

9.6 AMENDED PLANNING PERMIT APPLICATION P306980/12.02 FOR BUILDINGS AND WORKS COMPRISING AN OFFICE AND RETAIL DEVELOPMENT WITH ASSOCIATED REDUCTION TO THE CAR PARKING REQUIREMENTS AND ALTERATION OF ACCESS TO A ROAD ZONE CATERGORY 1 AT 87 SYDNEY STREET, KILMORE.

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File No: P306980/12.02

- Attachments:**
1. Advertising Map
 2. Relevant Planning Policy Framework

Property No.:	125218
Title Details:	Lot 3 on Plan of Subdivision 418515L.
Applicant:	Walter Mott
Zoning:	Commercial 1 Zone
Overlays:	Design and Development – Schedule 4
Objections Received:	Five objections were received.
Cultural Heritage Management Plan Required:	No, the subject site is not located within an area designated as culturally sensitive therefore, a CHMP was 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

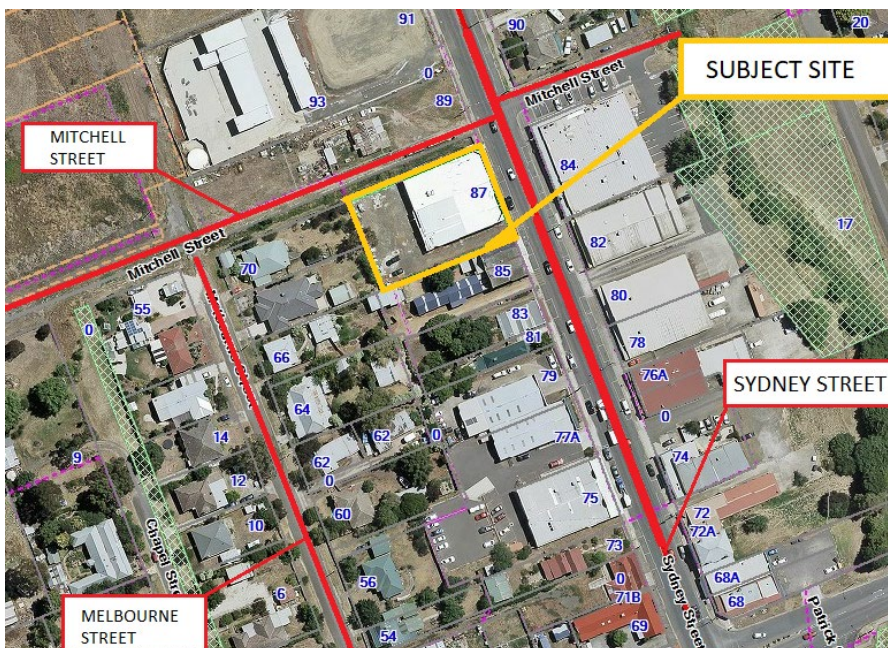


Image 1. Aerial of 87 Sydney Street, Kilmore. (Source *Exponare Mapping GIS* (2019))

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SUMMARY

The application is seeking to amend the current planning permit that allows for buildings and works comprising an office and retail development with associated reduction to the standard car parking requirements and alteration to a Road Zone, Category 1 at 87 Sydney Street, Kilmore.

The subject site is located within the Commercial 1 Zone and is affected by a Design and Development Overlay – Schedule 4 to the Mitchell Shire Planning Scheme.

The application was advertised via letters to adjoining landowners and occupiers. A total of five objections have been received at the time of writing this report requiring the matter to be reported to Council for decision.

The primary matters that are discussed later in this report are related to the proposed amendments to conditions relating to delivery hours and VicRoads within the existing planning permit.

This report recommends that a Notice of Decision to grant an Amended Planning Permit be issued to amend the conditions. It is considered that the proposed amendments would have a beneficial impact on business and minimal impact to the surrounding area.

SITE AND SURROUNDS

Subject Site Description

The subject site is rectangular in shape and has a total lot of area of 1,778 square meters. The subject site is a corner lot accessed from Sydney Street whereby the property has an active frontage to the road of approximately 51 meters. Mitchell Street is an unmade road reserve forming the northern boundary of the site.

The subject site currently contains an existing commercial building utilised for retail and offices with twenty associated carparking bays found on site.

Planning Background

The original planning permit was issued under the direction of VCAT in June 2013 for buildings and works comprising an office and retail development with associated reduction to the standard car parking requirements and alteration of access to a road in Road Zone Category 1 in accordance with the endorsed plans.

Title/Restrictions/Agreements

The subject site is not affected by any restrictive covenants or agreements.

Surrounding Area

The subject site is situated within the commercial precinct of the Kilmore Town Centre. The surrounding allotments vary in size and shape with the predominant built form consisting of single structure commercial developments on each lot.

The subject site abuts two residential developments which are located on the western shared boundary. Each residential lot is setback at a minimum of twenty-five meters

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from the commercial building with associated car parking acting as a buffer between the commercial development and the two residential sites.

PROPOSAL

The application is seeking to amend two conditions of Planning Permit P306980/12.02 as follows:

Condition 14:

The proposed change to the delivery hours is to allow overnight deliveries to the North Central Review Newspaper. The condition currently reads as follows:

Current Condition

- Unless otherwise agreed in writing by the Responsible Authority, deliveries to and from the site must only take place between the hours of:
 - 7:00 am – 9:00 pm Monday to Friday; and
 - 8:00 am – 6:00 pm Saturday and Sunday.

Proposed Condition

- 7:00 am to 7:00 am Monday to Tuesday (only for 3/87 Sydney Street, Kilmore, North Central Review Pty Ltd. with one (1) delivery allowed overnight to the site).

Condition 27

Current Condition

- Prior to the development hereby approved by this permit commences use:
 - a. And prior to the approval of the Functional Layout Plan (FLP), for any loss of parking on the carriageway of the arterial road because of the proposed development, the applicant must advise the Roads Corporation, the Responsible Authority and any affected abutting landowners.
 - b. A FLP must be submitted and approved by VicRoads. The FLP must be prepared by a VicRoads pre-qualified consultant, dated, scaled to show (but not limited to) the following:
 - i. A channelised right turn treatment along the same alignment at the right turn treatment into 91 Sydney Road;
 - ii. The loss and line marking of new parking bays;
 - iii. All existing and proposed line marking, signs, services, vegetation etc; and
 - iv. Any disused vehicular crossover laybacks indicated for removal and the reinstatement to kerb and channel.
 - c. All road works must be constructed to the satisfaction of and at no cost to VicRoads.
 - d. A Road Safety Audit must be undertaken in accordance with VicRoads' Road Safety Audit Policy.

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- e. The audit findings and the consultant's responses to the findings must be provided to the Roads Corporation for review and approval.
- f. Any mitigating works arising out of the audit must be carried out by the applicant at no cost and to the satisfaction of VicRoads.
- g. All disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of and at no cost to VicRoads.

Proposed

- The applicant has requested to delete condition 27.

APPLICATION HISTORY

- 7 June 2013: A planning permit was issued under the order of VCAT for the proposed development;
- 11 June 2013: Condition 1 plans endorsed;
- 27 September 2014: Section 72 amendment issued. The amendment was related to access from Mitchell Street being removed to provide access via Sydney Street;
- 7 January 2016: First extension of time granted;
- 8 November 2016: Secondary consent granted. The proposed changes amalgamated two tenancies to create one larger tenancy. Reduction from four tenancies to three with the total floor area not changing;
- 30 June 2017: Second extension of time granted; and
- 5 March 2019: Section 72 amendment issued. The amendment was related to VicRoads conditions. Replacing condition 27 and 28 with a revised condition 27 relating to the access treatments to the subject site for a right-hand turning lane.

PLANNING SCHEME PROVISIONS

Zoning

Commercial 1 Zone

No permit triggers under the zone as the proposal relates to amendments to the conditions.

Overlays

Design and Development Overlay – Schedule 4

No permit triggers under the overlay as the proposal relates to amendments to the conditions.

Particular Provisions

Clause 52.29 Land adjacent to a Road Zone Category 1

Pursuant to Clause 52.29 a permit is required to create or alter access to a road in a Road Zone, Category 1.

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Pursuant to Clause 52.29-4 an application to create or alter access to land adjacent to a road declared a Road Zone, Category 1 is required to be referred to the Roads Corporation under Section 55 of the Act.

The application was referred to VicRoads a determining authority as the proposal is altering access to a Road Zone, Category 1.

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

Refer to attachments for relevant planning policy framework.

PUBLIC NOTIFICATION (ADVERTISING)

Formal notification of the application was given by means of letters to adjoining landowners and occupiers in accordance with Section 52 of the *Planning and Environment Act* and the Mitchell Shire Advertising Planning Applications Guidelines. A total of five objections have been received and are addressed in the section Objectors' Concerns later in this report.

REFERRALS

External

Referrals	Referral Authority	Brief summary of response
Determining Referral Authority	VicRoads	In review of the proposal and the previous history VicRoads <u>supports the proposal</u> subject to amended conditions.

DISCUSSION

Zoning Implications

Commercial 1 Zone

Pursuant to Clause 34.01 the proposed amendment to Condition 14 operating hours is considered minor in nature and will have no impact to adjoining properties. Further, the proposed amendment to the operating hours will have no effect to traffic to be generated on roads as the amendment to delivery hours is related to the existing services. Only one additional delivery will be allowed by the amendment.

Amendment to conditions

Condition 14

The amendment to the condition allows for the overnight delivery of the North Central Review Newspaper to the premises.

Current Condition

- Unless otherwise agreed in writing by the Responsible Authority, deliveries to and from the site must only take place between the hours of:

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- a. 7:00 am – 9:00 pm Monday to Friday; and
- b. 8:00 am – 6:00 pm Saturday and Sunday.

Proposed Condition

- Unless otherwise agreed in writing by the Responsible Authority, deliveries to and from the site must only take place between the hours of:
 - a. 7:00 am – 7:00 pm Monday to Tuesday (with one (1) delivery allowed overnight).
 - b. 7:00 am – 9:00 pm Wednesday to Friday; and
 - c. 8:00 am – 6:00 pm Saturday and Sunday.

The proposed amendment to Condition 14(a) will allow for the deliveries to the newspaper company. The amendment to the delivery hours is foreseen to allow for opportunity for newspaper to continue its operation, while limiting the deliveries to a single overnight delivery during the week. The newspaper company provides deliveries across the Mitchell, Macedon and Whittlesea municipality providing 17,000 newspapers to various shops and home deliveries which is a benefit to the community.

Condition 27 & Clause 52.29 Land adjacent to a Road Zone Category 1

Pursuant to Clause 52.29-4 the application to delete condition 27 was referred to VicRoads. The determining authority has recommended that the condition 27 and 28 be amended to their satisfaction.

The amendments included the ability for all turning movements to occur, except for right turning vehicles between 8:00am to 8:00pm. Further VicRoads sought an amended functional layout plan to meet their requirements. The amended wording is listed in the conditions included in the recommendation.

Furthermore, the amendment to Condition 27 will not have any effect to the carparking on the subject site, or the surrounding land. The functional layout plan that was included in the advertisement package was a set of drawings that were a part of a previous Section 72 amendment that was approved by Council on 5 March 2019.

The amendment related to the access treatments to the subject site for a right-hand turning lane. The current amendment to Condition 27 does not pose any further reductions to carparking.

Other considerations

Further to the applicant's proposal to amend the two conditions stated, it is recommended that Condition 1 of the planning permit be deleted as this has been satisfied. As the condition required the applicant to provide amended plans prior to works commencing. These documents and drawings have been received by Council and the condition is no longer relevant. Condition 1 required:

Amended Plans

Before any works associated with the development start, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the

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Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application (revision D of the plans drawn by dca design), but modified to show:

- a. Each car parking space with a minimum width of 2.8 metres. The disabled car parking space provided may vary from this requirement and must be provided with dimensions in accordance with AS2890.6;*
- b. Tenancy 1 (Real Estate Office) altered so as the alcove at the rear of the building is removed and the rear wall of the development is provided with a consistent setback from the pedestrian path adjoining the car parking area for the length of the building;*
- c. The rear access door of tenancy 2 (Retail/Office) provided from the rear (western) elevation of the building;*
- d. The areas to be used to display advertising signage must be clearly marked and dimensioned, and may only be located above the verandah of each tenancy;*
- e. The pedestrian path at the rear of the proposed building must be designed to the relevant Australian Standards such that it is DDA compliant. Where it is required to be widened, the buildings must be reduced to accommodate the increased width; and*
- f. A schedule of external colours and finishes for the development including samples of each proposed colour/finish.*

OBJECTORS' CONCERNS

The objections received in relation to the current proposal was specifically related to the below:

Car parking

Loss of car parking along Sydney Street. No further reduction in car parking is proposed as part of this planning permit application. The reduction of car parking was considered under the original planning permit and previous amendments. Therefore, car parking is not a consideration to this application.

Amenity impacts

A condition is included on the permit which ensures the amenity of the area is not detrimentally affected, through the transport of materials, goods or commodities to or from the land and emission of noise. This will continue to be applied if such issues arise in the future.

Further the proposed amended condition allows for one delivery between Monday and Tuesday night. Therefore, restricting the deliveries to the premises and further limiting the amenity impacts.

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Increase in Traffic Flow and Pollution

The proposal is not expected to increase vehicle traffic which will result in pollution. The amendment to the delivery hours and VicRoads conditions is not expected to provide for additional vehicle movements in and out of the subject site which would cause amenity impacts.

CONCLUSION

The application to amend the current planning permit has been assessed against the Planning Policy Framework and the Municipal Strategic Statement as set out in this report. It is considered that the application to amend Condition 14, 27 & 28 complies with the relevant policies and authorities, therefore the application is to be approved.

RECOMMENDATION

THAT Council having complied with the relevant Sections of the *Planning and Environment Act 1987*, resolve to issue a Notice of Decision to Amend a Planning Permit in respect of Application No. P306980/12.02 for buildings and works comprising an office and retail development with associated reduction to the standard car parking requirements and alteration of access to a road zone, category 1 at Lot 3 on Plan of Subdivision 418515L, known as 87 Sydney Street, Kilmore, subject to the following conditions:

Amended Plans

1. Deleted.

Use of The Land

2. The development as shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
3. The use of each tenancy must be in accordance with the use as shown on the endorsed plan, unless otherwise agreed in writing by the Responsible Authority.

Landscaping

4. Prior to the commencement of works, a landscaping plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and then form part of the permit. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The landscape plan must show:
 - a. The locations of all proposed trees, shrubs and groundcovers to be provided to the site; and
 - b. A detailed schedule of all proposed trees, shrubs and groundcovers to be provided to the site, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.

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5. Prior to the use of the development hereby permitted, the landscaping works shown on the endorsed landscape plan must be carried out and completed to the satisfaction of the Responsible Authority.
6. All landscape works on the subject land are to be maintained, including that any dead, diseased or damaged plants are replaced, to the satisfaction of the Responsible Authority.

Advertising Signage

7. Unless otherwise agreed in writing by the Responsible Authority, advertising signage associated with the development may only be displayed in the areas marked for this purpose on the endorsed plans and where exceeding the minimum amount allowed at Clause 52.05 of the Mitchell Planning Scheme, a planning permit must be obtained.

Car Parking & Access

8. Prior to the use of the development hereby permitted, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a. Constructed;
 - b. Properly formed to such levels that they can be used in accordance with the plans;
 - c. Sealed with a concrete or asphalt surface;
 - d. Drained;
 - e. Linemarked to indicate each car space, access lanes, turning areas and pedestrian path; and
 - f. Clearly marked to show the direction of traffic along access lanes and driveways;

To the satisfaction of the Responsible Authority

9. Car spaces, access lanes and driveways as shown on the endorsed plans must be kept available for these purposes at all times.

Site Management

10. The buildings and works hereby permitted, including any construction activities associated with the development, must be managed to the satisfaction of the Responsible Authority so that the amenity of the area is not detrimentally affected, through the:

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- 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, wastewater, waste products, grit or oil; and
- d. Presence of vermin;

to the satisfaction of the Responsible Authority.

11. Except for any areas nominated to contain landscaping on the endorsed landscape plan, all of the site not occupied by buildings must be sealed to the satisfaction of the Responsible Authority.
12. Any external lighting must be suitably baffled to prevent light spill or glare to any residential property, to the satisfaction of the Responsible Authority.
13. The finished floor level of all buildings must be constructed at least 300mm above 100-year ARI flood level, to the satisfaction of the Responsible Authority.
14. Unless otherwise agreed in writing by the Responsible Authority, deliveries to and from the site must only take place between the hours of:
 - a) 7:00 am – 9:00 pm Monday to Friday; and
 - b) 8:00 am – 6:00 pm Saturday and Sunday.
 - c) One (1) delivery is permitted between 9:00pm Monday and 7:00am Tuesday for unit 3/87 Sydney Street, Kilmore, North Central Review Pty Ltd. Monday to Tuesday.

Engineering & Infrastructure Department Conditions

15. Deleted.

16. Deleted.

17. Deleted.

18. The discharge of water from the site must be controlled around its limits to prevent any discharge onto any adjacent property or streets other than by

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means of an approved drainage system discharged to an approved outlet to the satisfaction of the Responsible Authority.

19. The subject site must be connected to an underground drainage system including an on-site detention system to control flows to pre-development levels and treat stormwater wholly within the boundaries of the subject land.
20. Prior to the use of the development hereby permitted, the permit holder must construct, at no cost to Council, drainage works between the subject land and the Council nominated point of discharge to the satisfaction of the Responsible Authority.
21. During construction period, no polluted and/or sediment laden run-off is to be discharged directly or indirectly into any drains or water courses to the satisfaction of Responsible Authorities.
22. Unless otherwise agreed in writing by the Responsible Authority, prior to the issue of the Certificate of Occupancy, the permit holder shall design and construct an impervious car park as per the relevant Australian standards to the satisfaction of the Responsible Authority.
23. Prior to the commencement of any works associated with the development, detailed construction plans 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 construction plans must be drawn to scale with dimensions and three copies must be provided. The plans must include:
 - a. Road pavement details and vehicular crossings;
 - b. Details of car parking areas;
 - c. Details of pedestrian paths, which must be compliant with the Disability Discrimination Act to the satisfaction of the Responsible Authority;
 - d. Details of underground drains;
 - e. Locations of underground conduits for water, gas, electricity, telephone etc;
 - f. Details of intersection and traffic calming measures, in accordance with any requirements of VicRoads; AND
 - g. High stability permanent survey marks.

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24. Prior to the use of the development hereby permitted, all works as shown on the endorsed detailed construction plans must be carried out and completed to the satisfaction of the Responsible Authority.

25. The permit holder must reinstate any Council assets or infrastructure damaged as a result of any construction work associated with the development, to the satisfaction of the Responsible Authority.

26. Prior to the use of the development hereby permitted, the permit holder must submit the following to the satisfaction of the Responsible Authority:
 - a. Deleted;
 - b. 'As constructed' information for all works to become Council assets;
AND
 - c. Survey enhanced GIS data for drainage and road reserves constructed.

VicRoads Conditions

27. Right turn vehicular access to the subject land from the Northern Highway (Sydney Street) is not permitted between 8.00 am to 8.00 pm.

28. Prior to the development hereby approved by this permit commences use:
 - a. A Functional Layout Plan (FLP) (Prepared by O'Brien Traffic, Drawing No. 14023007, Dated 16/04/2014) must be amended and approved by VicRoads.
 - b. The FLP must be amended by a VicRoads pre-qualified consultant, dated, scaled to show (but not limited to) the following:
 - i. A No Right Turn sign (code R2-6(R)), B size) installed on the proposed centre median island. A supplementary sign (code: R9-1) must be installed under the No Right Turn sign stating the hours of 8 am to 8 pm.
 - ii. The northern median island moved further north to accommodate right turn movement to and from the land.
 - iii. The swept path analysis of the:
 1. Design vehicles, a B99 and B85 car entering/exiting respectively (and vice versa); and

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2. Check vehicle, an 8.8 metre service vehicle turning in all directions.
 - iv. The amendment of any on-street parking bays;
 - v. The proposed driveway access and crossover;
 - vi. All existing and proposed line marking, signs, services, vegetation etc; and
 - vii. Any disused vehicular crossover laybacks indicated for removal and the reinstatement to kerb and channel.
 - c. All road works must be constructed to the satisfaction of and at no cost to VicRoads.
 - d. All disused or redundant vehicle crossings must be removed, and the area reinstated to the satisfaction of and at no cost to VicRoads.
29. Prior to the commencement of any works in the Northern Highway road reserve, a signed Memorandum of Authorisation must be obtained from VicRoads permitting the installation of all Major Traffic Control items in accordance with the approved functional layout plans.
30. Driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (e.g. by spilling gravel onto the roadway).

Permit Expiry

31. This permit will expire if one of the following circumstances applies:
- a. The development hereby permitted has not commenced within two years of the date of this permit; or
 - b. The development has not been completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

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MITCHELL SHIRE COUNCIL

Council Meeting Attachment

DEVELOPMENT AND INFRASTRUCTURE

20 APRIL 2020

9.6

**AMENDED PLANNING PERMIT APPLICATION
P306980/12.02 FOR BUILDINGS AND WORKS
COMPRISING AN OFFICE AND RETAIL
DEVELOPMENT WITH ASSOCIATED
REDUCTION TO THE CAR PARKING
REQUIREMENTS AND ALTERATION OF
ACCESS TO A ROAD ZONE CATEGORY 1 AT
87 SYDNEY STREET, KILMORE.**

**Attachment No: 1
Advertising Map**



MITCHELL SHIRE COUNCIL

Council Meeting Attachment

DEVELOPMENT AND INFRASTRUCTURE

20 APRIL 2020

9.6

**AMENDED PLANNING PERMIT APPLICATION
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REQUIREMENTS AND ALTERATION OF
ACCESS TO A ROAD ZONE CATEGORY 1
AT 87 SYDNEY STREET, KILMORE.**

Attachment No: 2

Relevant Planning Policy Framework

Planning Policy Framework and Local Planning Policy Frameworks the applied to the assessment of Section 72 Amendment for Buildings and works comprising an office and retail development with associated reduction to the car parking requirements and alteration to access to a road zone category 1 at 87 Sydney Street, Kilmore.

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

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

Clause 15.01-1S Urban Design	This clause is relevant and has the following objective: <i>To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity</i>
Clause 17.01-1S Diversified Economy	This clause is relevant and has the following objective: <i>To strengthen and diversify the economy.</i>
Clause 17.02-1S Business	This clause is relevant and has the following objective: <i>To encourage development that meets the community's needs for retail, entertainment, office and other commercial services.</i>
Clause 18.02-3S Road System	This clause is relevant and has the following objective: <i>To manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure.</i>
Clause 21.08-1 Economic Development	This clause is relevant and has the following objective: <i>To facilitate new development and employment opportunities in business, industry and tourism</i>
Clause 21.11-3 Kilmore	This clause is relevant and has the following objective: <i>Support land uses which will provide activation of Sydney Street and increase night-time trade and activity</i> <i>Support intensification of employment uses within Kilmore's existing employment precinct.</i>

