



Southern Grampians
SHIRE COUNCIL

Planning Committee

Minutes

5 February 2021

Held at 10.30am in the
Martin J Hynes Auditorium
5 Market Place, Hamilton

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1. Present

Councillors

Cr Helen Henry
Cr Greg McAdam

Officers

Mr Andrew Goodsell, Director Development and Planning
Ms Belinda Johnson, Acting Director, Shire Infrastructure

Minutes

Mrs Sharon Clutterbuck, Executive Assistant – Director, Shire Futures

Jack Aitken
Tania Aitken
Susie Hand

2. ELECTION OF CHAIR

Cr Henry was elected as chair.

3. APOLOGIES

nil

4. CONFIRMATION OF MINUTES

Minutes of the Meeting held on 20 July 2020 have been circulated

RECOMMENDATION

That the Minutes of the Planning Committee meeting held on 20 July 2020 be confirmed as a correct record.

Moved: Andrew Goodsell
Seconded: Cr Helen Henry

Carried

5. DECLARATION OF INTEREST

nil

6. MATTERS FOR DECISION

6.1 TP/82/2020. Use and development of a Medical Centre and business signage at 20 French Street, Hamilton, Crown Allotment 4, Section 17A, Township of Hamilton, Parish of Hamilton North.

Author: Lachlan Waddell, Planning Officer

Attachments:

1. Application documents
2. Copy of objections received
3. Copy of applicant response to objections

Executive Summary

Council has received a planning permit application for the *use and development of a Medical Centre and business signage* at 20 French Street in Hamilton.

As a result of public notification undertaken pursuant to Clause 52 of the *Planning & Environment Act 1987*, three (3) objections were received from the residents of the Churchill Area.

Council's Instrument of Delegation requires that the application be referred to the Planning Committee for a decision as three (3) objections have been received.

Council's Instrument of Delegation also requires that if a Planning Officer is recommending that a 'Refusal to Issue a Permit' be issued for the reasons discussed in this Report below, then the application be referred to the Planning Committee for a decision.

Proposal

An application has been received for the *use and development of a Medical Centre and business signage* at 20 French Street, Hamilton as shown highlighted in red in Figures 1 & 2 below and the street view photo as shown in Figure 3 below.

Plans provided with the application show the following:

- The front rooms front of the existing dwelling are to be utilised as a Medical Centre (Osteopathy/ Physiotherapy business) will have a gross floor area of 54.51 square metres which will comprise:
 - two (2) consulting rooms,
 - a rehabilitation room; and
 - a reception area.
- The rear of the house is to be retained for the purpose of a dwelling with a gross floor area of 54.6 square metres and will include; a dining/ kitchen area, sunroom, bathroom, toilet and a bedroom.

- To the rear of the site will be eight (8) car spaces carpark with one of the car spaces being a disabled access space.
 - Carparking is to be accessed via an existing cross over in the northern eastern corner of the site with a driveway leading to the rear of the property.
 - Each of the car spaces are proposed to be 5.4 metres long by 3 metres in width, with 4 car spaces on either side of the carpark separated by a 5.4 metres width access aisle.
 - The carparking area to be setback 5 metres from the rear (south eastern) boundary fence line (and in line with an existing 3 by 3 metre shed in the southern corner of the site), 3 metres from the south western side boundary fence line and 5 metres distance from the existing dwelling.
- It is proposed to plant vegetation along the rear western boundary (18 French Street) and the rear eastern boundary (22 French Street).
- Erection of a business identification sign which will be 1.1 by 0.6 metres totalling 0.66 square metres and located on the front fence of the property 1.5 metres from the ground, next to the driveway entrance. The sign is to have a blue logo and black lettering.
- The business is proposed to operate from 9am to 5pm Monday to Friday.
- Two (2) Health Care providers are proposed to work on site.

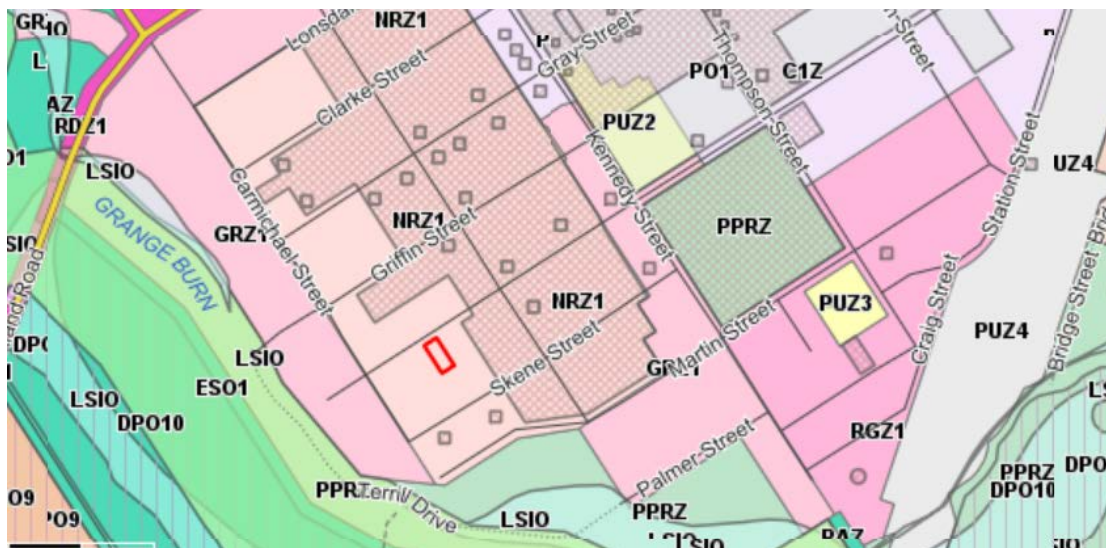


Figure 1: Subject site highlighted in red



Figure 2: Aerial image of subject site highlighted in red



Figure 3: Street view of subject site

Site/Location

The subject site is located on the southern side of French Street, approximately 80 metres from Carmichael Street to the west and 100 metres from McIntyre Street to the east of the site.

The subject site is approximately 911 square metres in area with a rectangular configuration that has a fall of 4 metres from north to south.

Currently the site has a dwelling with a carport which is accessed from a driveway in the northern corner of the site, as well as a small outbuilding/garden shed located in the rear southern corner of the site.

The surrounding neighbourhood is a residential area with similarly sized lots in the Neighbourhood Residential Zone (NRZ1). The site is located in the area known as the Churchill Precinct, however is not covered by the associated heritage overlay and is not affected by any other overlays.

The site is located in Schedule 1 to the Neighbourhood Residential Zone (NRZ1) which is known as the 'Church Hill Area'. The Church Hill Area is of regional significance as precinct where major Hamilton religious buildings were located including Hamilton's two most prominent landmarks in Christ Church Co Cathedral and the St Andrews Presbyterian Church. It is regarded as the most prestigious residential part of Hamilton, with a character that is marked by landscape gardens, quiet streets and its residential nature. Residential buildings in the area have generous front and rear setbacks which allow for large garden areas and the intersections leading into the area are marked with 'local traffic only' signs which display the intent of the area to remain a quiet residential area with limited traffic. Recommendations outlined in the City of Hamilton Conservation Study, state 'no non-residential uses should be allowed to compromise the essentially residential character of the area.'

The Hamilton Botanic Gardens is approximately 350 metres to the north east of the site, with the site being located outside of the Hamilton CBD area.

Southern Grampians Planning Scheme - Planning Controls

00 Purpose and Vision

Clause 01 Purpose of this Planning Scheme

The purpose of the Southern Grampians Planning Scheme is to provide a clear and consistent framework within which decisions about the use and development of land can be made, to express state, regional, local and community expectations for areas and land uses and to provide for the implementation of State, regional and local policies affecting land use and development.

Clause 02 Municipal Planning Strategy

Clause 2.01 Context

Clause 02.02 Vision

The Shire's vision is to be a well-connected, dynamic regional centre, supporting a vibrant, healthy and inclusive community.

Clause 2.03 Strategic Directions

- Clause 2.03-1 Settlement (Hamilton)
 - Activity Centres (Hamilton (Regional Centre))
- Clause 2.03-5 Built environment and heritage
- Clause 02.03-6 Economic Development

Planning Policy Framework (PPF)

The Planning Policy Framework (PPF) and Local Planning Policy Framework, gives direction supporting the objectives of planning in Victoria (as set out in Section 4 of the *Planning and Environment Act 1987*) and are fostered through appropriate land use and development policies and practices.

The Southern Grampians Planning Scheme provides the following relevant Policies and Clauses that relate to this proposal.

Clause 10 Planning Policy Framework (PPF)

Clause 11 Settlement

- Clause 11.01-1S Settlement
- Clause 11.01-1R Settlement – Great South Coast
- Clause 11.03-6L Planning for Places Hamilton

Clause 13 Environmental Risk and Amenity

- Clause 13.05-1S Noise abatement
- Clause 13.07-1S Land use compatibility

Clause 15 Built Environment and Heritage

- Clause 15.01-1S Urban Design
- Clause 15.01-1L Sign Design
- Clause 15.01-2S Building Design
- Clause 15.01-5S Neighbourhood Character

Clause 17 Economic Development

- Clause 17.02-1S Business
- Clause 17.02-1R Business- Great Southern Coast

Clause 18 Transport

- Clause 18.02-4S Car Parking

Clause 19.02 Community Infrastructure

- 19.02-1S Health Facilities
- 19.03-3S Integrated water management

Clause 20 Local Planning Policy Framework

Clause 23 Operation of the Local Planning Policy Framework

Clause 23.02 Operation of the Municipal Strategic Statement (MSS)

The MSS is a concise statement of the key strategic planning, land use and development objectives for the municipality and the strategies and actions for achieving the objectives. It further the objectives of planning in Victoria to the extent that the State Planning Policy Framework is applicable to the municipality and local issues. It provides the strategic basis for the application of the zones, overlays and particular provisions in the planning scheme and decision making by the responsible authority.

Clause 23.03 Operation of the Local Planning Policies

Local Planning Policies are tools used to implement the objectives and strategies of the Municipal Strategic Statement.

A Local Planning Policy is a policy statement of intent or expectations. It states what the responsible authority will do in specified circumstances or the responsible authority's expectation of what should happen.

Clause 30 Zones

The subject site is located in the *Neighbourhood Residential Zone* (NRZ1) pursuant to Clause 32.09 of the Southern Grampians Planning Scheme.

Pursuant to Clause 32.09-2 Table of uses, use of the land for a medical centre is in Section 1 – Permit not required if:

- The gross floor area of the all building does not exceed 250 square metres.
- Must be located in an existing building.
- The site must adjoin, or have access to a road in a Road Zone.
- Must not require a permit under Clause 52.06-3

As the subject site does not adjoin, or have access to a road in a Road Zone, the proposal is in Section 2 of Clause 32.09-2 and requires a Permit.

Pursuant to Clause 32.09-14 Sign requirements are located at Clause 52.05. This zone is in Category 4- Sensitive Areas.

Clause 40 Overlays

The subject site is not affected by any Overlays.

Clause 50 Particular Provisions

Clause 52.05 Signs

Clause 52.05-14 Requirements

A permit is required for business identification and the total area to each premises must not exceed 3 square metres. The proposed signage is 0.66 square metres in area.

Pursuant to Clause 52.05-14 the category of sign control in Sensitive Areas has a maximum limitation. The purpose is to *'to provide for unobtrusive signs in areas requiring strong amenity control.'*

Clause 52.05-8 Decision guidelines require planning to consider; the character of the area, impacts on views and vistas, relationship to streetscape, setting, site and building, impact of illumination, impact of any logo box associated with the sign, the need for identification and the opportunities for adequate identification on the site or locality, and whether the sign would present a safety hazard to road users.

Clause 52.06 Car Parking

Pursuant to Clause 52.06-1, a permit is required for a new use (Medical Centre).

Pursuant to Clause 52.06-2 provision of car parking spaces must occur before a new use commences.

Pursuant to Clause 52.06-3 a permit is required to provide some or all of the car parking spaces required under Clause 52.06-5, with 'Table 1 – Car parking requirement' specifying that a medical centre is to provide five (5) car spaces to the first person providing medical services and an additional (3) car spaces to every other person providing health services.

This application is for the provision of two (2) persons providing health services and as the subject site is required to provide a total of eight (8) car parking spaces on site pursuant to this clause.

Clause 60 General Provisions

Clause 65 Decision guidelines

Because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 65.01 Approval of An Application or Plan

Before deciding on an application or approval of a plan, the responsible authority must consider relevant points of this clause.

Relevant incorporated or reference documents

- Hamilton Structure Plan (2011)
- Hamilton City Centre Urban Design Framework and Design Guidelines (2011)

Relevant Planning Scheme amendments

Planning Scheme Amendment C59sgra was gazetted on 16 July 2020 and replaces the Local Planning Policy Framework of the Southern Grampians Planning Scheme with a new Municipal Planning Strategy, a modified Planning Policy Framework and local schedules to overlays and operational provisions as part of the Smart Planning Rules and Policy Program.

Public Notification

The application was advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of adjoining land.
- Placing a sign on the site.
- Notice on Council website.

As a result of the public notification process, two (5) objections were received (One of which was withdrawn and has not been included) and are summarised below:

Submission no.	Key issues raised
1. Objector 1	<ul style="list-style-type: none"> ○ Noise and fumes from vehicles due to proximity of driveway to neighbouring property. ○ Privacy concerns ○ Fear of traffic, noise and future development amongst this neighbourhood

	<ul style="list-style-type: none"> ○ Object to the location of a medical centre being in a residential area. ○ Objector submits that the proposal will set a precedent for other businesses to locate in the area. ○ Concerns regarding use of on street car parking and not the rear car parking area. ○ Signage concerns
2. Objector 2	<ul style="list-style-type: none"> ○ Same concerns as those listed above including ○ Construction/development concerns
3. Objector 3 and 4 (both objectors have since withdrawn)	<ul style="list-style-type: none"> ○ Amenity impacts regarding traffic, parking and other inconveniences caused by proposal. ○ Location of parking to rear on steep slope. ○ Decreased property values.
4. Objector 5	<ul style="list-style-type: none"> ○ Viability of off-street parking to rear of building on steep slope. ○ Amenity impact from on-street car parking being used ○ Amenity impact on neighbourhood character ○ Amenity impact due to increased traffic, noise and increased risk of damage or injury to property, persons and companion animals.

Referrals

No external referrals were required pursuant to the Planning Scheme.

Internal Referrals	Comments
Section 52 Referrals	
Engineering	No objection to the granting of a permit subject to conditions
Building	No objection to the granting of a permit subject to a note

Summary of Key Issues

The key issues for consideration are:

- How does the use and development respond to the relevant provisions of the Southern Grampians Planning Scheme including the Planning Policy Framework, Local Planning Policy Framework, Particular Provisions and the Decision Guidelines of the Neighbourhood Residential Zone (NRZ1)?
- Is this an appropriate location for a medical centre with two (2) practitioners?
- Is the use or development compatible with residential use?
- Can the use and development of the land be carried out in such a manner that will minimise any amenity impacts to the surrounding properties?
- Have objections to the proposal been received?

Discussion

A planning application has been submitted for the *use and development of a Medical Centre and business signage*.

The review site is located in the what is known as Church Hill Area which is a quiet residential area 350 metres to the south west of the Hamilton City Centre and located in close proximity to the Hamilton Botanic Gardens. The streets leading into this area are marked with 'local traffic only' signs.

The proposed Medical Centre requires planning approval under the Neighbourhood Residential Zone (NRZ1) due to the fact it is not located next to a road in a Road Zone. Two relevant purposes of the zone are:

- To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

These purposes demonstrate that a limited range of community and non-residential uses which serve local community needs, may be located in the area, so long as they are in appropriate locations and ensure to respect the identified neighbourhood character, heritage, environmental and landscape characteristics.

The proposed Medical Centre is to accommodate two (2) health care providers operating from 9am to 5pm Monday to Friday. The site is still to be used as a dwelling for one (1) of the practitioners.

In order to accommodate clients and meet car parking requirements of Clause 52.06, eight (8) car parking spaces are proposed to be provided to the rear of the dwelling, with access to these spaces being provided by a 3.2 metre cross over in the northern corner of the site which is to extend along the north eastern boundary fence line shared with 22 French Street. The subject site has a fall of 4 metres from north to south.

Clause 32.09-13 Decision Guidelines of the NRZ, sets out that when deciding on applications for a non-residential use and development, the responsible authority must consider the following as relevant:

In the local neighbourhood context:

- Whether the use or development is compatible with residential use.
- Whether the use generally serves local community needs.
- The scale and intensity of the use and development.
- The design, height, setback and appearance of the proposed buildings and works.
- The proposed landscaping.
- The provision of car and bicycle parking and associated accessways.
- The safety, efficiency and amenity of traffic to be generated by the proposal.

The proposed use of the site is not compatible with this residential area with three (3) objections to the proposal received from surrounding neighbours.

The use will generally serve the local community by providing a health service by the proposed two (2) health service providers, however, its residential location, in this instance, is not a suitable location with its proximity not sufficiently close to the central business centre and the road being deemed for local traffic only, further not supporting this location.

An existing dwelling will be used for the proposed use as a Medical Centre, however, carparking at the rear does not encourage vehicle parking in this location due to the slope of the property and on-street car parking will most probably be utilised impacting local traffic. Council do not support any car parking within the front setback due to neighbourhood character and further amenity impacts that this could create in this residential setting.

The proposal has provided landscaping opportunity on the subject site however amenity impacts, that may be created by traffic accessing the rear car parking down the driveway along the eastern boundary, will not reduce this impact on the property to the east.

The Church Hill Area is known for its large gardens and landscaping with the proposed car parking at the rear providing an extensive hard surface area and as such contrary to the existing landscaped character of the area.

The applicant has submitted that there are existing businesses in the Church Hill Area, which includes a business a block to the North East in French Street. The Medical Centre at 51 French Street is not registered in the Southern Grampians planning records and this may be as it may have existed for more than 15 years. Thus, although this business exists in close proximity to the proposal, any new application for use of a site as a medical centre must meet the requirements of the Planning Scheme and fit in with the character of the area, which is predominately residential with a high level of amenity.

Clause 52.05 Signs

The proposed 0.66 square metre sign on the front fence of the medical centre/ dwelling is considered acceptable as it is relatively small, with simple colours and is only one sign and so does not significantly detract from the character of the Church Hill Area whilst providing the site with adequate business identification.

Clause 52.06 Car parking

Clause 52.06-9 Design standards for car parking and Clause 52.06-10 Decision guidelines

In line with design standard 1 -accessways, listed under the proposed accessway on the plan is required to be 3 metres in width. A site visit conducted on 12 January 2021 revealed that the distance from the north eastern façade to the fence line shared with 22 French Street is 3.2 metres. Thus, design standard 1 is able to be met.

There is a significant incline in the back yard from north to south of 4 metres and due to this slope, Council consider that the use of on-street carparking would more likely be utilised by people with reduced mobility.

Objections

A total of three (3) objections were received, as noted above, with one party to an objection withdrawing. The concerns raised by objectors include;

- The proposal not fitting in with the surrounding neighbourhood which is predominately residential
- Traffic
- Noise
- Privacy
- Amenity impact
- Proximity of driveway to neighbouring property
- Impracticality of locating the proposed car park on slope which exists at the rear of 20 French street
- Proposal not being located near other medical facilities

These concerns have been examined in the discussion section above and Council have considered these when making its final assessment.

Conclusion

The Planning Scheme encourages new commercial enterprises in appropriate locations to create jobs within Hamilton.

The proposal has not demonstrated that it fits in with the character of the Church Hill Area with its high level of amenity and landscaped appeal.

Objections received demonstrate the possible immediate amenity impacts to adjoining residents within this area and Council are required to ensure neighbourhood character and landscape characteristics are respected.

Additionally, the proposal is not in keeping with the Hamilton Structure Plan which seeks to protect the character and residential nature of the Church Hill Area. The proposal would be more in keeping with an area on a higher-level road eg a road in a road zone category 1, and in closer proximity to the Hamilton activity centre.

For the reasons provided within this Report, Council Officers are recommending refusal of the proposal as it does not adequately address the zone requirements and it is recommended that a Notice of Refusal to Grant a Permit be issued.

Financial and Resource Implications

If an application for review is lodged at the Victorian Civil and Administrative Tribunal, Council will be required to enlist the services of a Lawyer to represent Council.

Council Planning Officers will also have to provide further time away from their normal duties to assist the Lawyer with Council information.

Legislation, Council Plan and Policy Impacts

The *Planning and Environment Act 1987* provides that certain local government, responsibilities and functions can be delegated to Committees of Council or Council officers. This recommendation is consistent with those provisions.

Community Consultation and Communication

Council undertook public notification (as stated above) and received three (3) objections to the proposal which have been detailed earlier in this Report.

Environmental and Sustainability Considerations

There are not environmental or sustainability considerations.

Disclosure of Interests

All Council Officers involved in preparing this Report affirm that no direct or indirect interests are held in relation to this application.

6. MEETING PROCESS

MEETING PROCESS

The meeting was held in accordance with standard meeting procedures.

Attendees were advised that there would be an opportunity for the applicant to speak, followed by the objector and then the Planning Officer would present the report. Following this a decision would be made in camera and notification made following that decision

Applicant

Tania Aitken advised that she would be speaking on behalf of the applicant (Jack Aitken).

Application does not intend to turn 20 French Street into a medical practice. The address will be primarily used as a residence and also work from home. Initial application was for 3 rooms to be used. The situation has now changed and it is only intended to use two rooms. The area will now be less than first stated.

Required to provide 5 car spaces for the first practitioner and 3 car spaces for every additional practitioner.

Intention to provide allied health practice with extended consultation times, so it is not expected there will be a lot of waiting time for patients.

Initial application stated there would be 2 practitioners working from the site, however one will only be working part time. It is expected that there will be predominantly only one patient at a time at the clinic.

Advice before purchase of house was that there would need to be 8 car spaces allowed and this has been done.

Initial plan was to use car space at the front of the house for drop off prior to parking at rear.

Question – How many patients a day are expected?

Answer – 10-12 people per day.

Question – Has consideration been given to how applicant will deal with drainage issues due to slope of car park at the rear of the residence?

Answer – applicant was planning to apply to reduce the number of car spaces due to not requiring that many and only having 4 spaces close to the house. There is no indication at the back of the block that there is a drainage issue.

Change of use will increase the amount of run-off.

Question – Would applicant be prepared to modify the application to take into account changes to number of rooms required and number of practitioners working at any one time?

Answer – Yes, the applicant would be willing to modify the application.

Objector

Susie Hand

One of the issues as an objector was the structure of the car park and issues that might occur with drainage.

Seems that this could be reconsidered with updated modified application

On street parking has been an issue because we couldn't work out how the clients parking at rear would access treatment rooms so consequently one of the concerns is that people would be parking in the street.

Ambience of area is purely residential and concern that surrounding areas would become very busy.

Information supplied in original application made it difficult to fully explain the intention of the business.

Question – Where in relation to the applicant does the objector present live?

Answer – Next door.

Planning Officer

Lachlan Wadell provided details of the application.

Five objections were received with two objections subsequently withdrawn.

Reasons for objections related to increased traffic, noise, privacy concerns and location in the Churchill area of Hamilton.

Proposal has not demonstrated that it fits in with amenity of the area.

Proposal is not in keeping with the Hamilton Structure Plan that seeks to protect the residential area.

Reason for refusal conditions were summarised.

Notwithstanding the Committee determined that the Applicant was better placed to modify the application to clarify the lesser scope of the project as explained at the meeting.

The applicant agreed with this.

RECOMMENDATION

That Council having caused notice of Planning Application No. TP/82/2020 to be given under Section 52 of the *Planning and Environment Act 1987* and or the planning scheme and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to issue a Notice of Decision to Refuse to Grant a Permit in respect of the land known as 20 French Street HAMILTON; CA: 4 Sec: 17A Par: HAMILTON NORTH, for the use and development of a medical centre and business signage subject to the following conditions:

Refusal Condition:

1. The proposed use and development does not comply with the provisions and purposes of Clause 32.09 (Neighbourhood Residential Zone) of the Southern Grampians Planning Scheme.
2. The use and development is not in accordance with Clause 13.07-1S (Land use compatibility) of the Southern Grampians Planning Scheme due to:
 - o The proposed commercial use not being compatible with the character of the area and compromising the areas amenity.
 - o The lack of strategic justification for the location of a medical centre with associated eight (8) carparks on site within the Church Hill Area.
 - o The proposed use unable to avoid off-site impacts from the commercial use through separation, siting and design.
3. The use and development is not in accordance with Clause 15.01-5S (Neighbourhood Character) of the Southern Grampians Planning Scheme due to:
 - o The proposal not respecting the existing neighbourhood character or contribute to the existing neighbourhood character of the Church Hill Area.
4. The use and development is not in accordance with Clause 18.02-4S (Car parking) of the Southern Grampians Planning Scheme due to:
 - o The proposal not demonstrating that it has been designed and located to achieve a high standard of urban design and that it will protect the amenity of the locality.

Outcome

As the Planning committee is being asked to consider an application that has changed considerably it was recommended and agreed that the application not be determined at the meeting and that the applicant resubmit updated drawings and modified application. Surrounding neighbours will have the opportunity to provide comment again.

The Applicant advised the Committee that they did not want a determination of the application at the meeting and will advise the Planning department that they would like to resubmit updated drawings and modified application.

The Committee strongly urged that the applicant seeks civil engineering advice before resubmitting modified plans.

All present were thanked for their attendance.

7. CLOSE OF BUSINESS