

Planning Assessment Report

Application Details:

Application is for:	Restricted recreation facility (gym) in the former CFA Station
Applicant's Name:	Hopetoun and District Neighbourhood House
Owner's Name:	Yarriambiack Shire Council
Date Received:	4 January 2022
Statutory Days:	Over 60 days
Application Number:	TP01-22
Planner:	Adam Moar
Land/Address:	62 Lascelles Street, Hopetoun (Lot 20 LP3170)
Zoning:	Public Use Zone – Service and Utility (PUZ1)
Overlays:	Environmental Significance Overlay – Schedule 2 (Highway Environs Protection) (ESO2)
Under what clause(s) is a permit required?	36.01-1 Table of Uses
Restrictive covenants on the title?	Nil.
Current use and development:	The site was formally the Hopetoun CFA Station, which has remained vacant since the CFA relocated to another site within Hopetoun

Proposal

The proposal is to use the existing building for a restricted recreation facility (gym) (*Land used by members of a club or group for leisure, recreation, or sport, such as a bowling or tennis club, gymnasium and fitness centre. It may include food and drink for consumption on the premises, and gaming. It may also include use by members' guests, or by the public on payment of a fee.*).

The truck bay will be used as the main gym area with all the gym equipment, the two offices will eventually be fixed up and made into change rooms or storage rooms, the back room will become a room for classes such as yoga and Pilates.

New toilets have been installed to comply with the rules and regulations for wheelchair access and include a shower.

The backyard will be used as an area for outdoor exercise classes with plans to have shade sails put up. These classes will be run by Rural Northwest Health or local Personal trainers that will hire the place to have their classes on our property.

It is intended that the portable building will be relocated off the site and cleaned up and remain bare for another area for exercise classes if needed.

Parking will be on the main street with two or three parking spots on the front driveway, no parking will be permitted down the driveway, backyard or in the alley.

Access to the facility will be via a FOB once funds are available to set up the entry system. The entry into the facility will be via the door on the northern side of the building and via the door at the front of the building. Disability access is provided at the front of the building only.

Hours of operation are proposed to be 6 am – 9 pm, daily with rules for members to use personal headphones in the early morning and late at night due to being in the main street with houses around and families.

Subject site & locality

The site is located on the eastern side of Lascelles Street, approximately 90 metres north of its intersection with Austin Street. Most businesses and community facilities are located on either Lascelles or Austin Streets

The site is surrounded by residential dwellings and used for residential purposes.

Permit/Site History

There have been no recent planning permits for the site. The site previously had existing use rights as an emergency services facility.

Public Notification

Notice of the application was given to adjoining and adjacent land owners and occupiers in accordance with S. 52(1)(a) of the *Planning & Environment Act 1987*.

Objection

At the time of this Report, and as a result of public notification, one objection was received.

The submission raised the following issues:

- Hours of operation are too much, too early for weekends and too late any night
- Also the noise levels is a concern as the house is a family home
- Privacy as you can see in to the house bedroom, lounge room and master bedroom from the buildings new front entrance
- Also when walking down the driveway to access the yard you can clearly and easily see the whole of the property inside house and yard.
- Also from what is marked class room over looks the whole back yard..

Consultation

Public Notice was given to adjacent and adjoining land holders / occupiers.

At the time of this Report, following receipt of the above objection, a response was forwarded to the Objector addressing their concerns raised, which is currently for their consideration.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/Notice	Advice/Response/Conditions
Section 55 Referrals - Nil	Nil
Section 52 Referrals - Nil	
Section 52 Notices Adjoining owners only	One objection was received (09/02/2022)

Internal Council Referrals	Advice/Response/Conditions
Nil	

Assessment

PLANNING POLICY FRAMEWORKS

In regard to this particular planning permit application, assessment of the following Policy Frameworks, Objectives and Strategies were considered:

02 MUNICIPAL PLANNING STRATEGY

02.02 VISION

Yarriambiack Shire's vision is to provide a viable, sustainable and vibrant future.

From a land use and development perspective, Council intends to achieve its vision through the implementation of the following objectives:

- A place to live and grow.
- A safe and active community.
- A sustainable environment.
- A planned future.

02.03 STRATEGIC DIRECTIONS

02.03-1 Settlement

The settlement pattern of Yarriambiack Shire is characterised by a number of urban centres and small towns, located in the midst of productive agricultural areas. The maintenance of a clear distinction between urban and rural areas is essential to efficient township development and continued agricultural production.

Factors contributing to the character of these townships include unique rural settings, heritage buildings and a rich community culture. The uniqueness and quality of life offered in each township is of great importance to the people of the Shire.

Some of the towns have lost the threshold population size to attract and to maintain the necessary services and facilities for residents and the surrounding farming district. Given the population thresholds and factors of location, environment and entrepreneurial initiative to rejuvenate towns, Council's settlement strategy is to consolidate development and provide infrastructure within towns in order of highest potential as follows:

- Hopetoun

Hopetoun performs a subdistrict role with a number of successful businesses and potential for tourism associated with proximity to Wyperfeld National Park and Lake Lascelles. Its facilities include a hospital, a P-12 college, retail services and a shire office. There is potential for value adding industries associated with the agriculture to be located in Hopetoun.

Strategic directions

- Direct development and growth to take place within the townships of Warracknabeal, Murtoa, Hopetoun, Minyip, Rupanyup, Beulah and Woomelang.
- Facilitate population growth to maintain threshold populations for townships and support delivery of services.
- Develop Murtoa and Hopetoun as subdistrict service centres, attracting larger developments and offering a range of services.

10 PLANNING POLICY FRAMEWORK

11 SETTLEMENT

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

Planning is to recognise the need for, and as far as practicable contribute towards:

- Health, wellbeing and safety.
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability.
- A high standard of urban design and amenity.
- Energy efficiency.

- Prevention of pollution to land, water and air.
- Protection of environmentally sensitive areas and natural resources.
- Accessibility.
- Land use and transport integration.

Planning is to prevent environmental, human health and amenity problems created by siting incompatible land uses close together.

Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services.

11.01 VICTORIA

11.01-1S Settlement

Objective

To promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.

Strategies

Guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks.

Encourage a form and density of settlements that supports sustainable transport to reduce greenhouse gas emissions.

Limit urban sprawl and direct growth into existing settlements.

Promote and capitalise on opportunities for urban renewal and infill redevelopment.

Ensure land that may be required for future urban expansion is not compromised.

Policy documents

Consider as relevant:

- Wimmera Southern Mallee Regional Growth Plan (Victorian Government, 2014)

Victoria Settlement Framework

11.01-1R Settlement - Wimmera Southern Mallee

Strategies

Support the ongoing growth and development of Edenhope, Hopetoun, Nhill, St Arnaud, Stawell and Warracknabeal as the key service hubs in their sub-regional communities of interest.

ZONE PROVISIONS

Clause 36.01 – Public Use Zone

Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To recognise public land use for public utility and community services and facilities.
- To provide for associated uses that are consistent with the intent of the public land reservation or purpose.

Comments:

The Public Use Zone was established over this site to reflect the use of the land for the emergency services facility. Since the relocation of the CFA to another site within Hopetoun. The proposed use for a recreation facility will provide the community with a facility to assist in creating a healthier population. Without this proposal it would be considered that the site would remain unused and therefore the potential to be unmaintained. Lascelles Street already contains numerous vacant buildings, therefore it is considered appropriate to encourage new uses into the existing buildings.

36.01-1 Table of uses

Section 1:

Any other use with a condition of the use must be for the purpose described in the table to Clause 36.01-6 which corresponds to the notation on the planning scheme map, and the use must be carried out by or on behalf of the public land manager.

If the conditions of Section 1 are not complied with, the use becomes a Section 2 use which requires a planning permit.

Comments:

Clause 3601-6 nominates that PUZ1 is for Service and Utility uses, the proposed use is a restricted recreational facility therefore does not meet the conditions required for a Section 1 use. The proposed use requires a planning permit.

OVERLAY PROVISIONS

Environmental Significance Overlay – Highway Environs Protection (ESO2)

Purpose

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

43.01-1 Permit requirement

A permit is required to: Construct a building or carry out works.

Comment:

The application does not propose any construction of buildings or works and is for the use of the site only, therefore the ESO2 does not specifically apply to this permit application.

PARTICULAR PROVISIONS

52.06 CAR PARKING

To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.

To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.

To support sustainable transport alternatives to the motor car.

To promote the efficient use of car parking spaces through the consolidation of car parking facilities.

To ensure that car parking does not adversely affect the amenity of the locality.

To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

52.06-1 Scope

Clause 52.06 applies to:

- an increase in the floor area or site area of an existing use.

52.06-2 Provision of car parking spaces

Before:

- a new use commences; or
- the floor area or site area of an existing use is increased,

the number of car parking spaces required under Clause 52.06-5 must be provided to the satisfaction of the responsible authority in one or more of the following ways:

- on the land; or
- in accordance with a permit issued under Clause 52.06-3.

52.06-3 Permit requirement

A permit is required to:

- Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.
- Provide some or all of the car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay on another site.

A permit is not required to reduce the number of car parking spaces required for a new use of land if the following requirements are met:

- The number of car parking spaces required under Clause 52.06-5 for the new use is less than or equal to the number of car parking spaces required under Clause 52.06-5 for the existing use of the land.

- The number of car parking spaces currently provided in connection with the existing use is not reduced after the new use commences.

52.06-6 Number of car parking spaces required for other uses

Where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority. This does not apply to the use of land for a temporary portable land sales office located on the land for sale.

Comment:

Restricted recreation facility is not listed in Table 1 of the Clause, therefore the number of car parking spaces required for this application will need to be provided to the satisfaction of the responsible authority.

The site has parking available in front of the building, all other parking for this facility would be on street. For a recreation facility where members are there to undertake exercise it is not unreasonable for some members to walk a short distance to the facility if parking is not available onsite.

The numbers of members on site at the one time is unlikely to be significantly large to cause unavailability issues within the street.

It is considered that the number of spaces on the site, and the spaces on street surrounding the site is suitable for the proposal.

DECISION GUIDELINES

Clause 65.01 Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

DECISION GUIDELINE	COMMENTS
The matters set out in section 60 of the Act.	<i>The provisions of Section 60 of the Act are considered to be consistent with the application. The elements of Section 60 will be discussed in the following sections of Clause 65.01 of the Planning Scheme.</i>
The Municipal Planning Strategy and the Planning Policy Framework.	<i>These have been addressed earlier in the Delegate Assessment Report.</i>
The purpose of the zone, overlay or other provision.	<i>The proposal is considered to be consistent with the purpose of the zone and the overlays that apply to the site.</i>
Any matter required to be considered in the zone, overlay or other provision.	<i>The proposal is considered to be generally consistent with the all the matters identified in the planning scheme through</i>

	<i>the zones, overlays and other provisions. The issues raised in the submission received for this application will be discussed later in this report.</i>
The orderly planning of the area.	<i>It is considered that the reuse of this building as a community facility is appropriate for the site.</i>
The effect on the amenity of the area.	<i>Amenity was an issue raised within the submission for this application. This will be discussed later in this report.</i>
The proximity of the land to any public land.	<i>The site is located approximately 150 metres west of public open space. The public open space near this site provides various recreation options for the Hopetoun community. The proposal will not impact on this open space.</i>
Factors likely to cause or contribute to land degradation, salinity or reduce water quality.	<i>The proposed application to use an existing building will not contribute to land degradation, salinity or reduce water quality.</i>
Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.	<i>No development is included in this application. Existing stormwater can be managed on site and discharged to a legal point of discharge to Council's satisfaction.</i>
The extent and character of native vegetation and the likelihood of its destruction.	<i>No vegetation will be affected by the proposed subdivision of land.</i>
Whether native vegetation is to be or can be protected, planted or allowed to regenerate.	<i>No vegetation will be affected by the proposed subdivision of land.</i>
The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.	<i>The proposed reuse of an existing building will not increase the potential for flood, erosion, or fire hazard.</i>
The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.	<i>The reuse of the existing building will bring activity back to the under utilized building. Amenity will be discussed through the consideration of the submission on this application.</i>

Issues raised in the submission

- Hours of operation are too much, too early for weekends and too late any night
- Also the noise levels is a concern as the house is a family home
- Privacy as you can see in to the house bedroom, lounge room and master bedroom from the buildings new front entrance
- Also when walking down the driveway to access the yard you can clearly and easily see the whole of the property inside house and yard.
- Also from what is marked class room over looks the whole back yard.

The applicant has responded to these issues and have provided the following response:

1 : Hours of Operation, 2 Noise levels

Gym hours will be 6am to 9pm so no late users and lights causing any issues to neighbours, all users will also use headphone /earbuds to listen to music while exercising before 9am and after 5pm. During the day the noise level of any stereo system will be monitored to reduce the volume. The users' agreements all gym users will sign has a clause about keeping noise levels down and this will be monitored and repeat offenders could lose the membership.

3: Privacy, 4 Access

At least 10 screening trees will be planted to cover any gaps on the southern boundary and reduce any issues for the house next door, also the driveway will not be used and any access to the rear can be on the other side of the shed. The rear yard will not be used a lot due to lack of suitable lawn area. Gym users can access the gym from the northern side door, the front is for disabled access.

5: Rear window

The only window with a view out of the building at eye level is the kitchen window at the rear of the building. This will have a curtain installed and overlooks the rear yard. A person would have to physically lean over the sink to look out sideways in any direction.

It is considered that these actions will be conditioned within any approval for this application.

Other relevant adopted State policies/strategies – (e.g. Melbourne 2030.)

Nil

Relevant incorporated or reference documents

Nil

Relevant Planning Scheme amendments

Nil

Summary of Key Issues

At the time of the Report, the key issues for this application relate to amenity and overlooking/privacy to the adjoining property.

Conclusion

The proposed use of the former CFA building as a restricted recreation facility will reduce the number of unused buildings within Lascelles Street. Conditions can be placed on any approval to minimise the amenity issues raised within the submission on this application.

Recommendation

Planning Permit

That Council having caused notice of Planning Application No. TP01-22 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Grant a Permit under the provisions of the Yarriambiack Planning Scheme in respect of the land known and described as **62 Lascelles Street, Hopetoun (Lot 20 LP3170)**, for the use of the existing building as a restricted recreation facility in accordance with the endorsed plans, with the application dated 4 January 2022, subject to the following conditions:

Conditions:

1. The plans to be endorsed and which will then form part of the permit are the plans submitted with the application.
2. The development as shown on the endorsed plans must not be substantially altered without the written consent of the responsible authority.
3. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - transport of materials, goods or commodities to or from the land.
 - appearance of any building, works or materials.
 - emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - presence of vermin.
 - car parking.
4. All areas to be used for car parking must be maintained for this purpose. Areas for car parking should not be used for the storage of materials or rubbish collection.
5. The use of the site is permitted during the following hours:

6.00am to 9.00pm daily.

Outdoor classes are permitted during the following hours:

9.00am to 5.00pm Monday to Friday

9.00am to 1.00pm Saturdays

No classes Sundays or public holidays
6. No amplified music/instructing is permitted to be used before 9.00 am or after 5.00 pm.

7. Prior to the commencement of the use permitted by this permit:
 - Screening trees are to be planted along the southern boundary to provide for a full vegetated screen.
 - A method of screening is to be installed over the kitchen window to reduce vision into adjoining properties.
8. Following the removal of the portable building from the site and prior to classes commencing in this area a screen to a height of 1.8 metres to be constructed to restrict viewing of the rear yard of the adjoining property to the south of the site.
9. The applicant must comply with the Environment Protection Authority Guideline Publication 1411, Noise from Industry in Regional Victoria.
10. This permit approves the use of the site only. Building works, other than required by a condition on this permit, outside of the existing building are subject to further approval from the Responsible Authority.

Permit Expiry

11. This permit will expire if one of the following circumstances applies:
 - The development is not started within two years,
 - The development is not completed within four years of the date of this permit.The responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months afterwards.

NOTE:

- It is your responsibility to ensure all other authorisations are obtained prior to any works commencing. This may include Building, Engineering and Local Laws Permits. You are also required to abide by any State and Federal Legislation in relation to your approved proposal.
- 1.