

**2020/438** 29-31 Davis Street Nyora VIC 3987

**1. Recommendation:**

It is recommended that a notice of decision be issued for the development of land for a supermarket, associated shops, to alter access to road in a Transport Zone with reduction of car parking requirement in line with the conditions set out in the recommendation section of this planning assessment.

**This Permit Allows:**

Development of the land for a Supermarket and associated shops, alter access to road in a Transport Zone and reduction of the car parking requirement in accordance with the endorsed plans.

**Proposed Conditions:**

1. Prior to plans being endorsed, amended plans 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 the permit. The plan must be drawn to scale with dimensions. The plans must include:
  - a. Incorporate the changes identified in the conditions from Department of Transport and Planning contained within this permit.
  - b. A revised swept path analysis for a 19 metre semi-trailer (or the largest delivery vehicle servicing the supermarket) with the swept paths to demonstrate to the satisfaction of Council that the vehicle can enter the site from Davis Street adjoining the southern boundary and exit the site via the adjoining unnamed road in a forward direction.
  - c. Appropriately sized crossovers to fully accommodate the 19-metre vehicle entering the development from Davis Street including the crossover / footpath of the adjoining property to the south if the swept path analysis illustrates any part of the vehicle utilising this area.
  - d. Widening and construction of the unnamed laneway to incorporate:
    - i. accommodating a two-way traffic carriageway of minimum 6 metres in width between kerb invert to kerb invert to allow for two-way traffic to Council's satisfaction. Any additional land/works required to be undertaken to achieve this must occur within the subject site;
    - ii. An appropriate sealed pavement in line with approved engineering plans;
    - iii. A 1.5 metre wide footpath along the southern side of the laneway along the site's northern boundary.
    - iv. Any other requirement which are consequential to conditions 1.d.i – 1.d.iii and to the satisfaction of the Responsible Authority.
  - e. Required property splays and kerb returns of appropriate radii to accommodate the 19-metre vehicle to exit the laneway on to Davis Street.
  - f. A revised supermarket 'entrance' from Davis Street that incorporates an articulated and more visually prominent design outcome.

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- g. The floor area of individual shops, supermarket, back of house and first floor components clearly nominated on the plans.
- h. The word 'liquor' removed from the southern-most proposed shop.
- i. The internal layout of the medical centre illustrated with a notation stating the medical centre will have a maximum of three (3) practitioners at any one time.
- j. Suitable line-marking with 'no parking' adjoining the curved landscape beds which have been designed to facilitate the 19-metre service vehicle swept paths.
- k. Details and location of any Electric Vehicle Charging Stations.
- l. A suitable trolley return location clearly illustrated within the car park area.
- m. The provision of bicycle parking rails at both supermarket entrances with the ability to accommodate a minimum of 4 bicycle spaces.
- n. All car parking bays and accessway widths (including any associated wheel stops) to be in accordance with Clause 52.06.
- o. The building signs clearly dimensioned including area, materials and nominated as being non-illuminated.
- p. Suitable signage that requires all service vehicles to enter via the southernmost access point of Davis Street and exit via a right turn only onto the unnamed laneway.
- q. The southern and western boundary fences required to be re-constructed as minimum 2-metre high timber paling fences at the full cost of the developer.
- r. The provision of a suitable screen provided along the southern side of the loading bay area to the extent possible whilst maintaining suitable swept paths for a 19-metre service vehicle.
- s. Any proposed outdoor seating and furniture clearly identified on the plans.
- t. A lighting plan showing how the car park and public entrances will be lit during hours of operation, and after hours lighting of the car park being reduced to avoid unreasonable amenity impacts on adjoining uses (but maintained to an adequate level to maintain surveillance and increase safety). The plan must include details of all external lighting, including sensor lighting as addressed in Condition 8 of this Permit.
- u. Extent of excavation and any retaining walls clearly illustrated.
- v. Location of air-conditioning and mechanical equipment on the roof, including the means by which any such plant and equipment is to be screened.
- w. Details of any screening required to prevent overlooking from the first floor of the proposed development;
- x. The construction of a footpath, kerb / channel along the development's abuttal with Davis Street, along with the associated widening of Davis Street with a

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bituminous seal and a suitable pavement in accordance with engineering plans approved by Council and Department of Planning and Transport.

- y. The construction of a footpath from the north-east corner of the site along the west side of Davis Street, extending to the existing footpath and pedestrian crossing at the intersection of Davis Street and Mitchell Street / Grundy Avenue.
- z. Any land forming widening of the laneway to be transferred to Council as "Road".
- aa. Revised southern and western elevations with improved façade treatments which create an improved visual appearance to the satisfaction of Council.
- bb. The provision of suitable pedestrian access doors to the northern façade of the proposed north facing shops.
- cc. The offset of any veranda posts shown to be in accordance with Council's Footpath Trading Code, and any outdoor furniture being in accordance with Council's Permanent Outdoor Furniture Style Guide.
- dd. Sustainability and energy efficiency practices and initiatives being implemented.
- ee. The development summary updated to reflect the abovementioned changes to the plans.
- ff. The provision of a separate roof plan, with any roof top plant and equipment clearly illustrated and suitably screened.
- gg. A detailed landscape plan, including a planting schedule of all proposed trees, shrubs and ground covers.
- hh. The following notation included on the plans:
  - i. Prior to commencement of any works on the subject site, Crown Allotments 25 & 26 Section 6 Township of Nyora Parish of Lang Lang East are to be consolidated into one parcel of land.
  - ii. Prior to occupation and operation of the supermarket / shops, the section of footpath required to be constructed adjoining the unnamed laneway is to be vested to Council at no cost to Council.
  - iii. Prior to occupation and operation of the supermarket / shops, Davis Street immediately adjoining the subject site is to be upgraded to the satisfaction of Council and Department of Planning and Transport with a suitable footpath, kerb/channel/nature strip and bitumen to connect to the existing bitumen along the site frontage.
  - iv. Prior to occupation and operation of the supermarket / shops, the unmade laneway immediately adjoining the northern boundary of the site is to be constructed to the satisfaction of Council in accordance with engineering plans approved by Council.
  - v. If required as part of the approved engineering plans for the proposed access arrangements from Davis Street, the applicant must at no cost to Council or adjoining property owner to the south of the subject site, construct a new

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crossover and footpath immediately adjoining the south-east corner of the subject site.

2. Before the development starts, a Waste Management Plan to the satisfaction of the responsible authority addressing waste disposal and collection must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and form part of the permit. The plan must include a scaled and fully dimensioned site plan and must be provided in a digital copy. The plan must be in accordance with the responsible authority's current Waste Management Guidelines and must include:
  - a. That waste collection is to be undertaken by a private contractor:
  - b. An acknowledgement that South Gippsland Shire will not at any time provide garbage, recycling, green or hard waste collection to this site.
  - c. Consideration to access and all waste streams, including garbage, recycling, hard waste, green waste, electronic waste, etc.
  - d. Description of methods of waste collection and the equipment to be used for the handling of different waste streams.
  - e. Estimated garbage and recycling generation volumes of the use and development of the site.
  - f. Bin quantity, size, dimensions, colour and labelling.
  - g. Waste collection frequency and times, which must be outside the peak operation times.
  - h. Details on the site plan showing location and area allocated for bin storage of garbage and recycling bins, including hard waste. The bin storage area must have appropriate access.
  - i. Details on the site plan showing waste collection point(s) in relation to the bin storage area.
  - j. Details of appropriate signage on site and how tenancies will be informed of the waste management arrangements for the site.
  - k. Details on collection of any Clinical Waste expected to be generated from the development and use of the site (e.g. type of waste, estimate volumes, storage, collection, transporting, reuse, recycling and disposal practices).
  - l. A swept path diagram for waste collection vehicles including the manoeuvrability within the subject site to waste collection point(s) and the ability to enter and exit the subject site in a forward direction.
  - m. Designated turning areas that are clearly marked, including no standing signage and must be accessible to the waste collection vehicles on collection day between 6.00am – 6.00pm.
3. Before the development starts, a Parking and Traffic Management Plan (PTMP) to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the PTMP will be endorsed and form part of the permit. The plan must show:

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- a. Arrangements and the location of all areas on- and/or off-site to be used for staff and patron parking with the relevant requirements of the *Australian Standard/NZS 2890.1-2004* or its successor (including ramp grades and dimensions, column location, headroom clearance, etc.).
  - b. Vehicular details including type of vehicle, vehicle loads, total volume, and vehicle routes.
  - c. The means by which the direction of traffic and pedestrian flows to and from car parking areas will be controlled both on and off-site, including proposed signage to direct occupants and visitors to their designated parking areas. This includes (but is not limited to) all service vehicles entering via the southernmost access point off Davis Street, and exiting via a right turn only onto the unnamed laneway
  - d. Measures to manage vehicular and pedestrian safety with traffic calming measures for inclusion within the accessways and car parking areas on site, including rubber speed humps and speed restrictions as appropriate.
  - e. Arrangements for the loading and unloading of goods and materials for the commercial use(s).
  - f. Movements of trucks and other vehicles to the loading and unloading dock areas, demonstrating likely access routes and movements from adjacent roads.
  - g. Entitlements to the use of the loading and unloading dock areas by all commercial use(s).
  - h. The operation hours.
  - i. Servicing of the drainage, lighting and maintenance of car parking areas, entries and exits.
  - j. Provision for the safe passage of pedestrians in Davis Street and Mitchell Street while the building and civil works are being carried out.
  - k. Provision for continued access to the rear of properties at 1-5 Mitchell Street via the unnamed laneway where existing legal access has been available prior to the commencement of any development works, while the building and civil works are being carried out.
  - l. Any other requirements which are consequential to conditions 2 a – k.
4. The buildings, works and layout as shown on the endorsed plans must not be altered or modified, except with the further written consent of the Responsible Authority.
  5. Prior to the commencement of works, the owner must enter into an agreement with the responsible authority under section 173 of the *Planning and Environment Act 1987*. The section 173 agreement must provide for the following:
    - a. A cash contribution toward the future upgrade (to a two-way carriageway) of the unnamed laneway between the western boundary of the subject site and Hanley Street.

The agreement must be registered on the title to the land under section 181 of the Act. The owner must pay the responsible authority's costs of the preparation, negotiation,

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review, execution and registration of the section 173 agreement required by this condition before the agreement is registered at the Land Titles Office.

6. Once the development has started it must be continued and completed in a timely manner to the satisfaction of the Responsible Authority.
  7. Prior to the commencement of any works, both lots must be consolidated into one (1) lot and single title issued (plan registered). The applicant must provide a copy of the new title and plan to the Responsible Authority prior to the commencement of any works.
  8. External lighting must be designed, baffled and located in accordance with the lighting plan details shown on the endorsed plans, so as to prevent any adverse effect from lightspill on adjoining land or passing vehicles to the satisfaction of the Responsible Authority. The external lighting must be installed and operational before the use of the land starts.
  9. Prior to the commencement of the use, the southern and western boundary fences must be constructed with minimum 2-metre high timber paling fences in accordance with the endorsed plans, at the full cost of the developer and to the satisfaction of the Responsible Authority.
  10. Landscaping must be provided in accordance with the landscaping plan prior to the commencement of the use to the satisfaction of the Responsible Authority. The landscaping must be maintained for the life of the development and any dead or dying vegetation replaced.
  11. No more than (3) medical practitioners may operate from the subject site at any one time.
  12. Except with the prior written consent of the Responsible Authority deliveries to and from the site must only take place between:
    - a. Monday to Friday: 6:00 am – 6:00pm
    - b. Saturday and Sunday: 6:00 am and 1:00 pm.
  13. Engineering Conditions:
    - 13.1. Prior to the approval of the engineering plans, the applicant shall submit for approval by the Responsible Authority, a revised Traffic Layout Plan (TLP) for the approved development detailing, both during and post construction:
      - a. Turning movements for a minimum 19-metre semi-trailer to be able to enter the development from Davis Street and exit the development in a forward direction via the unnamed laneway situated to the north of the proposed development, and existing the site via Davis Street.
      - b. The internal and external turning movements for all other expected vehicles, entering and exiting in a forward direction.
      - c. All required linemarking (both internal and external to the development).
- Upon approval of the TLP, these plans will be endorsed as part of this permit.

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- 13.2. Prior to the approval of the engineering plans, the applicant shall submit for approval by the responsible Authority, a detailed Storm Water Management Plan (SWMP) for the approved development, detailing in concept how, both during and post construction:
- a. All stormwater runoff from the site will be captured and controlled via an appropriate stormwater detention system to ensure runoff is limited to pre-development flows to the equivalent of a 10% AEP event;
  - b. Any polluted runoff from the site will be treated and directed to an approved sewer connection to ensure no impact on Council's drainage system;
  - c. Adjacent properties will not be adversely impacted by runoff from the site;
  - d. Stormwater will be discharged to Council's existing drainage network or a suitable existing overland flow path to be approved by the Responsible Authority.

Upon approval of the SWMP these plans will be endorsed as part of this permit.

- 13.3. Prior to the commencement of any buildings and/or works, the following conditions must be complied with to the satisfaction of the Responsible Authority;
- a. Drainage computations and engineering plans (based on Councils Infrastructure Design Manual (IDM)) of the proposed stormwater network, stormwater detention system, kerb and channel and any infrastructure works in Davis Street are to be submitted to and approved by the Responsible Authority. Plans are to show:
    - i. Civil engineering and stormwater drainage works generally in accordance with the approved TLP and SWMP.
    - ii. Construction of all driveways, accessways and parking areas with an impervious material, being concrete or bituminous asphalt, or other material approved by Council.
    - iii. Size of car parking bays and accessways in accordance with the South Gippsland Planning Scheme, or relevant Australian Standard.
    - iv. Signage to be provided to describe access/egress arrangements for delivery and private vehicles accessing the site.
    - v. Road and footpath works in Davis Street and the unnamed laneway as per the plan approved to satisfy Condition 1.
    - vi. All infrastructure to become Council assets to generally be in accordance with Councils Infrastructure Design Manual.
    - vii. Any ramping or adjustments required to provide access to the new building from Davis Street or the laneway made within the building or onsite.
  - b. Prior to approval of the engineering plans by Council, pay to Council a supervision fee equivalent to 2.5% of the estimated cost of construction of all the external works to be vested in Council, including footpath, pavements, kerb and channel, and longitudinal drainage. A certified cost estimate is to be provided by the applicant and approved by the Responsible Authority prior to payment of the fee.

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- c. Prior to approval of engineering plans by Council, pay to Council an amount equivalent to 0.75 % of the estimated cost of all the external works to be vested in Council for checking of engineering plans and computations.
- 13.4. Prior to the use commencing, or the issue of any Occupancy Permits, all civil engineering and stormwater drainage works as shown on the approved engineering plans must be constructed to the satisfaction of the Responsible Authority.
- 13.5. The corners of the property must be pegged by a licensed surveyor prior to the building or construction works commencing on-site, describing the property boundaries (as reduced) to accommodate the required widening of the laneway.
- 13.6. Provision is to be made for the safe passage of pedestrians in Davis Street while the building and civil works are being carried out.
- 13.7. Provision is to be made for the safe access of occupants to the rear of properties at 1-5 Mitchell Street via the unnamed laneway where existing legal access has been available prior to the commencement of any development works, while the building and civil works are being carried out.
- 13.8. Any damage to Council infrastructure during construction works is to be reinstated at no cost to Council and to Council's satisfaction.
- 13.9. Upon agreed practical completion of civil works, pay to Council an amount equivalent to 5 % of the actual cost of construction of infrastructure to be handed to Council, being for Guarantee of Works during Defects Liability Period. The amount to be refunded upon release from Defects Liability Period by Council.
- 13.10. The external works as required by this permit must be maintained in good condition and repair by the developer for a period of 12 months from the date of practical completion, to the satisfaction of the Responsible Authority.
- 13.11. Scaled "As Constructed" plans are to be forwarded to Council in "pdf" and AutoCAD compatible format, for any infrastructure to be handed over to Council to the satisfaction of the Responsible Authority.
- 13.12. Provide sediment control for construction work in accordance with EPA Publication No. 275, "Construction Techniques for Sediment Pollution Control.
- 13.13. Prior to the use commencing, all civil engineering and stormwater drainage works as shown on the approved engineering plans must be constructed to Council's satisfaction.
14. Prior to occupation or commencement of operations, the car parking spaces, access lanes, driveways and associated works and landscaping shown on the plan must be:
- a. constructed and available for use in accordance with the plan approved by the responsible authority; and
  - b. formed to such levels and drained so that they can be used in accordance with the plan; and
  - c. treated with an all-weather seal or alternative to the satisfaction of Council; and
  - d. line-marked or provided with some other adequate means of showing the car parking spaces.



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15. Prior to occupation / commencement of operation, all land required for road / laneway widening must be vested with the responsible authority at no cost to the responsible authority.
16. No plant, equipment, services or architectural features, above the roofline, other than those shown on the endorsed plans are permitted, unless with the prior written consent of the responsible authority.
17. Car spaces, vehicle access lanes and driveways must be kept available for these purposes at all times to the satisfaction of the responsible authority.
18. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
  - a. transport of materials, goods or commodities to or from the land.
  - b. appearance of any building, works or materials.
  - c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
  - d. presence of vermin.
19. All waste material or other refuse must be obscured from the view of the public and must be disposed of in a manner to the satisfaction of the Responsible Authority.
20. The property must be maintained in a neat and tidy condition to the satisfaction of the Responsible Authority.
21. Before the use starts/the development is occupied, or by such later date as approved in writing by the responsible authority, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the responsible authority.
22. The loading and unloading of vehicles and delivery of goods must at all times be within the boundaries of the site.
23. All disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of the Responsible Authority.
24. Department of Transport and Planning
  - 24.1. The Davis Street shoulder, adjacent to the site must be widened and sealed to the satisfaction of the Head Transport for Victoria prior to the use of the development.
  - 24.2. The shoulder must be designed to include kerb and channel to the satisfaction of the Head Transport for Victoria.
  - 24.3. The driveway/carpark access must be designed and constructed to the satisfaction of the Head Transport Victoria.
  - 24.4. The access to the existing laneway must be re-designed and constructed to the satisfaction of the Head Transport for Victoria.

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- 24.5. Prior to the plans being endorsed they must be amended and approved by the Responsible Authority and the Head Transport for Victoria and include:
- a. Shoulder widening
  - b. Driveway crossover
  - c. Laneway intersection upgrade
  - d. Roadway lighting (to be determined)
- 24.6. Prior to road works commencing at the site, design plans in accordance with Gippsland Regions Developer funded checklists must be submitted and approved by the Head, Transport for Victoria.
- 24.7. Prior to commencement of earthworks for the development a truck wheel-wash must be installed at the property boundary to enable all mud and other tyre borne debris from vehicles to be removed prior to exiting the land.
- 24.8. The truck wheel-wash must be maintained in good order during the construction phase of the development and may be removed at the end of the construction phase of the development with the prior approval of the Head, Transport for Victoria.
- 24.9 All roadworks on Davies Street must be completed at no cost and to the satisfaction of the Head Transport for Victoria prior to the commercial use of the development.
25. This permit will expire if either of the following applies:
- a. Development is not started within three (3) years of the date of this permit.
  - b. The development is not completed within five (5) years of the date of the permit.

The Responsible Authority may extend the periods referred to in accordance with Section 69 of the Planning and Environment Act 1987, if a request is made in writing.

## Council Notes:

1. This permit allows the above land to be used or developed for the purpose specified. It is the permit holder's responsibility to ensure that any other relevant approvals are obtained prior to the commencement of the use or development.
2. A Consent to Work Within the Road Reserve Permit must be obtained from Council's Engineering Department for the construction and/or alteration of the driveway crossover.

## Department of Transport &amp; Planning Notes:

3. Prior to the designs for roadworks commencing, a pre-design meeting with the applicant's consultants and the Department of Transport and Planning (Gippsland Region) must be attended.
4. Prior to works commencing in the road reserve, separate consent must be obtained from the Head Transport for Victoria.

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