

Planning Scheme Amendment and concurrent Development Application for a Neighbourhood Activity Centre

101-105 Willowbank Road
GISBORNE

Prepared by Taylors for Rism Constructions

July 2022



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1 Introduction

Taylor's Development Strategists have been engaged by Rism Constructions to prepare this report to support an application for a Planning Scheme Amendment and concurrent Development Application under Section 96A of the Planning and Environment Act 1987.

We propose the following:

- Rezoning of the land from a General Residential Zone Schedule 1 (GRZ1) to a Commercial 1 Zone (C1Z).
- Inclusion of a Design and Development Overlay (DDO) to control future development of the site.
- Retain the existing Development Contributions Plan Overlay (DCPO).
- Concurrent Planning Application under Section 96A of the Planning and Environment Act 1987 which includes:
 - Development of a Commercial Centre including a Supermarket, Medical Centre, Commercial space and Food and Drink Premises (Café).
 - Variation of Covenant PS549356W

This Report outlines the proposed Planning Scheme Amendment and Development Application and provides an assessment against the provisions of the Macedon Ranges Planning Scheme ('the Planning Scheme'). This report should be read in conjunction with the following documents submitted as part of this application:

- Development Plans prepared by Clarke Hopkins Clarke Architects
- Landscape Plan prepared by Taylors
- Traffic Assessment and Waste Management Plan prepared by Traffix Group
- Acoustic Report prepared by Marshall Day
- ESD Report prepared by Sustainable Development Consultants
- Service Engineering Review prepared by Elev8 Consulting Services
- A beneficiaries list to Restrictive Covenant PS549356W prepared by the Licenced Surveyor at Ovens & Murray Land Survey's.

2 Background

Since 2009, the site has been earmarked as a Neighbourhood Activity Centre in the Gisborne / New Gisborne Outline Development Plan (ODP). This strategic direction has been incorporated into the Macedon Ranges Shire Planning Scheme in Clause 21.13-1 and the recently prepared Draft Gisborne Futures Structure Plan, Urban Design Framework and Neighbourhood Character Study released in late July 2020.

The need for a neighbourhood convenience centre in Gisborne South has grown significantly since its initial introduction in 2009 into the Gisborne/New Gisborne ODP. As demonstrated in the aerial imagery below in February 2010 and February 2022, the Gisborne south area has experienced considerable housing growth which is anticipated to continue to expand with the development of the Willow Estate at the eastern end of Willowbank Road. Residents in the nearby area are still required to travel into Gisborne Town Centre (typically by car) to access basic services and everyday shopping needs. Delivering on the vision of the ODP, Clause 21.13-1 and the Gisborne Futures Structure Plan will bring a much-needed local service and amenity to the surrounding residential community. The neighbourhood activity centre also seeks to reduce car dependency for the surrounding area, providing a more proximate centre that prioritises pedestrian / cyclists in its design while also being well serviced by a bus route for alternative sustainable transport options.

The proposed developer led Planning Scheme Amendment and concurrent Section 96A Application seeks to deliver upon the vision of Council identified over a decade ago. This application puts forward the necessary investment and focus to turn the vision of Council into a reality on the ground. The application utilises all the strategic work undertaken by Council to date including expert reports and investigations. This is coupled with design specific expert reporting to ensure a high quality built form outcome is achieved on the site that exceeds the expectations of the local community.

The subject site is currently within the General Residential Zone. The current zoning greatly restricts the ability of the site to be developed into a neighbourhood activity centre as envisioned in local planning policy/strategic documentation, as it prohibits most commercial uses or applies stringent conditions to a limited variety of uses. The rezoning of the land at 101-105 Willowbank Road to a Commercial 1 Zone appropriately facilitates the commercial vision of the site to create a Neighbourhood Activity Centre.



Figure 1: Aerial image of subject site and surrounding area in February 2010 (source: Nearmap)



Figure 2: Aerial image of subject site and surrounding area in February 2022 (source: Nearmap)

3 Subject Site and Surrounds

3.1 Subject Site

The subject site is located at 101-105 Willowbank Road, Gisborne and is identified as Lot 43 on Plan of Subdivision 549356W.

The subject site is a square shape with an area of approximately 3,547 sqm, located at the corner of Willowbank Road and Brady Road. There is currently a single vehicle access point at the south-east corner of the site. The site is otherwise vacant and clear of any vegetation. The site slopes approximately 2 metres from the south-east corner to the north-west corner.

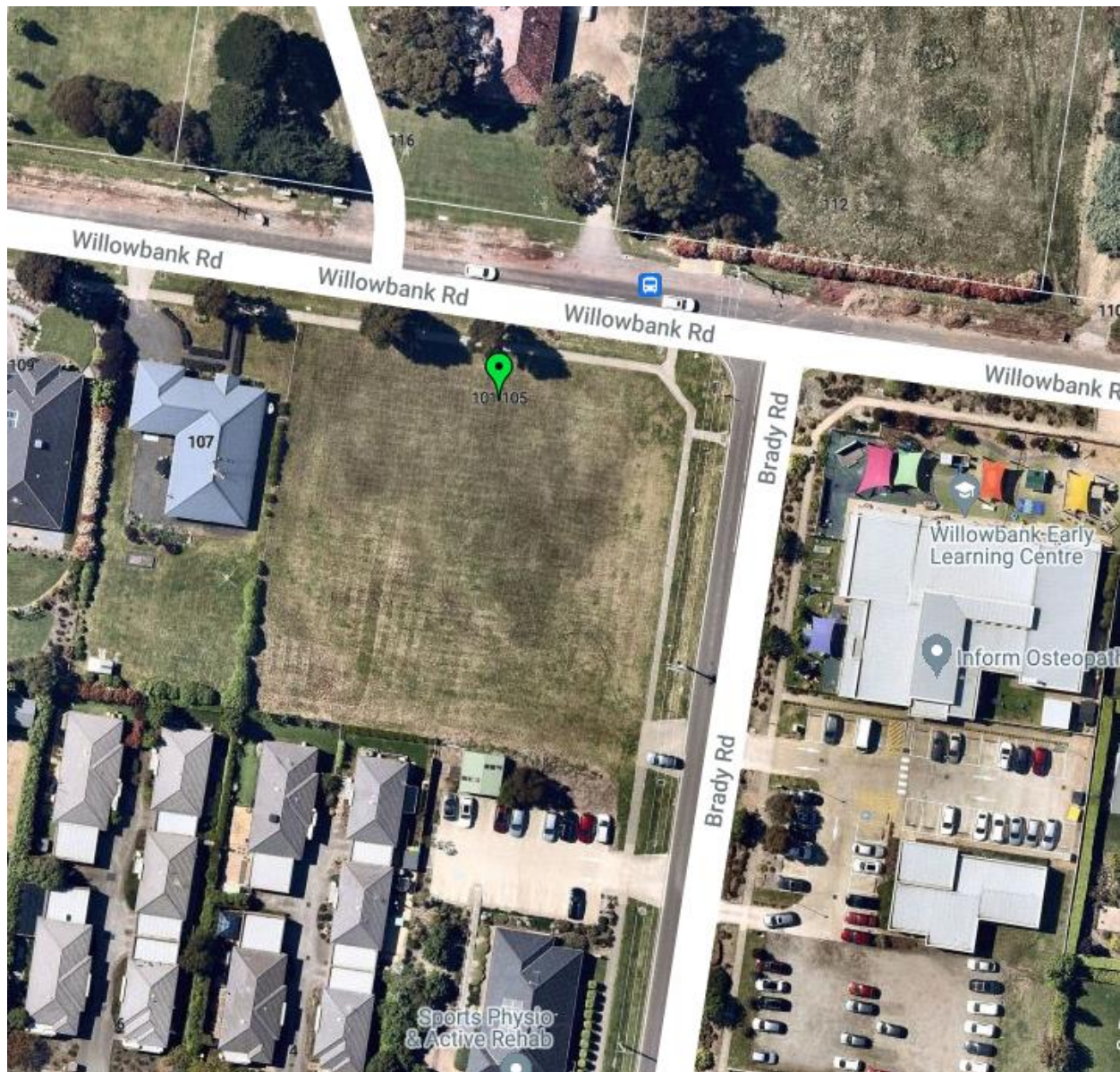


Figure 3: Aerial Image of Subject Site (Nearmap.com)

3.2 Surrounding Area

The surrounding area is located within the General Residential Zone Schedule 1 with the predominant land use consisting of dwellings. We note that immediately surrounding the site is a cluster of non-residential uses including (refer to figure 4 below):

- East - Willowbank Early Learning Centre on the other side of Brady Road.
- South-East – Inform Osteopathy
- South – Sports Physio and Active Rehab
- North – approved Aged Care Centre and Community Centre as per the Fersfield Road Development Plan (see figure 5 below)



Figure 4: Surrounding non-residential uses

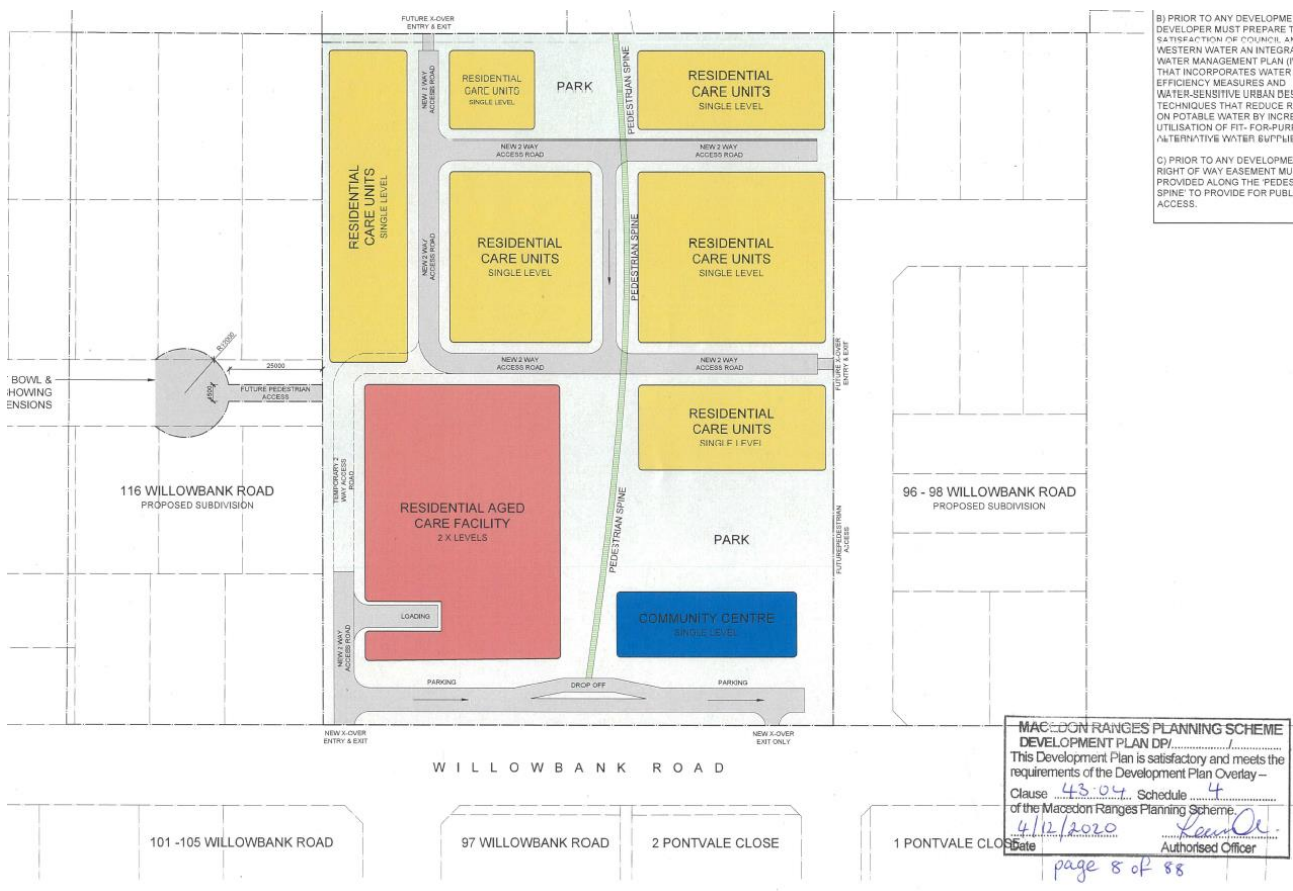


Figure 5 – approved Development Plan for 110-112 Willowbank Road (diagonally opposite site) containing Aged Care and a Community Centre

The immediately abutting properties to the subject site include:

- West (107 Willowbank Road) – a single storey brick dwelling with a pitched colorbond roof setback approximately 4 metres from the common boundary with the subject site. The boundary is defined by a post and wire fence with screening vegetation. The property includes a large area of private open space at the rear of the property that interfaces with the subject site.
- South – the southern boundary includes three properties interfacing with the subject site.
 - At 2/4 and 3/4 Francis Crescent there are two single storey brick dwellings with a pitched tile roof setback approximately 4.5 metres from the subject site. The boundary is defined by a post and wire fence with some screening vegetation. Both properties have private open space interfacing with the subject site, however these areas contain hot water services, water tanks and air-conditioning units, and therefore may not be the primary area of SPOS for residential amenity (refer to image below).



- At 2 Francis Crescent (south-east of the subject site) there is a single storey building occupied by Sports Physio and Active Rehab. There is a car park interfacing with the subject site associated with the Physio with the building setback approximately 26.5 metres from the common boundary. The common boundary with the subject site is currently unfenced.
- North – Willowbank Road is located directly north of the subject site. On the other side of the road is 116 Willowbank Road which contains a single storey rendered dwelling setback approximately 17 metres from the street. This lot has an area of approximately 1.3 ha. North-east of the subject site is 110-112 Willowbank Road which contains a single storey dwelling but has been approved for a future Aged Care Centre and Community Centre as per the Fersfield Road Development Plan as described further above.
- East – Brady Road is located directly east of the site. On the other side of the road is 97 Willowbank Road which includes the Willowbank Early Learning Centre and Inform Osteopathy and associated car parking areas.

Please refer to the below Location Map in the figure below. A summary of the key attributes within proximity to the subject site include:

- **Gisborne Town Centre:** Approximately 1.7 kilometres north-west of the subject site.
- **Public Transport:** Bus Route 474 provides access to Gisborne Station with a bus stop located directly opposite the site along Willowbank Road.
- **Main Roads:** Calder Freeway (1.4km east), Mount Gisborne Road / Aitken Street (640m west), Gisborne-Melton Road (1.15km west), Melbourne Road (900m north).
- **Schools:** Gisborne Secondary College (950m west), Willowbank Primary School (1km east).

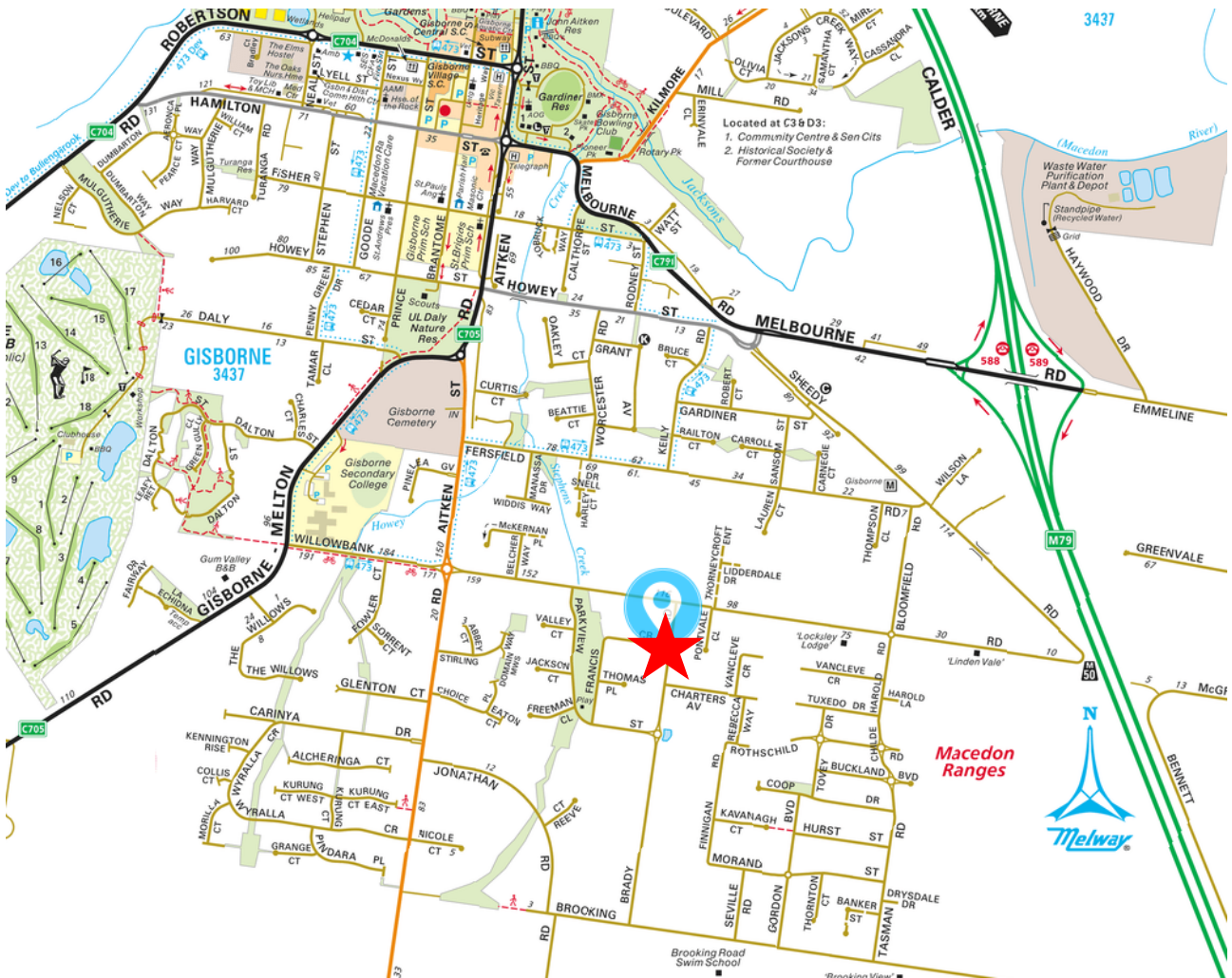


Figure 6: Location Map (melway.com.au)

4 Planning Controls

4.1 Existing and Proposed Zone Controls

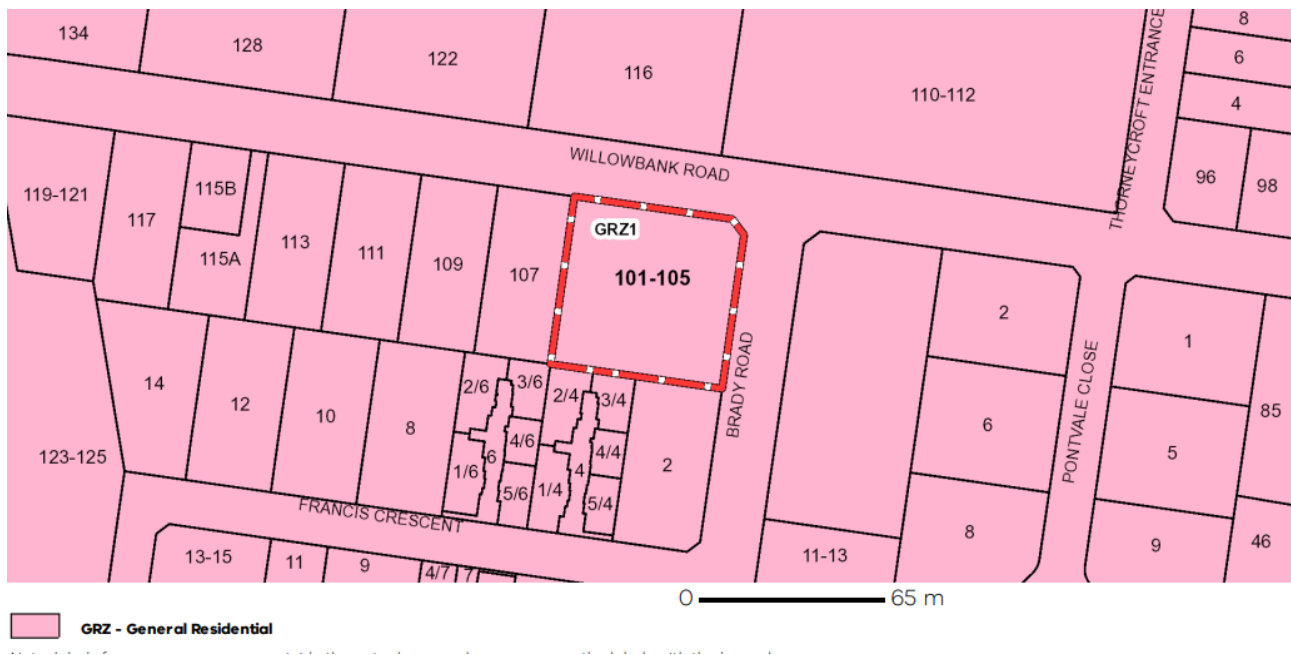


Figure 7: Zone Map (DELWP Planning Maps Online)

Existing Zone

The site is currently located within the General Residential Zone – Schedule 1. The purpose of the General Residential Zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- **To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.**

***emphasis added**

This zone does not facilitate the establishment of a Neighbourhood Activity Centre at the site with the uses proposed either being prohibited or significantly restricted. For this reason, it is proposed to amend the Macedon Ranges Planning Scheme to rezone the land from General Residential Zone – Schedule 1 to Commercial 1 Zone.

Proposed Zone

The purpose of the Commercial 1 Zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- **To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.**
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

***emphasis added**

The Commercial 1 Zone aligns with the envisaged outcome of the site to create a Neighbourhood Activity Centre that provides for the everyday needs of the surrounding residential community. In reference to the proposed development of the site (refer to Section 8 of this report below), the revised zoning allows for the following:

Proposed Use	General Residential Zone	Commercial 1 Zone
Supermarket (Mini Mart)	Prohibited	Permitted (Section 1 Use)
Medical Centre	Permit required for subject site	Permitted (Section 1 Use)
Commercial space	Prohibited	Permitted (Section 1 Use)
Food and Drink Premises	Permit required	Permitted (Section 1 Use)

The proposed uses (Supermarket, Medical Centre, Commercial space and Food and Drink Premises) are all Section 1 Uses 'as of right' under the Commercial 1 Zone that do not require a planning permit.

A planning permit is required under the Commercial 1 Zone to construct a building and carry out works. The proposal is consistent with the decision guidelines for buildings and works in the zone as follows:

Decision Guidelines	Response
<i>The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.</i>	Please refer to the Traffic Report and Waste Management Plan prepared by Traffix Group.
<i>The provision of car parking.</i>	Car parking has been provided to meet the requirements of the neighbourhood activity centre. Please refer to the Traffic Report prepared by Traffix Group.
<i>The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.</i>	The proposal has been designed to address the active frontages of Willowbank and Brady Road. The rear of the buildings have been designed away from the public realm where possible and treated with material variation to break-up the presentation of any blank wall. Landscaping has been provided throughout to soften the development.

<i>The storage of rubbish and materials for recycling.</i>	Waste rooms are provided for a private waste collection arrangement. Please refer to the Waste Management Plan prepared by Traffix Group.
<i>Defining the responsibility for the maintenance of buildings, landscaping and paved areas.</i>	All common areas will be part of a future Owners Corporation for the neighbourhood activity centre.
<i>Consideration of the overlooking and overshadowing as a result of building or works affecting adjoining land in a General Residential Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.</i>	Given the positioning of the development that is well separated from the abutting residential properties, the proposal is not considered to have any overlooking or overshadowing impacts.
<i>The impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.</i>	The development will have no overshadowing impacts on the adjoining properties nor their solar panels.
<i>The availability of and connection to services.</i>	The development will be connected to services.
<i>The design of buildings to provide for solar access.</i>	The development faces north and maximises solar access.
<i>The objectives, standards and decision guidelines of Clause 54 and Clause 55. This does not apply to an apartment development.</i>	In response to the neighbouring residential properties, the proposed development is fully compliant in relation to setbacks, building heights, overshadowing and overlooking etc.

4.2 Existing and Proposed Overlay Controls



Figure 8: Overlay Map (DELWP Planning Maps Online)

Existing Overlay

The subject site is located within the Development Contributions Overlay Schedule 2. We understand that this overlay would remain unchanged by the proposed planning scheme amendment. The subject site is located within 'Area 13' and unless development contributions have already been satisfied for the land, we understand that contributions would be payable at the rates nominated for commercial development.

Proposed Overlays

In addition to the existing Development Contribution Overlay Schedule 2, we understand that a Design and Development Overlay (DDO) will also be applied to identify a built form outcome for the site.

5 Supporting Policy and Strategic Documentation

5.1 2009 Gisborne / New Gisborne Outline Development Plan

The subject site was first identified for a neighbourhood activity centre in 2009 'to contain a general store, 3-4 other shops, community uses and medical centre' (refer to figure 9 below).

Table 8 - Role, function and indicative floor space of activity centres³

Activity Centre	Indicative floor areas	Role
Local Neighbourhood Centre Corner of Willowbank and Brady Roads, South Gisborne	Approx 500 sqm	To contain a general store and 3-4 other shops, community uses and medical centres.



Figure 9: – Extracts from the 2009 Gisborne / New Gisborne ODP

5.2 Planning Policy Framework

Clause 17 (Economic Development) seeks to strengthen and diversify the economy by creating employment areas that improve access to jobs close to home and support rural economies to grow and diversify. Clause 17.02 (Commercial) seeks to encourage development which meets the communities needs for retail, entertainment, office and other commercial services. The proposed neighbourhood activity centre is highly

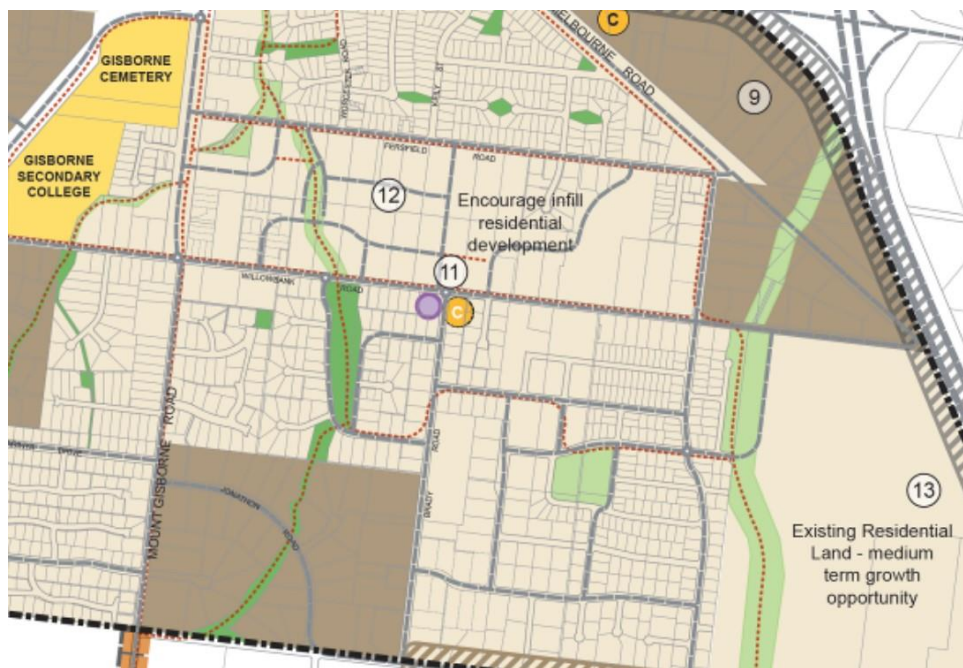
consistent with Planning Policy Framework by providing convenience shopping facilities to the surrounding residential communities that also encourages employment close to home.

5.3 Local Planning Policy Framework

Clause 21.04 (Settlement), 21.10 (Economic Development and Tourism) and 21.13-1 (Local Areas and Small Settlements - Gisborne and New Gisborne) outlines objectives and policies that seek to provide:

- sufficient commercial land to facilitate economic development;
- grow retail activity to respond to the growth of the Shire;
- meet the needs of residents particularly in terms of basic grocery supply;
- to encourage the establishment of neighbourhood activity centres accessible in residential areas; and
- to service new residential areas with basic convenience needs.

Clause 21.13-1 Gisborne and New Gisborne – includes the strategy to ‘provide for two local neighbourhood activity centres to the south and west of the Gisborne area to service new residential areas with basic convenience needs.’ The area to the ‘south’ of the Gisborne area specifically relates to the subject site. The Gisborne / New Gisborne Framework Plan identifies the land at 101-105 Willowbank Road as a ‘proposed local neighbourhood retail’ opposite community facilities, shown in Figure 10 below.



- Proposed community facility
- Proposed local neighbourhood retail (ie. local shop)
- Provide for a neighbourhood convenience store and community facility (ie. community centre/kindergarten) to service local needs. Subject to review, this community centre could be either additional to the Grant Avenue centre, or a site for it's relocation if required in the future.

Figure 10: Extract of Clause 21.13-1 Gisborne / New Gisborne Framework Plan (101-105 Willowbank shown in purple)

5.4 Gisborne Futures Structure Plan July 2020

The Gisborne Futures Structure Plan (GFSP) was released in July 2020 and built upon existing strategic work to provide a framework for the future development of the Gisborne township. The document further re-enforces the designation of the subject site as a 'Future Activity Centre' as seen below.

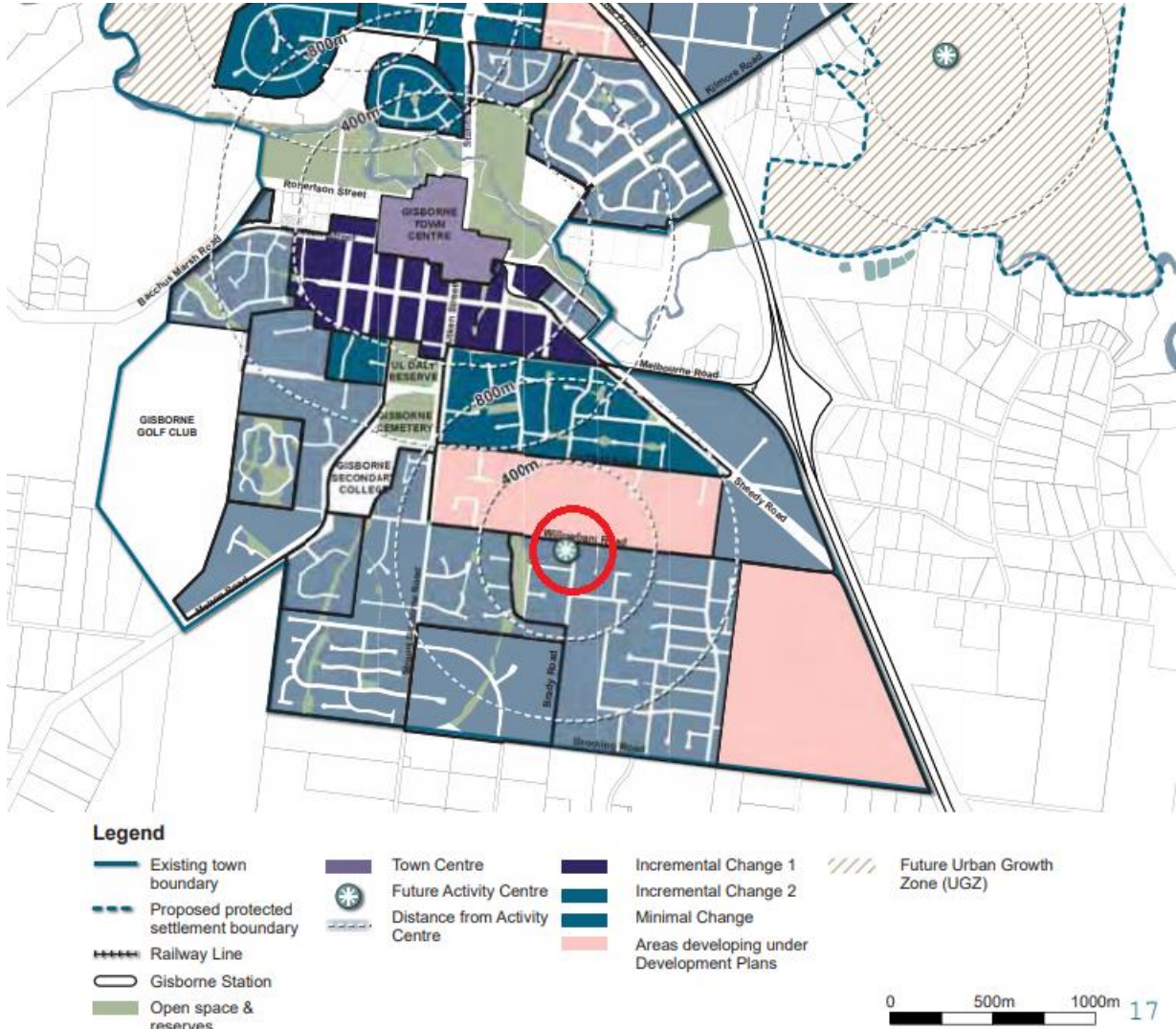


Figure 4. Housing Change Areas

Figure 11: Extract from the Gisborne Futures Structure Plan (Figure 4, page 17)

Section 9 of the GFSP identifies the subject site as a Neighbourhood Activity Centre to be rezoned from the General Residential Zone to the Commercial 1 Zone. Furthermore, a Design and Development Overlay is to be applied to the site to ensure the development delivers on the vision of the Neighbourhood Activity Centre. The proposed rezoning by the applicant is consistent with these aspirations.

The GFSP identifies that:

Neighbourhood Activity Centres are planned and it is envisioned they will become community focal points for walking and cycling. This will reduce the need to drive for short journeys and basic

convenience shopping and will generate opportunities for incidental interaction in communal social spaces.”

The proposed rezoning and commercial development application seeks to achieve these aspirations by providing a neighbourhood activity centre with a communal pause point for social interaction while facilitating basic convenience shopping that will reduce the need to drive for short journeys.

It is understood that the strategic work undertaken as part of the Gisborne Futures project will inform a future planning scheme amendment by Council. The latest project update dated March 2022 on Councils website identifies the following:

It is still some time away from the finish line for the Gisborne Futures project. Following further consultation on the second set of draft plans, the documents will be finalised and presented to Council for adoption. Following adoption, a planning scheme amendment to implement the project will be initiated.

The proposed 'proponent led' Planning Scheme Amendment seeks to fast-track the delivery of Councils vision of the subject site.

6 Economic Assessment

Council have previously commissioned economic reports for the town of Gisborne that included assessment of the subject site as an identified neighbourhood activity centre. These reports include:

- Gisborne Commercial Assessment, prepared by Tim Nott Economic Analysis and Strategy, February 2009.
- Economic and Employment Analysis for the Gisborne Structure Plan and Urban Design Framework, prepared by Urban Enterprise, dated December 2018 and Updated May 2020.

2009 Gisborne Commercial Assessment by Tim Nott Economic Analysis and Strategy

The Commercial Assessment study in 2009 identifies the subject site well within the primary trade area of Gisborne as seen in figure 12 below. Some of the key points of the report include:

- The subject site is identified as a potential neighbourhood activity centre that is to contain 'a *general store and 3-4 other shops*'.
- The report identifies that 'some parts of the trade area are currently lacking a comprehensive local or neighbourhood shopping service and would benefit from an improvement in retail provision. This includes the areas identified in the ODP' which includes the subject site.
- Allocation of retail floor space for the subject site which is identified as Gisborne South (ODP) is provided below:

Table 11: Notional allocation of retail floorspace potential in the Gisborne main trade area, 2008 to 2031

Location	Food and groceries sq m	Other retail sq m	Total retail sq m
Riddells Creek (proposed supermarket centre)	2,620	1,290	3,910
New Gisborne (ODP)	150	360	510
Gisborne West (ODP)	150	360	510
Gisborne South (ODP)	150	360	510
Other opportunities (notional allocation)	2,500	2,500	5,000
Gisborne town centre	2,030	10,430	12,460
Total potential addition to retail floorspace	7,600	15,300	22,900

Source: consultant estimates

Figure 12: Table 11 of the Gisborne Commercial Assessment 2009 outlining the subject site

Section 11 of the report identifies the commercial land requirements for various sized activity centres. It indicates that a retail outlet of 1,000 sqm would require a site area of 0.3 to 0.4ha in order to accommodate ground level parking, circulation space and landscaping. It is noted that the subject site has an area of approximately 0.35ha and based on the indication above could accommodate around 1,000 sqm of retail space as opposed to the 510 sqm identified in the table above. As identified later in this report, the proposed development has a ground floor retail floor space of 992 sqm which is consistent with the findings above.

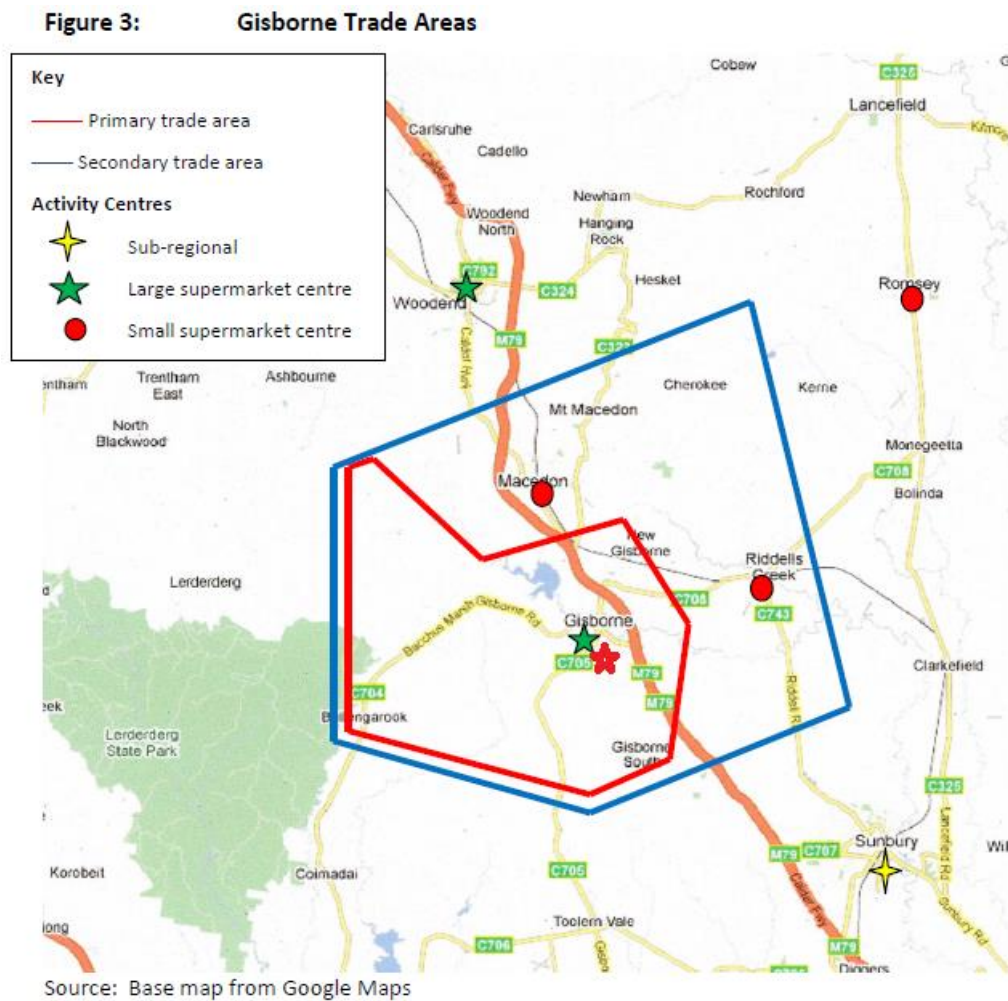


Figure 13: Gisborne Trade Areas prepared by Tim Nott Economic Analysis and Strategy, February 2009

2020 Economic and Employment Analysis by Urban Enterprise

The Economic and Employment Analysis prepared for the Gisborne Future Project in 2020 reinforces the proposed neighbourhood activity centre at the subject site as per figure 14 below:

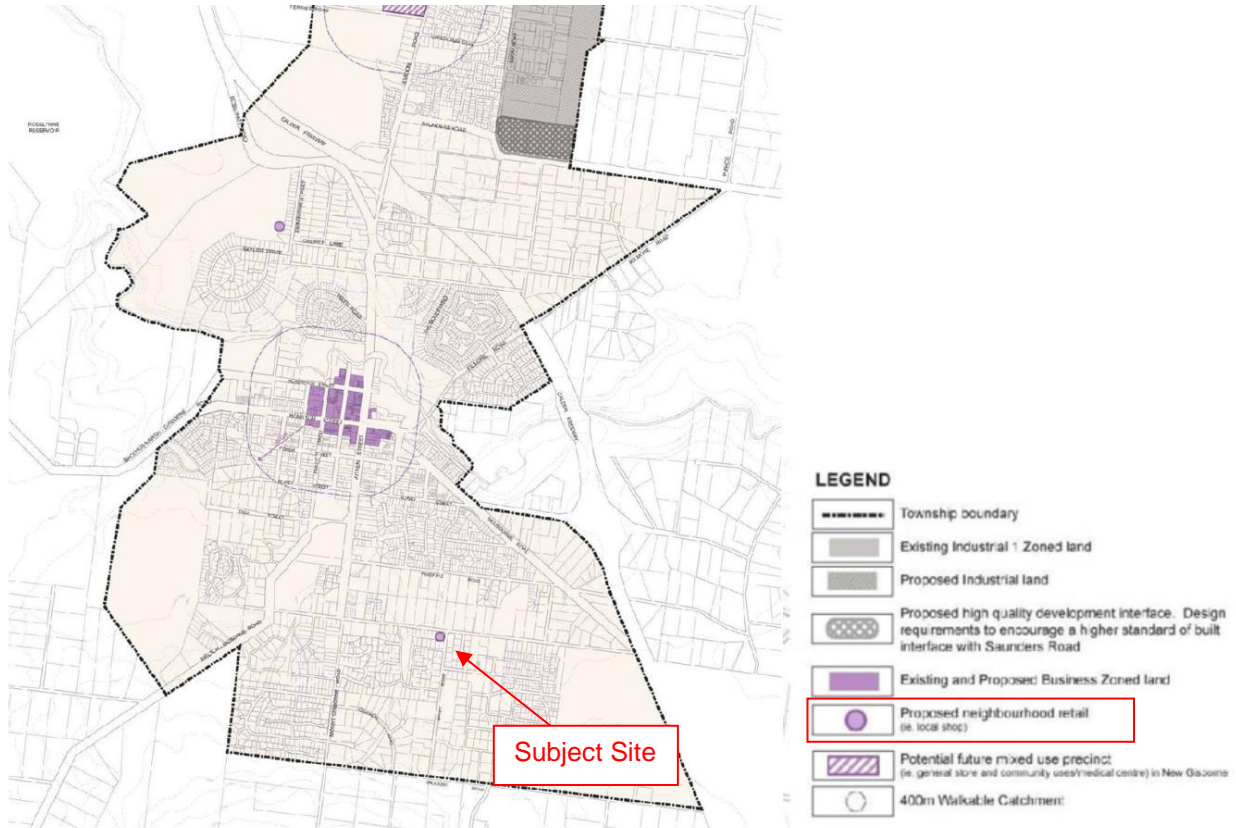


Figure 14: Retail, Mixed Use and Employment Plan

The neighbourhood activity centre has been identified to support the nearby 'identified growth area' (see figure 15 below) which has already partly developed, including the land within the Willows Estate. This identified area has future growth capacity and will further contribute to the catchment of the neighbourhood activity centre.

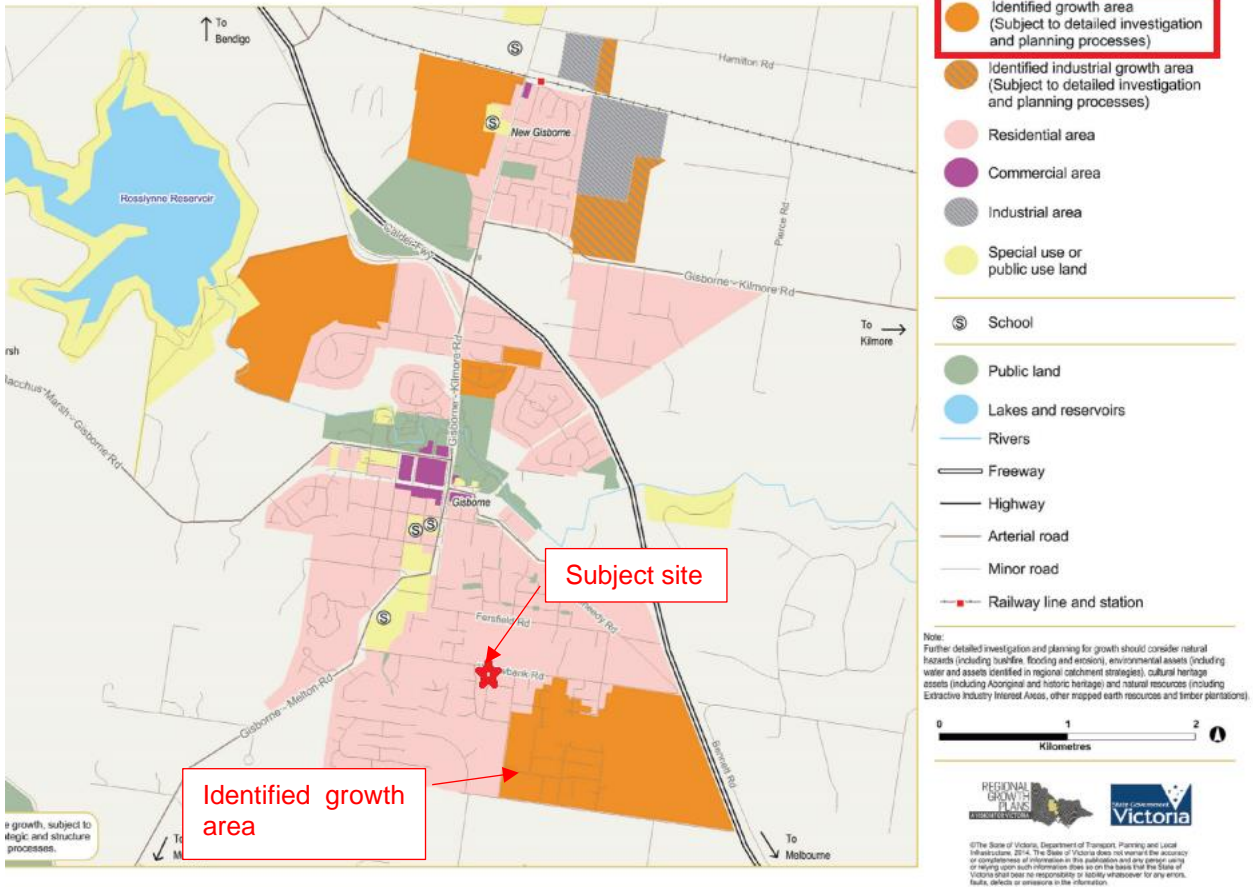


Figure 15: Gisborne Future Directions Plan (page 18 of Economic and Employment Analysis)

7 Strategic Justification for Amendment

This section provides a brief assessment of the Amendment following the assessment criteria outlined in the Ministerial Direction No. 11 on Strategic Assessment of Amendments.

i. Why is the amendment required?

- The land has been identified for a future Neighbourhood Activity Centre in the 2009 Gisborne / New Gisborne Outline Development Plan (ODP), Clause 21.13-1 of the Macedon Ranges Planning Scheme and the July 2020 draft Gisborne Futures Structure Plan.
- The amendment will facilitate the development of a Neighbourhood Activity Centre that will service the growing surrounding residential community, providing essential shopping and medical needs.
- The current General Residential Zone prohibits / restricts commercial activity on the site. The amendment to a Commercial 1 Zone as identified in the July 2020 draft Gisborne Futures Structure Plan will facilitate the development of a Neighbourhood Activity Centre.
- A concurrent permit and Design and Development Overlay will ensure the site is developed generally in accordance with the submitted development plans.

ii. How does the amendment implement the objectives of planning in Victoria?

The amendment implements the objectives set out in section 4 of the Planning and Environment Act 1987 by:

- Providing for fair, orderly, economic and sustainable use and development of land;
- Securing a pleasant, efficient and safe working, living, and recreational environment for all Victorians and visitors to Victoria;
- Balancing the present and future interests of all Victorians.

iii. How does the amendment address the environmental effects and any relevant social and economic effects?

The environmental effects such as noise, traffic and drainage are addressed in this report. It is noted that the site is currently vacant with no vegetation that will require removal.

There are no foreseen adverse social impacts as a consequence of the proposed amendment to facilitate the development of a Neighbourhood Activity Centre. Potential impacts on the immediately surrounding residential properties have been thoughtfully considered and addressed as part of this application. Positive social and economic impacts will be provided through a local centre for basic convenience shopping, community interaction in communal social spaces, medical centre for future health needs and job creation from the range of different businesses to operate from the centre.

- iv. Does the amendment address relevant bushfire risk?

Bushfire risk is seen as minimal given the existing/future urbanisation of the surrounding area. It is noted that the site is not located within a Bushfire Management Overlay nor Bushfire Prone Area.

- v. Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

The amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Planning and Environment Act 1987.

The amendment is affected by Ministerial Direction No. 15- The Planning Scheme Amendment Process and complies with this Direction.

- vi. How does the amendment support or implement the State Planning Policy Framework and any adopted State policy?

The amendment is consistent with the following Clauses of the Planning Policy Framework:

- Clause 11 Settlement – via delivery of commercial land for convenient access to services
- Clause 12 Environmental and Landscape Values – via establishing new vegetation without the loss of existing native vegetation.
- Clause 13.05 Noise – via the control of potential noise effects on sensitive land uses
- Clause 15 Built Environment and Heritage – via delivery of a Neighbourhood Activity Centre that is responsive to the character of the surrounding area and promotes an environmental sustainable design.
- Clause 17 Economic Development – via delivery of a Neighbourhood Activity Centre that provides basic convenience shopping for the surrounding community and contributes to local employment.
- Clause 18 Transport – via delivery of a Neighbourhood Activity Centre that is accessible to the surrounding residential community via existing transport infrastructure.

- vii. How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement

The amendment is consistent with the following Clauses of the Local Planning Policy Framework and Municipal Strategic Statement:

- Clause 21.13-1 Gisborne and New Gisborne – includes the strategy to 'provide for two local neighbourhood activity centres to the south and west of the Gisborne area to service new residential areas with basic convenience needs.' The area to the 'south' of the Gisborne area specifically relates

to the subject site. The Gisborne / New Gisborne Framework Plan identifies the land at 101-105 Willowbank Road as a 'proposed local neighbourhood retail' opposite community facilities.

viii. Does the amendment make proper use of the Victoria Planning Provisions?

The Amendment makes proper use of the Victorian Planning provisions in so far as:

- Applying the Commercial 1 Zone to the land to be used for commercial purposes to facilitate the development of a Neighbourhood Activity Centre.
- Applying the Design and Development Overlay (DDO) to inform the key development outcomes for the land.

ix. How does the amendment address the views of any relevant agency?

Pre-application advice has been provided by Macedon Ranges Shire Council. If this amendment and s.96A application are exhibited, other relevant agencies will be notified and requested to provide comments.

x. Does the amendment address relevant requirements of the Transport Integration Act 2010

The proposed amendment is not considered to have a significant impact on the transport system as defined by the Transport Integration Act 2010. A Traffic Impact Assessment by Traffix Group has been provided as part of the submitted documentation.

Resource and Administrative Costs

What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

The cost of the amendment and combined permit application will be covered by the Applicant. The amendment will not pose unreasonable resource and administrative costs on Council in its normal capacity as the Responsible Authority.

8 Proposed Development (Under Section 96A of P+E Act 1987)

The following development is proposed concurrently with the Planning Scheme Amendment under Section 96A of the Planning and Environment Act 1987.

8.1 Development Summary

Site Area		3,547 m ²
Proposed Uses	Supermarket (Mini Mart)	370 sqm plus 80 sqm of ancillary office
	Medical Centre	452 sqm containing 10 practitioners
	Commercial space	300 sqm
	Food and Drink Premises	2 x cafés of 85 sqm
Car Parking		57 spaces including 2 disabled car spaces
Bicycle Parking		6 x customer bike parking 2 x staff bike parking
Anticipated Operating Hours		7am – 7pm Monday to Sunday
Anticipated Operating Hours (Medical Centre)		Monday to Friday: 8:30 am – 5:30 pm Saturday: 12:00 pm – 3:00 pm Sundays and public holidays: 11:00 am – 1:00 pm.

8.2 Development Plans

Development Plans have been prepared by Clarke Hopkins Clarke which outline the proposed Section 96A application for a Commercial Development containing a Supermarket, Food and Drink Premises, Medical Centre and Commercial space. The plans have been developed based on feedback from Council to date including the pre-application advice and pre-submission meeting with Councillors. We have also incorporated the technical analysis from the traffic engineer, acoustic engineer, service engineer, environmental sustainability consultant and waste consultant to inform the design specifics.

The key features of the plan are:

- An active frontage to Willowbank Road and Brady Road that includes car parking at the rear of the site, generally screened from the main views to the development.
- An internal community space through the centre of the site that encourages community interaction and meeting.
- User hierarchy that promotes pedestrians and cyclists to reduce car dependency.

- A built form that includes a gable roof, high levels of glazing, contemporary materials and finishes that all seek to complement the character of the area.
- Siting of the built form away from the adjoining residential properties to ensure there is no adverse amenity issues associated with overshadowing, overlooking, building bulk and noise for example.
- A small supermarket that provides access to everyday goods, reducing car dependence to access Gisborne Town Centre.
- Café's that will add to the vibrancy of the centre and create a meeting point for the local community.
- A medical centre that will support the surrounding community including the residential aged care approved opposite the site. The medical centre will add to a growing medical precinct within the immediate area which includes a physio to the rear of the site and an osteo opposite along Brady Road.
- A commercial space on the first floor above the medical centre that will allow for a range of commercial uses.

8.3 Landscape Plans

A Landscape Master Plan has been prepared by Taylors and includes landscape provision within the following areas:

- Street frontages to soften the built form. This includes low shrubs and groundcovers that will add some greenery to the street and wont conflict with the glazing along these frontages.
- Internal communal space to create an attractive environment that encourages people to meet and interact within this space. The landscaping palette has been specifically designed to grow and be easily maintained within this unique environment.
- Carpark area to break up the hard surfacing. This includes a mixture of canopy trees, shrubs and groundcovers throughout the car parking spaces.
- Perimeter fencing to provide a vegetated screen with the adjoining properties. This includes a large canopy tree at the south-west corner of the site which will become a feature of the site.
- It is noted that a street tree is proposed to be removed to accommodate vehicle access via Willowbank Road. The landscape plan demonstrates a replacement street tree along the Willowbank Road frontage.

8.4 Traffic Report

A Traffic Impact Assessment has been prepared by Traffix Group and is included as part of this application. The report assesses the existing road network, car parking availability and traffic volumes and provides an assessment of the proposed commercial development. The report is supportive of the proposed car parking provision of 57 spaces in lieu of the statutory rate of 70 spaces considering the likely traffic generation of uses

including the Mini-Mart which will be considerably below that of the statutory parking rate of a 'Supermarket'. Furthermore, the collection of uses will have parking demands at different times and promote walking and cycling as the preferred transport option as it services the surrounding residential community.

The report also identifies that the level of traffic anticipated to be generated by the development can comfortably be accommodated within the existing road network and will not unduly influence the intersection of Willowbank and Brady Road.

Finally, the design of the proposed car park accords with the relevant requirements in terms of layout, provision of bicycle parking, loading and waste collection.

8.5 Waste Management Plan

A Waste Management Plan has been prepared by Traffix Group and is included as part of this application. The report identifies that a Private Waste Collection arrangement is proposed outside of operating hours (7pm-8pm) to minimise the impact on the site and surrounding uses. Two waste collection storage areas have been provided with the bin size and allocation as per the waste management plan.

It is anticipated that the waste generated from the proposed commercial development can be comfortably collected from the site.

8.6 Acoustic Report

An Acoustic Report has been prepared by Marshall Day Acoustics to provide an environmental noise assessment for the proposed development. Noise control measures have been suggested for incorporation during the detailed design stage to reduce noise from the subject site as far as reasonably practicable at nearby noise-sensitive receivers including the adjacent residential properties. These include:

- A 2.4 metre high acoustic fence along the southern and western boundaries to protect the adjacent residential properties.
- Mechanical services screening which are generally achieved through the architectural design including a recessed platform within the roof on the western façade and a parapet along the eastern façade. Screening is required to be a minimum of 1 metre above the highest point on any given unit. At the detailed design stage when the details of the mechanical services are known, any additional acoustic screens (if required) can be incorporated into the design.
- Selection of plant equipment with low noise levels.

It is noted that the Acoustic Report recommends the following condition of any approval:

Once mechanical services design has progressed to a suitable level of detail, an acoustic assessment of the mechanical services design should be conducted by a suitably qualified and experienced acoustic consultant. Reasonably practicable noise controls should be investigated and implemented, and any noise controls required for compliance with the relevant legislative criteria should be included in the final design.

Waste collection and deliveries will occur between 7pm and 8pm after the commercial centre has closed. A private waste collection vehicle will prop within the aisles and undertake collection from the nominated waste storage areas. Deliveries will be undertaken within the designated loading bay. An objective assessment against the evening period noise limits was conducted to demonstrate the waste collection and deliveries as proposed is within the limits of the relevant controls.

8.7 Sustainability Management Plan

A Sustainability Management Plan (SMP) has been prepared by Sustainable Development Consultants. There are a range of sustainability initiatives that are proposed to be implemented through its design, construction and operation. The report considers that the proposed commercial development will meet best practice requirements through the initiatives outlined in this report including the use of energy efficient systems, solar panels, rainwater tank(s) and the use of low to zero VOC content materials, as well as reduced environmental impacts during the construction stage.

In terms of Water Sensitive Urban Design (WSUD), a STORM Assessment has been prepared and measures have been incorporated into the development documentation including:

- 10,000 litre water tank located toward the south-east corner of the site.
- 35 sqm of raingarden has been proposed within the centre of the car park and at the north-west corner of the site.

8.8 Clause 52.02 – Easements, Restrictions and Reserves

A permit is required under Clause 52.02 to vary an easement as proposed in Section 9 of this report below. Please refer to Section 9 below for further details.

8.9 Clause 52.06 – Car Parking

Please refer to the Traffic Report prepared by Traffix Group and Section 8.4 of the report above.

8.10 Clause 52.17 – Native Vegetation

Not applicable as the site is less than 0.4ha in size.

8.11 Clause 53.18 – Stormwater Management in Urban Development

Not applicable for the Commercial 1 Zone. Stormwater management is outlined in the Sustainability Management Plan prepared by Sustainable Development Consultants.

9 Restrictive Covenant PS 549356W

Restrictive Covenant PS549356W created on 12/12/2007 applies to the subject site, identified as Lot 43 created in PS 549356W. The restrictive covenant is provided below:

CREATION OF RESTRICTION

UPON REGISTRATION OF THIS PLAN THE FOLLOWING RESTRICTION IS CREATED

LAND TO BENEFIT: LOTS 1 TO 43 (BOTH INCLUSIVE) ON THIS PLAN

LAND TO BE BURDENED: LOTS 1 TO 43 (BOTH INCLUSIVE) ON THIS PLAN

DESCRIPTION OF RESTRICTION:

THE REGISTERED PROPRIETOR OR PROPRIETORS FOR THE TIME BEING OF ANY BURDENED LOT ON THIS PLAN TO WHICH ANY OF THE FOLLOWING RESTRICTIONS APPLY, SHALL NOT:

1. CONSTRUCT MORE THAN ONE DWELLING ON EACH OF LOTS 20 TO 23 (BOTH INC.), 28 TO 34 (BOTH INC.) AND 36 TO 43 (BOTH INC.)
2. CONSTRUCT MORE THAN ONE DWELLING ON LOT 13 IN ADDITION TO THE EXISTING DWELLING.
3. RELOCATE ANY EXISTING BUILDING TO A BURDENED LOT.
4. SUBDIVIDE FURTHER LOTS 13, 20 TO 23 (BOTH INC.), 28 TO 34 (BOTH INC.), AND 36 TO 42 (BOTH INC.).
5. ERECT ANY FENCING OTHER THAN POST AND WIRE FENCING.
6. CONSTRUCT ANY NEW DWELLING ON A LOT CLOSER TO A BOUNDARY THAN THE MINIMUM SETBACKS SPECIFIED HEREUNDER:
 - A. THE MINIMUM SETBACK FROM ALL BOUNDARIES EXCEPT ROAD FRONTAGES IS 4 METRES.
 - B. WITHIN LOTS 1 TO 19 (BOTH INC.), 24 TO 27 (BOTH INC.), AND LOT 35, THE MINIMUM SETBACK FROM A ROAD FRONTAGE IS 6 METRES EXCEPT FOR A DWELLING LOCATED ON A CORNER LOT WHERE THE MINIMUM SETBACK FOR ONE OF THE ROAD FRONTAGES MAY BE REDUCED TO 4 METRES.
 - C. WITHIN LOTS 20 TO 23 (BOTH INC.), 28 TO 34 (BOTH INC.), AND LOTS 36 TO 43 (BOTH INC.), THE MINIMUM SETBACK FROM A ROAD FRONTAGE IS 10 METRES EXCEPT FOR A DWELLING LOCATED ON A CORNER LOT WHERE THE MINIMUM SETBACK FOR ONE OF THE ROAD FRONTAGES MAY BE REDUCED TO 6 METRES.
7. CONSTRUCT A BUILDING WITH A BUILDING HEIGHT GREATER THAN 9m OR MORE THAN TWO STOREYS.

The restrictive covenant includes the following restrictions that we seek to vary to allow the proposed commercial centre at the site.

#	Current	Proposed
5	<i>Erect any fencing other than post and wire fencing.</i>	Exclude Lot 43 and lots with common boundaries from restriction: <i>“Erect any fencing other than post and wire fencing, excluding Lot 43.”</i>
7	<i>Construct a building with a building height greater than 9 metres or more than two storeys</i>	Exclude Lot 43 from restriction: <i>“Construct a building with a building height greater than 9 metres or more than two storeys, excluding Lot 43.”</i>

We note that restrictions 1-4 and 6 in covenant PS549356W are not proposed to be amended as the proposed commercial centre will not include any dwellings.

The beneficiaries to the restriction have been reviewed and listed by the Licenced Surveyor at Ovens & Murray Land Survey’s and their letter is enclosed with this application. It is anticipated that Council will advertise to these beneficiaries accordingly.

The proposed variation of restriction is appropriate in the instance of Lot 43, being the subject site. The proposed variations will provide an appropriate transition and outcome to the future neighbourhood activity centre.

The covenant covers the following areas (lots 1-43) as demonstrated in figure 16 below.



Figure 16: area covered by Restrictive Covenant PS549356W

Restriction 5 - Fencing

It is noted that the removal of the fencing restriction will allow for the construction of a timber paling fence or other suitable material with the surrounding properties which is a more appropriate interface than a post and wire fence. A higher fence that is opaque provides an appropriate buffer between the two uses and added safety and security for the surrounding properties. The Acoustic Report prepared by Marshall Day identifies that a 2.4 metre high acoustic fence is to be constructed along the southern and western boundaries to protect the amenity of the adjoining residential properties.

Within the areas covered by the covenant, there are several examples of higher and opaque fencing that contributes to the character of the area which are provided below.



Figure 17: 1 Francis Crescent (corner of Francis Crescent and Brady Road)



Figure 18: 2 Francis Crescent (physio) common boundary fence with 4 Francis Crescent, adjacent property to the south

The commercial development on the eastern side of Brady Road containing the Childcare Centre and Osteo have a higher, solid fence for the same reasons as outlined above. While this area is outside of that covered

by the covenant, it is directly opposite the site and is a non-residential use similar to that proposed. This not only contributes to the character of the area but also sets the expectation for a future development of this proposed commercial site.



Figure 19: boundary fencing surrounding childcare centre and osteo

Restriction 7 - Building height

The proposed development has a maximum height of 9.525 metres which exceeds the covenant restriction of 9 metres.



Figure 20: North and West Elevation of proposed development

The majority of the development is below the height of 9 metres however there is a component of the medical centre building toward the front (south) of the site that has a maximum building height of 9.525 metres. The total height is a result of the slope of the land which falls from the rear (south) of the site down toward Willowbank Road. The component of roof form that is greater than 9 metres in height is relatively small and given its context within the broader commercial development, it won't be read as an element that is at odds with the character of the area. The pitched roof form which creates the minor component of non-compliance is in itself an integral part of the character of the area, noting pitched roofs are a prominent feature of the area.

While the surrounding residential properties are generally single storey, there are examples of double storey development including the dwelling at 11 Brady Road (opposite the physio) and the approved double storey aged care centre at 110 Willowbank Road (diagonally opposite the subject site). A double storey built form is considered an appropriate response to the role of the neighbourhood activity centre while respecting the surrounding residential properties.

It is also noted that the minor component of non-compliance is well setback from the adjoining neighbour and their sensitive area of secluded private open space to reduce any amenity impacts.

Assessment of the proposed covenant variations

Pursuant to Section 60(2) of the PE Act, as the restriction was registered under the Subdivision Act 1988 or Transfer of Land Act 1958 after 25 June 1991, the following decision guidelines should be considered:

60(2) The responsible authority must not grant a permit which allows the removal or variation of a restriction (within the meaning of the Subdivision Act 1988) unless it is satisfied that the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer— (...as a consequence of the removal or variation of the restriction.):

(a) financial loss; or

The proposed variations will not cause financial loss to any beneficiaries.

(b) loss of amenity; or

The proposed variations to restrictions will not cause loss of amenity. The inclusion of a higher fence that is opaque is considered to improve the amenity with the adjoining property, creating a buffer between the land uses and providing greater safety and security for the adjoining properties. The building height greater than 9 metres is well setback from the adjoining property and secluded private open space areas and is not considered to have any amenity impact on the surrounding properties.

(c) loss arising from change to the character of the neighbourhood; or

The proposed variations will not detrimentally change the character of the neighbourhood as the fencing relates to the side and rear setbacks that are mostly out of view from the public realm. Furthermore, given the use of the site is proposed for a commercial centre (compared with the surrounding residential development) it would be a reasonable expectation that the boundary fencing would be higher for safety and amenity expectations with a lower fence in fact looking out of place.

The additional building height only relates to the pitched roof form of part of the Medical Centre. When viewed in context with the entire development, it is not an element of the building that would stand out as inconsistent with the character of the area. The built form will present as a two-storey building which is appropriate for the neighbourhood activity centre to have some presence in the landscape while still respecting the predominant single storey residential character of the surrounding area.

(d) any other material detriment—

No other material detriment will be caused by the proposed variations to restrictions.

We submit that pursuant to the above policies, a permit can be granted to vary the restrictions as the proposed variations do not cause loss or detriment in the case of any beneficiary. Given that the application to vary these restrictions is submitted in conjunction with the proposed commercial development application, there is a definitive outcome proposed that provides certainty and reduces the perception of loss and/or detriment.

10 Conclusion

This report has been prepared in support of a proposed Planning Scheme Amendment to rezone the site from a General Residential Zone Schedule 1 to a Commercial 1 Zone and a concurrent Section 96A Development Application for a Neighbourhood Activity Centre. The proposal has strong strategic support with the site being identified for a future Neighbourhood Activity Centre from as early as 2009 in the Gisborne / New Gisborne Outline Development Plan. As recently as July 2020, the future intended use of the site for a Neighbourhood Activity Centre was reinforced in the Gisborne Futures Structure Plan July 2020 with Council intending to pursue a Planning Scheme Amendment to facilitate this outcome on the subject site. The landowner in this instance has put forward a 'proponent led' Planning Scheme Amendment proposal to achieve the vision of Council in a more timely manner. With the surrounding community requiring such access to services in the short term, this proposed Planning Scheme Amendment has considerable community benefit and strategic alignment with Councils aspirations.

The concurrent Section 96A Development Application for a Neighbourhood Activity Centre has been well resolved following considerable pre-application engagement with Council and Councillors. The proposed uses (Supermarket, Medical Centre, Food and Drink Premises and Commercial) are compatible with the scale and function of a Neighbourhood Activity Centre to provide everyday convenience shopping for the surrounding residential community.

The built form proposed is sympathetic to the character of the area and the immediately adjoining properties through appropriate siting and design. While being a commercial development, the incorporation of elements such as a gable roof form, high levels of glazing, contemporary materials and finishes and low overall built form is sympathetic to surrounding area. The development provides activation of the street frontages and prioritises pedestrians and cyclists with car parking provided to the rear of the site that is suitably softened by landscaping. The design includes a central arcade that will become a focal community pause point for social interaction and engagement enhanced by outdoor dining associated with the food and drink premises (café) to create a vibrant community atmosphere that spills out to Willowbank Road.

We look forward to working with Council on this Planning Scheme Amendment and concurrent Section 96A Application for a Neighbourhood Activity Centre.

Taylors Pty Ltd

July 2022