

9 DEVELOPMENT AND INFRASTRUCTURE

9.1 PLANNING PERMIT APPLICATION PLP083/19 FOR SALE AND CONSUMPTION OF LIQUOR (LIQUOR LICENSE) AT 36 SYDNEY STREET KILMORE

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File No: PLP083/19

- Attachments:**
1. Site Plan & Red Line Plan
 2. Planning Provision Policy & State Planning Policy

Property No.:	107508
Title Details:	Lot 1 on TP 013759A Volume 10441 Folio 841
Applicant:	Kim Short
Zoning:	Commercial 1 Zone
Overlays:	Heritage Overlay – Schedule 99
Objections Received:	No objections received
Cultural Heritage Management Plan Required:	Not required
Officer Declaration of Conflict of Interest:	No officers involved in the preparation of this report have any direct or indirect interest in this matter

SITE MAP



PLANNING PERMIT APPLICATION PLP083/19 FOR SALE AND CONSUMPTION OF LIQUOR (LIQUOR LICENSE) AT 36 SYDNEY STREET KILMORE (CONT.)

SUMMARY

The application is seeking approval for the sale and consumption of liquor (liquor licence) at 36 Sydney Street in Kilmore and western portion of Mill Street (partial). The land is located within the Commercial 1 Zone of the Mitchell Planning Scheme.

The application was advertised via letters to adjoining property owners and occupiers and those within the surrounding area. A sign was displayed in the shop front window of the subject site. No objections were received at the time of writing this report.

The primary matters discussed in this report are amenity, hours of operation and economic growth within a commercial area.

The report recommends that a Planning Permit be issued for the sale and consumption of liquor as it is consistent with the objectives of the Mitchell Planning Scheme.

It is considered that the proposal would result in a positive planning outcome, subject to conditions.

SITE AND SURROUNDS

Subject Site Description

The subject site, located at 36 Sydney Street in Kilmore, is generally rectangular in shape and located on the eastern side of the street (legally described as Lot 1 on TP013759A, Volume 10441 / Folio 841).

The site has a frontage of 10.97m to Sydney Street and depth of 54.752m (southern property boundary) with an overall lot size of approximately 637sqm. Patrick Street is to the rear of the subject site and Mill Street Mall to the north of the site.

The site is developed with a two-storey brick building, constructed to the east and north boundaries. A large rendered parapet is located on the building facade and an awning projects onto the footpath on the western and partially the northern elevations.

Additionally, part of the Mill Street road reserve which was converted into a pedestrian accessway will be used for outdoor dining by the applicant. There is currently a local laws permit for three tables and twelve chairs for the outdoor area on Mill Street.

The proposed outdoor dining area is to be used for food and consumption of alcohol which will be within the curved concrete walls immediately north of the subject site. Pedestrian pathway is proposed to be kept clear and will be similar to what is existing.

Planning Background

Details or previous planning permit applications are outlined below:

- PLA302701/01 - Shed. Permit issued 2001.
- PLA304373/05 - Painting shop and signage. Permit issued 2005.
- P307150/12 - Demolish existing roof and replace with new. Permit issued 6/12/2012.
- PLP290/14 - Buildings and works for the installation of three sets of doors including part demolition. Permit issued: 31/10/2014.

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- PLP195/18 – Installation and display of signage. Permit Issued 07/08/2018.

Title/Restrictions/Agreements

The title of the site is not encumbered by any covenants or agreements nor do any easements traverse through the property.

Surrounding Area

The surrounding area consists of a variety of commercial development within the town centre of Kilmore. Businesses along Sydney Street generally present active street frontages with easy pedestrian access including on street parallel parking. The township has a distinct character with many examples of pre 19th century architecture which are subject to a Heritage Overlay. The Mill Street Mall to the north of the subject land is a pedestrian only thoroughfare that consists of landscaping and public seating, adding distinct character to the public realm.

Distance of the subject site from the closest residential zones are:

- 115 metres to the east
- 136 metres to the west
- 380 metres to the south
- 230 metres to the north

Other business within the surrounding area that also have a liquor licence include:

- 43 Sydney Street Kilmore – Red Lion Brewery Kilmore
- 57 Sydney Street Kilmore – MacNamara’s Irish Pub
- 62 Sydney Street Kilmore – Bottlemart – Bottle shop
- 71 Sydney Street Kilmore – Kilmore Palace Chinese – BYO Wine Only
- 29-31 Sydney Street Kilmore - Royal Oak Hotel – Onsite sale and consumption & drive through sale.

PROPOSAL

The application seeks approval for the sale and consumption of liquor. The details of the proposal are as follows:

- Trading hours are proposed are Monday to Sunday: 11:30am to 11:30pm.
- Maximum patron numbers are predicted to be 60 seated persons inside and 16 seated persons outside.
- The red line proposed for the premises will cover a consumption area of 206.55 square meters inside the shop and an area of approximately 70 square meters in the outdoor area.

APPLICATION HISTORY

The application was received by Council on 28 February 2019. Further information was requested on 11 April 2019, which was received in full on 6 May 2019.

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Public notification of the application commenced on 10 May 2019 and concluded on 24 May 2019. The application was advertised via letters to landowners and occupiers. A sign was displayed on the subject site fronting Sydney Street.

No objections were received.

PLANNING SCHEME PROVISIONS

Zoning

Commercial 1 Zone (C1Z)

Pursuant to Clause 31.01, a planning permit is not required as there are no buildings and works proposed as part of this application.

Overlays

Heritage Overlay – HO99

Pursuant to Clause 43.01, no planning permit is required as no alterations or any buildings and works proposed. Seating is specifically exempt pursuant to Clause 43.01-1.

Particular Provisions

Clause 52.27 (Licensed Premises)

Pursuant to Clause 52.27, a planning permit is required to use land to sell or consume liquor as a licence is required by the *Liquor Control Reform Act 1998*.

Planning Policy Framework (PPF)

A number of policies within the Planning Policy Framework and Local Planning Policy Framework are relevant to this application and can be found at attachment 2.

Other Considerations

Kilmore Town Centre Plan (August 2016)

The adopted Kilmore Town Centre Plan seeks to transform and improve Sydney Street as the main commercial strip of Kilmore.

The Kilmore Town Centre Plan identifies what the people of Kilmore want for their town. A list of improvements noted during consultations of the Kilmore Town Centre Plan include:

- Well-serviced by a range of shopping and eating opportunities,
- Increased trade & footfall,
- A good range of services and eateries,
- Improved cultural and arts scene.

PUBLIC NOTIFICATION (ADVERTISING)

Formal notification of the application was given by means of letters to adjoining property owners and occupiers, as well as, notification sign displayed in the shop frontage. No objections were received.

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REFERRALS

External

This application was not required to be referred under Section 55 of the *Planning and Environment Act 1987* and Clause 66 of the *Mitchell Planning Scheme* to any external referral authorities.

Internal

The application was discussed with relevant internal departments. No concerns were raised and no conditions were requested if a Planning Permit is to be issued.

DISCUSSION

Response to Policy Framework

The Planning Policy Framework highlights the importance of ensuring that the proposal is keeping with the built environment and local heritage sites, minimising detrimental impact on neighbouring properties and encouraging economic growth.

The use of the land for a restaurant is as-of-right under the zone. The consideration of the proposal is limited to whether it is acceptable to have the sale and consumption of alcohol in association with the restaurant. The key planning consideration is whether the sale and consumption of liquor on the land will have a detrimental impact on the amenity of the area in regard to the hours and number of patrons.

Allowing the restaurant, the sale and consumption of liquor, provides the business to compete fairly and promote different products within the township of Kilmore. Allowing an additional premise to sell and consume liquor to those already existing within the surrounding area is considered to promote economic growth which is consistent with Clause 17.01-1S (Diversified economy) and Clause 21.08-1 (Economic growth) of the Scheme.

Particular Provisions (Clause 52.27 – Licensed Premises)

In assessing the impact of the liquor licence, Clause 52.27 of the Mitchell Planning Scheme (Licensed Premises) requires the consideration of a number of objectives as follows:

The impact of the sale of or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.

The subject site is located along Sydney Street which is the main commercial strip in Kilmore. The applicant proposes the sale and consumption within the premises and outside the premise in the Mill Street Mall. The hours proposed are considered within the normal span of hours to serve liquor, including reasonable later hours to cater for night dining.

The redline area is located within the premises and outside the premises. Within the premises it is unlikely to produce amenity impacts in terms of noise above the existing conditions. Outside the premises, the amenity impacts will be required to be managed.

If a permit is issued, it is recommended to include standard amenity conditions to ensure any potential offsite impacts are reduced and controlled to help the amenity of the surrounding area.

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Additionally, if a permit is issued, a note will be placed on the planning permit to alert the applicant a local law permit is required for street trading.

The impact of the hours of operation on the amenity of the surrounding area.

The site is proposed to be within a Commercial 1 Zone and allowed to operate 7 days a week if the tenant should choose to. The proposed hours to serve liquor are:

- Monday to Sunday: 11:30am to 11:30pm for the restaurant.

It is not considered appropriate to allow the service of liquor prior to 12pm, particularly as reducing alcohol consumption is identified as a key community issue within the *Municipal Public Health and Wellbeing Plan 2018-2021* (pg. 26) to facilitate safe and resilient communities. Therefore, the following hours for the service of alcohol are recommended and will be included as a condition on the planning permit:

- Monday to Sunday: 12:00pm to 11:30pm for the restaurant.

It is envisioned that the hours of operation will create some noise, however it is unlikely to cause amenity issues for the surrounding area as it is a commercial strip.

The nearest residential zone is located more than 100 metres away, therefore the proposal is unlikely to impact upon the residential areas. If there are any shop top tenants along Sydney Street, it is expected that there will be a level of noise that these tenants must deal with that occurs naturally from commercial strip. The outside hours are limited to 10:00pm which is considered acceptable and limits amenity impacts.

The impact of the number of patrons on the amenity of surrounding area.

Given the site is already utilised as restaurant and the licensed area will be confined within the building and limited to a controlled area outside, the proposal is unlikely to have an impact on the amenity of the surrounding area. The patrons outside will be managed by staff and signage to ensure the amenity of the area is not impacted upon.

The cumulative impact of any existing and the proposed liquor license, the hours of operation and number of patrons, on the amenity of the area.

There are a number of premises that have liquor licenses that are currently operating along Sydney Street, Kilmore. It is not considered that there is a cumulative impact present that is of a concern.

CONCLUSION

The proposal will complement an as of right use on the subject site and improve the economic environment by making the use competitive with other similar uses found within the area. There are no demonstrable issues as a result of the proposal to the amenity of the area. The application has been assessed against the relevant particular provisions and is considered that the proposal meets the requirements contained within the Mitchell Planning Scheme.

PLANNING PERMIT APPLICATION PLP083/19 FOR SALE AND CONSUMPTION OF LIQUOR (LIQUOR LICENSE) AT 36 SYDNEY STREET KILMORE (CONT.)

RECOMMENDATION

THAT Council having complied with the relevant Sections of the *Planning and Environment Act 1987*, resolve to issue a Planning Permit in respect of Application No. PLP083/19 for Sale and Consumption of Liquor (liquor Licence) at Lot 1 on Title Plan 013759A Volume 10441 Folio 841, known as 36 Sydney Street Kilmore, subject to the following conditions:

General

1. Before the use starts, amended plans and documents, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the advertised plans but further modified to show:
 - a. Amended plans to show:
 - i. The red line area, internal to the building, modified to apply only to those areas required for the operation of the café/restaurant. This would involve removal of storage area/toilets or any other areas not required for the operation of the business.
 - ii. The red line area within the Mill Street Mall, external to the building, reduced to affect only the area to be used for outdoor seating.
 - b. Submission of a Patron Management Plan. The plan must be consistent with the endorsed plan(s) and include:
 - i. Staffing and other measures which are designed to ensure the orderly arrival and departure of patrons.
 - ii. Signage to be used to encourage responsible on and off-site patron behaviour.
 - iii. The training of staff in the management of patron behaviour.
 - iv. Staff communication arrangements.
 - v. Measures to control noise emissions from the premises.
 - vi. Security measures as required.
2. The sale and consumption of liquor must only occur within the redline area as shown on the endorsed plans unless otherwise agreed to in writing by the Responsible Authority.
3. The sale and consumption of liquor within the licensed area internal to the building must only occur between the hours of 12:00pm and 11:30pm Monday to Sunday, unless otherwise agreed to in writing by the Responsible Authority.
4. The sale and consumption of liquor within the outdoor areas (within the Mill Street Mall) must only occur between the hours of 12:00pm and 10:00pm

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Monday to Sunday, unless otherwise agreed to in writing by the Responsible Authority.

5. The sale and consumption of liquor on the premises and within the outdoor areas must be managed so as to ensure that the amenity of the area is not detrimentally affected by the activity, to the satisfaction of the Responsible Authority.
6. No more than 16 patrons are to be seated outside at any one time. Service of alcohol outside must only be to those seated patrons also being served meals, unless otherwise agreed to in writing by the Responsible Authority.
7. The predominant activity carried out on the premises, must be the preparation and serving of meals for consumption on the premises.
8. At all times during the operation of the use, there must be present on the premises a person over the age of 18 years who is responsible for ensuring that the activities on the premises and the conduct of persons attending the premises do not have a detrimental impact on the amenity of the area (referred to in this permit as 'the manager').
9. Signage to be used to encourage responsible on and off-site patron behaviour, must be displayed inside and outside the premises at all times during the service of liquor.
10. Any conflicting signage in the vicinity must be moved or amended at the cost of the permit holder to the satisfaction of the Responsible Authority.
11. The sale of liquor must be managed so that the amenity of the area is not detrimentally affected, through the:
 - a. Transport of materials, goods or commodities to or from the land
 - b. Appearance of any building, works or materials;
 - c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - d. Presence of vermin.

Permit Expiry

12. This permit will expire if the use of the land for the sale and consumption of liquor ceases for a period of two or more years.

PLANNING PERMIT APPLICATION PLP083/19 FOR SALE AND CONSUMPTION OF LIQUOR (LIQUOR LICENSE) AT 36 SYDNEY STREET KILMORE (CONT.)

Permit Notes

PERMIT NOTES	
Relevant Authority	Information provided to assist the applicant or owner
Council Local Laws	Please note that this approval does not constitute a Tables and Chairs Permit under Local Law No 1 Community and Environment 2013. You should enquire with Council's Local Law Unit on 5734 6230 to ascertain if a local law permit is required for this proposal.

MITCHELL SHIRE COUNCIL

Council Meeting Attachment

DEVELOPMENT AND INFRASTRUCTURE

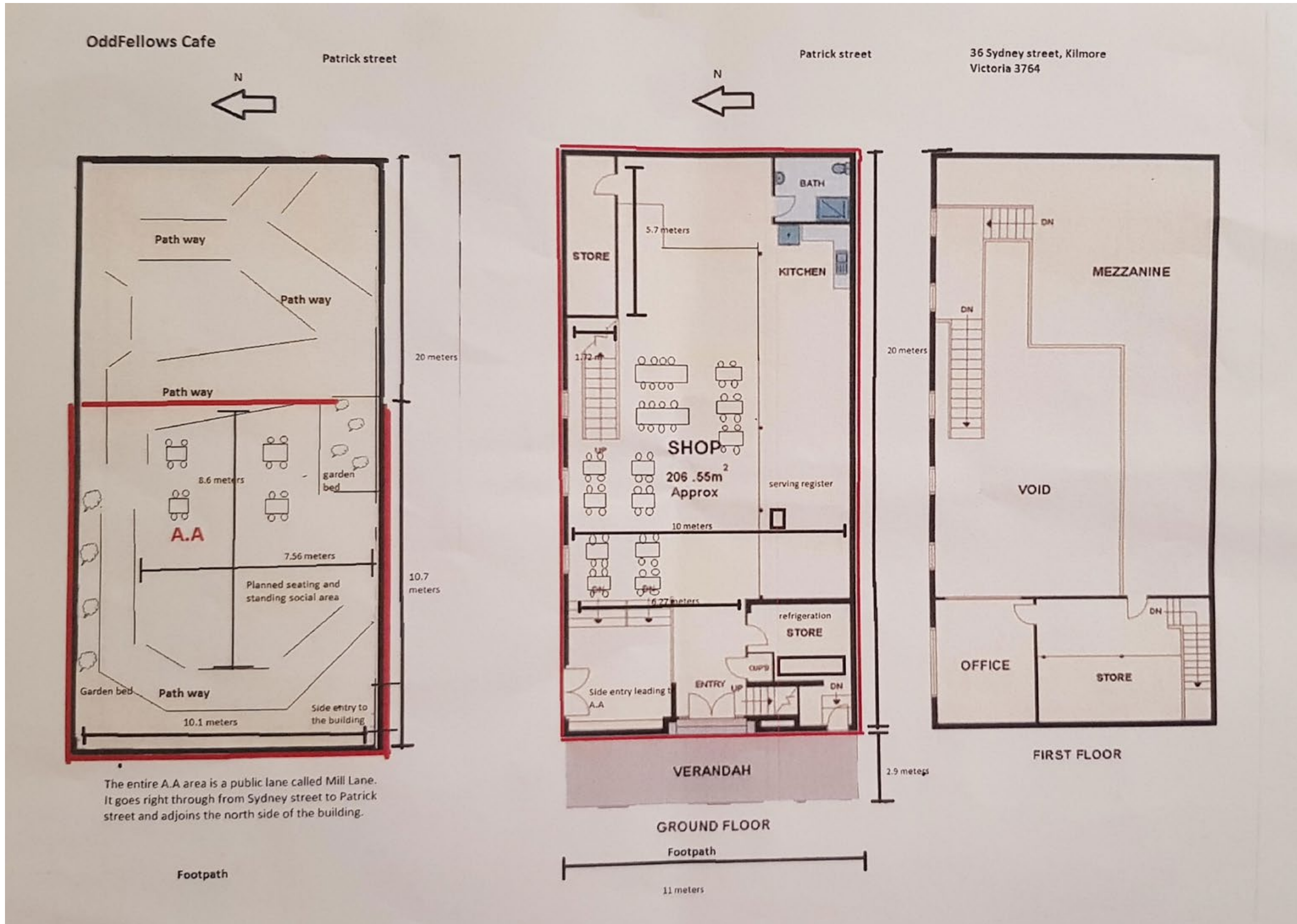
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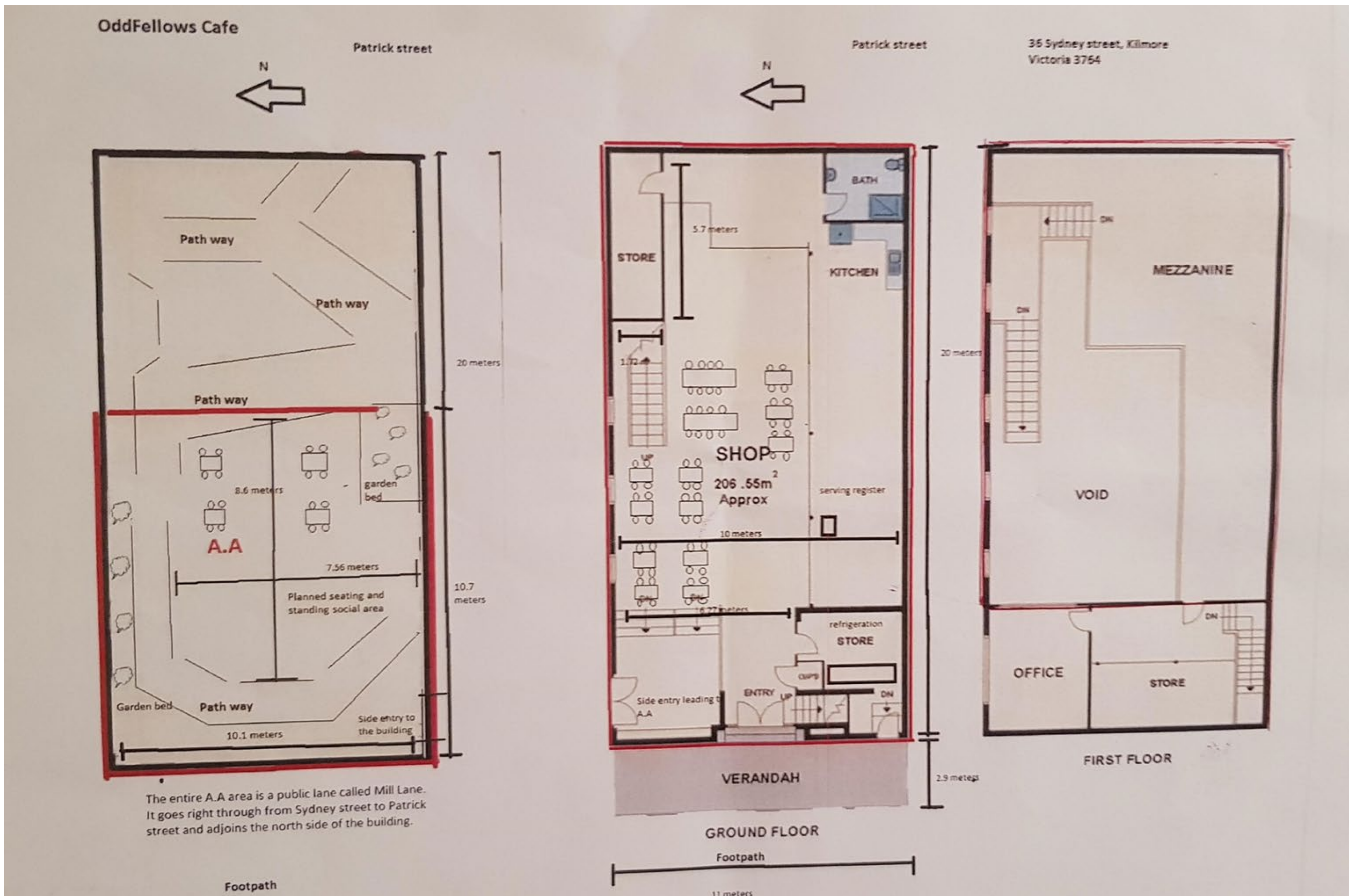
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**PLANNING PERMIT APPLICATION PLP083/19
FOR SALE AND CONSUMPTION OF LIQUOR
(LIQUOR LICENSE) AT 36 SYDNEY STREET
KILMORE**

Attachment No: 1

Site Plan & Red Line Plan





MITCHELL SHIRE COUNCIL

Council Meeting Attachment

DEVELOPMENT AND INFRASTRUCTURE

19 AUGUST 2019

9.1

**PLANNING PERMIT APPLICATION PLP083/19 FOR
SALE AND CONSUMPTION OF LIQUOR (LIQUOR
LICENSE) AT 36 SYDNEY STREET KILMORE**

Attachment No: 2

Planning Provision Policy & State Planning Policy

Attachment 1

Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF)

The following clauses of the SPPF and LPPF are considered relevant to this application

Clause 17.01-1 – Business	<p>This clause is relevant and has the following objective:</p> <p><i>To encourage development which meets the communities' needs to retail, entertainment, office and other services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.</i></p>
Clause 21.08-1 – Economic growth	<p>This clause is relevant and has the following objective:</p> <p><i>To facilitate new development and employment opportunities in business, industry and tourism.</i></p>
Clause 21.11-6 – Kilmore	<p>This clause is relevant and has the following objective:</p> <ul style="list-style-type: none"> • <i>Support land uses which will provide activation of Sydney Street and increase night time trade and activity.</i> • <i>Protect and reinforce the Sydney Street town centre as the primary destination and focus of Kilmore.</i> • <i>Support streetscape activation along Sydney Street through outdoor dining and other proposals which will promote pedestrian-orientated activity</i>