

Extraordinary Planning and Consultation Committee Meeting

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 17 December 2024 commencing at 7:00 pm.

Agenda

Carl Cowie
Chief Executive Officer

Thursday 12 December 2024

Distribution: Public

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Council Chamber Extraordinary Planning and Consultation Committee Meeting seating plan

Cr Kelly Joy
Edendale Ward

Cr Naomi Joiner
Bunjil Ward
(Deputy Mayor)

**Cr Grant
Brooker**
Blue Lake Ward
**(Chairperson
Consultation
Matters)**

Cr Kim Cope
Sugarloaf Ward

Cr Kate McKay
Swipers Gully Ward

**Cr John Dumaresq
(Mayor)**
Wingrove Ward

Katia Croce
Manager
Governance and
Property

Blaga Naumoski
Director
Governance,
Communications
and Community
Safety

Cr Peter Perkins
Ellis Ward
**(Chairperson
Planning Matters)**

Carl Cowie
Chief Executive
Officer

Nillumbik Shire Council

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Nillumbik Shire Council

Agenda of the Extraordinary Planning and Consultation Committee Meeting to be held Tuesday 17 December 2024 commencing at 7:00 pm.

1. Welcome by the Chair

Members of the public are advised the meeting will be livestreamed and recorded and the livestream recording will be made publicly available on YouTube and Council's website.

2. Acknowledgement of Country

The Acknowledgement of Country to be read by the Chairperson

Nillumbik Shire Council respectfully acknowledges the Wurundjeri Woi-wurrung people as the Traditional Owners of the Country on which Nillumbik is located, and we value the significance of the Wurundjeri people's history as essential to the unique character of the shire. We pay tribute to all First Nations People living in Nillumbik, give respect to Elders past, present and future, and extend that respect to all First Nations People.

We respect the enduring strength of the Wurundjeri Woi-wurrung and acknowledge the ongoing impacts of past trauma and injustices from colonial invasion, massacres and genocide committed against First Nations People. We acknowledge that sovereignty was never ceded.

Wurundjeri Woi-wurrung people hold a deep and ongoing connection to this place. We value the distinctive place of our First Nations People in both Nillumbik and Australia's identity; from their cultural heritage and care of the land and waterways, to their ongoing contributions in many fields including academia, agriculture, art, economics, law, sport and politics.

3. Apologies/Leave of Absence

Committee to note any apologies by Councillors not in attendance and or considers requests for any leave of absence submitted.

4. Declarations of conflict of interest

Committee members and Officers should note that any conflicts of interest should also be disclosed immediately before the relevant item.

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5. Officers' reports

PCC.018/24 Building and Works to Construct four (4) shops at 2 Malley Court, Plenty - 86/2024/06P

Item: Planning Matter

Distribution: Public

Manager: Frank Vassilacos, Director Planning, Environment and Strategy

Author: Renae Ahern, Manager Planning and Environmental Health

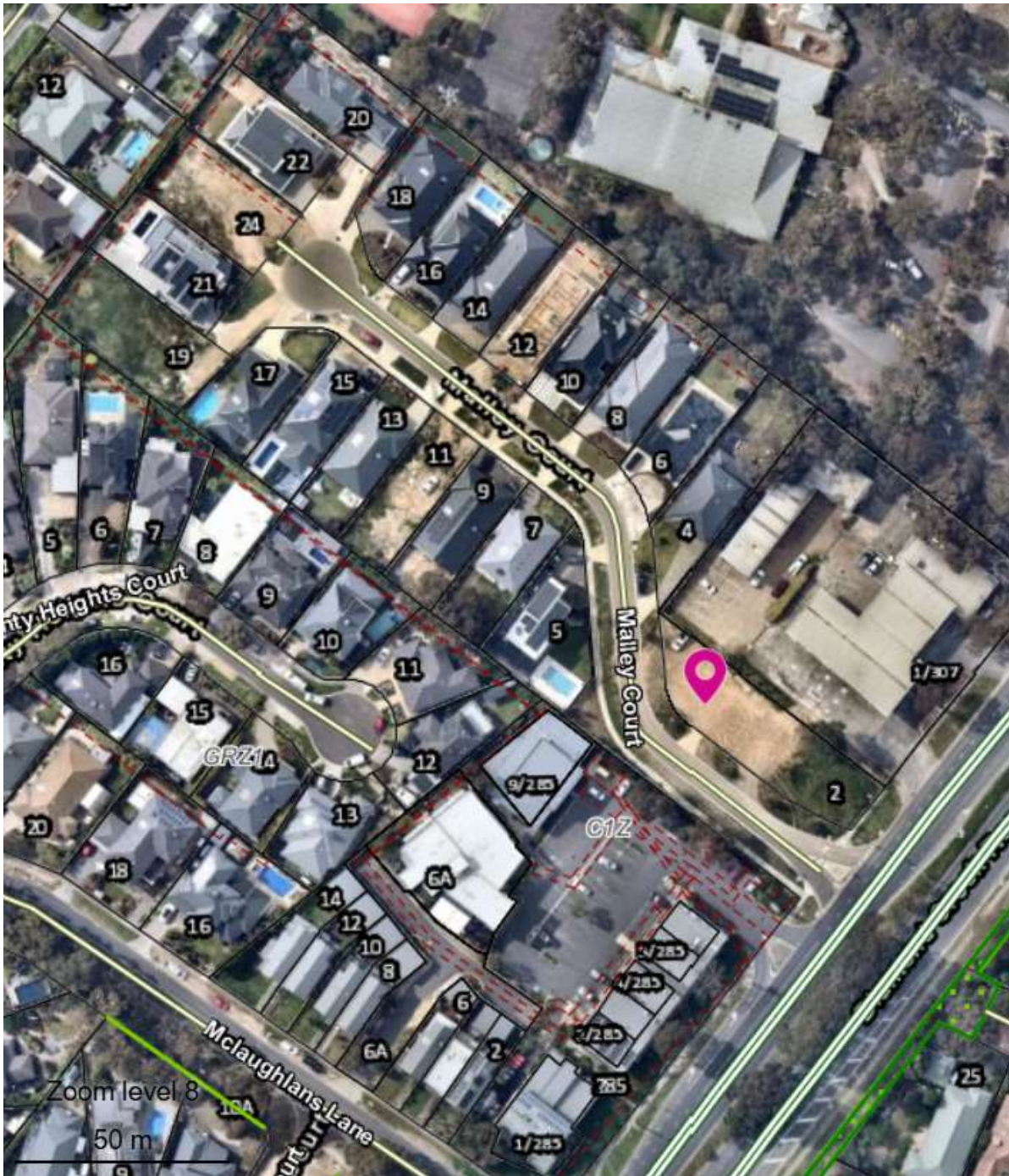
Application summary

Address of the land	2 Malley Court, Plenty
Site area	913.5 m ²
Proposal	Building and works to construct four (4) shops
Application number	86/2024/06P
Date lodged	9 February 2024
Applicant	Permits Hub
Zoning	Commercial 1 Zone
Overlay(s)	Design Development Overlay (Schedule 4)
Reason for being reported	Called in by Ward Councillor.
Number of objections	11
Key issues	<ul style="list-style-type: none"> • Strategic location • Business and economic development • Built form and landscaping • Car parking and traffic • Waste management • Vegetation impacts

5. Planning Matters

PCC.018/24 Building and Works to Construct four (4) shops at 2 Malley Court, Plenty - 86/2024/06P

Location map



5. Planning Matters

PCC.018/24 Building and Works to Construct four (4) shops at 2 Malley Court, Plenty - 86/2024/06P

Recommendation

That the Committee (under delegation from Council) issue a Notice of Decision to Grant a Permit to the land located at 2 Malley Court, Plenty, for Building and works to construct four (4) shops, in accordance with the submitted plans and subject to the following conditions:

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) All four buildings setback 3 metres from the north-east title boundary. The setback must comprise a 0.8 metre wide bin storage area, a 1 metre wide pedestrian path and a 1.2 metre wide landscaped area.
 - b) Wayfinding signage to direct pedestrians from the car park to the front entry of the shops.
 - c) Wheel stops to all car spaces to guide vehicle positioning.
 - d) The section of footpath on the south side of car space 11 and 12 deleted and replaced with nature strip.
 - e) A gate or bollards at the entrance to the car park to prevent unauthorised vehicle access afterhours.
 - f) The indicative shop signage (shown in red on sheet TPA03) deleted from the plans.
 - g) An amended Landscape Plan to reflect the changes to the plans required under condition 1 a) and in accordance with condition 3 of this permit.
 - h) A Tree Protection Management Plan in accordance with condition 6 of this permit.
 - i) An amended Waste Management Plan to reflect the changes to the plans required under condition 1 a) and in accordance with condition 12 of this permit.
2. The development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
3. Before the development commences, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must show:
 - a) A survey of all existing vegetation and natural features;
 - b) The area or areas set aside for landscaping;

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- c) A schedule of all proposed trees, shrubs/small trees and ground cover. This schedule shall include a mixture of selected vegetation from the Council document 'Live Local Plant Local' showing the botanical and common name of each plant, the quantity to be planted, the pot size and spacing;
 - d) The location of each species to be planted and the location of all areas to be covered by grass, lawn or other surface material;
 - e) Paving, retaining walls, fence design details and other landscape works including areas of cut and fill;
 - f) Appropriate irrigation systems; and
 - g) Appropriate maintenance details.
4. Unless with the prior written consent of the Responsible Authority, before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.
 5. No vegetation on-site (unless specified on the endorsed plans) shall be removed, destroyed, felled, lopped, ringbarked, uprooted or otherwise damaged except with the prior written consent of the Responsible Authority.
 6. Before the development commences, a Tree Protection Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plan will form part of this permit. The plan must show:
 - a) The paving tiles within the TPZ of Tree 9 must be laid at grade with no excavation and have gaps between to allow water to penetrate down to the root system.
 - b) There must be no excavation within the SRZ of Tree 9.
 - c) There must be no fill within the SRZ area of Tree 9.
 - d) The works for the building footprint within the TPZ of Tree 9 must be supervised by a qualified arborist to determine quantity and size of roots cut and to ensure roots are pruned cleanly. This will determine whether any mulching or extra irrigation is required.
 - e) Ground protection must be laid within the SRZ of Tree 9. This must consist of a layer of geofabric with 100 mm of mulch on top and then rigid boards.
 - f) No underground services are to be installed within the TPZ of Tree 9.
 - g) Following TPZ set up with fences and ground protection, the Relevant Authority must inspect the site to ensure the trees are protected prior to works commencing.
 - h) Any pruning required must be minimum in nature and carried out by qualified arborists conforming to AS 4373-2007.

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7. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the trees marked on the endorsed plans as being retained must have a Tree Protection Fence (TPF) to the satisfaction of the Responsible Authority. The fencing associated with this TPZs must meet the following requirements:

a) Extent

The tree protection fencing (TPF) is to be provided to the extent of the TPZ, calculated as being a radius of 12 x Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009)

Fencing may be reduced directly adjacent to the works area only to allow access during construction (i.e. no more than 1 metre away from the works/ construction area)

b) Fencing

All tree protection fencing required by this permit must be erected in accordance with the approved TPZ.

The TPF must be erected to form a visual and physical barrier and must be a minimum height of 1.5 metres and of chain mesh or similar fence

c) Signage

Fixed signs are to be provided on all visible sides of the TPF clearly stating “Tree Protection Zone – No Entry”, to the satisfaction of the Responsible Authority.

d) Provision of Services

Unless with the prior written consent of the Responsible Authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any TPZ, to the satisfaction of the Responsible Authority.

e) Access to TPZ

Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).

8. Prior to the commencement of the approved works (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the erected tree protection fences must be inspected and approved by the Responsible Authority.

Once erected to the required standard, the tree protection fencing shall be maintained in good condition and may only be removed upon completion of all development works, to the satisfaction of the Responsible Authority.

9. The following actions must not be undertaken in any tree protection zone as identified in this permit, to the satisfaction of the Responsible Authority:

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- a) Materials or equipment stored within the zone;
 - b) Servicing and refuelling of equipment and vehicles;
 - c) Storage of fuel, oil dumps or chemicals;
 - d) Attachment of any device to any tree (including temporary service wires, nails, screws or any other fixing device);
 - e) Open cut trenching or excavation works (whether or not for laying of services);
 - f) Changes to the soil grade level;
 - g) Temporary buildings and works; and
 - h) Unauthorised entry by any person, vehicle or machinery.
10. The materials to be used in the construction of the buildings and works hereby permitted shall be of non-reflective type and finished in muted tones, to the satisfaction of the Responsible Authority.
11. Air-conditioning and other plant and equipment installed on the subject buildings shall be so positioned and baffled so that noise disturbance is minimised, to the satisfaction of the Responsible Authority.
12. Prior to the development commencing, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval. The plan must specify:
- a) The details and location of bin storage and bin collection points by a private waste contractor (if not a Council collection).
 - b) Access route and method of access for the vehicles collecting waste.
 - c) Details and location of bin storage areas for each approved dwelling.
 - d) Odour control from bin storage areas.
13. A minimum of 13 car spaces must be provided and maintained on the land for the development hereby permitted, to the satisfaction of the Responsible Authority.
14. Before the occupation of the development, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
- a) Constructed;
 - b) Properly formed to such levels that they can be used in accordance with the plans;
 - c) Surfaced with an all-weather sealcoat or treated to the satisfaction of the Responsible Authority to prevent dust and gravel being emitted from the site;
 - d) Drained and maintained;
 - e) Line marked to indicate each car space and all access lanes;
 - f) Clearly marked to show the direction of traffic along access lanes and driveways;

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- g) All car spaces installed with wheel stops to guide vehicle positioning;
- h) Wayfinding signage to direct pedestrians from the car park to the shops;
- i) A gate or bollards at the entrance to the car park to prevent unauthorised vehicle access afterhours.

to the satisfaction of the Responsible Authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times, to the satisfaction of the Responsible Authority.

- 15. The loading and unloading of goods from vehicles must only be carried out on the land and must not disrupt the circulation and parking of vehicles on the land, to the satisfaction of the Responsible Authority.
- 16. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain to the nominated point of stormwater discharge. The nominated point of stormwater discharge is Council underground drainage system in the front of the property.
- 17. Vehicular access and egress to the development site from the roadway must be by way of a vehicle crossing constructed to the requirements of the Responsible Authority, to suit the proposed driveway and the vehicles that will use the crossing. The Responsible Authority must approve the location, design and construction of the crossing. Any existing unused crossing must be removed and the disturbed area reinstated to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under an Infrastructure Works Permit. The width of the driveway at property boundary must match the width of the vehicle crossing.

The vehicle crossing must comply to "Vehicle Crossing Policy" Version 1.1 August 2014 and to Standard Drawing (NS3000, NS3010, NS3020, NS3021 or NS3030 and NS3031) unless written approval has been granted from Council's Infrastructure Unit.

Vehicle crossing near other services assets may require permission from the relevant authority.
- 18. No polluted stormwater, effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property during any stage of the construction. Sediment fencing and/or pollution/litter traps must be installed on site and serviced accordingly to the satisfaction of the Responsible Authority.
- 19. Driveways, access lanes, and areas set aside for the parking and access of vehicles must be constructed and formed to such levels to ensure they can be utilised at all times and in accordance with the endorsed plans. Car parking must be line-marked or provided with some other adequate means of showing the car parking spaces. All must be drained and constructed in concrete, asphalt or similar surface, and must be carried out and maintained to the satisfaction of the Responsible Authority.



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20. A footpath in concrete to Council Standards must be constructed from Diamond Creek Road to the access to the development at the owner's cost.
21. The nature strip tree to be removed to accommodate the vehicle crossing must be replaced at the owner's cost.
22. This permit will expire if one of the following circumstances applies:
 - a) The development is not commenced within 2 years of the date of this permit.
 - b) The development is not completed within 4 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 6 months afterwards if the development has not commenced, or 12 months after if the development has commenced but is not yet completed.

Attachments

- 1  Development plans
- 2  Landscape plans

Subject site and surrounds

1. The key features of the subject land and surrounds are as follows:
 - The site is located at the north side of Malley court and is at the corner of Diamond Creek Road.
 - The land has an area of 913.5 m² and is irregular in shape.
 - The land has a gentle fall from west to east.
 - The site does not contain any trees.
 - Malley Court is accessed via a slip lane from Diamond Creek Road.
 - There is a Section 173 Agreement on title that has owner obligations relating to tree protection and boundary fencing. The proposal would not breach the owner obligations.
2. The land surrounding the subject is as follows:
 - North – 307 Diamond Creek Road, Caltex Fuel Station.
 - South – 285 Diamond Creek Road, Commercial development.
 - East – Diamond Creek Road.
 - West – Dwellings addressing Malley Court.

Details of proposal

3. Refer to the attached plans.

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4. Key features of the proposal include:

- Construction of four, single storey shops with a combined floor area of 300.9 m².
- At grade car park on the west side of the shops, comprising 13 car spaces.
- A 9 metre building setback to Diamond Creek Road and a 2 metre setback to the north and south boundaries.
- Landscaping within the front setback, side setbacks and adjacent to the carpark.
- Vehicle and pedestrian access from Malley Court.
- Active shop frontages to both Diamond Creek Road to the east and Malley Court to the south

Planning history

5. Planning application No. 816/2022/06P proposed to construct a two storey building comprising of shops and offices, but was withdrawn.
6. Planning Application No. 1073/2022/06P was refused on 1 March 2024 for building and works to construct a building comprising four shops, one office and associated basement car park.

Planning controls

Zoning

7. Pursuant to the Nillumbik Planning Scheme, the subject site is zoned Commercial 1 Zone (C1Z). Under the zone, a permit is required for building and works. However, a planning permit is not required for use of the land as a shop.

Overlays

8. The subject land is zoned Design and Development Overlay (Schedule 4) (DDO4). Under the overlay, a permit is required for building and works.

Particular provisions

9. Clause 52.06 (Car Parking) applies to the application. This clause seeks to ensure there is the provision of an appropriate number of car parking spaces; that car parking does not adversely affect the amenity of the locality; and 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.
10. Clause 65 (Decision Guidelines) outlines general decision guidelines that must be considered when assessing an application. These guidelines include the purpose of the zone or other provision, the orderly planning of the area, and the effect on the amenity of the area.

Relevant planning policies

11. The Planning Policy Framework relevant to this application includes:
 - Clause 11.01-1S (Settlement)
 - Clause 11.02-1S (Supply of urban land)

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- Clause 11.03-1S (Activity centres)
- Clause 11.03-1R (Activity centres in Nillumbik)
- Clause 11.03-1L-01 (Activity centres in Nillumbik)
- Clause 15.01-1S (Urban design)
- Clause 15.01-1R (Urban design – Metropolitan Melbourne)
- Clause 15.01-2S (Building design)
- Clause 15.01-2L-01 (Building design in Nillumbik)
- Clause 15.01-4S (Healthy neighbourhoods)
- Clause 15.01-4R (Healthy neighbourhoods – Metropolitan Melbourne)
- Clause 15.01-5S (Neighbourhood character)
- Clause 17.02-1S (Business)
- Clause 17.02-1L (Business in Nillumbik)

Advertising

12. The application has been advertised by way of posting notices to the owners and occupiers of neighbouring properties and the erection of two notice boards on-site, one to each street frontage.

Objections

13. As a result of advertising, a total of 11 objections have been received. These objections can be summarised as follows:
 - Car parking and traffic.
 - Amenity impacts from commercial interface with residential street and potential hours of operation of commercial uses.
 - Development would block line of sight to service station signage.

Planning application conference

14. A planning application conference was held on 23 October 2024. The above issues were discussed at length, and whilst no agreements were achieved, the position of all parties was clarified.

Referrals

Internal

15. The application was referred to various business units or individuals within Council for advice on particular matters. The following is a summary of the relevant advice:

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Council Unit	Comments
Strategic Planning Team	The proposal is consistent with the purposes of the Commercial 1 Zone to provide for commercial land use and development and Clause 17.02-1L (Business in Nillumbik) supporting limited local convenience.
Economic Development and Tourism Team	Supportive of the proposal given that the land is earmarked for commercial purposes and intensified commercial use and development is encouraged at the site given its zoning, immediate surrounds and its exposure to an arterial road.
Traffic and Transport Team	The proposed car parking and vehicle movements are satisfactory.
Urban Design	Advice provided recommended increasing the north and south boundary setback and that the footpath should be continuous along the entire Malley Court frontage and connect to the footpath along Diamond Creek Road. Comments made about the visual dominance of the car park.
Infrastructure Development Team	No concerns subject to standard drainage conditions.
Waste Management Team	Private waste collection is proposed. The Waste Management Plan is satisfactory with the exception that there is limited space on the north side of the building to store and transport the bins. A minimum of width of 700 mm is required to store the bins plus a 1 metre wide pathway for pedestrian access and to transport the bins.
Building Services	A building permit is required.
Council’s Consulting Arborist	Third party Tree no. 9 is a tolerant species and will remain viable subject to tree protection measures. It is proposed to remove Tree no. 10 which is a juvenile specimen planted in recent years and is owned by Council. This tree can be appropriately replaced in the landscape.
Parks and Open Space Team	No objection to the removal of Tree no. 10 subject to replacement planting and tree protection measures for the remaining trees within the nature strip.

External

16. There are no external referral authorities relevant to this application.

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Planning assessment

Introduction

17. The following have been identified as the key planning issues in relation to the assessment of this planning application:
 - Strategic location.
 - Business and economic development.
 - Built form and landscaping.
 - Car parking and traffic.
 - Waste management.
 - Vegetation impacts.
18. Assessment of these issues, together with a response to objections received, will be discussed in the remainder of this report.

Strategic location

19. The site is zoned Commercial 1 Zone, which has the purpose to create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. The “as of right” use of the land for shops also underscores the appropriateness of commercial activities on the subject site.
20. The Design and Development Overlay (Schedule 4) is titled “Diamond Creek Road Business Area” and has objectives to facilitate commercial developments of appropriate scale and with appropriate landscaping.
21. Some objectors enquired when the site was zoned Commercial 1, expressing concern that it might have been recent and preferring a residential zone and development. Planning officers can confirm that the site has been zoned commercial since at least 2005, based on a previous zoning map that formed part of the scheme at the time. The land was zoned commercial at the time of subdivision approval in 2017 and buyers would have most likely been aware of its zoning at the time of purchase, in line with similar commercial land uses which front directly on Diamond Creek Road. Furthermore, residential development is generally not considered appropriate in the Commercial 1 Zone unless located above street level, which would require a multi-level built form outcome.
22. The proposal is considered suitable for the location given its low scale and provision of suitable landscaping. The proposal strikes a balance between the objectives of the scheme to facilitate commercial development in this location and the sensitive interface with the residential properties further west in Malley Court.
23. It is challenging for planning officers to envisage a lower scale commercial development that would be viable on such a small and constrained site beyond what is currently being considered. Having the site remain undeveloped is not considered a positive planning or urban design outcome in a location where commercial development is encouraged by the Planning Scheme.

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Business and economic development

24. The proposal would make a positive contribution to business and economic development within the municipality and provide services to the local community.
25. The proposal is supported by Council's Economic Development and Tourism team to attract new businesses and economic activity to this locality.

Built form and landscaping

26. The maximum building height of the proposal is 6.6 metres which is less than the maximum height of 8 metres sought by the Design and Development Overlay (Schedule 4). Due to the slope of the land, the building height scales down to 5 metres towards its western end. The height contributes to achieving a low scale development and is considered appropriate in the context of the area, particularly when compared to the applicant's previous attempts to propose a more intensive development outcome consisting of a basement carpark, a double storey built form and increased number of tenancies.
27. The development proposes a building front setback of 9 metres to Diamond Creek Road in accordance with the Design and Development Overlay (Schedule 4). This achieves sufficient space for canopy tree planting and other landscaping and provides adequate visual separation between the building and the road reserve.
28. A 2 metre building setback is proposed to the south boundary to Malley Court. Whilst the policy seeks a minimum setback of 3 metres, the proposed setback is considered an appropriate character outcome when combined with the low scale form of the building and the immediate commercial context where the Diamond Creek Road street frontage is the primary focal point for canopy trees.
29. The 2 metre setback provides meaningful space for landscaping which is sufficient in accommodating medium sized trees to help integrate the proposed built form into the streetscape. Widening the setback by 1 metre would not expand this opportunity to include canopy trees, which are achieved elsewhere on site. The proposal also provides for separate pedestrian entries, ensuring safe and convenient access to the site and to individual shop entry points which is consistent with planning policy in achieving active street frontages. Importantly, any assessment of building setbacks should recognise the constrained nature of the site, site context and the objective of Commercial 1 Zone to provide for viable commercial activities.
30. The north boundary setback should be increased to 3 metres in accordance with the Design and Development Overlay (Schedule 4). This is recommended to provide space for pedestrian access, bin storage and transport, landscaping, a suitable visual break and to protect third party Tree no. 9 on the service station site to the north. This can be addressed through a permit condition in the event that a permit is issued.
31. The buildings are orientated appropriately to achieve active frontages with an outlook to public roads through the design response adopting clear glazing and clearly identifiable front entrances. Pedestrian paths provide suitable access to the shop entrances.

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32. The car park is appropriately located behind the proposed building away from the interface with Diamond Creek Road. The car parking occupies the minimal functional area to comply with the car parking requirements of the Planning Scheme. Landscaping is provided adjacent to the carpark to create a visual break of the proposed built form and of hard surface areas.
33. The modest building height, sufficient setbacks and landscaping mitigate potential visual impacts on nearby residential areas, addressing concerns about visual intrusion and maintaining local character.
34. The external colours and materials selected, including high quality finishes integrate well with the surrounding area and fulfils the strategic policy intentions envisaged for the subject site.
35. The low height and siting of the building would not unreasonably obstruct the line of sight to the service station or to the commercial site across Malley Court to the south, resulting in a uniform commercial corridor along this side of Diamond Creek Road. It is worth noting that the proposed development achieves a better building setback with greater landscaping potential from Diamond Creek Road when compared to the service station site to the immediate north and the commercial shops to the south. Such an outcome is encouraged by planning policy but it is also a reflection on how considered and responsible the design and siting response has been in light of landscape and neighbourhood character considerations.

Car parking and traffic

36. Under Clause 52.06 (Car Parking) of the Planning Scheme, the car parking requirement for a shop is four car spaces to every 100 square metres of floor area.
37. The proposal comprises of four shops with a total floor area of 300.9 m², which equates to a requirement of 12 car spaces. The proposal exceeds the car parking requirement, with 13 car spaces provided. Further, the car parking surplus would increase from one to two spaces due to the reduction to the shop floor areas resulting from the recommended increased setback to the north boundary, as discussed earlier in the report.
38. The size and dimensions of the car spaces and width of the access way complies with the Planning Scheme. Swept path diagrams submitted with the application have been assessed by Council's Traffic Engineers, who have confirmed that vehicle movements within the car park are convenient and vehicles can enter and exit the site in a forwards direction.
39. It is considered that the traffic generated by the proposal would be limited, given the limited floor areas of the individual shops. The site and the proposed vehicle crossing is located east of the residential properties in Malley Court. As such, traffic movements would not need to drive past the residential lots to access Diamond Creek Road.

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40. Objectors have raised questions around whether vehicle access into the subject site could occur directly off Diamond Creek Road. Unfortunately such an outcome is not possible as Diamond Creek Road is a Transport Zone, which is managed by the Department of Transport and Planning. Under their relevant assessment criteria, the Department of Transport and Planning are not supportive of creating access off Diamond Creek Road as their stated objective is to restrict and minimise the number of vehicle access points coming off or onto a road within a Transport Zone. This is particularly the case given there are alternate access opportunities available to the site such as via Malley Court, which is also why the parent subdivision that created the subject site limited access to be strictly off Malley Court.
41. Further to the above, an additional vehicle access to this site directly off Diamond Creek Road would result in an over-concentration of driveways and vehicle access points within a short distance (in an area that only allows 18 metres between the roadway of Malley Court and the driveway entrance to the Caltex Service Station), inhibiting safe access for pedestrians walking along the footpath.
42. To provide historical context and as discussed earlier in the report, the subject site formed part of a residential subdivision that was approved in 2017 and as part of this approval, the subject site was designated for a commercial development. Access into the site, at the time, was restricted to Malley Court as direct access to Diamond Creek Road was not an option supported by VicRoads (now the Department of Transport and Planning).
43. In the event car parking and traffic movements along Malley Court becomes an issue in future, Council's Traffic and Transport team can explore various options around mitigating such scenarios beyond the planning permit as the local road manager (such as introducing parking restrictions), however, at this stage the proposal complies with relevant planning and traffic management requirements.
44. Considering the points above, the proposal is not expected to unreasonably impact the amenity of local residents in Malley Court.

Waste management

45. A Waste Management Plan was included with the application which proposes private waste collection. The Waste Management Plan is satisfactory with the exception that there is limited space on the north side of the building to store and transport the bins. A minimum width of 800 mm is required to store the bins plus a 1 metre wide pathway for pedestrian access and to transport the bins. This can be addressed by increasing the north boundary setback to 3 metres to ensure sufficient space to store and collect the waste bins. This can be a conditioned in the event a planning permit is issued.

Vegetation impacts

46. It is proposed to remove Tree no. 10 which is owned by Council. This tree can be appropriately replaced in the landscape due to its juvenile state. This can be addressed through permit conditions in the event that a planning permit is issued.

5. Planning Matters

PCC.018/24 Building and Works to Construct four (4) shops at 2 Malley Court, Plenty - 86/2024/06P

47. The third party tree (Tree no. 9) on the service station site to the north will remain viable by increasing the north boundary setback to 3 metres and subject to tree protection measures implemented via a Tree Protection Management Plan. This can be conditioned in the event that a planning permit is issued.

Response to objections received

48. The objections have raised a number of concerns with respect to the proposed development. Issues regarding car parking and traffic, amenity impacts from the commercial interface with the residential street and maintaining line of sight to the service station have been discussed in earlier sections of this assessment, and considered to be adequately addressed.

Conflicts of interest

49. All officers involved in the preparation of this report have made a declaration that they do not have a conflict of interest in the subject matter of this report.

Extraordinary Planning and Consultation Committee Meeting Agenda 17 December 2024

- 6. Supplementary and urgent business**
- 7. Confidential reports**
- 8. Close of Meeting**