages a strong sense of place.*
- *Protect the heritage precinct along the Avenel-Nagambie Road (Bank Street) entrance, including the bridge over Hughs Creek and Red Kelly (Ned Kelly's father) grave.*

Structure Plan

The Avenel Town Structure Plan provides planned direction for growth of the township.

The Structure Plan allows for urban growth boundary, residential infill, residential growth, future rural residential opportunities, open space network and town centre precinct.

Implementation

Rezone the town centre precinct to an appropriate commercial or mixed use zone.

21.06-5 Commercial and Retail

Objective

To support retail and commercial/industrial development within the Shire.

Strategies

- *Encourage the retention of existing retail and commercial/industrial businesses.*
- *Encourage a variety of new businesses in the Shire.*
- *Encourage new retail development within town centres.*
- *Direct industrial development in areas where required infrastructure, services and transport links are available.*

Assessment

The application proposes a new commercial use in proximity to the area illustrated as the town centre in the Avenel Structure Plan. The subject site lies in the heritage precinct. The proposed use is to be in an existing building and would not interfere with the heritage character of the area.

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Bank Street, Avenel (cont.)

The strategies of Clause 21.06-5 aim to encourage a variety of new businesses in the Shire and encourage new retail development within town centres. The proposal is considered to be in accordance with the policy.

Clause 52.06 Car Parking

Purpose

To ensure that car parking is provided in accordance with the State Planning Policy Framework and Local 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.

52.06-2 Provision of car parking spaces

Before:

- *a new use commences; or*
- *the floor area or site area of an existing use is increased; or*
- *an existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use,*

the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay must be provided to the satisfaction of the responsible authority in one or more of the following ways:

- *on the land; or*
- *in accordance with a permit issued under Clause 52.06-3; or*
- *in accordance with a financial contribution requirement specified in a schedule to the Parking Overlay.*

A permit is required to reduce (including to zero) the number of car parking spaces required under Clause 52.06-5.

Assessment

- Clause 52.06-5 requires 4 car parking spaces to each 100 square metres of leasable floor area. This equates to 2 car parking spaces.
- The subject site has limited capability of accommodating car parking on site. Car parking could potentially be located to the rear of the building. However this is generally not considered an appropriate solution. The location of the car parking spaces is likely to result in greater disruption while providing a limited number of car parking spaces.

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- Use of Land for a Retail Premises (Café) and a Reduction of Car Parking ~ 10
Bank Street, Avenel (cont.)

- The application states car parking could be accommodated on the surrounding streets. Car parking spaces are not line marked though *no standing* signs are located at the entrances to dwellings. This would limit the impact on street car parking would have on the amenity of the area.
- On balance given
 - the limited number of car parking spaces required under Clause 52.06
 - the availability of car parking on the surrounding streets
 - appropriate signage to limit parking in front of drivewaysthe proposed reduction is considered appropriate.

Clause 65

Decision Guidelines

Clause 65.01, *Approval of an application or plan*, states that; *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.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *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 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.*

Other relevant adopted State policies/strategies – (e.g. Melbourne 2030.)

There are no other policies/strategies to be considered.

Relevant incorporated, reference or adopted documents

There are no other documents to be considered.

Relevant Planning Scheme amendments

There are no relevant Planning Scheme amendments.

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Bank Street, Avenel (cont.)

Risk Management

The author of this report considers that there are no significant Risk Management factors relating to the report and recommendation.

Strategic Links – policy implications and relevance to Council Plan

The author of this report considers that the report is consistent with Council Policies, key strategic documents and the Council Plan.

Summary of Key Issues

With regard to the Township Zone:

- The proposal is consistent with the relevant state and local planning policy.
- The proposal is considered appropriate with regard to the purpose and decision guidelines of the Township Zone.
- The proposed reduction of two car parking spaces, on balance is considered appropriate.
- The application was referred to Council's Environmental Health Officer who did not object subject to conditions regarding food safety.

In summary, the proposal meets the objectives of the State Planning Policy Framework, Local Planning Policy Framework and Township Zone.

Conclusion

After due consideration of all the relevant factors, it is considered appropriate to issue a Notice of Decision to Grant a Permit in accordance with the officers recommendation.

Attachments

Site plan.



PLANNING COMMITTEE REPORT NO. 2 (DIRECTOR, SUSTAINABLE DEVELOPMENT – PHIL HOWARD)

OTHER BUSINESS

7.1 Planning Applications Received
- 16 April to 6 May 2014

Following are listings of Planning Applications Received for the period 16 April to 6 May 2014.

RECOMMENDATION

That the report be noted.

41/14 CRS WILLIAMS/WEATHERALD : *That the Recommendation be adopted.*

CARRIED

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT 4.20 P.M.

Confirmed as being a true and accurate record of the Meeting

.....
Chair

.....
Date

List of Planning Applications received - 16 April to 6 May 2014

Total 4

Application Number Display	Planner Name	Lodged Date Date	Reason For Permit	Applicant Name	Site Address Full Address
P2014-042	Jennifer Dowling	30/04/2014	Use of land for a utility installation	Strathbogie Shire Council	109a Binney Street, Euroa VIC 3666
P2014-043	Jennifer Dowling	30/04/2014	Use & development of land for a jetty	Cherie Finnigan	195 Goulburn Weir Road, Goulburn Weir VIC 3608
P2014-044	Jennifer Dowling	1/05/2014	Use and development of land for a dwelling	Andrew Duff	Oconnors Road, Mangalore VIC 3663
P2014-045	Emma Kubeil	5/05/2014	Six (6) lot subdivision	Leanne Curphey	45 Spencer Road, Avenel VIC 3664