

YR-2023/577 – 300-308 Maroondah Highway Healesville – Planning Report

APPLICATION DETAILS

Site Address	300-308 Maroondah Highway, Healesville
Application No.	YR-2023/577
Proposal	Buildings and works for a mixed use development (seven (7) dwellings), removal of vegetation, reduction of car parking and alter access to Transport Zone 2.
Existing Use	Five (5) Shops and associated car park
Applicant	W Bird
Zone	Clause 31.04 - Commercial 1 Zone
Overlays	Clause 43.01- Heritage Overlay – HO 428 Clause 43.01 Heritage Overlay - HO159 Clause 43.02 - Design and Development Overlay – Schedule 12 Clause 44.06 - Bushfire Management Overlay
Permit trigger/s	<p>Clause 31.04-4 – Commercial 1 Zone</p> <ul style="list-style-type: none"> • A permit is required to construct buildings and works <p>Clause 43.01-1 Heritage Overlay – HO159 and HO 428</p> <ul style="list-style-type: none"> • A permit is required to construct buildings and works <p>Clause 43.02-2 - Design and Development Overlay</p> <ul style="list-style-type: none"> • A permit is required to construct buildings and works <p>Clause 44.06-2 – Bushfire Management Overlay</p> <ul style="list-style-type: none"> • A permit is required to construct buildings and works <p>Clause 51.03</p> <ul style="list-style-type: none"> • A permit is required to remove, destroy or lop native vegetation, and any plant species that does not occur naturally in the locality that is greater than five (5) metres in height. <p>Clause 52.06 Car Parking</p> <ul style="list-style-type: none"> • A Permit is required for a car parking reduction <p>Clause 52.29 - Land Adjacent to the Principal Road Network</p> <ul style="list-style-type: none"> • A permit is required to create access to a Transport Zone 2 <p>Clause 52.34 Bicycle facilities</p> <ul style="list-style-type: none"> • A permit is required to reduce the required bicycle facilities.

Planning Policy:	Clause 11.01-1L-01 Settlement Clause 11.01-1L-02 Healesville Clause 13.02 Bushfire Clause 15.01 Built Environment Clause 15.03 Heritage Clause 16.01 Residential Development Clause 17.02 Commercial Clause 18.02-4L-02 Car Parking
Clause 51.03:	Clause 51.03 Permit Requirement
Particular Provisions	Clause 52.06 – Car parking Clause 52.29 – Land Adjacent to The Principal Road Network Clause 52.34 – Bicycle facilities Clause 53.02 – Bushfire Planning
Other Requirements:	Clause 65 – Decision guidelines
Objections	40 objections and one submission of support
Encumbrances on Title (Covenants/Section 173 Agreements)	No
Reason for Council Decision	Development over \$3 million and more than 10 objections
Ward	Ryrie

SUMMARY

The application seeks permission for buildings and works to extend the existing ground floor shops, construct a new first floor addition above the shops, to be used as a restaurant, and seven triple storey dwellings at the rear of the land. A reduction in car parking and bicycle parking is sought as well as removal of non-native trees.

The application was advertised, and 40 objections have been received and letter of support. Objector concerns relate primarily to the built form and height of the building, out of character with the township, vegetation removal and impacts to car parking and amenity.

Overall, it is considered that on balance the proposal will not have a detrimental impact on the character and amenity of the area and is consistent with character of Healesville as protected by the Design and Development Overlay, the Heritage Overlay and the planning policy framework.

The design, through appropriate conditions, allows for the protection and retention of two of the five large trees at the rear of the site and the protection of third party trees on adjoining land.

The proposal provides a site responsive retail and residential development in the

activity centre. The design, form and height of the development is responsive to Healesville's rural township heritage character. The overall height of the building will present similar in scale to that of other buildings along the main street of Healesville.

The proposal will not impact detrimentally upon the amenity of nearby dwellings and provides sensitively designed interfaces to these dwellings that is to be further enhanced by permit conditions.

The applicant has provided appropriate justification for the waiver of some car parking requirements, as required under the Planning Scheme. The proposal provides sufficient car parking on site for business staff and future residents of the dwellings.

The proposal responds to the site context and meets relevant clauses of the Planning Scheme, as they relate to development.

The proposal is consistent with broad policy intent to focus redevelopment in identified activity centres and will result in net community benefit.

RECOMMENDATION

That Council resolve to approve Planning Application YR-2023/577 for buildings and works for a mixed use development (seven (7) dwellings), removal of vegetation, reduction of car parking and alter access to Transport Zone 2 at 300-308 Maroondah Highway Healesville and issue a Notice of Decision to Grant a Permit subject to the conditions in Attachment 1 to the report.

DISCLOSURE OF CONFLICT OF INTEREST

No officers and/or delegates acting on behalf of the Council through the Instrument of Delegation and involved in the preparation and/or authorisation of this report have any general or material conflict of interest as defined within the *Local Government Act 2020*.

CULTURAL HERITAGE SIGNIFICANCE

The application has been checked against the requirements of the *Aboriginal Heritage Act 2006* and *Aboriginal Heritage Regulations 2018 (Vic)* as to the need for a Cultural Heritage Management Plan. It has been assessed that a Cultural Heritage Management Plan is not required as whilst the site is within an area of cultural heritage sensitivity and includes a High Impact Activity the entirety of the site has been subject to significant ground disturbance having been excavated to allow the current building and car park.

EXTRACTIVE INDUSTRY

The site is not located within 500 meters of an extractive industry.

HUMAN RIGHTS CONSIDERATION

The application has been assessed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Yarra Ranges Planning Scheme), reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

ENCUMBRANCES ON TITLE

There are no encumbrances on the Certificate of Title.

SITE LOCATION AND DESCRIPTION

The subject site is particularly described as 300-308 Maroondah Highway being lots 1, 2, 3 and 4 on TP 321066Q.

The site itself is zoned Commercial 1 and is located in the centre of the Healesville Township. The site has direct vehicle access to Maroondah Highway and pedestrian access across the frontage. The subject site has a total area of 2196 square metres and is occupied by an existing building with five shops with a combined floor area of 380 square meters.

The existing shops were approved in 1987 and are identified as being non-contributory under the incorporated Healesville Commercial Precinct. The existing building on site has a setback of 2.05 metres from the front boundary along Maroondah Highway. The site has an excavated rear area providing for 17 car spaces within the property boundary.

The side and rear boundaries have existing fencing in a variety of styles, the site also has scattered trees at the rear boundary of the site.

Refer to figure 1 for an aerial image of the site and figure 2 which shows the existing frontage.



Figure 1- Aerial image of subject site



Figure 2 View of the subject site from Maroondah Highway

SURROUNDING AREA

Healesville has characteristics of an historic rural town main street, including a mix of single and double storey commercial buildings, typically with zero setbacks to the street; shopfronts at ground floor level; awnings and verandas, parapets, and prominent corner buildings including hotels. Rear setbacks, on some allotments, are predominately used as outdoor dining areas associated with food and drinks premises car parking or are unused. The surrounding land, Healesville Commercial Precinct, is located in the Commercial 1 Zone (see figure 3).

There is a 'high' and 'low' side in the Maroondah Highway precinct, which is the south side and north side respectively. The high side has steps immediately from the road leading to the pedestrian footpath and then into a commercial building.

Notably building styles range between 18th century to post-World War II era and there is no obvious consistency in architectural design rhythm on either streetscape side. The main street is an eclectic collection of buildings with different parapets details, window openings of all shapes, varied verandah styles, flat roofs (for single storey buildings), hipped roofs (for double storey buildings), brick and rendered brick facades and myriad of colours schemes contributing to a varied and vibrant historical main street.

Both sides of the streetscape are lined with English Elms trees making a strong linear cohesive streetscape feature which are protected by an existing Heritage Overlay (HO159), contributing to a precinct of heritage significance as shown in figure 4.

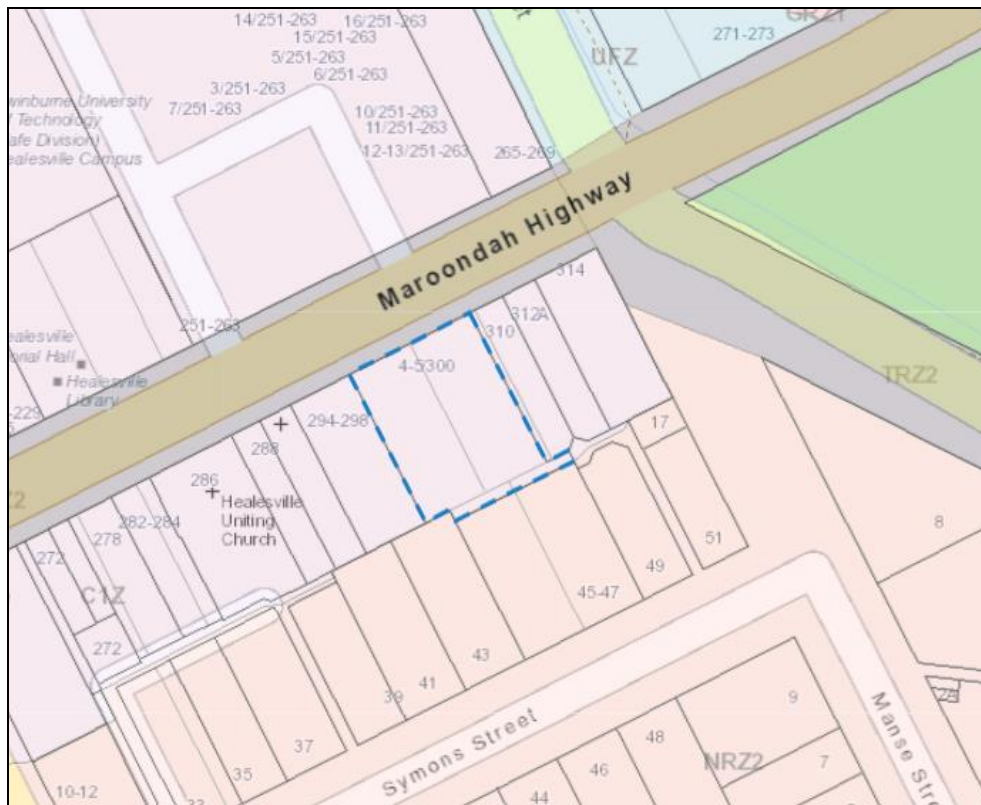


Figure 3 – Zone Map



Figure 4 – Maroondah Highway Streetscape, East and West

The subject site adjoins the following properties:

North

- Maroondah Highway with Coles, special shops and large car park opposite. This land is in the Commercial 1 Zone.

East

- 310 Maroondah Highway - two storey brick building with mixed uses comprising a takeaway food premises at ground floor and a dwelling above. This building is identified as being contributory under the incorporated Healesville Commercial Precinct. The land is in the Commercial 1 Zone.

West

- 294-298 Maroondah Highway - Temora House comprising a two storey weatherboard building used for accommodation. This land gains vehicle access over the subject site on its north west corner. This building is identified as being significant under the incorporated Healesville Commercial Precinct. Two significant Trees, 4 and 14 are located on the common boundary of the adjoining land to the west and have tree protection zones that extend into the subject site (see Attachment 4 Arborist report for photos of trees 4 and 14). Whilst vehicle access to this land is over the subject site there is no carriageway easement allowing this on title. The land is in the Commercial 1 Zone.

South

- 43 Symons Street - A single storey brick dwelling with secluded private open space abutting the common boundary. This dwelling is elevated to the rear. Trees six (6) and 20 abut the common boundary. Tree six (6) has a tree protection zone that extends into the subject site (see Attachment 4 Arborist report for photo of this tree). The land is in the Neighbourhood Residential Zone.
- 45-47 Symons Street - A single storey weatherboard dwelling with secluded private open space abutting the common boundary. This dwelling is elevated to

the rear. Trees eight (8), 15, 16, 17, 18 and 19 are located on common boundary of the adjoining land to the south and have tree protection zones of trees eight (8), 15, 17 and 18 extend into the subject site (see Attachment 4 Arborist report for photos of trees 7 and 19). The land is in the Neighbourhood Residential Zone.

PROPOSAL

This application seeks to extend the existing shop building, build a new first floor restaurant and seven dwellings to the rear of the site, refer to Attachment 3 – 5 for details of the plans and reports.

Extend the existing shop building and new first floor restaurant

- The ground floor will continue to comprise of five shops, shops one to four having a floor area of 95 square metres and shop five having a floor area of 90 square metres.
- A ground floor extension to the shops with the building extended forward by 1.9 metres onto the front boundary and an increased setback of 1.9 metres from the east boundary to provide pedestrian access to the rear dwellings. The total shop floor area is increased by 73 square metres to a total of 460 square metres.
- A ground floor alteration to the shops to provide a centrally located restaurant foyer with lift and stairs directly from Maroondah Highway to access the first-floor restaurant.
- A secure pedestrian access is proposed along the east boundary to provide a sense of address, weather protection adjacent to the shops and pedestrian access through the car park to the rear dwellings. The shops continue to have pedestrian access to the rear car park.
- The first-floor extension, to the existing shops, comprises a 304 square metre restaurant.
- The restaurant includes a 147 square metre deck, overlooking Maroondah Highway, with a canopy setback two metres from the front boundary.
- The restaurant is proposed to operate with a maximum of 60 patrons during the weekday lunch period, operate with a maximum 100 patrons for all dinners and for weekend lunches.

Seven (7) Dwelling Development to rear

- It is proposed to further excavate the already excavated rear part of the site and construct seven (7) dwellings accessed off the existing car park with lift access.
- Ground floor of each dwelling comprises an entrance, single garage, storage area, laundry and toilet. Differently abled lift access is provided to all floors in each dwelling.
- First floor of each dwelling comprises two bedrooms, bathroom and study area (not a separate room).
- Second floor of each dwelling comprises the master bedroom with ensuite and walk in robe, north facing open plan living and kitchen, north facing 15 square metre deck.

Tree #	Species	Height (m)	DBH (cm)	Status
3	Eucalypt	6	15	Proposed for removal
5	Desert Ash -	Not Assessed		Proposed for removal Weed Species – no permit required
7	Cherry Plum -	Not Assessed		Proposed for removal Weed Species – no permit required
9	English Oak	14	38	Proposed for removal
10	English Oak	14	50/47	Proposed for removal
11	English Oak	14	48/56	Proposed for removal
12	English Oak	13	57	Tree to be retained
13	English Oak	13	42/59	Tree to be retained

No street trees or trees on adjoining land are proposed to be removed.

Car parking and access

The proposal provides 27 car spaces on the site and seeks a reduction 44 car spaces. The applicant has undertaken a parking assessment including car parking surveys and traffic assessment, refer to the Traffic Report, attachment 5.

HISTORY

Application Number and Decision Date	Permit 381/86 to erect and use five shops issued 24 February 1987.
Permits issued for a reduction in car parking in the Healesville activity centre	<p>A number of previous permits for a reduction of car parking have been issued in the surrounding area within the past 20 years and these are shown tabulated in the below table. Upon review of the planning permit carparking wavier within the Healesville Town Centre a total of 657 car parking spaces has been reduced. This is a common occurrence within an activity centre or town centre due to shared trips.</p> <p>Please see list below of historical car parking wavier granted in past planning permits from other sites within the Healesville Town Centre. To note some of these permits have been acted upon, while other</p>

	applications have not been acted upon thus their car parking waivers were never required.			
Address	Issued	Required	Provided	Waiver
5-7 Green Street	22/9/10	41	22	19
14 Green Street	8/9/10	52	2	50
165 Maroondah Hwy	10/12/18	33	28	5
175 Maroondah Hwy	1/11/17	76	67	9
213-213A Maroondah Hwy	17/12/16	18	8	9
233-237 Maroondah Hwy	17/8/17	57	3	54
251-263 Maroondah Hwy	10/6/8	199	197	2
260 Maroondah Hwy	19/9/16	7	3	4
262-262A Maroondah Hwy	1/9/15	16	14	2
272 Maroondah Hwy	4/1/23	12	5	7
274 Maroondah Hwy	15/11/5	27	4	23
336-364 Maroondah Hwy	22/4/4	341	178	163
110 River Street	27/8/9	371	61	310
Total	2004-2024	1250	592	657

CONSULTATION

Internal Referrals

This application was referred to various business units or individuals within Council for advice on particular matters. The following is a summary of the relevant advice:

Department	Summary of Response	Conditions required
Stormwater Engineer	No objections subject to standard drainage conditions	Conditions 25, 26, 27 and 28 standard on site detention, drainage plans and connection to legal point of discharge conditions.
Arborist	No objection subject to conditions for no excavation works in Tree	Condition 1c to show Tree Protection Zones and no

Department	Summary of Response	Conditions required
	Protection Zones of third part trees to the rear.	excavation works in dwelling secluded private open spaces in Tree Protection Zones. Condition 9 Tree Management Plan
Strategic Planning	The proposal achieves strategic outcomes through adding to housing stock and diversity within a town centre, in a way that does not excessively impact on the streetscape.	No conditions
Waste	<p>The waste management plan is satisfactory as the site can support collection by both Private and Council.</p> <p>The waste management plan should be conditioned and endorsed as part of the planning permit.</p>	Condition 5 requiring endorsement of submitted waste management plan with minor variations based on amendments and discrepancies. A s173 agreement is recommended requiring private waste collection
ESD	No objection subject to conditions	<p>Conditions 1i require ESD measures to be shown on the plans.</p> <p>Condition 10 and 11 require minor revisions to the Sustainability Management Plan.</p>
Traffic Engineer	<p>No objection to the reduction of carparking wavier sort, subject to a reduction in daytime patron numbers for the restaurant.</p> <p>This is discussed in further detail in the report.</p>	<p>Condition 23 limits patron numbers to 60 during daytime operation.</p> <p>Condition 24 requires a Section 173 agreement.</p>
Urban Design	No objection subject to conditions	<p>Permit condition 1b seeks to:</p> <ul style="list-style-type: none"> • Improve passive surveillance of the street to the west by opening up the balcony on the west façade, • Altering the restaurant balcony to provide a built form that reads

Department	Summary of Response	Conditions required
		<p>more as a zero setback at ground and first floor as opposed to a stepped built form.</p> <ul style="list-style-type: none"> • Improve landscaping by stepping retaining walls

External Referrals

This application was referred to the following determining referral authorities for advice on particular matters. The following is a summary of the relevant advice:

Referral Authority	Summary of Response	Summary of Conditions
CFA (Determining referral authority)	No objection subject to conditions	Condition 1giii, 1o, 29 and 30 requiring standard defendable space with tree 12 and 13 retained. Car space 3 deleted to allow access to water supply and the area marked as no standing.
Department of Transport and Planning (Determining referral authority)	No objection subject to conditions	Condition 31 Forwards vehicle entry and egress required at all times.

Public Notification and Consultation

Notification of the application was undertaken by:

- Placing of two (2) sign/s on the land
- Mailing notices to owners and occupiers of adjoining and/or nearby properties
- Placing the proposal on Council's website for a minimum of 14 days

Applications under Clauses 44.06 Bushfire Management Overlay, Clause 52.29 Land Adjacent to The Principal Road Network and 52.34 Bicycle Facilities are exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

Number of Submissions:

A total of 40 objections and one (1) submission of support have been received.

The application was amended under Section 57A to delete the function centre use, replacing this with an "as of right" restaurant use as well as the plans being amended

to alter the car parking layout, entry to dwellings and addressed a number of issues raised by objectors.

Objections can be summarised as:

- Development is contrary to the Housing Strategy and contrary to the Planning Policy Frameworks and Planning Scheme.
- The proposal will result in a detrimental impact on surrounding amenity, including overlooking, overshadowing and visual impacts.
- The development will result in a loss of site access and result in inadequate parking provision.
- The dwellings are of a poor design and finishes, have poor internal amenity and lack of safety and address.
- Impacts on property values and loss of view from surrounding residents.
- Loss of public footpath in road reserve.
- Impacts on right of way from Symons Street.
- Waste management inadequate.
- Impacts on trees including third party trees / Inadequate landscaping.
- Amenity impacts associated with restaurant use and the dwellings and the liquor licence inappropriate.
- Insufficient bike facilities and loading facilities being provided.
- Impacts from construction on the street and surrounding area.
- Drainage impacts

The submission of support highlighted the following:

- Creating an asset to Healesville.
- Existing eyesore addressed.

ASSESSMENT

Municipal Planning Strategy and Planning Policy Framework

The proposal is consistent with the relevant policies in the Planning Policy Framework, achieving urban consolidation objective in a township activity centre. The proposed development is of good architectural design and will enhance the built form of the surrounding area. Noting that the proposed uses are all “as of right” there is no ability to review any of the existing or proposed uses against policy. Notwithstanding the proposed uses are consistent with relevant policy and are appropriate in the activity centre.

The proposal provides an appropriate response to planning policy as exhibited by the assessment of buildings and works as outlined below.

The scale and intensity of the buildings and works comply with relevant policy, including Clause 02.03-1 Settlement, Clause 02.03-5 Built environment and heritage, Clause 11.03-1S Activity Centres, Clause 11.03-1L-01 Activity Centres, Clause 12.05-2S, Landscapes Clause 15.01-S Urban Design, Clause 15.01-2S Building design and other policy.

The proposal achieves an acceptable urban design outcome by providing a mix of commercial and residential development in a Town Centre area. Although the site is in the Heritage Overlay, the existing buildings on the site are not classed as contributing to the heritage value of the overlay. The proposed design outcome of the development will not detract from the heritage precinct. The proposed commercial buildings on the site frontage are in accordance with typical town centre built character as discussed previously in this report. The residential component will be three storeys, but its location to the rear will reduce visual impact on the streetscape. The proposal will contribute to the vibrancy of Healesville town centre by increasing commercial activity floorspace and adding housing.

Its building character, scale and density are compatible with the built character of the commercial centre, and the abutting residential area. The building design favours energy efficiency, the northern orientation affording natural light and the compact design allowing good cross-ventilation.

With regards to Clause 02.02-3 Environmental risks and amenity and Clause 13.02 Bushfire planning, the proposal is located in the middle of the Healesville Township and, subject to conditions 1g, 7c, 29 and 30, provides an appropriate response to bushfire risk in terms of defensible space, building construction, access and water provision.

In relation to Clause 02.03-6 Housing, Clause 16.01-1S Housing Supply, Clause 16.01-1L Housing and Clause 16.01-2S Housing affordability the proposal will contribute to residential growth and housing diversity in a location with good access to commercial and community facilities. The proposal makes a positive contribution to quantity and diversity of housing in an activity centre. It provides an alternative form to the predominantly single detached housing type in the surrounding area. The multiple-level design with lifts makes it suitable for aged persons and others with limited mobility. The proposal will be able to contribute to housing affordability by providing additional housing stock of a compact form that will provide an alternative to the otherwise uniform single-detached housing form in the surrounding area.

Commercial 1 Zone

The proposal is consistent with the purpose of the Commercial 1 Zone, adding to additional retail development to Healesville's vibrant mixed use commercial centre and providing residential development at a density that is complementary to the role and scale of the Healesville commercial centre.

The Commercial 1 Zone includes a range of decision guidelines which are addressed under the below headings, include consideration of Clause 55, interfaces with residential areas, vehicle and pedestrian access, waste storage and recycling, maintenance of common areas, provision of car parking, design and built form, overlooking, overshadowing, connection to services and solar access. The proposed development achieves an appropriate built form outcome having regard to the provisions of the Commercial 1 Zone.

Clause 55

The Commercial 1 Zone decision guidelines require applications for residential development to *consider* the objectives, standards and decision guidelines of Clause 55. Noting that the land is within a Commercial 1 Zone and the residential component of the development has minimal presentation to the public realm, Clause

55 is principally of relevance to adjoining residential properties to the rear of the site and the internal amenity enjoyed by the proposed dwellings. An assessment under Clause 55 is provided in attachment 7.

The proposal has a single storey scale adjacent to the residential zone to the rear, ample building setbacks for landscaping and to maintain the amenity of its neighbours. The proposal is consistent with the provisions contained within Clause 55, however the following matters are a relevant consideration.

Standard B9-Permeability, approximately 12 per cent of the site area will contain permeable area which exceeds the minimum 20 per cent required. However, this is considered an acceptable design response in a Commercial 1 Zone. Conditions 1 and 27 regarding on site detention and rooftop water harvesting to water tanks for flushing are recommended on the proposed permit.

Standard B12- Safety Objective, the plans provide a secure residential address and access point at the frontage of the site, to the east with pedestrian access, from Maroondah Highway along the east wall of the retail premises and into the car park. Separate pedestrian access along the south side of the car park is also provided. All dwellings north facing first floor bedroom one (1) and two (2) habitable room windows and the north facing second floor balconies located off main living areas, provide passive surveillance of the commercial car park and resident pedestrian accessway.

Standard B17 - Side and rear setbacks objective, dwelling one (1) includes a non-compliant wall, being the gable roof on the south boundary shared with 43 Symonds Street. In order to comply with the objectives of the standard, the southern part of the dwelling one (1) roof should be altered to a hipped roof form. This would comply with the objective having no significant amenity impacts and presenting an acceptable built form response at the interface between a Commercial Zone and Residential Zone. An 8.5 metres long wall with a maximum height of 4.4 metres is proposed on the west boundary abutting the service yard of a property in a Commercial 1 Zone.

Standard B18-Walls on boundaries: Dwelling one (1) and part of Dwelling two (2) have a wall on the south boundary six (6) metres in length with a maximum height of 6 metres. In order to comply with the objectives of the Standard B18, the southern part of the Dwelling one (1) roof should be altered to a hipped roof form.

B21-Overshadowing, the proposal presents as a single storey development to the adjoining residential properties, has floor levels lower than the adjacent secluded private open spaces and, having regard to the generous size of adjoining secluded private open spaces, the development will not result in unreasonable overshadowing impacts to the rear abutting properties and will comply with the overshadowing standards and objectives.

Standard B22-Overlooking, the proposal will result in no unreasonable overlooking impacts and complies with Clause 55 overlooking standards and objectives subject to conditions regarding fencing. A 1.8 metre high fence is required by permit condition 1a and, as the finished floor levels of the dwellings are not more than 800mm above ground level on the boundary, the design has considered and addressed potential overlooking impacts.

Standard B23-internal view, a minimum 1.7 metre high screening between balconies and a minimum 1.7 high internal fencing between secluded private open space is required by permit condition.

Standard B24-Noise impacts, the noise from the dwellings will be domestic residential noise and this is wholly acceptable. The dwellings provide an acoustic screen for the commercial development to the north. Conditions 1g and 1f regarding showing all equipment and plant and screening and integrating it into the design to minimise impacts on the public realm and the visual amenity of adjoining residential properties are included 1f, 1g

Standard B28-Open spaces, areas of 10.8 square metre decks with dimensions of 2.7 by 4.5 metres comply with relevant Clause 55. The proposed balconies are sufficient to meet user needs in a Commercial 1 Zone. Rear outdoor spaces along the side boundaries provide additional recreation space. The dwellings enjoy appropriate outlook, solar access, open space provision in terms of access from living rooms, dimensions, usability, solar access and separation from commercial uses.

Design and Built Form

In considering built form and design, consideration needs to be given to the relevant built form requirements in the Planning Policy Framework, the requirements of the Commercial 1 Zone, Design and Development Overlay Schedule 12 (DDO12) and the Heritage Overlay.

The requirements of the Commercial 1 Zone, DDO12 and Heritage Overlay provide policy guidance to ensure that new development respects the distinctive built form and streetscape characteristics of the Healesville Town Centre.

The first floor extension above the existing shops and the reduction in front setback to the street represent an appropriate built form response under the DDO12, maintaining an active retail frontage, verandah providing weather protection of the public footpath.

Concern has been raised by objectors regarding the height of the dwellings exceeding two stories (7.5 metres), and not complying with the DDO12. The DDO12 states that a third level may be permitted where it is set back so as not to be easily discernible from the opposite side of the street. The dwellings are setback 29.5m from Maroondah Highway and the below site line diagrams, seen in figure 8 and the proposed streetscape see in figure 9, demonstrate a setback in compliance with this provision.

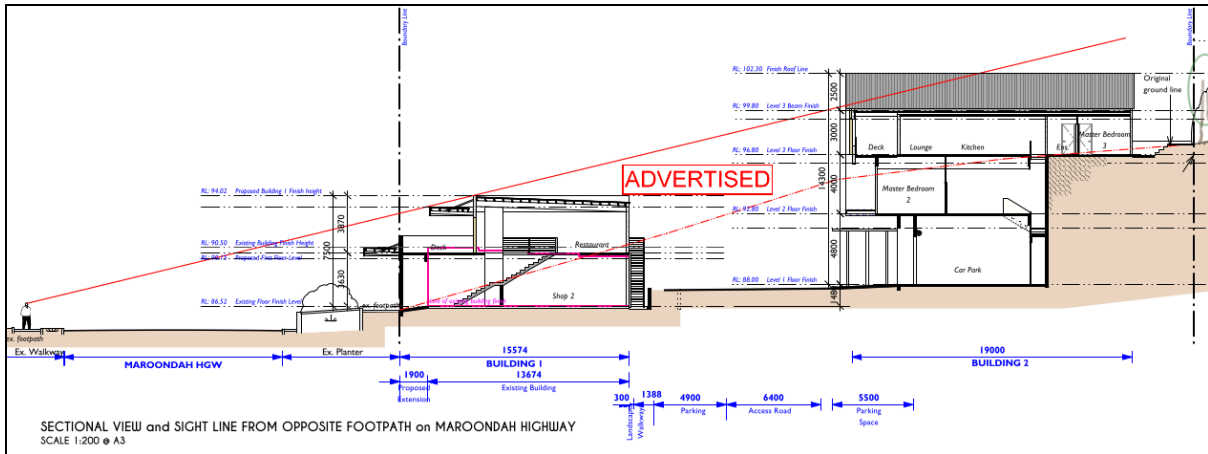


Figure 8 – Sectional View showing Sight Line View from Maroondah Highway

In considering building height, this is measured from natural ground level, which is the existing ground level, not the original (pre works) ground level. The above sectional view in figure 8 shows original ground level dotted in red and the commercial building and dwellings sit no more than 6.9 metres above the original ground level.

Objectors have stated that the figure nine (9) is misleading however these are clearly identified as sight line views. These images are not elevations and are clearly identified as views responding specifically to the Design and Development Overlay.

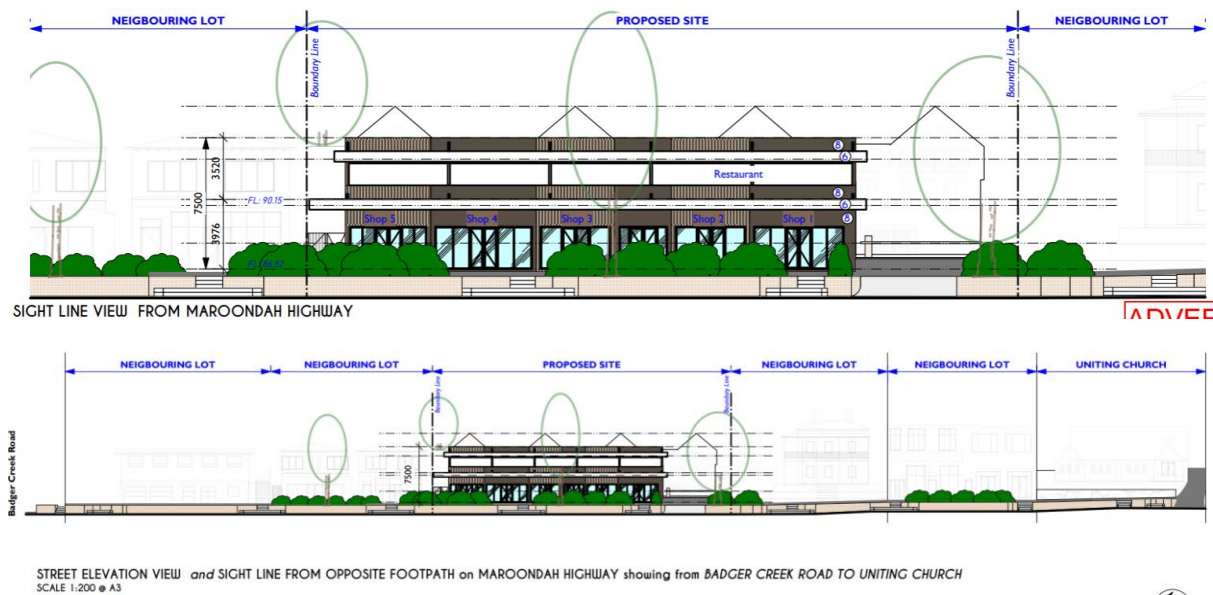


Figure 9 – Proposed Streetscape from Maroondah Highway vantage point

Concern has been raised, by south adjoining dwelling residents in the Neighbourhood Residential Zone, that the built form will be detrimental to their amenity. The subject site sits within a Commercial 1 Zone and the proposal presents to the south boundary at a single storey-built form scale due to the site cut. The proposed design at this interface is acceptable and, whilst a permit is not required for the dwelling use, the dwelling use will ensure an appropriate level of amenity for the neighbouring residential properties, providing a buffer to the as of right commercial uses and car park to the north of the site. Whilst not protected by the planning

scheme northern views from these properties will be maintained over the dwellings, this is shown in figure 10 below.

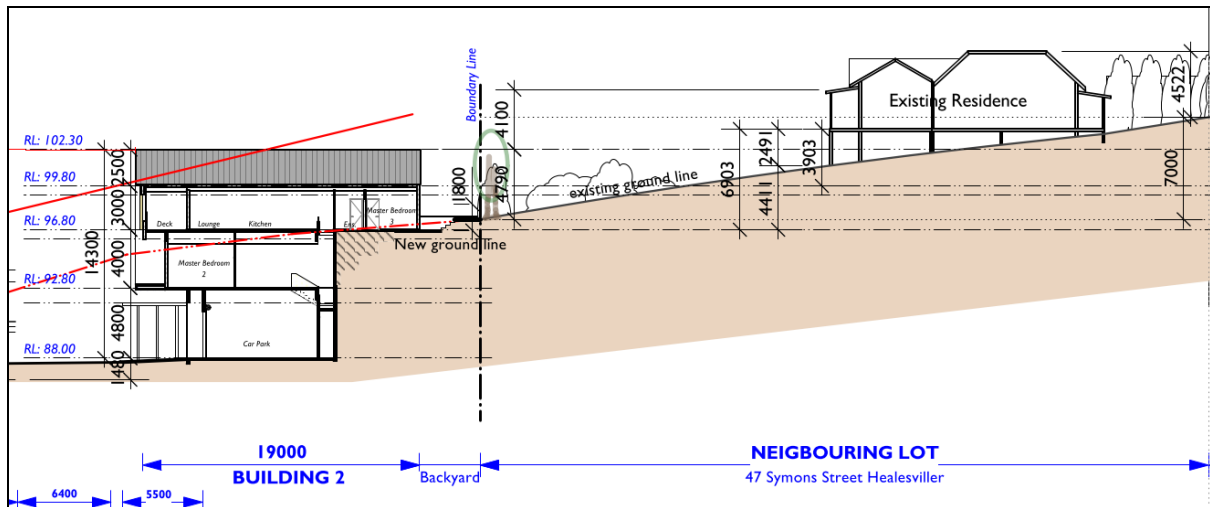


Figure 10 – Cross section plans showing existing residential properties on Symonds Street siting above the proposed dwellings.

The DDO12 seeks to ensure that new development reinforce the pattern of existing development in the town centre with mostly narrow fronted shops and strongly articulated facades, incorporating a variety of materials, textures and colours that enhance the particular qualities of buildings in the town centre. Alternating cladding colours have been used to break up the horizontal expanse of the front façade of the commercial building into six elements. The design is quite simple, with the first floor façade of the restaurant is recessed behind a balcony. There are a number of balconies present in the street, including heritage balconies over the public footpath and Juliette balconies on facades.

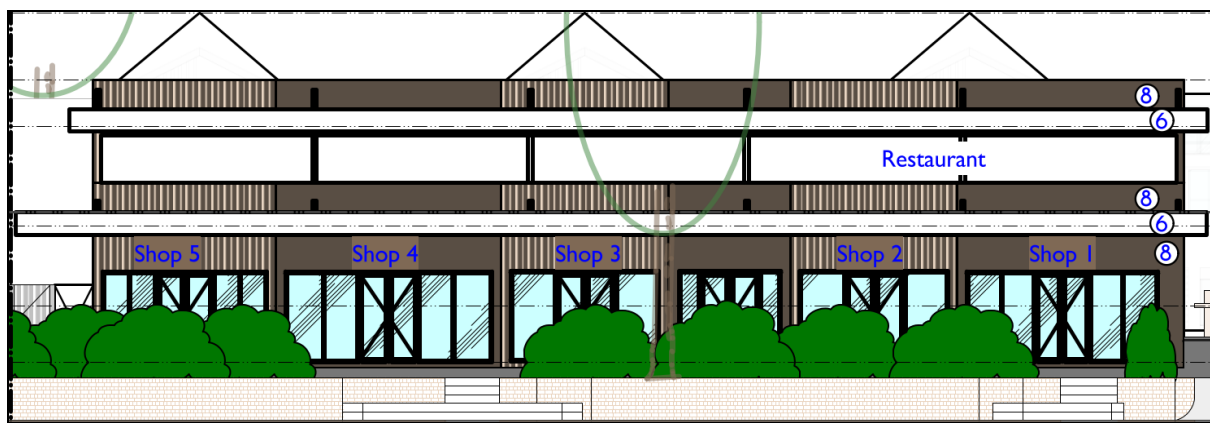


Figure 11 – Shop development Maroondah Highway (front elevation)

Council’s ESD officers have recommended that the design incorporate lighter roofing materials to minimise urban heat island effect and improve the buildings environmental sustainable design outcomes. Condition 1f to raise dwelling parapets has to screen rooftop equipment, plant and roof materials and condition 1i, requiring lighter coloured non-reflective roofing have been recommended.

Council's urban design team has recommended that the east and west facades of the commercial building have a single parapet line to provide a less busy, simpler built form. This would extend along the north elevation with the balcony altered to read as a being a more substantial building element on the front boundary, being a two storey wall with parapet, being more consistent with other buildings in the street.

Council's urban design team has recommended that side façades of the balcony for the restaurant be visually permeable to allow passive surveillance of the public realm and to improve the amenity of the balcony dining. Proposed condition 1b has been included reflecting this.

Heritage

The subject building is identified as being 'Non-contributory' under the incorporated Healesville Commercial Precinct – February 2015. 'Non-contributory' buildings include recent infill development, including post-WWII development of little or no architectural merit or heritage character and some recent 'faux' Victorian style shop buildings. These properties are included in the precinct due to their particular location, which may be sensitive in terms of future precinct management and conservation.

The proposed design brings the shop building to the front boundary at ground floor which is consistent with the heritage character of the street which clearly exhibits built forms on front boundaries. The siting also maintaining side setbacks from the east and west boundaries, providing views within the public realm to the adjoining heritage buildings.

Vegetation Protection, Removal and Landscaping

A planning permit is required to remove two trees of low retention value, being trees three (3) and four (4), and three moderate retention value trees nine (9), 10 and 11 under Clause 51.03. Trees three (3) and four (4) are small trees with minimal contribution to the landscape character of the area.

The proposal seeks to retain trees 12 and 13 which can be removed without a planning permit having regard to the fencing exemptions under Clause 52.12 Bushfire Exemptions. Clause 52.12 also prevents a permit from requiring landscaping adjacent to boundary fences. The applicant has amended the design to retain trees 12 and 13 and proposed to enter into a S173 agreement for the protection and retention of trees 12 and 13 in exchange for removing trees nine (9), 10 and 11. Overall this is striking an appropriate balance between protection of landscape and urban character and urban consolidation / redevelopment of the land.

With regards to street trees, all buildings and works are located outside of the nine (9) metres tree protection zone of Tree one (1). The shop extension buildings and works are setback 4.5 metres from Tree two (2) which has a Tree Protection zone of 6.2 metres. Noting that this area is already paved and the buildings and works are located outside the Structural Root Zone of this tree there will be no detrimental impacts on this tree.

Trees four (4) and 14 are located on the common boundary of the adjoining land to the west and whilst these have tree protection zones of a maximum two (2) metres the existing excavation works previously undertaken on the land ensure that there are no impacts on these trees.

Trees six (6), eight (8), 15, 16, 17, 18, 19 and 20 are located on the common boundary of the adjoining land to the south and require tree protection zones of a maximum 4.8 metres. It is recommended that the plans and elevation be amended to show these trees tree protection zones and that there be no encroachment into these tree protection zones.

Condition 1c is recommended to show tree 12 retained (this is proposed in the arborist report but is not clearly shown on the plans). A tree management plan is recommended to be provided by permit condition nine (9) and will be required to address all trees to be retained on the site and abutting the property. The design provides landscaping opportunities along the south boundary at its sensitive interface. A landscape plan was provided with the original application but the S57A amendment did not include a revised landscape plan. A revised landscape plan is required by condition seven (7). Noting the defensible space requirements any new canopy tree will need to provide a five (5) metre canopy separation. Having regard to the need to provide canopy separation under the bushfire management plan the landscape plan should require five (5) metre canopy separation for new trees as detailed by condition 7c with tree planting only possible in the secluded private open spaces Dwelling three (3) as required by condition 7g.

To increase landscaping at dwelling entries condition 1e is recommended to flip dwellings three (3) and five (5) to locate their pedestrian entrances adjacent to the Dwelling four (4) and six (6) pedestrian entrances, respectively. Dwellings one (1) and two (2), Dwellings three (3) and four (4), and Dwellings five (5) and six (6) should be provided with single shared pedestrian accessways with landscaping increased adjacent to the pedestrian accessways.

Car Parking

The proposal involves the reduction and waiver of car parking spaces above what is shown on the proposed site plan. The restaurant is proposed to operate with a maximum of 60 patrons during the weekday lunch period, with 100 patrons during all dinners and during weekend lunch period.

There are 27 car spaces shown as being provided on the plans, 14 for dwellings and 13 in the common car park. Having regard to CFA water access requirements car space three (3) is required to be deleted, reducing car parking provided on site to 26 car spaces, 12 car spaces in the common car park.

It is typical for shops of between 340 square metres to 100 square metres to require a minimum of one long term staff car space to be provided. It is recommended that a minimum of one car space allocated to each of the five shops for staff, that three car spaces be allocated to the restaurant use and one car space be allocated to visitors (which would also be available for the dwellings with an intercom required at the boom gate by condition 1n). The parking provided on site is sufficient to meet long term parking staff parking demand for the shop and restaurant uses. The proposal

seeks to rely upon parking available in the surrounding area to meet the short term parking demand associated with the use.

To justify the car parking reduction a parking survey was undertaken by the applicant, assessing public and private parking availability and use. The proposal will provide 26 car spaces on the site and seeks a reduction 44 car spaces. The applicant parking assessment, including car parking surveys and traffic assessment, refer attachment five (5), justifies the request to waive the requirement. Whilst private parking may be used by visitors, private parking cannot be relied upon in order to justify a reduction in car parking.

The development has a shortfall of 30 spaces during weekday business hours, and 46 spaces during the evenings and on weekends, which is largely attributable to the restaurant component. The residential component of the development meets the statutory requirement for the provision of car spaces.

Based on the applicants parking assessment, and review by Council traffic engineers, there is sufficient car parking within the wider area to accommodate patrons without using a disproportionate share that would prevent other new land uses establishing in the area.

It is anticipated that the off-site demands would be realistically accommodated in the following areas:

- Maroondah Highway (110 spaces)
- Green Street (32 spaces)
- Wilson Street (15 spaces)
- Healesville Library Carpark (60 spaces)
- River Street Carpark (111 spaces)
- Coronation Park Carpark (50 spaces).

All parking is publicly available and does not include private parking areas such as Coles (30m) and ALDI (430m).

On assessment it is considered that there is an abundance of parking resources that can readily accommodate any off-site parking demands. Furthermore, in the worst case scenario, the development would rely on no more than 47 per cent of the unoccupied public parking spaces. That is to say that there is sufficient car parking within the wider area (with or without the Coles/ALDI car park) to accommodate patrons and without using a disproportionate share that would prevent other new land uses in the Healesville Activity Centre.

The parking demands significantly drop to approximately 30-40 per cent in the evenings after close of business (5:30pm). There were no less than 241 vacant spaces in these areas identified by the survey results. It is apparent that the short term parking demands associated with the restaurant component, will make better use of these underutilised resources, particularly in the evenings.

The overall peak period occurred on Sunday at 11:30 AM. At this time, the site would generate an off-site demand in the order of 30 spaces (28 short-term, two (2) medium-term). Even with this addition, there will be in the order of 46 vacant spaces

within these Council-managed areas. It is noted that this is a conservative estimate given that the large private parking areas such as Coles and ALDI and other publicly available parking on side streets have not been factored into this assessment.

Clause 52.06 of the Yarra Ranges Planning Scheme provides a series of considerations for the Responsible Authority to consider before granting a permit to reduce the number of spaces. These have been addressed in the Traffic Impact Assessment prepared by Trafficworks (dated 1/12/2023) and reviewed and supported by Council's traffic engineers.

The proposed carpark reduction is supported by Council's recent independent review of parking availability in Healesville.

The application documentation does not specify when lunch time is or when dinner time is. Breakfast and brunch are not referenced in the report, however the parking surveys were undertaken from 9am to midnight and it is recommended that daytime hours be specified 8am to 5pm and evening hours be 5pm to 1am the following day by permit condition 23 and not the terms lunch time and dinner time.

Clause 52.06 seeks to create safe, functional and attractive parking areas and the proposal represents an acceptable response to these objectives, providing opportunities to improve existing safety and visual conditions whilst maintaining existing functionality.

Clause 52,06 also requires consideration of any other matter including the Healesville Structure Plan, which identifies that there is significant opportunity to revitalise the River Street car parking area, connections to Nicholson Street and surrounding commercial properties and open space. The Structure Plan seeks to focus on improving liveability by addressing pedestrian and cycling connections within Healesville and surrounding communities, car parking, road safety and improved public transport services.

The structure plan also seeks to investigate opportunities to provide additional unobtrusive car parking that has good pedestrian access to the town centre. With these strategic directions officers have negotiated with the applicant for them to facilitate sealing and upgrading of approximately 24 car parking spaces within Healesville Town Centre.

A potential parking upgrade area could be parking along Green Street. Figure 13 aerial shows Green Street and the area of potential parking upgrades.

The permit applicant has agreed to contribute \$90,000 dollars to be used for parking infrastructure upgrade either along Green Street or another similar council infrastructure project.

By agreement with the applicant, the planning process can utilise a Section 173 agreement process to outline when funds are required to be collected and the value of the funds. Condition 24 has required a 173 agreement to be entered into between the landowner and Council, the landowner will be required to make a payment of \$90,000 dollars to Council prior to works starting on the development. Council will be

required to direct the payment to a parking upgrade, either along Green Street or another similar project, within Healesville.

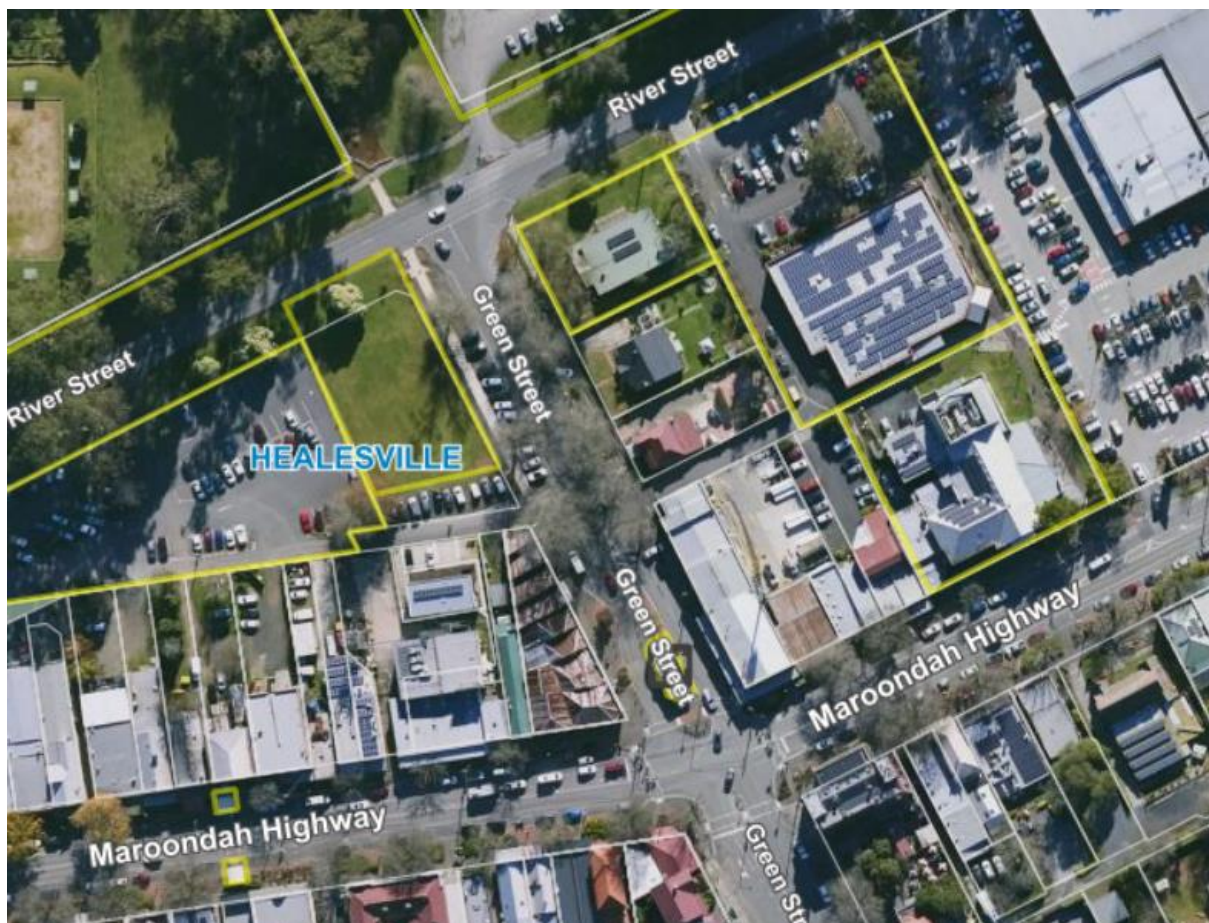


Figure 12 Green Street aerial

The proposal represents the future growth and development of the activity centre and, subject to conditions 23 and 24, the car parking reduction sought has been appropriately substantiated and will not unreasonably impact on the viability of the centre. The proposal will improve the range of retail options in the centre, increase patronage through residential development and the viability and attractiveness of the centre consistent with the planning policy framework.

Traffic and access

The site adjoins Maroondah Highway which is a Department of Transport and Planning classified road (Transport Zone 2). Department of Transport and Planning was notified, which consented to the application.

Site lines are existing and have been reviewed by council's transport engineers and Department of Transport and Planning. No objection has been raised to the entry and exit movements from the site. It is noted that vehicles will exit the site to the west and that drivers will have good site lines over the adjacent public footpath and roadway.

The car park has been reviewed by council's traffic engineers and turning areas are sufficient. Access to the land to the west will not be unreasonably impacted by the proposal.

Concerns were raised by objectors and officers regarding the safety of residents with dwellings accessed from commercial car park, shared pedestrian vehicle access with an internal pedestrian path being required.

This matter was addressed by in the amended plans with the provision of a secure residential address and access point at the frontage of the site to the east with pedestrian access from Maroondah Highway along the east wall of the retail premises and into the car park. Separate pedestrian access through the car park is also provided and access to the car park is controlled by boom gate with minimal visitor access providing a safer and more secure entrance.

Permit condition 7e is recommended to ensure that colours and materials of the pedestrian access and uncovered dwelling tandem car spaces are different to those in the car park to ensure that access is protected, and staff do not park in resident car spaces. Similarly, signage should be required to ensure staff do not park in resident car spaces.

Having regard to the site constraints and the sites' location in a commercial zone this design outcome is acceptable.

Number 294-298 Maroondah Highway has vehicle access over the subject site. There is no carriageway easement allowing this access on the subject lands title and this appears to be a historic civil arrangement. Notwithstanding this access is maintained as part of the proposal.

Commercial Noise / Live Music Venue

The applicant has confirmed that live music is not proposed in association with the restaurant use and the proposal is not for a live music entertainment venue. Noting that Clause 53.06-Live Music Entertainment Venues requires, amongst other things, an application for a live music entertainment venue to detail siting, layout, design and construction of a live music venue to minimise the potential for noise impacts on sensitive receptors, there is sufficient justification to impose permit condition 21 that the land not be used as a live music entertainment venue.

To ensure that the proposed dwellings have appropriate amenity condition 1m is recommended to ensure that that development is constructed in accordance with the submitted acoustic engineers report, including acoustically treating the first floor walls and roof of the building and the balcony.

Waste Management

A waste management plan has been submitted with the application detailing council waste collection for the existing shop premises as existing and private waste collection for the proposed restaurant and dwellings. Council's Waste and Transport officers have reviewed the waste management plan and support it subject to conditions. Noting that the building is to be located to the front boundary private

waste collection for the site with an amended waste management plan and S173 agreement is recommended by permit conditions five (5) and condition 24.

Bushfire Risk

A Bushfire Management Plan has been provided and referred to the CFA. The plan requires the provision of a water tank to the west of dwelling one (1). This needs to be shown on the plans by permit condition and car space three (3) needs to be deleted to ensure access to the water supply. The bushfire assessment addresses emergency access, water supply, building construction and defensible space with Trees 12 and 13 able to be retained as part of the defensible space. The planning policy and controls in relation to the protection of life and property have been addressed by the proposal and the application is appropriate subject to conditions.

The Bushfire Management Plan also proposes five metre canopy separation for all trees on site. It is recommended that the bushfire management plan be amended to show the retention of trees 12 and 13, that these two trees be treated as a clump with only future trees planted on site requiring a five (5) metre canopy separation. The CFA have agreed to this under their condition 29.

Landslip risk

Whilst the land is not located within an erosion management overlay condition 13 is recommended requiring that before the development starts, a statement be submitted to the responsible authority made by a qualified Geotechnical Practitioner that the permitted development is suitable to be developed having regard to landslip risk and site stability.

Consolidation of land

The title to the land comprises separately disposable Lots 1, 2, 3 and 4 on TP 321066Q and it is recommended that the land be consolidated so that all dwellings, buildings, car parking and vehicle access ways are contained within a single lot on title by way of condition 12.

Bicycle Facilities

Clause 52.34 does not apply to residential developments of less than four storeys, shop extensions of less than 500 square metres or for customers for restaurants of less than 500sqm. Three (3) staff bicycle spaces are required under clause 52.34 for the restaurant, however having regard to the staff parking provided a reduction of three bike spaces is supported.

Response to objector concerns.

Objector Concerns	Officer Response
Development is contrary to the Housing Strategy and contrary to the Planning Policy Frameworks and Planning Scheme	The housing strategy seeks to provide housing diversity which the proposal achieves having regard to the DDA compliant lift access, small gardens / open spaces area and proximity to the commercial centre.

Objector Concerns	Officer Response
The proposal will result in a detrimental impact on surrounding amenity, including overlooking, overshadowing and visual impacts.	The proposal results in no unreasonable overlooking, overshadowing or, subject to condition 1h altering the roof of dwelling one (1), visual impacts. See Design and Development Overlay and Clause 55 assessments above.
The development will result in a loss of site access	Access into the site and the adjoining land to the west remains unaltered and is considered acceptable with the new development.
The dwellings are of a poor design and finishes, have poor internal amenity and lack of safety and address.	The proposal achieves an acceptable sustainability outcome and maintains appropriate landscape areas for a property in a Commercial 1 Zone. Development of this intensity is not only anticipated but encouraged by policy. Councils ESD officers have recommended lighter roofing materials to reduce the heat island effect. The amended plan design has addressed concerns around dwelling design, particular around the dwellings sense of address and pedestrian safety. Proposed conditions 1b, 1e, 1f and 1g for design changes, including the roof line and flipping front entrance have been recommended to further enhance the design outcome. The dwellings comply with Clause 55 and provide a high level of internal amenity, due to the cross ventilation and windows are not overly screened.
Impacts on stability of surrounding land	The majority of the site cut is existing, but the development does propose to have further excavation on the site to allow for the siting of the dwellings. The land is not in a known landslip risk area, however condition 13 will require that a suitable qualified engineer reviews the cut and development. Any retaining walls greater than one metre or unretained earthworks of greater than a 2:1 will require building permit under the Building Act. Large retaining walls will be required to be engineered design to gain building approval.
Loss of public footpath in road reserve	The proposed building falls within the subject site and does not reduce accessibility in the public realm.

Objector Concerns	Officer Response
Inadequate parking and site access	Based on the documentation submitted by the applicant and a review by Council Traffic engineers, as well as a review under the Planning Scheme the proposed development complies with all requirements and is supported by officers. Refer to assessment under parking and traffic above in the report for more details.
Impacts on trees including third party trees / loss of trees / inadequate landscaping	Conditions 1c and nine (9) are recommended to protect third party trees and trees on site and the proposal achieves appropriate tree retention. The proposal provides appropriate landscaping opportunities having regard to the sites location in both the Commercial 1 Zone and the Bushfire Management Overlay.
Amenity impacts associated with restaurant use and dwellings and the liquor licence inappropriate	<p>The Restaurant use is as of right and not required to seek approval via a planning permit.</p> <p>The design response, site layout and design address amenity impacts.</p> <p>By permit condition 1m, the restaurant will also be required to be built as per the submitted acoustic report. By upgrading the acoustic treatment of the commercial building, it will ensure that the conflict between the commercial function and dwelling is minimized.</p> <p>It also needs to be noted that the site is Commercial 1 within the middle of the township, an urban level of noise is expected and is a suitable outcome.</p> <p>The future residents of the dwelling are aware of the location next to a commercial building.</p> <p>There is no liquor licence proposed as part of this application. In future should the restaurant in future want a liquor licence a separate planning application will need to be sought.</p>
Waste management inadequate	Public collection is not proposed for the development. A waste management plan

Objector Concerns	Officer Response
	has been prepared and reviewed by Councils waste team. The development is proposing private collection for the site. A 173 agreement will nominate that waste will be managed on the site through private collection.
Insufficient bike facilities and loading facilities for the site.	The reduction in three (3) staff bike spaces is supported. It is anticipated that loading and unloading will occur either on street or in the car park as currently occurs for this site and for most other developments in the area.
Impacts on property values	This is not a relevant planning consideration and cannot be considered as part of a Statutory Planning assessment of a planning application.
Loss of views	There are no identified protected views that need to be maintained under the planning scheme and consequently this is not a relevant planning consideration. Notwithstanding views enjoyed over the site from the dwellings to the south are not obscured and the proposal will not unreasonably impact upon the visual amenity enjoyed by surrounding dwellings comprising an appropriate quality of design respectful of its surrounds.
Impacts from construction.	These matters are not typically controlled under the planning provisions which concerns itself with the affects and impacts of a proposal once it is constructed. These matters are typically controlled under building permits and EPA controls. Notwithstanding, having regard to the scale of the development a construction management plan is recommended to ensure that orderly development occurs.
Impacts on right of way from Symons Street	Whilst the land enjoys legal right of access via the right of way to the rear, no access is proposed from Symons Street. This does not mean that access in the future will not occur but the proposal will limit that access to a single dwelling which, respectfully, is of no real consequence.
Drainage impacts	The proposal includes water tanks and harvesting of rainwater from rooftops as

Objector Concerns	Officer Response
	<p>part of the proposed ESD and water sensitive urban design measures as required by condition 1.</p> <p>Council's drainage engineers have recommended conditions 25, 26, 27 and 28 for on-site detention, drainage plans and connection to legal point of discharge to ensure that on site stormwater detention is provided and that stormwater discharge from the site remains at pre-development levels. Drainage issues beyond the subject site cannot be addressed as part of this application.</p>

CONCLUSION

Overall, the proposed design of this under-utilised site makes this a highly acceptable development proposal. The plans, as amended, respond to a number of the concerns raised by the community, retaining two of the English Oaks at the rear of the land through a S173 agreement. Whilst the scale and built form of the residential component is different from much of the existing building stock in the area this part of the proposal does not form a significant part of the Healesville's heritage streetscape and will result an architectural style that will complement the existing and emerging character of Healesville. The reduction in car parking sought has been adequately justified and the proposed development is appropriate. On balance it is recommended that the planning application be supported subject to the permit conditions outlined in attachment 1.

ATTACHMENTS

- 1 Permit Conditions
- 2 Planning Controls
- 3 Development Plans
- 4 Arborist Report
- 5 Traffic Impact Report
- 6 Clause 55 Assessment