

**5.3 2 BRANDON PARK DRIVE WHEELERS HILL – USE OF PART OF THE BUILDING FOR A RESTAURANT WITH A REDUCTION IN THE CAR PARKING REQUIREMENT OF THE MONASH PLANNING SCHEME**

(TPA/34882A:MD:RB)

Ward : Mulgrave

Responsible Director: David Conran

Reason for Council Consideration: Council and Community Interest

Statutory Processing Date : 22 November 2008

Pre-Application: No

***RECOMMENDATION***

*The Council having caused notice of planning application No. 34882A to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to grant an amended planning permit and issue a **Notice of Decision** to grant an amended planning permit under the provisions of the Monash Planning Scheme in respect of the land known and described as 2 Brandon Park Drive, Wheelers Hill, for the use of part of the building for a Restaurant with a reduction in the car parking requirement of the Monash Planning Scheme subject to the following additional conditions being inserted into Planning Permit 34882:*

- A. *Condition 1i) inserted to read:  
Reduction in the café floor area by deletion of the eastern portion of the tenancy area.*
- B. *Condition 1j) inserted to read:  
Reduction in the outdoor eating area to 2 metres in width and deletion of the dedicated pathway to the outdoor eating area.*
- C. *The following conditions to be inserted into the permit:*
  - 22. *The café use may operate only between the hours of 8.00am and 6.00pm Monday to Friday.*
  - 23. *The maximum number of patrons allowed within the café at any one time must not exceed 50 persons.*
  - 24. *No less than 4 car parking spaces must be designated in the basement car park for the staff of the café use.*
  - 25. *The loading and unloading of goods must only be carried out on the land.*

*and directs that the Applicant and each objector be given a notice of the Council's decision to grant the permit.*

## ***BACKGROUND***

The subject site is located on the north west corner of Brandon Park Drive and Collegium Avenue, Wheelers Hill. See Attachment 1 for locality plan.

Council issued Planning Permit 34882 on 24 May 2007 for the development and use of a 4 storey office building with two level basement car park on the subject site. The office building is currently under construction. See Attachment 2 for Planning Permit 34882.

Surrounding development comprises the following:

- A three storey office building fronting Ferntree Gully Road located directly to the north of the subject site.
- The Brandon Park Shopping Centre located to the west.
- The Brandon Park Preschool located directly to the east, with conventional residential development further east.
- The former Brandon Park Secondary College site located on the southern side of Collegium Avenue.

## ***PROPOSAL***

The application is to amend the existing permit to allow conversion of one and a half office suites on the ground floor, located in the south west corner of the building, to be used as a café (defined as restaurant under the Monash Planning Scheme). See Attachment 3 for proposed plans.

The applicant advises that the café is proposed to seat a maximum of 70 patrons and will operate between offices hours ie 8am to 6pm Monday to Friday.

The gross floor area of the café is proposed to be 146 square metres. Five car parking spaces are to be designated for the café based on the car parking rate of 3.5 spaces to each 100 square metres of net floor area provided for the office development.

An outdoor seating area is provided within the front setback of Brandon Park Drive with a dedicated pedestrian walkway also provided from the street.

## ***POLICY IMPLICATIONS***

An application to amend a permit is subject to the provisions of Section 72 of the Planning and Environment Act 1987.

Policies relevant to the current application include the following:

### State Planning Policy Framework

Clause 12: Metropolitan Development

This clause gives expression to Melbourne 2030 by providing specific objectives and strategies for Metropolitan Melbourne. Strategies include defining the role and function of activity centres and in particular ensuring Principal and Major Activity Centres accommodate ongoing investment and change in retail, office, service and residential markets.

Clause 17: Economic Development

Clause 17.01: Activity Centres

Among other things, activity centres should be planned to *‘incorporate and integrate a variety of land uses, including retail, office, education, human services, community facilities, recreation, entertainment and residential uses where appropriate.’*

Clause 18: Infrastructure

Clause 18.02: Car Parking and Public Transport

*‘To ensure access is provided to developments in accordance with forecast demand taking advantage of all available modes of transport and to minimise impact on existing transport networks and the amenity of the surrounding areas.’*

Local Planning Policy Framework

Clause 21: Municipal Strategic Statement

Clause 21.03-2: Strategic Vision

A strategy is to develop sustainable employment opportunities and maintain Monash as the predominant business location in Melbourne’s eastern region by supporting a proactive, progressive business community and creating attractive, convenient and vibrant business centres.

Clause 21.06: Retail

Brandon Park is designated a Neighbourhood Activity Centre under the Scheme. It is noted that a review of the Municipal Strategic Statement and a revision of Clause 21 and 22 of the Monash Planning Scheme (Amendment C57) has been exhibited and is now with the Minister for Planning for approval. Table 1 to draft Clause 21.06: Activity Centres, reclassifies Brandon Park as a Major Activity Centre in accordance with the hierarchy identified in Melbourne 2030. Among other things the strategic direction for the activity centres is to broaden the mix of uses appropriate to the type of centre and needs of the population served.

Zoning

The subject site is located within a Business 1 Zone under the Monash Planning Scheme. A planning permit is required for the use of the tenancy as a café (restaurant) given the proposed reduction in the specified car parking ratio of Clause 52.06 of the Planning Scheme.

Clause 52.06 of the Monash Planning Scheme specifies a car parking ratio of 0.6 car spaces to each seat available to the public for a restaurant. A car parking assessment follows later in the report.

### ***CONSULTATION***

Notification of the amended application was sent by mail to owners and occupiers of land opposite and adjoining the site and within the immediate area. Two large notices were also displayed on the land.

A total of thirteen (13) objections, (8 proforma) have been received to the proposal. A summary of the objections is as follows:

- Increase in and exacerbation of existing traffic congestion in the area.
- Inadequate provision of car parking for the restaurant particularly as the office development has already been granted a reduction in parking.
- The proposed restaurant will place more pressure on the available parking spaces elsewhere, particularly in Collegium Avenue leading to a spillover into other streets such as Strada Crescent and Ferntree Gully Road service road and into the Brandon Park Shopping Centre Car Park.
- The increase in lunchtime patrons will reduce the safety of those attending the preschool.
- There are adequate eating and drinking places within the Brandon Park Shopping Centre.
- The restaurant will eventually be opened of an evening and on weekends, which will cause endless traffic and parking problems within a residential street.
- Loss of trade to current restaurant, food court and take away food offers within the Brandon Park Shopping Centre.

### ***ASSESSMENT***

The use of the tenancy for a café supports state and local policies and the municipal strategic statement within the Monash Planning Scheme particularly as the site is located within a Major Activity Centre. It is not unusual to combine both an office and café use within the same building and it is noted that a number of office buildings within the municipality contain a café for use of workers within the building and within the immediate vicinity.

The main area for discussion is listed below.

#### **Car Parking**

Under Clause 52.06 of the Monash Planning Scheme and Council's Car Parking Policy the number of car parking spaces required for a café (restaurant) is as follows:

Use	No of Seats	Number of Spaces Required Under Clause 52.06 of the MPS	Number of Car Parking Spaces Required Under Council's Car Parking Policy
Café (restaurant)	70	42 (0.6 spaces/seat)	24.5 (0.35spaces/seat)

A total of 5 car parking spaces are to be designated for the café based on the previous office allocation of 3.5 spaces to each 100 square metres of net floor area.

Information provided by the applicant from their traffic consultant indicates that 5 allocated on-site car parking spaces will be more than adequate for staff of the proposed cafe.

The traffic consultant further states that in relation to patronage of the proposed cafe, it is their experience that cafes located in office buildings predominantly service office staff and visitors to the building and where convenient, other employees in the immediate vicinity. It is expected that the subject office building will accommodate staff in excess of 200 persons with a similar number working within buildings in the immediate area. It is also stated that it is not anticipated that the café will be a destination for car drivers in the lunchtime period.

Council's traffic engineers state that the hours of operation of the restaurant become critical to the likely parking demand. Any extension of hours into the evening or weekend would be expected to attract outside customers and would require the provision of on-site customer car parking.

It is noted that one hour parking restrictions have recently been installed in Collegium Avenue to discourage non-local use of the street and parking restrictions are likely to be extended to other streets if there is evidence of consistent non-local parking intrusion.

Given the above and in order for the café to function as an ancillary use it is considered that the café should be reduced in size and the number of patrons reduced from 70 to 50. In addition, the outdoor seating area should also be reduced in size and the dedicated pedestrian access deleted to reduce the intrusion in the front landscape setback. Hours of operation must be limited to office hours only ie 8am to 6pm Monday to Friday.

It is acknowledged that the café will not be restricted to only serving patrons from within the office building however by limiting the operation of the use as suggested the overall impact of the café on the surrounding area will be minimised.

Finally, it should be noted that by reducing the café only 4 car parking spaces would be designated for the café tenancy. This is considered satisfactory and will still provide adequate car parking for potential staff of the café.

#### Response to Objectors

The following comments are made in respect to objector concerns:

- Planning Permit 34882 for the office building being constructed on the subject site provides car parking in accordance with the requirements of the Clause 52.06 of the Monash Planning Scheme. There is no reduction in car parking as suggested by the objectors.
- By reducing the number of patrons allowed at the café at any one time and restricting the hours of operation, the café will be generally used by those working within the proposed office building and others within the immediate vicinity. Accordingly, the car parking provision as detailed in the above assessment is considered satisfactory.
- Under the provisions of the Planning and Environment Act 1987, Council is unable to consider objections regarding commercial competition.

#### ***CONCLUSION***

Subject to the changes indicated above, it is considered the use of part of the office building for a cafe is considered satisfactory and supports the principle of encouraging a mix of uses within Major Activity Centres. Accordingly, approval of the application is recommended.