

15 July 2025

The Registrar
Victorian Civil and Administrative Court (VCAT)
55 King Street
MELBOURNE VIC 3000

Section 87A Amendment
Planning Permit No. GE/DP-33820/2020
99 Brewer Road, Bentleigh

Dear Sir / Madam,

We act on behalf of *Benewer (Aust) Pty Ltd*, the Permit Applicant in the above matter.

Our client seeks approval to amend Planning Permit No. GE/DP-33820/2020 ('the permit') pursuant to Section 87A of the *Planning and Environment Act 1987*.

In support of this application, please find enclosed a completed Application by a Permit Holder to Amend a Permit under Section 87A of the *Planning and Environment Act 1987*, including the following:

- Attachment A: Current approved plans, including:
 - (i) A copy of the Permit to be amended; and
 - (ii) The current endorsed plans.
- Attachment B: Statement of Changes, prepared by JAM Architects, dated 30 June 2025;
- Attachment C: Amended plans as proposed, including:
 - (i) Architectural plans, prepared by JAM Architects (Rev C, dated June 2025);
 - (ii) Waste Management Plan, prepared by Ratio Consultants Pty Ltd
 - (iii) Acoustic Report, prepared by Octave Acoustics Pty Ltd; and
 - (iv) Traffic Impact Assessment, prepared by Ratio Consultants Pty Ltd.
- Attachment D: A title search of the land (including registered search statement).

Payment of \$1,371.70 being the requisite fee has also been made with lodgement of the Application for Review.

Construction associated with Planning Permit No. GE/DP-33820/2020 has commenced. The expiry date for the permit to be completed is 3 September 2026.

This letter sets out a summary of the proposed amendments and addresses the key planning considerations in support of the application.

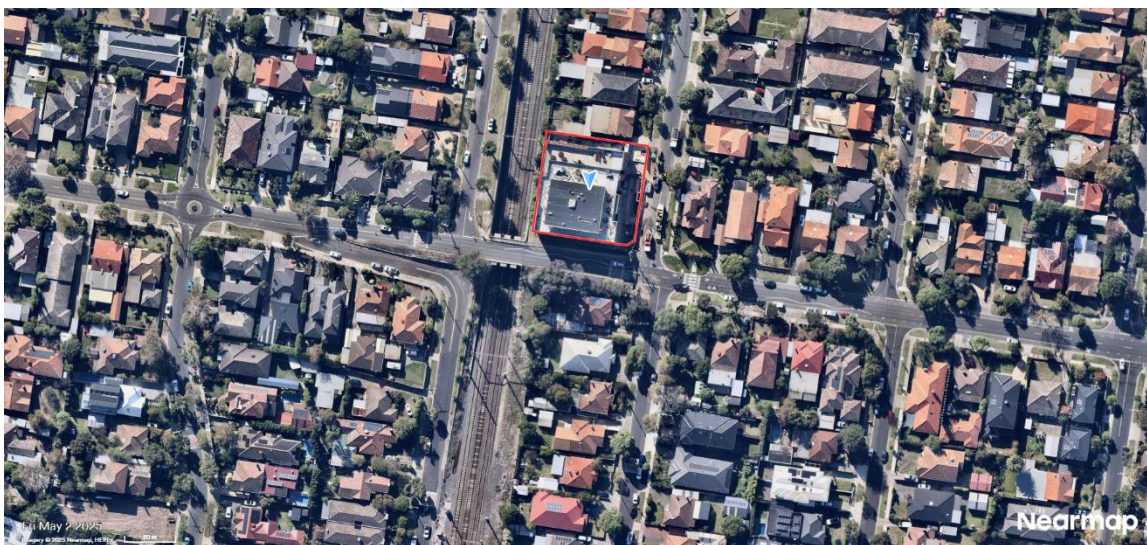
1. Site Context

The subject site is located on the north-west side of Brewer Road and Bendigo Avenue, in Bentleigh. The site has a frontage of approximately 37.5 metres to Brewer Road (south) and 37.2 metres to Bendigo Avenue (east) and a total site area of 1,521 square metres.

The site is comprised of two lots, formally known as Lots 242 and 243 on Plan of Subdivision 009887. The certificate of title does not contain any covenants, Section 173 Agreements, or other restrictions that affect this proposal.

The site is currently under construction in accordance with the development approved under Planning Permit No. GE/DP-33820/2020/A.

Figure 1 – Aerial Photograph of Subject Site (outlined in red) and Surrounds



Source: apps.nearmap.com/maps – Photo dated 2 May 2025

As shown above at Figure 1, the site is located within an area generally consisting of residential hinterland. Common dwelling typology includes single dwellings on lots between sizes of 500-600sqm set within well vegetated open space areas, consistent with the predominate zoning of **Neighbourhood Residential Zone – Schedule 1 (NRZ1)** within the locale. Multi-unit developments are concentrated to the Bentleigh commercial area further north.

The subject site (and immediate surrounds) are located approximately 370 metres south of the Bentleigh locale commercial spine adjoining the Bentleigh Train Station, running along Centre Road. This area services the established residential neighbourhood, including supermarkets, restaurants, retail and medical centres.

Within vicinity of the subject site includes:

- To the immediate **north** is No. 45 Bendigo Avenue, a single-storey brick dwelling with pitched tiled roof form. The dwelling contains elements of stucco as is consistent with the Bungalow style of the dwelling. Secluded private open space (SPOS) of the dwelling is located to the rear of the property. However, various outbuildings separate the SPOS from the subject site.
- To the immediate **east** is Bendigo Avenue, a two-way local street with 2 hour on-street parking. Across Bendigo Avenue is No. 101 Brewer Road, a corner lot which comprises a

brick and rendered double-storey dwelling with pitched tiled roof form. The dwelling includes a double-storey extension to the rear which includes habitable room windows orientated west towards Bendigo Avenue.

- To the immediate **south** is Brewer Road, a two-way local road. Further south is No. 43 Bendigo Avenue, which comprises a single storey brick dwelling with a pitched tiled roof form. The property features a mid-level wooden fence and extensive vegetation within the road reserve to the northern portion of the lot.
- To the immediate **west** is the railway reserve connecting Bentleigh Station and Patterson Station along the Frankston Train Line. Further west is a landscape reserve featuring palm trees and Burgess Street, the latter is a local street which contains predominantly single storey detached dwellings.

2. Summary of Amendments

2.1 Overview

This amendment relates primarily to a change of use for the approved medical centre ('Allied Health') use at ground level to a Pilates Studio and Wellness Studio ('Indoor Recreational Facility').

We note that the development approved by way of Planning Permit No. GE/DP-33820/2020 is currently under construction. The external appearance of the development is not proposed to be amended as part of this application.

The key aspects of the proposed amendments can be summarised as follows:

- Reconfiguration of the ground-floor plan (TP04) which will allow the inclusion of the Indoor Recreation Facility (Pilates Studio / Wellness Studio) use. The proposed use will have an overall net floor area of 273 square metres. No changes are proposed to the internal layout as endorsed.
- The Indoor Recreation Facilities (Pilates Studio / Wellness Studio) proposes the following hours of operation:
 - Monday-Friday: 6:00am – 9:00pm.
 - Saturday-Sunday: 7:00am – 5:00pm.
- The Pilates Studio proposes a maximum patronage of 15 patrons and 1 staff.
- The Wellness Studio proposes a maximum patronage of 12 patrons and 1 staff.
- Changes in Bin Room layout¹ at Ground Floor to include a capacity of:
 - Garbage: 6,600 litres / week.
 - Commingled Recycling: 6,600 litres / week.
 - Food Organics: 1,440 litres / week.
 - Glass Recycling: 600 litres / week.

2.2 Permit Preamble

This application results in changes to the permit preamble as follows:

¹ Noting no changes in overall floor area of the ground floor bin room as shown on endorsed plans

“Demolition of the existing building construction of a four storey building and associated works, use of the land for a medical centre, indoor recreational facility, childcare centre and food and drink premises, reduction in the carparking requirements and display of business identification signage on the land and affected by a Heritage Overlay in accordance with the endorsed plans”

2.3 Changes to Conditions of Permit

– It is proposed to amend Condition 7 to read as follows:

‘The uses must only operate between the following hours

Medical Centre

(a) 9am to 9pm, Monday to Friday; and

(b) 8am to 5pm on Saturdays

Food and Drink Premises

(c) 8am to 5pm, 7 days a week.

Child care centre

(d) 6:30am to 6:30pm, Monday to Friday; and

(e) The outdoor play area must not be used by children before 9am.

Indoor Recreational Facility

(f) 6am – 9pm, Monday to Friday; and

(g) 7am – 5pm, Saturday and Sunday.

2.4 Changes to Plans

As outlined on the Statement of Changes (prepared by JAM Architects), the amendment seeks to amend the development by the following:

- The tenancies previously identified as “Allied Health (Medical)” at ground floor (measuring at 141sq.m and 132sq.m respectfully) updated to “Indoor Recreation Facility”.
- The allocation of bins within the existing bin room footprint at ground floor updated to be in-line with advice within the Amended Waste Management Plan prepared by Ratio Consultants (dated 20 June 2025).

We note that no other changes are proposed to the endorsed architectural plans. All proposed changes have been clouded in red for further clarity.

3. Permit Triggers

3.1 Zone

The subject site is located within the **Industrial 3 Zone (IN3Z)** pursuant to **Clause 33.03**.

Figure 2 – Zone Map



Source: <https://mapshare.vic.gov.au/vicplan/>

Pursuant to **Clause 33.03-1**, a permit is required to use the land for 'leisure and recreation' (which comprises 'Indoor recreational facility' under the nesting diagrams) – Section 2 use.

3.2 Overlays

We note there are no overlays affecting the land.

3.3 Particular and General Provisions

Clause 52.06 – Car Parking

Table 1 of Clause 52.06-5 outlines car parking requirements for various uses but does not include any rates with regards to "Indoor Recreational Facility".

Accordingly, pursuant to **Clause 52.06-6**, where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme, before a new use commences, car parking spaces must be provided to the satisfaction of the responsible authority.

The site is also within the Principal Public Transport Network (PPTN) area.

We refer to the accompanying Traffic Report prepared by Ratio Consultants with regards to how the level of parking provision for the Indoor Recreational Facility is considered adequate in this instance.

Clause 52.34 – Bicycle Parking

Indoor Recreational Facility is not a listed use in Table 1 of Clause 52.34; therefore, there is no specific bicycle parking requirement for the conversion of a medical centre to Indoor Recreational Facility. Notwithstanding, the needs of staff and visitors who choose to cycle have been accommodated through the generous bicycle facilities already provided on-site (28 x bicycle spaces proposed and accessed from ground level).

4. Assessment

'Maybloom' is currently under development and will facilitate a mix of childcare, allied health and a ground floor food and drink premises (café) to the surrounding residential area. Offerings include the 'Bloom Suites' which has been designed to support health professionals with carefully considered spaces that optimise patient outcomes and elevate their experience.

The purpose of the application is to seek permission for the introduction of 'indoor recreation facility' use at ground-floor, providing greater offerings in association with the approved mixed-use development.

It is intended for the tenancies to be contracted to a Pilates Studio and separate Wellness Studio. Although the use definition changes, the underlying purpose (promoting physical and mental health) remains consistent. Pilates / Wellness (or any other use under the bracket of 'indoor recreational facility') is widely recognised for its benefits in injury prevention, rehabilitation, strength building, and mental wellness. This closely aligns with the existing approved use for medical centre. Moreover, the use will remain relatively benign (consistent with its approved use for medical centre) being appointment-based, music kept to moderate levels and small scaled classes (noting the maximum for 15 and 12 patrons at one time to each use respectively).

Consideration must be given to the strategic acceptability of the proposed amendment and the net community benefit gained. Moreover, consideration must also be given to the amenity impacts resultant from the change of use to ensure that the surrounding properties will not be adversely affected.

Zone Considerations

With regard to the zoning of the land, the purpose of the Industrial 3 Zone is as follows (emphasis added):

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for industries and associated uses in specific areas where special consideration of the nature and impacts of industrial uses is required or to avoid inter-industry conflict.*
- *To provide a buffer between the Industrial 1 Zone or Industrial 2 Zone and local communities, which allows for industries and associated uses compatible with the nearby community.*
- *To allow limited retail opportunities including convenience shops, small scale supermarkets and associated shops in appropriate locations.*
- *To ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses.*

The zone is predominantly aimed towards light industrial and non-industrial land uses which provide land buffers between insensitive industrial uses and surrounding non-industrial zones. In this instance, the subject site is a zoning anomaly which is surrounded by Neighbourhood Residential Zone, a residential zone which moderates residential development in form and size. This has undoubtedly occurred due to the historical use of the site (noting the previous building on-site was a single-storey industrial building).

The proposed use ensures compatibility with the current zoning of the land and the surrounding Neighbourhood Residential Zone, providing a mixed-use development

catering towards community-benefitting uses. The site's appropriateness and compatibility has also been acknowledged with the original approval of Planning Permit GE/DP-33820-2020.

Response to Planning Policy Framework

Clause 13.05-1S (Noise Management)

This Clause seeks to *assist the management of noise effects on sensitive land uses*. To achieve this objective, the following strategies are outlined:

- *Ensure that development is not prejudiced and community amenity and human health is not adversely impacted by noise emissions.*
- *Minimise the impact on human health from noise exposure to occupants of sensitive land uses (residential use, child care centre, school, education centre, residential aged care centre or hospital) near the transport system and other noise emission sources through suitable building siting and design (including orientation and internal layout), urban design and land use separation techniques as appropriate to the land use functions and character of the area.*

This provision also requires the following to be considered, as relevant:

- *The noise requirements in accordance with the Environment Protection Regulations under the Environment Protection Act 2017.*

We refer to the accompanying Acoustic Report (prepared by Octave Acoustics) which includes an assessment against the regulations stipulated by this provision, in accordance with the Environment Protection Act 2017. In providing this assessment, it is demonstrated that the proposed use as a 'Indoor Recreation Facility' will satisfy the above policy encouragement by ensuring that existing residential uses in the surrounding environs are not unreasonably impacted by way of noise, as such, the impact upon human health from noise exposure is adequately mitigated.

It is further noted that the recommended conditions at Section 4.5.2 of the report will be adhered to with the operation of the proposed uses, this includes such measures as no speakers being installed externally to the existing building (for the ground floor indoor recreational facilities).

Clause 13.07-1S (Land Use Compatibility)

The above provision outlines the following relevant strategies:

- *Ensure that use or development of land is compatible with adjoining and nearby land uses*
- *Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.*
- *Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.*
- *Protect commercial, industrial and other employment generating uses from encroachment by use or development that would compromise the ability of those uses to function safely and effectively.*

Similar to the previous state planning policy provision in relation to noise management, we defer to the accompanying acoustic assessment that concludes there will be no unreasonable noise or disturbance resulting from the proposed indoor recreational use. Additionally, noting the concept of ‘the agent of change’ our client has taken significant measures to manage any impacts resulting from the proposed use, specifically by early engagement and input of transport and acoustic engineers. The application's acoustic and noise mitigation strategies ensure that the proposed use will not generate excessive noise that could disturb the building's commercial tenants or any surrounding residential properties. It is further noted that the site enjoys buffers created by Bendigo Avenue to the east, Brewer Road to the south and the railway reserve to the west. These reserves will also contribute to providing appropriate buffers to immediately surrounding sensitive land uses.

We further note that local policy at Clause 13.07-1L (Non-Residential Uses and Development in Residential Areas) only applies to an application to use or develop land for a Section 2 use in a Residential Growth Zone, General Residential Zone, Neighbourhood Residential Zone or Housing Choice and Transport Zone. Given the subject site is within the Industrial 3 Zone, the policy is not relevant in this instance but does provide a good guide with regards to the strategic location of the site and appropriateness for such uses as that proposed. While the site is not within a residential zone, this clause identifies Brewer Road as one of the “Preferred Road Abutments for Non-Residential Uses”.

The proposed land use will be entirely compatible with the subject site and immediate context further for the following reasons:

- Sessions are appointment-based and small-scale (maximum capacity of 15 patrons to the Pilates Studio and 12 patrons to the Wellness Studio), limiting numbers on site and reducing peak-time impacts (i.e. parking, noise, lighting).
- The proposed uses are considered benign and low impact. It is not expected that the new uses will generate significant noise, odour, or traffic. Unlike more intensive commercial or entertainment uses, the extended hours will not disrupt nearby residents or other businesses within the development.
- Extended operational hours provides more flexibility with regards to availability (such as working professionals) who cannot attend daytime sessions.
- Operation on Sundays is permitted to the wider development for the café use (also at ground floor). As such, we do not consider operation of the new use at ground-floor as controversial in this instance, rather consistent with the wider development.
- The proposed use is to be entirely within the envelope of the approved building (with no further external changes proposed), to ensure there are no detrimental impacts with regards to built form outcomes.
- We also refer to the accompanying Operational Management Plan, providing details to how the uses will ensure they do not compromise amenity to surrounding residential uses.

The accompanying reports from these engineers further reinforce our submission that amenity impacts by way of noise or traffic are adequately mitigated in accordance with relevant policy.

Clause 17.01-1R (Diversified economy - Metropolitan Melbourne)

The following relevant strategies stipulated as part of this provision:

- *Support the Central City to become Australia's largest commercial and residential centre by 2050, by planning for office, retail, residential, education, health, entertainment and cultural activity spaces.*

- *Support diverse employment generating uses, including offices, innovation and creative industries in identified areas within regionally significant industrial precincts, where compatible with adjacent uses and well connected to transport networks.*
- *Consider how land use change proposals can respond to local and regional employment demand or identify how it can be accommodated elsewhere.*

The proposed indoor recreational facility use will further the above policy by contributing to a diversity of land uses within the locality which is well connected to transport networks. In doing so it will add another layer of employment opportunities to a building already host to a range of employment opportunities, comprising further employment roles.

Clause 18.01-1S – Land Use and Transport Integration

This policy provision includes the following strategies (as relevant):

– *Plan land use and development to:*

- *Protect existing transport infrastructure from encroachment or detriment that would impact on the current or future function of the asset.*
- *Protect transport infrastructure that is in delivery from encroachment or detriment that would impact on the construction or future function of the asset.*
- *Protect planned transport infrastructure from encroachment or detriment that would impact deliverability or future operation.*
- *Protect identified potential transport infrastructure from being precluded by land use and development.*

As outlined in the following section, the application is accompanied by a detailed traffic impact assessment which furthers the above planning policy that support reducing car parking requirements in areas such as this which have excellent public transport access. Additionally, the Glen Eira Integrated Transport Strategy 2018-2031 outlines the following goal to improve integrated transport opportunities:

‘Increase walking, cycling and public transport trips and increase efficiency on key driving routes’

As outlined within the accompanying Traffic Report at Page 26, *“the site has good access to a range of public transport services, with train and bus services operating within convenient proximity to the site. Additionally, the site has good access to the nearby bicycle and pedestrian network.*

Given the site’s access to sustainable transport options, some Pilates Studio and Wellness Studio staff and visitors are expected to be able to travel to and from the site without relying on the use of a private motor vehicle”.

The subject site is also located along a ‘secondary road’, being Brewer Road. This is identified at **Clause 13.07-1L** to direct non-residential uses towards, acknowledging the site / immediate road network as appropriate to accommodate such uses as that proposed.

Response to Clause 52.06 (Car Parking)

As noted previously a permit is required in this case to reduce the amount of car parking required pursuant to this provision. Significant input has been provided from the project engineers at Ratio Consultants who provide their support for the proposed change of use, as outlined by the accompanying Traffic Report (also noting that the stipulated rate for

'Pilates Studio / Wellness Studio is to the satisfaction of the Responsible Authority pursuant to Clause 52.06-6).

This assessment concludes that, as a result of the site's location proximate to Patterson Train Station in addition to proximity to the Bentleigh Urban Village and pedestrian networks, the proposed shortfall of parking space can readily be compensated for by the excellent access to alternative transport modes.

For the reasons established throughout the above assessment, it is considered that the proposed use is an appropriate response to the host building and broader surrounds and is consistent with relevant policy that applies to the site context.

5. Conclusion

For the reasons outlined above, the proposed use of part of the existing building (ground floor) as a Pilates Studio & Wellness Studio (Indoor Recreational Facility) is responsive to relevant planning policy and will result in a good outcome for the site and surrounding area.

Again, we highlight that these uses generally align with the medical centre use approved on-site, providing additional health and wellness services within the existing development. Moreover, all classes are appointment based; capacity kept low (15 patrons to the Pilates Studio and 12 to the Wellness Studio); and music kept to moderate levels to ensure there is negligible amenity impacts on neighbouring properties.

The proposed uses will enhance the commercial offerings of the development while providing a highly valuable asset to the community in the form of a versatile indoor recreation use proximate to Patterson Train Station and the Bentleigh Urban Village.

As outlined by the accompanying Acoustic Report and Transport Impact Assessment the proposal will not result in any unreasonable off-site amenity impacts in terms of noise, nor will it result in detrimentally impacting on the local car parking conditions and traffic network.

Should you have any queries please contact the undersigned on (03) 9429 3111 or by email at Christopher.marulli@ratio.com.au.

Yours sincerely,



Christopher Marulli
Senior Planner
Ratio Consultants Pty Ltd