

3 <u>USE OF LAND FOR A MULTI-UNIT RESIDENTIAL DEVELOPMENT, SUBDIVISION OF THE LAND INTO EIGHT (8) LOTS AND A REDUCTION IN CAR PARKING REQUIREMENTS AT LOT R PS721492E TIMBERTOP BOULEVARD. OFFICER</u>

FILE REFERENCE INT1776836

RESPONSIBLE GENERAL MANAGER Andrew Paxton

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RECOMMENDATION

That a Refusal to Grant Planning Permit T170666 be issued for Use of land for a multi-unit development and subdivision of the land into eight (8) lots and a reduction in car parking requirements at Lot R PS721492E Timbertop Boulevard, Officer on the following grounds:

- The proposal is not generally in accordance with the incorporated Officer Precinct Structure Plan (September 2011).
- The proposal is not generally in accordance with Plan 9 Employment and Activity Centres of the Officer Precinct Structure Plan (September 2011).
- The proposal is not generally in accordance with the future urban structure shown in Map 1 and 2 to Schedule 3 of Clause 37.07 of the Urban Growth Zone.
- The proposal fails to achieve the purpose of the applied Commercial 1 Zone which is to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- The grant of a permit will remove the potential to establish a Neighbourhood Convenience Centre to provide for convenience needs of the local community and will therefore prejudice the orderly and proper planning of the area.

Attachments

1 Locality plan
 2 Locality aerial map
 3 Development plans
 4 Officer Precinct Sturcture Plan's 5 & 9
 1 Page
 11 Pages
 2 Pages

EXECUTIVE SUMMARY:

APPLICATION NO: T170666

APPLICANT: Bosco Jonson Pty Ltd on behalf of Keymore Pty Ltd

LAND: Lot BB PS738879J (Proposed Lot R on PS 721492E) Timbertop

Boulevard, Officer

PROPOSAL: Use of land for a multi-unit residential development, subdivision

of the land into eight (8) lots and a reduction in car parking



PLANNING CONTROLS: Urban Growth Zone Schedule 3

Applied zone is Commercial 1 Zone

Development Contributions Overlay Schedule 4

Clause 52.01 Public Open Space

Clause 52.16 Native Vegetation Precinct Plan

Clause 65 Decision Guidelines

Officer Precinct Structure Plan September 2011 Cardinia Creek Conservation Management Plan

Officer Native Vegetation Precinct Plan September 2011, Officer Development Contributions Plan and Conservation

Management Plan 15 September 2011.

NOTIFICATION & OBJECTIONS: The application was not required to be advertised under Clause

37.07-13 of the Urban Growth Zone.

KEY PLANNING CONSIDERATIONS: Urban Growth Zone Schedule 3 (applied zone, Commercial 1

Zone), Officer Precinct Structure Plan September 2011

RECOMMENDATION: Refusal

BACKGROUND:

The applicant has lodged an application for the use of land for a multi-unit residential development, subdivision of the land into eight (8) lots and a reduction in car parking.

The land is designated as a Neighbourhood Convenience Centre (NCC) in the Officer Precinct Structure Plan (OPSP) which is to provide for day to day goods and services. To that end, the land has been given an applied zone of Commercial 1. Table 9 of the OPSP sets out the hierarchy and associated indicative floor areas for all activity centres in the OPSP area. It nominates that Neighbourhood Convenience Centres are generally comprised of 500sqm of floor space with potential for a minor supermarket of up to 1200sqm.

Amendment C149 to the Cardinia Planning Scheme introduced the OPSP after an extended period of planning and analysis. Schedule 3 to the Urban Growth Zone was drafted to be specific to this precinct which includes the site. It provides for a hierarchy of activity centres of different scale serving different purposes. The identification of locations for different activity centres took into account other planned facilities such as schools, open space, the road network, the location of child care and other community facilities in order to create accessible and walkable neighbourhoods. In this case, there is a co-location with a school, a community facility and the NCC all juxtaposed in the immediate vicinity of the intersection of Pink Hill Boulevard and Timbertop Boulevard.

The site is located within a broader subdivision known as "Timbertop Estate" and is located at the corner of Pink Hill Boulevard and Timbertop Boulevard. Timbertop Boulevard is one of the main accessways into the Timbertop Estate. Historically, planning permits issued for the estate and specifically the area in the vicinity of the site are as relevant:

Table 1

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T100427a was issued on	For the multi lot residential subdivision of the land and the creation
the 18 January 2012	of a number of superlots which included the future school,
	community centre and neighbourhood convenience centres sites.
	This application was lodged with Council as a section 96a
	application as part of the Officer Precinct Structure Plan



	amendment process. The permit was amended on the 3 December 2012.	
T130769 issued on the 6 January 2015 (Timber Mill Café)	For a restaurant and sale and consumption of liquor which is located on the east corner of Timbertop Boulevard and Princes Highway with frontage to Princes Highway, with a permit expiry of 5 years (2020). The restaurant site is located within the applied zone of General Residential and was allowed on the premise that it was only a temporary use and that a permanent café/restaurant will locate within the neighbourhood convenience centre at an appropriate time.	
T120708 issued on the 9 April 2014	For the staged development and use of the land for the purpose of a supermarket, shops, retail premises, office, medical centre, restricted recreation facility and display signage. The proposed NCC was a decent sized centre with a 1200sqm IGA Supermarket proposed with an internal mall, associated car parking and shops between 90sqm and 500sqm. An east west road was proposed to be located between the supermarket and shops and the proposed medical centre, chemist, office and car parking which were located in separate buildings south of the east west road. This permit has now expired.	
	More recently planning permit T160277 was issued on the 10 March 2017 for the development of the land for eight (8) dwellings and subdivision. The subdivision created eight lots for integrated dwellings with a common property laneway and the large lot TT which is 2085sqm in size for the future Neighbourhood Convenience Centre hub.	
Planning permit T150431	For the subdivision of the land into multi lots and one large lot AA of 0.42ha to contain the future NCC site.	
Planning Permit T160277	For the development of eight two storey dwellings, a common property accessway and large lot for the future NCC site.	

An objective of the OPSP for a Neighbourhood Convenience Centre's is to ensure that an NCC delivers high amenity, well-serviced and accessible activity centres through quality design and thorough planning to provide a focus for the community within a walkable catchment of most homes. As already noted, the OPSP planned that the Neighbourhood Convenience Centre is colocated with a future Primary School and Community Centre site on the corner of two connector street boulevard roads. At present there is a child care centre operating immediately within the vicinity of the area. The Department of Education are currently in the process of acquiring the school site.

The Neighbourhood Convenience Centre, Primary School and Community Centre form a cluster that is recognised as a community hub in the OPSP, in acknowledgement that the co-location of these uses is intended to provide a focal point for community activity and social interaction. To provide context to the history of this site there have been a number of economic reports that have been provided by the applicant originally in seeking support for a Neighbourhood Activity Centre (approx. 8000sqm of floor space) compared to a small convenience centre (known as the NCC) when Planning Scheme Amendment C149 for OPSP was going through the process.

Council in its capacity as Planning Authority decided that, based on other economic reports and retail reviews undertaken, to locate the larger Neighbourhood Activity Centre at another location. Hence, the OPSP designated six NCC locations across the OPSP, with the NCC at Timbertop Estate being one them appropriately located within the primary school/community centre cluster. Hence



the identification of the site as an NCC is a deliberate action and one which should not be undone on a site specific basis.

Parklea applied for a planning permit in 2012 to develop the land for a small scale supermarket, specialty retail and other supporting commercial business on this land. A market assessment report by Essential Economics was provided with the application that strongly supported such a use of this scale in this location.

The applicant decided to not proceed with the application and has since through the course of subdivision applications, significantly reduced the size of the NCC site to 2085sqm with an eight dwelling medium density integrated two storey development immediately north within the land designated as commercial.

The remaining lot size has been reduced to a point now that it would be difficult to provide a small supermarket of 1200sqm and some speciality retail of a similar scale to the previous application on the land. However the designation of the site as an NCC (rather than an NAC) does not require the provision of a supermarket. Even assuming that development was only single level, (which it is unlikely to be) there is enough land to provide for various commercial uses such as shops, cafes, and small offices which would be appropriately located adjacent to a future school, a community centre and an existing Child Centre. Importantly, the area is still under development not fully developed and this includes some residential further north, a future primary school and Council community centre which are able to be constructed as the applicant makes the land available to the State Government and Council pursuant to other obligations that the applicant is bound by.

It is also worth noting that at peak times around schools, community centres, kindergartens and childcare centres, a convenience centre would benefit from this influx of population. Potential cafes would be utilised by people dropping off and picking up their kids as well as providing for the staff of the school, community centre and child care centres in addition to the residents that live in the area. Accordingly, in so far as the applicant has provided an economic assessment as part of the application material, the economic assessment is limited to a traditional and relatively limited method of assessment. These considerations however, are only relevant to the extent that it was possible to consider an application on its merits. In this case, notwithstanding that the matter has been considered more broadly, because the proposal is not generally in accordance with the OPSP, consideration of the proposal on its merits is not available.

SUBJECT SITE

The site has been subject to many subdivisions of which the most recent provides for an irregular shaped lot which has an overall area of 2085sqm, on proposed lot TT. A Section 173 Agreement AL673064Y 10/02/2015 is registered on title. The agreement is in relation to development contributions.

The site is located on the northern side of Pink Hill Boulevard, the eastern side of Barnsley Road (yet to be constructed) and west of Timbertop Boulevard. Timbertop Estate is a master planned community which has gone through many stages of development extending from Princes Highway to the north. The subject site is located centrally within the estate immediately surrounded by residential, a child care centre, display village, a future primary school and Council Community Centre. The image below provides context of Timbertop Estate.





PROPOSAL

The proposal is for the use of land for a multi-unit development, subdivision of the land into eight (8) lots and a reduction in car parking which is described as follows:

- The dwellings are located on the corner of Pink Hill Blvd, Timbertop Blvd and Barnsley Road.
- Eight two storey three bedroom dwellings with a double car garage.
- Vehicle access for each dwelling is from an east west common property access way.
- Each dwelling is to be subdivided and the lot range is from 246sqm to 297sqm.
- Under Clause 52.06-3 Car parking, the proposal does not include the provision of a visitor space and as a result a 1 car parking space reduction is sought.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- 9.01 Plan Melbourne 2017-2050: Melbourne Planning Strategy
- 10.04 Integrated decision making
- 11.02-2 Urban Growth (Structure Planning)
- 11.02-3 Planning for growth areas
- 11.03-1 Activity centre network
- 11.03-2 Activity centre planning
- 11.06-21 Jobs and investment
- 11.06-4 Place and identity
- 11.06-5 Neighbourhoods
- 15.01-5 Cultural identity and neighbourhood character
- 11.04-4 Liveable communities and neighbourhoods
- 15.01-1 Urban design
- 15.01-3 Neighbourhood and subdivision design
- 15.01-4 Design for safety



- 15.01-6 Healthy neighbourhoods
- 17.01-1 Business

Local Planning Policy Framework (LPPF)

The relevant clauses of the SPPF are:

- 21.01-3 Cardinia Shire key issues and strategic vision; economic development
- 21.04-1 Employment
- 21.06-1 Design and built form.
- 21.03-2 Urban growth area
- 21.03-1 Housing

Relevant particular/general provisions and relevant incorporated or reference documents

- Clause 52.01 Public Open Space.
- Clause 52.06 Car Parking
- Clause 52.16 Native Vegetation Precinct Plan
- Clause 55 Two or more dwellings on a lot and Residential Buildings. A development must meet all of the objectives of this clause that apply to the application and should meet all the standards that apply.
- Clause 56 Subdivision Site and Context Description and Design Response
- Clause 64.01 Land used for more than one use; if the land is used for more than one use and one is not ancillary to the other, each use must comply with this scheme.
- Clause 65.01 and 65.02 Decision Guidelines
- Officer Precinct Structure Plan (September 2011)
- Officer Native Vegetation Precinct Plan (September 2011)
- Officer Development Contributions Plan and Conservation Management Plan (15 September 2011).

Zone

The land is subject to the Urban Growth Zone Schedule 3 (Clause 37.07). Map 2 of schedule 3 shows the land as being within a 'convenience centre area' and Clause 2.2 of the UGZ3 applied zone provision states that the applied zone is 'Commercial 1 Zone (Clause 34.01).

Overlays

The land is subject to the following overlays:

• Development Contributions Overlay Schedule 4 (DCPO4) (Clause 45.06) which implements the Officer Development Contributions Plan (September 2011).

PLANNING PERMIT TRIGGERS

The proposal for use of land for a multi-unit residential development, subdivision of the land into eight (8) lots and a reduction in car parking requires a planning permit under the following clauses of the Cardinia Planning Scheme:

 Pursuant to Clause 37.07-10 of the Urban Growth Zone and Clause 34.01-3 of the Commercial 1 zone a planning permit is required to subdivide land. A requirement in the schedule to this zone or precinct structure plan must be met.



- Map 1 to schedule 3 to Clause 37.07 'Officer Precinct Structure Plan', shows the land as being designated as a 'Neighbourhood Convenience Centre'. Map 2 Applied zones legend shows the land is being designated as convenience centre. Table 1 of section 2.2 the applied zone provisions shows that the applied zone for this land is Clause 34.01 Commercial 1 Zone.
- Pursuant to Clause 34.01-1 of the Commercial 1 Zone a planning permit is required for the use of land for a dwelling. A dwelling is an unspecified use in section 2 which specifies that any other use not in Section 1 or 3 is a Section 2 use and therefore requires a permit.
- Pursuant to Clause 34.01-4 of the Commercial 1 Zone a planning permit is required to construct a building or construct or carry out works.
- Pursuant to Clause 52.06-3 of the Car Parking provisions, a planning permit is required to reduce the number of car parking space required under Clause 52.06-5 or in a schedule to the Parking Overlay.

PUBLIC NOTIFICATION

Pursuant to Clause 37.07-13 of the Cardinia Planning Scheme the proposal is exempt from the notice requirements of Section 52(1) (a), (b) and (d) of the Planning and Environment Act 1987.

Clause 37.07-13 states that:

"An application under clause any provision of this scheme which is generally in accordance with the precinct structure plan applying to the land is 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, unless the schedule to this zone specifies otherwise".

It is considered that the application is not generally in accordance with the OPSP which applies to the subject site. When an application is not in accordance with the OPSP a permit cannot be granted.

REFERRALS

The application was not referred.

DISCUSSION

State Planning Policy:

Plan Melbourne - Direction 5.1 Create a city of 20 minute neighbourhoods is relevant to this application.

This direction specifies that these types of centres are an integral part of the areas community life and critical to the creation of so called "20 minute neighbourhoods". The streets and strips of shops, cafes, small supermarkets, services businesses, community services and public spaces serve the needs of the surrounding community and provide a focus not only for local jobs but also for social interaction and community participation.

The proposal will remove the remainder of land and remove the potential for its development as convenience centre. The nearest area that is designated as a neighbourhood activity centre is Whiteside Road NAC to the west which is approximately 800m away. An NCC site is proposed to the



south across Princes Highway that will service the residents within the southern catchment between Brunt Road and Officer Town Centre.

The location of the NCC within Timbertop Estate currently complies and meets the directions of the 20-minute neighbourhood. The location is easily accessible to people within this community.

Urban Growth Zone Schedule 3 - Officer Precinct Structure Plan (September 2011)

Maps 1 and 2 of the UGZ3 clearly identify the land as being designated for an NCC with an applied zone of Commercial 1.

Clause 34.01 Commercial 1 Zone

The decision guidelines of the Commercial 1 zone provides for the responsible authority to consider the following as relevant and appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The interface with adjoining zones, especially the relationship with residential areas.

The purpose of the zone is to create a vibrant mixed use of commercial centres for retail, office, business, entertainment and community uses and to provide for residential uses at densities complementary to the role and scale of the commercial centre.

Whilst the proposal is a section 2 use under the applied zone this does not necessarily mean that a permit should be granted. The proposal must meet the relevant state and local planning policy provisions as well any other relevant incorporated document such as the OPSP. As the proposal is located within the OPSP, broader planning principles and objectives are to be met and achieved due to the master planned nature of precinct structure plans.

The subject land within the land designated as commercial (NCC) has already had a permit approved for eight, two storey medium density dwellings to its north or within it depending on how one considers the boundary of the NCC. It is considered that the ability to include more residential has been exhausted and to approve additional residential on its own would not allow the site to utilise its full potential of being able to be developed for commercial purposes to meet the purpose of the zone as described above.

Officer Precinct Structure Plan (September 2011) Incorporated Document in the Cardinia Planning Scheme

The subject site shows the proposed development clearly located within the OPSP as land designated for the NCC as shown in the images below on the corner of the boulevard connector roads.



Figure 1

Figure 2 – Officer PSP Plan 9



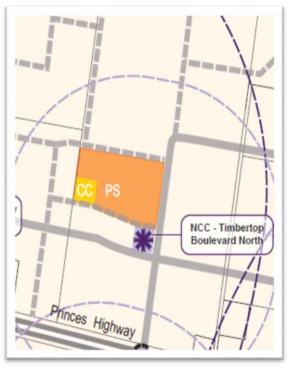


Table 2: Provides an assessment against the Officer Precinct Structure Plan

Section 4.3.1 Employment and Activity Centres		
 Strengthen the local and regional economy by creating opportunities for new business. Provide a greater proportion of the community's future job requirements within Cardinia and support a reduction in the level of out commuting for work. Encourage the development of small and home based businesses. 		
 Maximise the range, quantity and quality of goods and services available in Officer and the broader community through provision of an activity centre hierarchy. There are 6 neighbourhood convenience centres to provide for basic day to day goods and services. Ensure that neighbourhood convenience centres deliver high amenity, well services and accessible activity centres through quality design and thorough planning to provide a focus for the new community within a walkable catchment of most homes. Provide a mix of uses to meet the needs of residents, workers, businesses and visitors. 		
Plan 9 (refer to figure 2) shows the subject land as being designated for a Neighbourhood Convenience Centre – Timbertop Boulevard North.		
Section 4.3.3 Planning and design guidelines		
Retail 'shop' 350sqm and non-retail commercial of 150sqm. The role and function of the NCC is to provide for the following: - Convenience retail role.		



- Generally comprising milkbar/general store and associated services.
- Potential for minor supermarket (approx. 1200sgm).
- Opportunity for medical centres, office, housing and community services etc.

Figure 8a includes two indicative design responses for Neighbourhood Convenience Centre (500sqm of specialty retail) which include:

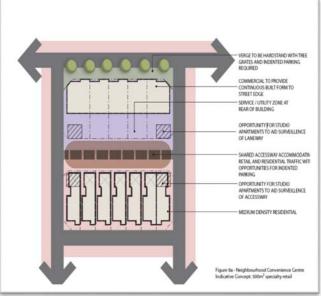
- · Commercial built form
- Servicing
- Potential studio apartments
- Shared accessway
- · Medium density residential development.

In the assessment of planning application T160277 where a permit was issued for the development of eight dwellings, a common property accessway and large lot within the Commercial 1 zoned land for the NCC was based on the indicative design in figure 8 of the Officer PSP. An image is provided below to demonstrate.

Figure 6 – Approved plan for T160277

Figure 5 – Officer PSP (figure 8a indicative design response pg. 87)





Council was satisfied in its assessment of planning permit T160277 and that it was consistent with the OPSP as it achieved the outcome proposed within the indicative design response for the NCC of having some residential incorporated within it. It was considered within that planning application that a 500sqm commercial building (allowing for 350sqm 'shop' and 150sqm 'non-retail') could be provided within the site on the remaining 2085sqm lot with adequate provision of car parking spaces.



Applicant's justification of the dwelling proposal:

The applicant provided a planning report which sought to persuade Council that based on economic analysis, there was no justification for the establishment of the NCC on the site. It is considered that such material is not all that relevant to the consideration of the planning permit application. Rather it is more relevant to whether the OPSP should be amended to remove the designation of the site as an NCC. Accordingly, it is not proposed to address the economic reports in the context of this permit application.

It is also noted that a planning report provided by Bosco Jonson for a previous application being planning permit T120708 for the supermarket and specialty retail stated the following which is worthy to note:

- Policy encourages the provision of a network of activity centres within a hierarchy. This ensures
 centres are highly accessible to communities, provide services commensurate with the role of
 the centre and that centres complement and support economic viability of other centres within
 the network.
- There is a strong policy emphasis on increasing and providing a diverse range of employment opportunities within the municipality through the development of diverse activity centres.
- The proposed use and development is entirely consistent with policy, providing a neighbourhood convenience centre where demand will be generated from the new residential community. The centre is consistent with the role in the hierarchy. It provides a range of uses to fulfil the daily needs of the community including a small scale supermarket, speciality shops and complementary retail and leisure activities.
- The centre is highly accessible to the community given its location close to residential dwellings and its abuttal to a school and community centre. '

Although the above matters go to issues associated with an amendment to the OPSP, it is clear from the information provided above that different opinions have been expressed at different times as to the viability of a small retail offer at the land.

In summary:

- The future urban structure of the Officer Precinct Structure Plan (PSP) identifies the subject site
 as a Neighbourhood Convenience Centre Timbertop Boulevard North. Neighbourhood
 Convenience Centres provide employment opportunities in a variety of manners such as the
 potential for the establishment of home based business, small offices etc.
- The site is to be co-located with the community hub being a child care centre, Council Community Centre (maternal child health, kindergartens) and future state primary school. The uses are located along the connector street network to maximise access.
- The OPSP is a performance based document based on a combination of objectives plans and tables.
- Neighbourhood convenience centres traditionally provide for a limited range of day to day
 convenience retailing to a local catchment. It is not the role of the NCC to provide for the likes
 of what a NAC provides for. They are two different types of centres, providing services to a
 different catchment.
- The location of the NCC, is easily accessible with its location being at the junction of two main roads and located within the cluster of community services. NCC's are to provide basic



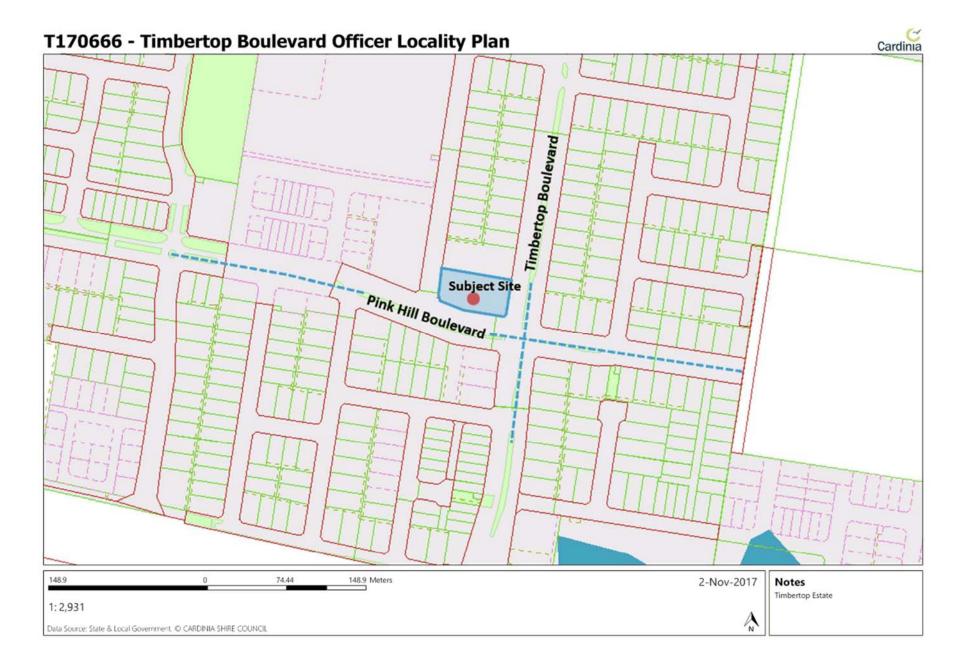
convenience and 'top-up shopping' in an accessible and convenient location to provide basic convenience of goods and services to the local community.

- The proposed development of the land designated as a neighbourhood convenience centre for dwellings will diminish the capacity for a potential use to be provided in this location.
- Removing employment opportunities and the potential for employees at the future primary school kindergartens, maternal child health centre and child care centres to utilise the convenience centre. This will result in people having to get in their cars and drive to the future Whiteside NAC, 7 Eleven or Officer Town Centre. This is not supportive of Plan Melbourne's key policy specifically direction 3.3, 20-minute neighbourhoods. Policy 3.3.1 is about creating pedestrian friendly neighbourhoods, co-locating a convenience centre with the types of uses mentioned above is supported within policy direction 3.3.4 whereby consideration must be given to ensuring that proper integration between land use and transport and considers the safety and health of the community, particularly in the early stages of planning.

CONCLUSION

The OPSP sets out clear objectives as to what is envisaged for this area. Neighbourhood convenience centre are for convenience, not for a full shopping experience. They make an important contribution in establishing a sense of community in a new residential area by creating social interaction and a creating a focus for community activity in what will be a busy future hub.

It is not considered to be appropriate to develop the remainder of the land designated for the neighbourhood convenience centre and as such, the proposed application is recommended for refusal on the grounds detailed in the Officers report above.



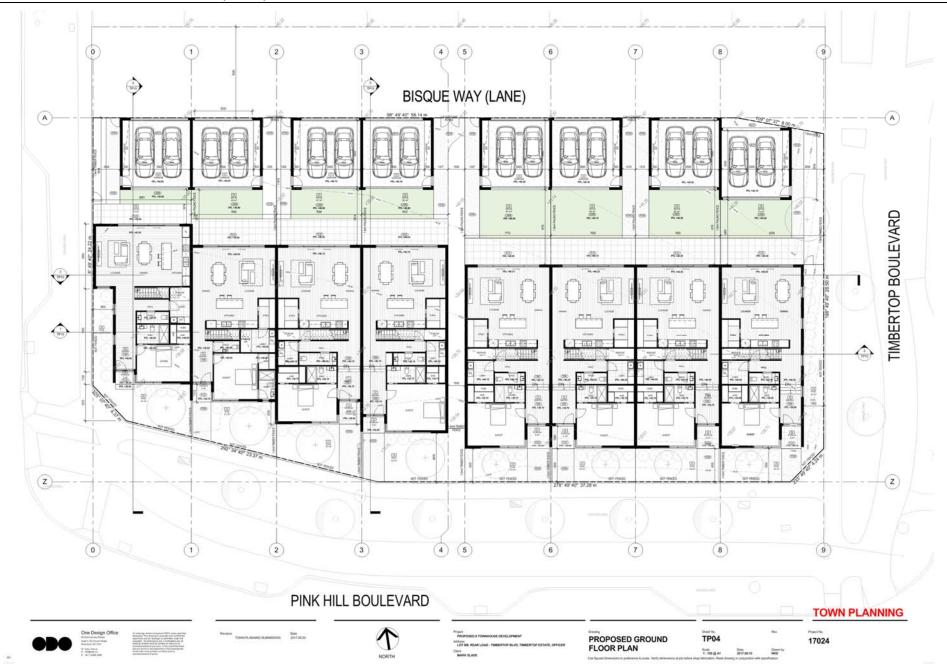
Attachment 1 - Locality plan Page 51

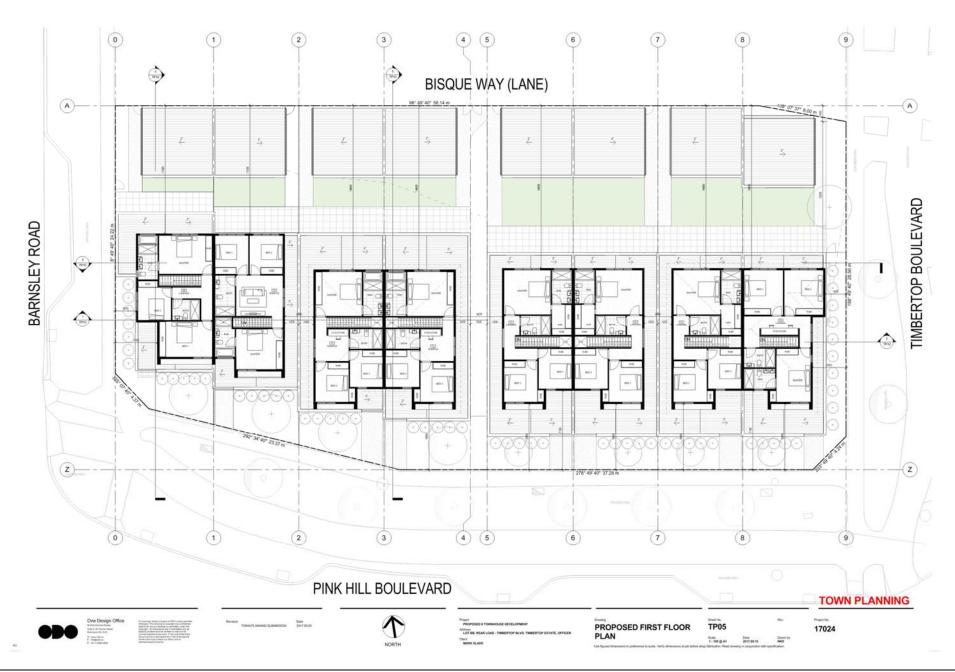


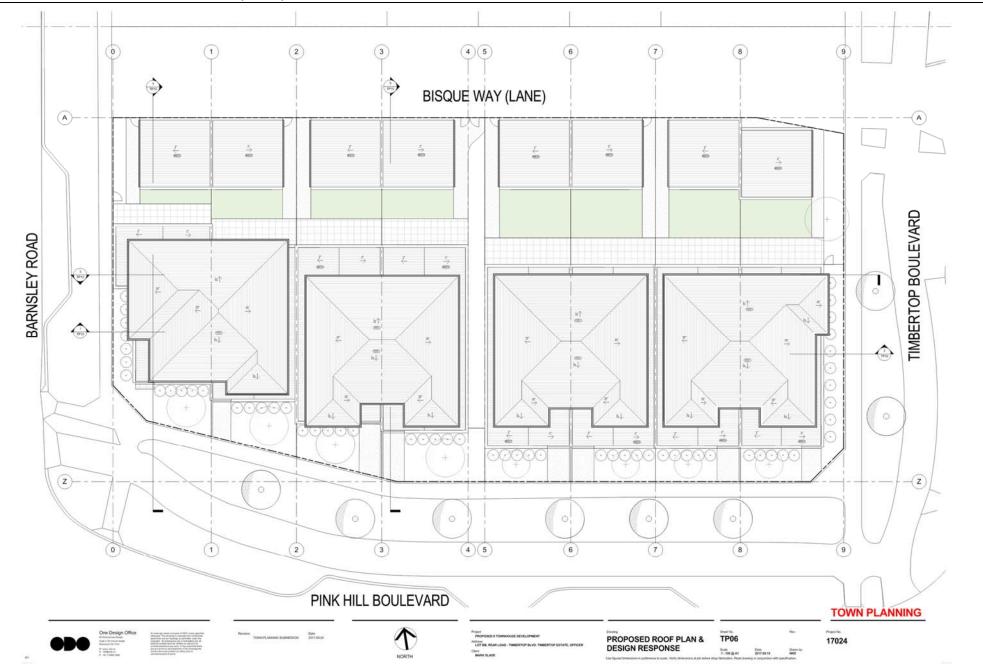
Attachment 2 - Locality aerial map Page 52

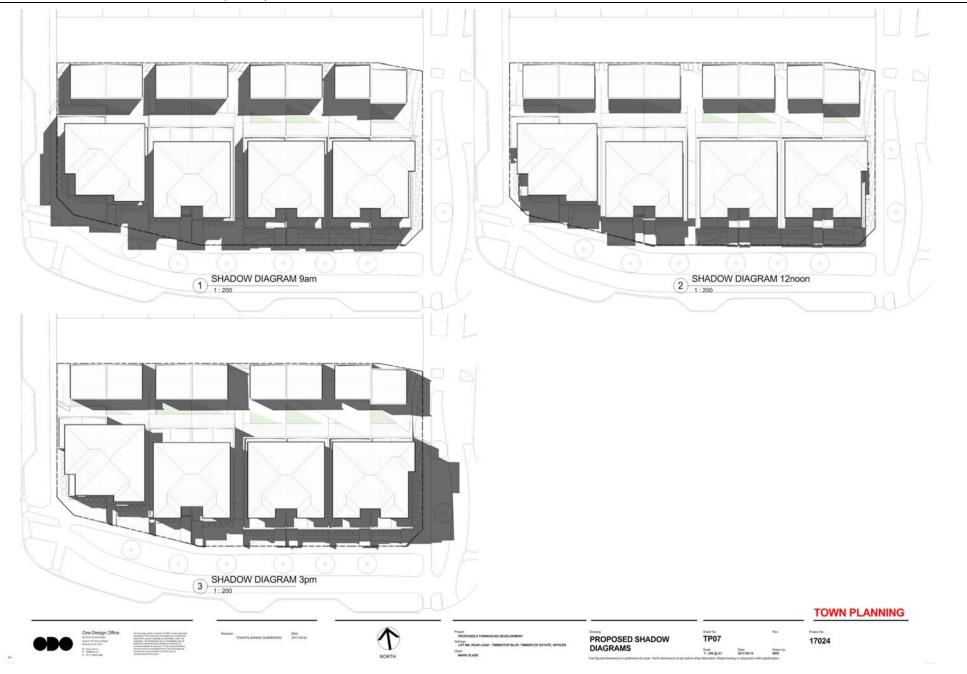




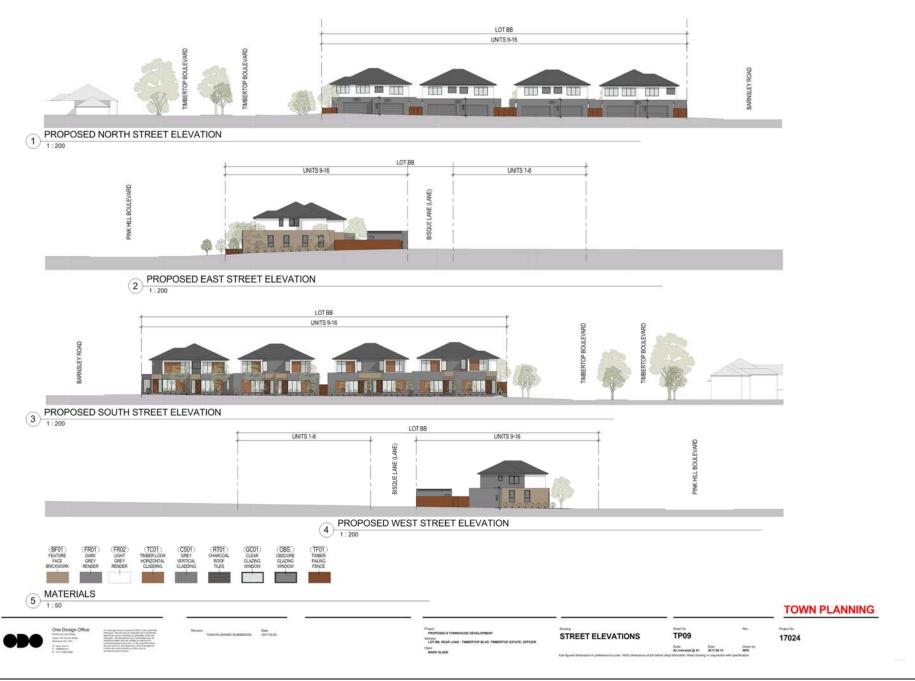














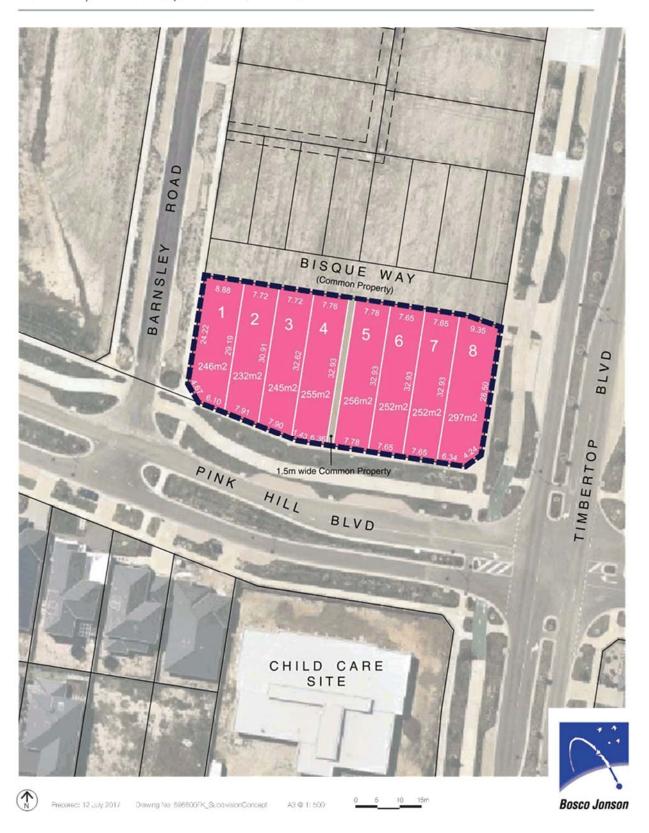
01 Site Context

Lot BB | Timbertop Estate, Officer



02 Subdivision Concept

Lot BB | Timbertop Estate, Officer

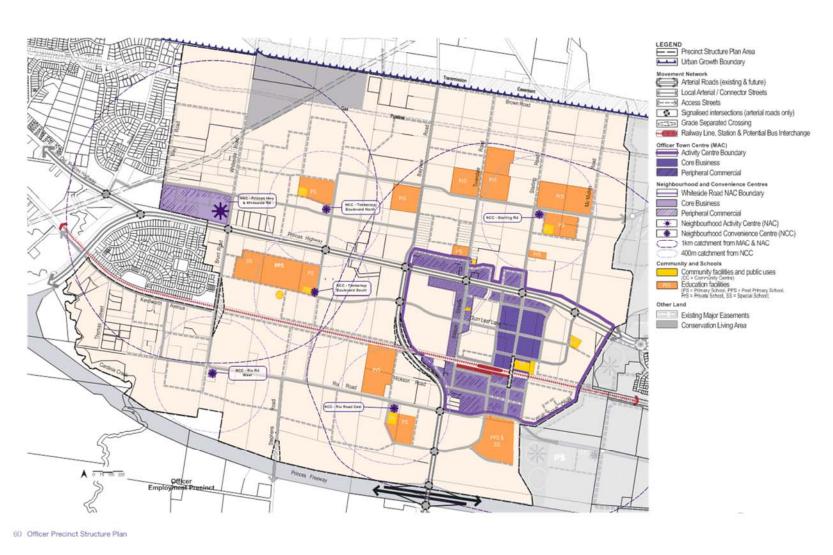


Plan 5: Future Urban Structure



Officer Precinct Structure Plan 25

Plan 9: Employment and Activity Centres



TOWN PLANNING