

APPLICATION FOR PLANNING PERMIT

D/173/2011

1091 PLENTY ROAD BUNDOORA VIC 3083

AUTHOR: Principal Planner – Gavin Crawford

DIRECTOR: Director City Works and Development – Michael Ballock

OWNER/APPLICANT/CONSULTANT:

Applicant: Glossop Town Planning
466 William St
WEST MELBOURNE VIC 3003

Owner: Parkrise Australia Pty Ltd
17 Edgecombe St
KEW VIC 3101

Architect: Cornetta Partners Architects
448 Heidelberg Road
FAIRFIELD VIC 3078

SUMMARY:

- The purpose of this report is for Council to review and provide comments back to VCAT in relation to amended plans received for an Interim Decision by the Tribunal.
- The amended plans include;
 - Mixed use development comprising the construction of five (5) buildings ranging from four (4) to eight (8) storeys in height (plus a maximum of two (2) basement levels of car parking per building), consisting of 378 dwellings (101 x 1 bed, 275 x 2 bed) and 2 food and drink premises (958 square metres floor area) with 491 car spaces (no reduction in car parking)
 - This compares to the previous proposal which sought approval for the construction of five (5) buildings, ranging between seven (7) and ten (10) storeys in height (plus a maximum of two (2) basement levels of car parking per building), consisting of 474 dwellings;
 - A reduction in the loading and unloading requirements associated with the food and drink premises;
 - Removal of a Water Supply & Sewerage easement;
 - Removal of native vegetation
- A loading bay is provided in the form of two (2) car parking spaces.

- Vehicle access is proposed to remain as existing, off Plenty Road and Snake Gully Drive.
- No restrictive covenant or section 173 agreements is registered on the Certificate of Title.
- Recommendation – Provide comment to VCAT that Council believes that the changes do not result in an acceptable planning outcome for the site.

CONSULTATION:

- All parties to the appeal have been provided the opportunity to make comment.

INTRODUCTION AND BACKGROUND

At the 2 July 2012 Council meeting the application was refused (see appendix X) in accordance with the report (**Appendix C**). A copy of the draft permit conditions provided at the VCAT hearing is also attached (**Appendix D**).

On 5, 6, 7, 8 and 12 February 2013 The Victorian Civil and Administrative Tribunal (VCAT) held a hearing to consider application P2560/2012. The VCAT order of 21 March 2013 (**Appendix E**) allowed the applicant to circulate modified plans and at the same time provides Council and other parties an opportunity to comment on the plans. In particular order 7 and 8 provide as follows:

7. *Within 21 days from the 'circulation date' the Responsible Authority and other parties must give to the Tribunal and the permit applicant comments (if any) on the modified plans.*
8. *Upon receipt of written comments the Tribunal will finalise its determination, unless parties specifically request a hearing to explain their written comments. If required one day will be set aside and a Major Case hearing fee will be required to be paid in accordance with the relevant Tribunal Practice Note and fee schedule.*

In the reasons to VCAT's orders of 21 March 2013 the tribunal set out a list of recommended changes to the proposal to address their concerns. Importantly the Tribunal's reasons indicate the main issues in this matter are built form and intensity of development. The Tribunal's recommendations are as follows:

RECOMMENDED MODIFICATIONS

- 48 *A new set of plans is to be prepared based on the modified layout shown on the substituted plans (being TP000-TP008, TP010-TP025, TP100-TP102, TP105-TP110, TP150-TP151, TP800-TP809, TP860-TP866, TP870-TP872, TP880 and TP900 dated Dec 2012 and prepared by Peddle Thorp Architects) but with the following further changes:*
 - a *Redesign of Buildings 3 and 5 by deleting 2 levels. The stepped setbacks are to be maintained by deleting lower levels rather than upper levels.*

- b Redesign of Building 4 by deleting 3 levels. The stepped setbacks are to be maintained by deleting lower levels rather than upper levels.*
 - c Deletion of the communal roof top terrace on Building 2.*
 - d Internal modifications to Apartment Type 1 to reflect the revised layout (Type 1A) depicted on the plan tendered by Mr Morris during the hearing.*
 - e Provision of parking to closely match the rate required by Clause 52.06. We note that the reduction in the number of dwellings arising from our decision to reduce the heights of Buildings 3, 4 and 5 will most likely enable this to occur while also allowing the removal of the level 4 basement.*
 - f Revised basement layouts to take account of concerns regarding bin access to lifts.*
 - g Better resolution of level differences of the at-grade car spaces and the adjoining pedestrian areas.*
 - h Consequential modifications to the landscape proposal.*
- 49 *A revised wind report and revised traffic report based on the new design.*

ISSUES AND DISCUSSION

Subject site and surrounding area

- The subject site is made up of one (1) title forming an irregularly dimensioned parcel of 1.3 ha on the north side of Plenty Road with access onto Snake Gully Road. The site has an approximate frontage to Plenty Road of 90 metres and a depth of 125 metres. The site experiences a moderate incline of 8 metres to its northern corner.
- The site is zoned Residential 1 and is encumbered by a Development Contributions Plan Overlay.
- The land is currently occupied by a single storey restaurant (now vacant), signage at the southern end of the site and accompanying at-grade car park. Mature native vegetation is scattered around the building and car parking areas. A mobile communications tower and associated compound is situated to the northern extent of the land. This will be retained as part of the site redevelopment. Two (2) vehicle crossovers exist, providing access to the site from Plenty Road and Snake Gully Road.
- A water supply and sewerage easement wrap around the Plenty Road frontage of the site. No infrastructure exists within these easements.
- At its frontage, Plenty Road is a divided three (3) lane north / south carriageway with a centre median occupied by tram lines.
- The general neighbourhood is contrasted by residential, commercial, emergency services and recreational uses. The site is one (1) of a few properties situated

within a small pocket of developable land flanked by Plenty Road to the south and Bundoora Parklands to the remaining boundaries.

- The surrounding context is best described as follows:

North & West

Bundoora Park, a 180ha multipurpose recreation reserve frames the site to the north, north-west and south-west and consists of an extensive network of public open space and paths through the northern end of the Municipality. Consequently, the site is one of a few properties located in a small pocket of developable land between Plenty Road and the Bundoora Parklands.

East

To the eastern side of Plenty Road is densely populated low-rise housing of circa late 1990s.

South-west

Immediately south of the site is a densely populated contemporary two (2) storey townhouse development. Due to the significance of Plenty Road as a major connector road, the development is orientated inwards, deactivating the street through the use of high timber and brush fences. Further south is the Bundoora metropolitan fire brigade station (station 14), beyond which returns to the Bundoora Parkland network.

South-east

Below the densely populated low-rise housing south of Grange Road is a site accompanied by vacant buildings (Larundel Hospital) identified as part of the future Lancaster Gate Neighbourhood Activity Centre approved by planning permit D/240/2010, 25 November 2010. A supermarket is completed and commenced trading in November 2012.

- The site is serviced by public transport with tram route 86 immediately opposite the site on Plenty Road as well as bus routes 563 and 566. Train stations are further distanced from the site, approximately 2.5 kilometres from the subject land.
- Latrobe University is located 850 metres south of the site in Plenty Road; RMIT located 3.6 kilometres to the north.

Proposal (as amended)

- It is proposed to construct a mixed use development comprising the construction of five (5) buildings ranging from four (4) to eight (8) storeys in height (plus a maximum of two (2) basement levels of car parking per building), consisting of 378 dwellings (101 x 1 bed, 275 x 2 bed) and 2 food and drink premises (958 square metres floor area) with 491 car spaces (no reduction in car parking).

The plans provided by the Permit Applicant show the following changes:

- Buildings 3 and 5 have been reduced in height by 2 levels;
- Building 4 has been reduced in height by 3 levels;
- The communal roof top terrace on Building 2 has been deleted;
- “Apartment Type 1” (of which the proposal contains) has been amended as per the plan tabled by Stuart Morris to increase its internal amenity;

- Parking provided on the land in accordance with the rates specified in Clause 52.06 of the Darebin Planning Scheme;
- Revised basement layouts to provide improved bin room access;
- Further detail (in the form of RL notations) to resolve the differences of the at-grade car spaces and adjoining pedestrian areas.

In addition, the following supporting documents have also been served on Council as per the Tribunal's recommendations:

- A modified landscape plan in accordance with the VCAT order;
- A revised wind report in accordance with the VCAT order; and
- A revised traffic report in accordance with the VCAT order.

REQUIREMENT FOR PLANNING PERMIT

Clause 32.01-4 (Residential 1) – a permit is required for the construction of two (2) or more dwellings on a lot.

Clause 32.01-1 (Residential 1) – a permit is required for the use of the land for food and drink premises.

Clause 32.01-6 (Residential 1) – a permit is required for buildings and works associated with a section 2 land use.

Clause 52.02 (Easements, Restrictions and Reserves) – a permit is required to vary or remove an easement.

Clause 52.07 (Loading and Unloading of Vehicles) – a permit is required to reduce or waive requirements in the table to Clause 52.07.

Clause 52.17 (Native Vegetation) – a permit is required to remove native vegetation.

PLANNING CONTROLS

State Planning Policy Framework

Clause 11.01 (Activity Centres) Clause 12.01 (Biodiversity), Clause 13.03 (Soil Degradation), Clause 15.01 (Built Environment & Heritage), Clause 15.02 (Sustainable Development), Clause 16.01 (Residential Development), Clause 17.01 (Commercial), Clause 19.03 (Development Infrastructure)

Local Planning Policy Framework

Clause 21.05 (Objectives, Strategies and Implementation), Clause 22.03 (Activity Centres Policy), Clause 22.10 (Residential and Mixed Use Development of 4 or More Storeys)

Zones & Overlays

Clause 32.01 Residential 1 Zone
Clause 45.06 Development Contributions Plan Overlay

Particular Provisions

Clause 52.02 (Easements, Restrictions and Reserves), Clause 52.06 (Car Parking), Clause 52.07 (Loading and Unloading of Vehicles), Clause 52.17 (Native Vegetation), Clause 52.20 (Convenience Restaurant and Take-Away Food Premises), Clause 52.34 (Bicycle Facilities), Clause 52.35 (Urban Context Report)

and Design Response for Residential Development of Four or more Storeys), Clause 52.36 (Integrated Transport Planning)

Referral Comments:

Public Realm Unit

The Public Realm Unit has reviewed the landscape plan for 1091 Plenty Road and offer in principle support for the species palette and layout of the ground floor landscaping plan.

Strategic Planning Unit

In Council's submission to VCAT in February 2013 reference was made to the strategic planning unit's current work program and the preparation of a background study for the Plenty Road Corridor. At that time the Plenty Road Integrated Land Use and Transport Study 2013 was in a final draft format but had not been formally adopted by Council. This Study was adopted by Council at its meeting 18 March 2013 and it resolved that:

1. *Council adopt the Plenty Road Integrated Land Use and Transport Study final 2013 as the basis for preparing a Strategy and Urban Design Framework and Planning Scheme Amendment.*
2. *Council note there may be some minor editorial changes for the purpose of clarification and corrections prior to publishing.*
3. *Once adopted, the Plenty Road Integrated Land Use and Transport Study 2013 be given regard in the consideration of planning permit applications in the Study area until a "seriously entertained" document is available and incorporated into the Darebin Planning Scheme.*

In addition the Council has adopted the Plenty Road Corridor Urban Design Framework 2103 as the basis of preparing a planning scheme amendment at its meeting 6 May 2013. It resolved that:

- (1) *Council adopt in-principle the Plenty Road Corridor Strategy and Urban Design Framework 2013 attached as **Appendix A** to this report as the basis for preparing a Planning Scheme Amendment to the Darebin Planning Scheme.*
- (2) *Council note there may be some minor editorial changes for the purpose of clarification, supporting evidence and corrections prior to publishing.*
- (3) *Once adopted, the Plenty Road Corridor Strategy and Urban Design Framework 2013 be given regard in the consideration of planning permit applications in the Study area until a "seriously entertained" document is available and incorporated into the Darebin Planning Scheme.*
- (4) *Council note that feedback from the community will continue to be received and incorporated into the preparation of the Planning Scheme Amendment until Council seeks formal authorisation.*

(5) Council note that a further opportunity for community to provide feedback will be made available during the amendment exhibition period due to take place in the latter half of the year.

Mixed Use Zone

- Previous advice indicated that a MUZ would enable a better and more responsive design for this location. Again it is noted that a MUZ allows for better integration of a range of uses that complement and service the residential uses without impinging on nearby commercial centres. A rezoning would be possible with affiliated DPO or DDO requirements guiding development. This approach would enable the necessary framework planning to realise a successful and well-considered design outcome with a better mix of uses to be located on the site. Equally it will enable better management of built form expectations and the overall function of the site to be considered and agreed as a package.
- Further strategic work has confirmed this position which is embedded in the Plenty Road Corridor Urban Design Framework.

Amendment C136

- Amendment C136 introduces a suite of built form and development controls for the Plenty Road Corridor area into the Darebin Planning Scheme. It is Council's intention to proceed with this rezoning as part of the Plenty Road Urban Design Framework implementation. The current timetable for this work will see Amendment C136 commence exhibition in August 2013, subject to DPCD authorisation.

Design and Development Overlay 17

- As part of Amendment C136 it is proposed to include this site within DDO17 which contains the following site specific controls.

Location	Height (expressed as min – max)	Rear Setbacks	Additional Guidelines
Strategic Site – 1091 Plenty Road	4 – 6 storeys 19m – 24m	30° envelope	Multi-storey residential with mixed use at ground level. High quality front of building design consisting of a podium (1 – 4 storeys) with taller built form set back from Plenty Road towards the middle of the site. A transition buffer within the site based on the 30° built form envelope, may include a new local street and landscaping to increase the separation and respect the sensitive interface with Bundoora Park. There is also the opportunity to include a mix of uses at ground level fronting onto the Park to activate this edge and increase casual surveillance and

Location	Height (expressed as min – max)	Rear Setbacks	Additional Guidelines
			<p>perceptions of safety.</p> <p>Design Principles</p> <ul style="list-style-type: none"> • Active frontage to Plenty Road and Bundoora Park • Development to be set back from Bundoora Park boundaries to allow for deep root landscaping with canopy trees • Gradual transition between the park and built form; • Transition to occur on proposed development site • High quality landscaping of communal space • Clear separation between public and private uses without the use of fences • Sensitive residential interfaces to be managed • No development within tree protection zones of park trees • Direct height towards centre of the site

Based on this recent work, the design response and resultant built form although amended in height, remain poorly configured at ground level and fails to take an integrated place-making approach that is warranted on a site of this size. The reduction in height and some high level visual bulk does not deliver an overall site response design, address interface issues with the park, create a sense of place or leverage off the development potential for community benefit.

However, a technical and legal assessment shows that the proposal has addressed the VCAT interim decision points which relate the submission of information to test whether the site can be developed on a similar, but lesser scale than originally proposed. Nevertheless issues remain with the ground level interface with the park, creating a poor and unsafe pedestrian environment along the park/proposed development boundary.

It is recommended that an update explaining the Plenty Road Corridor Urban Design Framework 2013 and subsequent Amendment C136 be provided to VCAT as part of Council's response.

It should also be noted that Council will be shortly notifying the applicant of its intention to rezone the subject site to a Mixed Use Zone through Amendment C136 to the Darebin Planning Scheme. This will create the opportunity for Council to work with the applicant to further explore the potential for a greater mix of uses at ground level and to improve the interface with the park.

GENERAL COMMENT ON THE AMENDED PLANS

Having regard to the order 7 of the Tribunal's order, comments (if any) are sought on the modified plans. The Tribunal has advised the issues of substance on this matter are principally the built form and intensity of development. The interim decision provides an opportunity for the permit applicant to further amend the plans and for Council and neighbours to comment on such changes. If VCAT finds those changes unacceptable then VCAT will refuse the application. This direction, although not preventing Council from raising other issues, effectively means VCAT is really only going to consider comments specifically in relation to the built form and intensity of the development.

Building height: Plenty Road Integrated Land Use and Transport Study 2013 and Amendment C136

Despite Council formally adopting the Plenty Road Integrated Land Use and Transport Study 2013 at its meeting 18 March 2013, VCAT is likely to hold the view that it is not a seriously entertained planning document. Nevertheless it provides a strategic context within which to make comment on the proposal as amended.

The proposed planning scheme amendment C136 recommends that the subject land be developed with a four (4) storey podium and a tower with a maximum six (6) storey height. Consequently Councils should advise VCAT that the amended development needs to be further reduced in height to a maximum 6 Storeys. This will avoid the decision being prejudicial to the integrity of the future built form controls proposed along Plenty Road.

The planning scheme amendment also recommends that greater setbacks should be provided from the rear boundary at a 30° built form envelope. This is in recognition of the regional significance of Bundoora Park and to ensure that many of the native trees that are close to the common boundary remain unaffected by the development. The view of Council's arborist remains that the health of a number of the trees will be impacted as a result of the proposed development.

Proposed amendment C136 recommends there be a clear separation between public and private uses without the use of fences and having regard to this amended without prejudice permit conditions addressing this issue are recommended to be provided with the comments to VCAT

Wind Impacts

The wind report provided anticipates that off-site wind impacts along the Plenty Road and Snake Gully Drive pedestrian path will be acceptable provided that the landscape plan is adhered to. The trees to Plenty Road are semi mature / 3m at time of planting with an "expected" mature 20m height 12m width.

The wind report anticipates that the pedestrian internal street, retail areas and garden areas between buildings are potentially affected by funnelling and the proposed strategic tree planting in the landscape plan is expected to mitigate this effect. The trees in the internal street and around retail areas are semi mature / 3m to 4m at time of planting with a mature 14m to 15 height and 8m to 15m width.

The development is dependent upon mature tree planting and general landscaping works to ensure appropriate on site and off site amenity. The planting is either semi-mature or tube stock and there will be time delays for the trees to establish. Due to the time required for vegetation to properly establish there will be off site and on site amenity impacts associated with wind in the short to mid-term.

The use of trees to provide a built form solution is generally questionable and often indicative of an overdevelopment or poorly conceived design, these type of schemes rely on a high quality maintenance regime which is often found lacking in many body corporate arrangements. The use of landscaping for privacy screening purposes is not allowed as it is acknowledged as an impermanent outcome. Similarly screen planting is used to assist in reducing the visual impact of buildings and integrate them with their surrounds but is not a cure-all for bad development. The reliance on landscaping which is a non-permanent site feature is an inappropriate design measure to address wind impacts.

Existing trees in the adjacent parkland to the north and east of the development will assist in ameliorating wind impacts. The basement and building setbacks from these trees remain too close and the proposal does not provide adequate setbacks for their retention. The proposal will impact detrimentally upon adjacent trees which would assist in ameliorating wind impacts.

Other changes to the development are recommended in the wind report. These comprise of fin walls and balcony screens. These will have no real impact upon the mass and bulk of the building and have been shown on the amended plans and elevations.

The wind report identifies that the balconies within the development require densely foliating vegetation to shield them from winds. The maintenance and protection of landscaping on site will be crucial to both on site and off site amenity. The without prejudice draft landscape plan permit condition provided for the inclusion of irrigation and, in the event that VCAT issues a planning permit, an additional condition is recommended requiring water tanks to collect all rooftop water to be used for irrigation and toilet flushing and to provide balcony planting to shield from winds.

SUMMARY OF COMMENTS:

The amended development fails to address Council's original ground 1:

The design response does not satisfy Clause 15.01, Clause 21.05-3, Clause 22.03 and Clause 22.10 in that:

- a) The design does not properly consider and respond to its urban context including the hierarchy of the Lancaster Gate activity centre. In particular:
 - i. Building siting;
 - ii. Building orientation;
 - iii. Building mass;
 - iv. Building height;
 - v. Visual permeability through site; and
 - vi. Internal amenity.

Having regard to the Plenty Road Integrated Land Use and Transport Study 2013 and Amendment C136:

- the amended development needs to be further reduced in height to a maximum 6 Storeys

- that greater setbacks should be provided from the rear boundary abutting Bunddora Park with a 30° built form envelope.
- the development is not set back from the Bunddora Park boundary to allow for deep root landscaping with canopy trees.

Having regard to wind impacts:

- Due to the time required for vegetation to properly establish there will be off site and on site amenity impacts associated with wind in the short to mid term.
- The proposal will impact detrimentally upon adjacent trees which would assist in ameliorating wind impacts.
- The reliance upon landscaping (a non-permanent site feature) is an inappropriate design measure to address wind impacts.

Additional / amended without prejudice permit conditions (refer to appendix Z for previously provided without prejudice conditions) as follows:

1) oo) no fencing is to be constructed on the boundary shared with Bunddora Park.

1) pp) water tanks of sufficient capacity to collect all rooftop water to be used for irrigation and toilet flushing

6) n) private balcony planting in accordance with recommendations contained within the Windtech report dated 29 May 2013 at pages 14-13, paragraph 6.3, including full sectional details of the planter boxes (dimensions) and their inclusion in the irrigation system

6) o) full details of landscape maintenance measures