



Cardinia

MINUTES OF TOWN PLANNING COMMITTEE

MONDAY, 6 JUNE 2016

MINUTES OF TOWN PLANNING COMMITTEE

held in the Council Chambers, 20 Siding Avenue, Officer
on Monday, 6 June 2016
The meeting commenced at 7pm

PRESENT: Councillors Tania Baxter, David Young, Collin Ross, Leticia Wilmot, George Blenkhorn, Brett Owen, Graeme Moore

Messrs Phil Walton (GMPD), Doug Evans (MG) Debbie Tyson (MDS)

TEMPORARY CHAIRPERSON

In the absence of the Mayor and Chairperson, Cr Jodie Owen, nominations were called for the appointment of a Temporary Chairperson.

Cr Ross nominated Cr Wilmot, seconded by Cr Moore.

There being no further nominations Cr Wilmot was elected temporary Chairperson for the meeting

APOLOGIES: Councillors Jodie Owen, Kate Lempriere

DECLARATION OF PECUNIARY AND OTHER INTERESTS

Nil.

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1 TWO (2) LOT SUBDIVISION AND CREATION OF EASEMENT 7 HENRY STREET, KOO WEE RUP

FILE REFERENCE INT1634805

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Narelle Bulleid

RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T150734 be issued for Subdivision of land into two (2) lots and creation of an easement at 7 Henry Street, Koo Wee Rup subject to the conditions attached to this report.

Attachments

1	Locality plan	1 Page
2	Subdivision plan	2 Pages
3	Copies of objections, circulated to councillors only	4 Pages

EXECUTIVE SUMMARY

APPLICATION NO.:	T150734
APPLICANT:	Manjit S. Johal
LAND:	7 Henry Street, Koo Wee Rup
PROPOSAL:	Subdivision of land into two (2) lots and creation of an easement
PLANNING CONTROLS:	Neighbourhood Residential Zone Schedule 1 (NRZ1) Land Subject to Inundation Overlay (LSIO) Clause 52.02 Easements, Restrictions and Reserves Clause 56 Residential Subdivision
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by sending notices to adjoining land owners and occupiers and placing a sign on site. Four (4) objections have been received to date
KEY PLANNING CONSIDERATIONS:	Neighbourhood and township character, Impact on surrounding properties
RECOMMENDATION:	Notice of Decision to Grant a Permit

BACKGROUND:

There is no relevant planning permit history for the site.

SUBJECT SITE:

The site is located on the south side of Henry Street approximately 125 metres north-west of Rossiter Street in Koo Wee Rup. The site is generally rectangular in shape with a frontage of 20.16 metres and depth of 50.29 metres with an overall area of 1,013.84 square metres.

The site is relatively flat and is not currently burdened by any easements. The site is burdened by a restrictive covenant relating to no quarrying operations and removal of clay and gravel, this proposal will not breach this covenant.

The site is currently developed with a single dwelling setback 7.35 metres from the Henry Street frontage, 7.7 metres from the south-east boundary and 4.5 metres from the north-west boundary. The existing crossover is located on the east side of the site frontage leading to a carport and outbuildings located at the rear of the dwelling along the south east boundary of the site.

The main characteristics of the surrounding area are:

- *North:* Land to the north includes the Henry Street road-reserve, including a nature strip with established street tree located centrally within the site frontage, development further north is residential with a mixture of multi dwelling development and single dwellings.
- *South:* The land abutting the south boundary includes a drainage and sewerage easement that extends along the rear boundary of properties fronting Henry Street, properties further south include residential development fronting Gardiner Street, including both dwellings and multi dwelling development
- *East:* The land to the east includes a municipal reserve used for a children's playground and public open space with a number of trees located along the common boundary
- *West:* The property to the west is developed with a single dwelling located in the northern portion of the site with private open space located at the rear.

PROPOSAL:

The proposal is for a two (2) lot subdivision of the land and the creation of an easement, the following is a summary of the proposal:

- **Lot 1:** Proposed lot 1 is generally rectangular in shape with a frontage of 16.16 metres to Henry Street with a depth of 32.4 metres and overall area of 523.58 square metres. The lot will contain the existing dwelling with the provision of a new crossover on the west side of the frontage providing access to a new carport located on the north west side of the dwelling in line with the façade of the dwelling.
- **Lot 2:** Proposed lot 2 provides a battle-axe arrangement with a frontage of 4 metres to Henry Street, north west boundary 17.89 metres and south west (rear) boundary of 20.16 metres with an overall area of 490.26 square metres. The lot will include the new easement and will retain the existing driveway along the south east boundary of the site although will be vacant.
- **Easement:** The proposal includes the creation of a 1.8 metre drainage and sewerage easement along the south east boundary in the southern section of Lot 2. This easement is proposed to ensure to a drainage and sewerage connection in maintained between the easement abutting the rear boundary and lot 1.

PLANNING SCHEME PROVISIONS:**State Planning Policy Framework (SPPF)**

The relevant clauses of the SPPF are:

- Clause 11 Settlement
- Clause 13.02 Floodplains
- Clause 15.01-3 Neighbourhood and subdivision design
- Clause 16 Housing
- Clause 16.01-2 Location of Residential Development
- Clause 16.01-4 Housing Diversity
- Clause 16.01-5 Housing Affordability

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.03 Settlement and Housing
- Clause 21.03-1 Housing
- Clause 21.03-3 Rural Townships
- Clause 21.06-1 Design and Built form
- Clause 21.07-7 Local Areas - Koo Wee Rup
- Clause 21.09-2 Catchment Management

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.01 Public Open Space Contribution and subdivision
- Clause 52.02 Easements, Restrictions and Reserves
- Clause 56 Residential Subdivision
- Clause 65 Decision guidelines

Zone

The land is subject to the Neighbourhood Residential Zone Schedule 1

Overlays

The land is subject to the following overlays:

- Land Subject to Inundation Overlay

PLANNING PERMIT TRIGGERS

The proposal for the subdivision of land requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.09-2 of the Neighbourhood Residential Zone (NRZ) a planning permit is required to subdivide land. Schedule 1 does not include any specified minimum subdivision area.
- Pursuant to Clause 44.04-2 of the Land Subject to Inundation overlay (LSIO) a planning permit is required to subdivide land.
- Pursuant to Clause 52.02 a planning permit is required to create an easement.

PUBLIC NOTIFICATION

The application has been 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 site

The notification has been carried out correctly, and Council has received four (4) objections to date.

The key issues that were raised in the objections are:

- Neighbourhood character – the subdivision is inconsistent with the township character and the Kooweerup Township Strategy particularly Precinct 1 Established Residential Area.
- The subdivision is inconsistent with a number of design guidelines within the Koo Wee Rup Township Strategy including lots do not provide the minimum lot area or width. Noting that current percentage of 700 square metre blocks in the established areas is 50% less than the 70% in the strategy.
- Impact on the heritage in the area including the heritage values of the dwelling on the site.
- Impact on the nature of the adjoining park.
- Detrimental impacts on traffic and safety for the area

REFERRALS

Melbourne Water

The application was referred to Melbourne Water as a statutory had no objection to the proposal subject to conditions.

South East Water

The application was referred to South East Water for comment due to the proposed sewerage easement. South East Water had no objection to the proposal with no specified conditions.

DISCUSSION

State and Local Planning Policy Framework

The proposal is consistent with State and Local Planning Policy Frameworks. In particular, the application meets State policies that encourage residential development within the designated urban growth boundary, within a close proximity to commercial centres and along public transport routes. The subdivision will increase the supply of residential land within a small township and therefore increasing housing diversity and improving housing affordability whilst providing a subdivision layout that can integrate well with the surrounding neighbourhood and township character.

Clause 21.07-7 Koo Wee Rup seeks to:

- *Ensure that any proposed use or development within or around the Koo Wee Rup Township is generally consistent with the Koo Wee Rup Township Strategy (October 2015), including the Koo Wee Rup Framework Plan (Figure 18).*

The Township Strategy notes the site is located within the Established Residential Precinct 1 noted as established residential areas with small to medium lot sizes and older buildings. The subdivision achieves an appropriate balance between the need to provide a range of housing options to meet the needs of the community and the existing rural township character of the area. The proposed two lot subdivision results in lot areas and layout that is not uncharacteristic of the surrounds and provides for the retention of the existing dwelling with sufficient areas for the vacant lot that will ensure development on the site can ensure the township character is maintained.

Neighbourhood Residential Zone

A subdivision within the Neighbourhood Residential Zone is to be consistent with the purpose of the zone and the relevant objectives and standards of Clause 56 Subdivision of the Cardinia Planning Scheme for two lot subdivisions.

The proposed modest two lot subdivision is consistent with the objectives of this zone as it provides for limited increased residential development that is respectful of the surrounding neighbourhood character. Further the application has been assessed against the relevant clauses of Clause 56 and it is considered that the subdivision generally complies.

Land Subject to Inundation Overlay

The site is located within a Land Subject to Inundation Overlay, the subdivision has been referred to Melbourne Water whom had no objection to the proposal. Any development on the site would be subject to minimum floor levels in accordance with this overlay and it is considered that the subdivision will not detrimentally impact on the flood levels or flow velocity.

Public Open Space

A person who proposes to subdivide land must make a contribution to the Responsible Authority for public open space if the subdivision unless the proposal is a two lot subdivision which is unlikely to be further subdivided. It is considered that this lot is unlikely to be further subdivided as such the proposal is exempt from this contribution.

Creation of easement

The creation of a 1.8 metre wide easement along the south east boundary to provide drainage and sewerage services from the existing easement abutting the rear boundary and lot 1. This will enable the installation of services for all lots in the proposed subdivision. The application was referred to South East Water for comment with no objection to the proposal, as such this easement is considered reasonable, subject to future requirements of the servicing authorities.

Objectors Concerns

- *Neighbourhood & Township character*

The subdivision is inconsistent with the township character and the Kooweerup Township Strategy particularly Precinct 1 Established Residential Area. The objectors noted that the subdivision is inconsistent with a number of design guidelines within the Koo Wee Rup Township Strategy including lots do not provide the minimum lot area or width. Noting that current percentage of 700 square metre blocks in the established areas is 50% less than the 70% in the strategy.

When considering township character and the impact the proposal will have on the streetscape it can be considered that the a review of Henry Street between Moody Street and Rossiter Road does not extensive numbers of properties with lots less than 700 square metres. This area of Henry Street includes forty two (42) properties with nine (9) of the properties with lots less than 700 square metres, equating to 21% of the streetscape with lots under the desired area, below the 30% maximum anticipated by the Township Strategy. Although the lot will create one lot with a minimum frontage less than the guidelines it is considered that the subdivision has been designed to ensure that the existing dwelling is maintained and that the Henry Street streetscape is not detrimentally impacted.

Further the location of the lot at the south east end of the street near other multi dwelling developments will ensure that the nature of Henry Street is no substantially altered and will achieved the objectives of Clause 21.07-7 and the Koo Wee Rup Township Strategy. Although the Koo Wee Rup Township Strategy is an incorporated document in the scheme and the noted minimum lot sizes and lot widths are not statutory requirements and have not be incorporated into the Neighbourhood Residential zone schedule, as such are considered guidelines, as established under previous applications at VCAT.

The proposal is a modest two lot subdivision with both lots around 500 square metres, with the retention of the existing dwelling will ensure that the township character is not detrimentally impacted upon as such it is considered that the proposal is consistent with the Local Planning Policy Framework in that the subdivision is generally consistent with the Koo Wee Rup Township Strategy.

- *Heritage*

The objectors expressed concerns with the impact on the heritage in the area including the heritage values of the dwelling on the site. The proposed subdivision has provided for a lot area which will ensure the retention of the existing dwelling on the site and will result in a modest carport located in line with the façade of the dwelling and will not detrimentally impact on the character and more particularly the heritage character of the area.

- *Public Open Space*

The objectors noted concerns with the impact on the nature of the adjoining park, with Council investing money into this park to provide an upgrade for the community. The proposed subdivision will result in the removal of a structures located on the common boundary and although the subdivision will result in an additionally dwelling on the site it is not considered that this will detrimentally impact the functioning or general enjoyment of the public open space given the location of established vegetation along the common boundary.

- *Detrimental impacts on traffic and safety for the area*

The objectors raised concerns that the proposal will result in increased traffic resulting in detrimental impacts for the surrounds and will impact on traffic safety for the area given the location of the site near a dangerous bend.

The proposal will retain the existing crossover with the proposed crossover located away from the bend on the road, as such the proposal is not considered to detrimentally impact on traffic safety for the area. Further the provision of one additional dwelling on the site will not significantly increase traffic and the established street network can suitably accommodate the additional movements without detrimentally impacting on adjoining properties. The application has been referred to Council's Engineering Department with no objections to the proposal in terms of both traffic safety and impacts on traffic in the residential area.

CONCLUSION

The proposed application is consistent with State and Local Planning Policy, and the zone and overlay provisions that apply to the site. The application has been assessed against the relevant policy and it has been determined that the application satisfactorily complies with the vision for the area.

CONDITIONS

1. The layout of the subdivision, and access as shown on the endorsed plans, may not be altered or modified without the prior written consent of the Responsible Authority.
2. Before the Statement of Compliance is issued under the *Subdivision Act 1988* for the subdivision the permit holder must:
 - a. Demonstrate to Council that the location of all services and buildings, including drainage and sewerage servicing Lot1 have been relocated (if required) to the satisfaction of the Responsible Authority to ensure that they do not cross the boundaries between the proposed lots.
 - b. Removal of all existing structures on Lot 2.
 - c. Provide a residential standard concrete vehicle crossing for Lot 1.
 - d. Provide drainage connection points for both proposed lots.

to the satisfaction of the Responsible Authority.

3. Before the Statement of Compliance is issued, appropriate driveway access and drainage connection points must be provided to all lots to the satisfaction of the Responsible Authority.
4. Before the Statement of Compliance is issued, outfall drainage for the subdivision must be designed and constructed to a satisfactory point of discharge in accordance with plans and specifications approved by the Responsible Authority.
5. Lots within the subdivision must be provided with reticulated water and sewerage, gas, underground power and telecommunications connections to the satisfaction of the Responsible Authority.
6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the approved plan in accordance with the authority's requirements and relevant legislation at the time.
7. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
8. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
9. The owner of the land must enter into an agreement with:
 - a. a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - b. a suitably qualified person for the provision of fibre ready telecommunication facilities
 - c. to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
10. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
 - a. a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - b. a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Melbourne Water

11. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.
12. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water in accordance with Section 8 of the Subdivision Act 1988.

Expiry of permit:

This permit will expire if:

- a. The subdivision is not commenced within two (2) years of the date of this permit; or
- b. The subdivision is not completed within five (5) years of the date of commencement.

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

Permit Note:

The starting of the subdivision is regarded by Section 68(3A) of the Planning and Environment Act 1987 as the certification of a plan, and completion is regarded as the registration of the plan.

A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.

Melbourne Water Permit Note:

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 268318.

1 TWO (2) LOT SUBDIVISION AND CREATION OF EASEMENT 7 HENRY STREET, KOO WEE RUP

Moved Cr D Young Seconded Cr G Moore

That Planning Permit T150735 be refused for the subdivision of land into two (2) lots and creation of an easement at 7 Henry Street, Koo Wee Rup on the following grounds:

1. The proposal is inconsistent with Local Planning Policy, Clause 21.07-7 Koo Wee Rup of the Cardinia Planning Scheme.
2. The facilitation of an additional residential allotment on the subject site results in the proposal failing to 'limit opportunities for residential development' as established within the purpose of Clause 32.09 Neighbourhood Residential Zone
3. The proposal fails to comply with the development guidelines of the Koo Wee Rup Township Strategy, particularly Precinct 1 Established Residential Area (October 2015)

Cd.

2 SUBDIVISION OF LAND INTO TWO (2 LOTS) AND REMOVAL OF RESERVE STATUS (RESERVE 1 ON PS 542160D) FROM PROPOSED LOT AT 100 BLUE HORIZONS WAY PAKENHAM

FILE REFERENCE INT1634787

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Vageesha Wellalage

RECOMMENDATION

That Planning Permit T150580 be issued for Subdivision of land into two (2) lots and to proceed under Section 24A of the Subdivision Act 1988 (removal of reserve status of Reserve 1 as shown on 542160D from proposed Lot 1) at 100 Blue Horizons Way, Pakenham Victoria 3810 subject to the conditions attached to this report

Attachments

- 1 Subdivision plans 2 Pages
- 2 Locality plan 1 Page

EXECUTIVE SUMMARY

APPLICATION NO.:	T150580
APPLICANT:	Cardinia Shire Council C/- Nobelius Land Surveyors
LAND:	100 Blue Horizons Way, Pakenham Victoria 3810
PROPOSAL:	Subdivision of land into two (2) lots and to proceed under Section 24A of the Subdivision Act 1988 (removal of reserve status of Reserve 1 as shown on 542160D from proposed Lot 1)
PLANNING CONTROLS:	General Residential Zone Land Subject to Inundation Overlay, Development Contributions Plan Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by sending notices to adjoining land owners and occupiers and placing a sign on site.
KEY PLANNING CONSIDERATIONS:	Clause 32.08-2 – General Residential Zone Clause 52.02- Easements, restrictions and Reserves
RECOMMENDATION:	Planning Permit Approval

BACKGROUND:

There is no relevant planning history for this site.

SUBJECT SITE:

The site is located on the south side of Blue Horizons Way Pakenham.

A crossover is located north side and there is an easement along the southern and western boundaries of the site.

The site is currently vacant.

The topography of the land is relatively flat.

The main characteristics of the surrounding area are:

- *North* *Access Road (Blue Horizons Way)*
- *South* *Vacant Land*
- *East* *Residential*
- *West* *Residential*

PROPOSAL:

The subject site was transferred into Council ownership in 2010 as part of the open space contribution associated with the Blue Horizons estate subdivision. It has been determined that public open space and land for recreation purposes in the area exceeds Council requirements and therefore, the removal of the reserve status, approved by this application, will allow the sale and future development of the site.

It is proposed that land to be subdivided in to two lots and remove the reserve status from the proposed Lot 1 which enable the sale of the proposed Lot 1. The land size of the reserve will be reduced to 306 square metres and the proposed Lot 1 will be 676 square metres. The existing easements will remain the same across the reserve and the proposed Lot 1 to fulfil drainage and sewerage requirements.

PLANNING SCHEME PROVISIONS:

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11.05-4 Regional planning strategies and principles

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01-4 Strategic vision

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.02 – Easements, Restrictions and Reserves
- Clause 65 – The Decision Guidelines

Zone

The land is subject to the **General Residential Zone**

Overlays

The land is subject to the following overlays:

- *Development Contributions Plan Overlay Schedule 1*
- Land Subject to Inundation Overlay

PLANNING PERMIT TRIGGERS

The proposal for subdivision of land into two (2) lots and to proceed under Section 24A of the Subdivision Act 1988 (removal of reserve status of Reserve 1 as shown on 542160D from proposed Lot 1) requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.08-2 of *General Residential Zone*, a planning permit is required for *subdivision of land*.
- Pursuant to Clause 52.02 of *Easements, Restrictions and Reserve*, a planning permit is required before a person proceeds under Section 24 A of the *Subdivisions Act 1988*.

PUBLIC NOTIFICATION

The application has been 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 site*

The notification has been carried out correctly, and Council has received *no* objections to date.

REFERRALS

Melbourne Water

The application was referred to *Melbourne Water* as a statutory referral. *Melbourne Water* had no objection to the proposal subject to conditions

South East Water

The application was referred to *South East Water* for comment. *South East Water* had no objection to the proposal subject to conditions.

DISCUSSION

Subdivision

It is proposed to subdivide part of the Reserve 1 of PS542160D (Blue Horizons Way Reserve) within the Blue Horizons estate. This would allow the on sale of land in the open market. The subdivision will create a residential lot which will be developed for residential purposes. The subject property is located within a residential estate surrounded by residential development. Therefore, the proposed subdivision will be consistent with the existing character and development of the area.

Removal of reserve status

It is proposed to remove approximately 676 square metres of the Blue Horizons Way Reserve. The rest of the 337 square metres will remain as a reserve with the easements created for drainage and sewerage purposes.

The area surrounding contains a number of parks and larger recreation reserves. As such, officers are satisfied that the open space requirements of the local residences can be satisfied with the remaining areas.

The general amenity of the area will not be significantly affected by the proposal as the reserve does not contain any recreation facilities and makes little contribution to the neighbourhood in terms of appearance. Future development of the proposed Lot 1 will be required to be consistent with the purpose and intent of the General Residential Zone which applies to the land. The lot size is similar to those in the surrounding area, and as such Council officers are satisfied that the lot could be developed in a manner that contributes positively to the neighbourhood character.

The application was referred to Melbourne Water and South East Water and they had no objections to the proposal subject to conditions.

For the reasons mentioned above, Council officers are satisfied that the level of amenity will not be determinately impacted and hence, support the application.

CONCLUSION

Council has assessed the subject application against relevant State and Local Planning Policy Frameworks and relevant planning scheme clauses that relate to the removal of reservations. It is considered that the proposal satisfactorily responds to the Decision Guidelines of Clause 65 and the matters within Section 60 of the Planning and Environment Act. For these reasons, it is recommended that a Planning Permit is issued for application T150580, subject to the below mentioned conditions.

CONDITIONS

1. The layout of the subdivision, as shown on the approved plans, must not be altered or modified without the consent in writing of the responsible authority.
2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
3. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
4. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
5. Before the issue of a Statement of Compliance for the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:
 - a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

This permit will expire if:

- a) The subdivision and removal or reserve status is not commenced within **two (2) years** of the date of this permit; or.
- b) The subdivision and removal or reserve status is not completed within **five (5) years** of the date of commencement.

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

(Note: The starting of the subdivision is regarded by Section 68(3A) of the Planning and Environment Act 1987 as the certification of a plan, and completion is regarded as the registration of the plan.)



2 SUBDIVISION OF LAND INTO TWO (2 LOTS) AND REMOVAL OF RESERVE STATUS (RESERVE 1 ON PS 542160D) FROM PROPOSED LOT AT 100 BLUE HORIZONS WAY PAKENHAM

Moved Cr C Ross Seconded Cr G Blenkhorn

That Planning Permit T150580 be issued for Subdivision of land into two (2) lots and to proceed under Section 24A of the Subdivision Act 1988 (removal of reserve status of Reserve 1 as shown on 542160D from proposed Lot 1) at 100 Blue Horizons Way, Pakenham Victoria 3810 subject to the conditions attached to this report

Cd.

3 VARIATION OF COVENANT PS702072L AT 15 CHANDRA CLOSE PAKENHAM

FILE REFERENCE INT1634773

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Vageesha Wellalage

RECOMMENDATION

That a Refusal to Grant Planning Permit T150687 be issued for Variation to covenant under Clause 52.02 at 15 Chandra Close, Pakenham Victoria 3810 on the following grounds:

- The proposed variation would create an unreasonable detrimental impact on the adjoining properties.

Attachments

1 Locality plan 1 Page

EXECUTIVE SUMMARY

APPLICATION NO.: T150687

APPLICANT: Katrina Ramirez

LAND: 15 Chandra Close, Pakenham Victoria 3810

PROPOSAL: Variation to covenant under Clause 52.02

PLANNING CONTROLS: General Residential Zone
Development Contributions Plan Overlay Schedule 1

NOTIFICATION & OBJECTIONS: The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by sending notices to the owners and occupiers of adjoining land and placing a sign on site. Council has received one (1) objection to date.

KEY PLANNING CONSIDERATIONS: Impact of the proposed variation of covenant on the adjoining properties

RECOMMENDATION: Refusal

BACKGROUND

There is no relevant planning permit history for the site.

SUBJECT SITE:

The site is located on the northern side of Chandra Close Pakenham.

A crossover is located on the eastern alignment of the site and there is an easement on the north western corner of the site.

The site currently is vacant.

The topography of the land is relatively flat.

The main characteristics of the surrounding area are:

- North Vacant
- South Vacant
- East Access Road (Chandra Close)
- West Peppermint Gum Reserve

PROPOSAL:

Approval is sought for the variation of covenant PS702072L.

The subject site is affected by a covenant PS702072L. The covenant states the following:

“Build any building other than a building that agrees with the Building Design Guidelines, endorsed as part of Planning Permit T070313A, without the approval of the responsible authority”

Point 4 of the relevant design guidelines state the following:

“Dwelling Density

No more than one dwelling may be constructed per lot (lots 1-37, 42-65, 68-79)”

This application seeks to amend the Covenant PS702072L by rewording the covenant ("Land to be Burdened") as follows:

Current: All lots except lots 38, 39, 40, 41, 66 & 67

To: All lots except lots 19, 38, 39, 40, 41, 66 & 67

PLANNING SCHEME PROVISIONS:

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11.02-1 Supply of urban land
- Clause 15.01-3 Neighbourhood and subdivision design
- Clause 15.01-5 Cultural identity and neighbourhood character

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.03-1 Housing

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 65 – The Decision Guidelines

Zone

The land is subject to the General Residential Zone

The land is subject to the following overlays:

- Development Contributions Plan Overlay Schedule 1

PLANNING PERMIT TRIGGERS

The proposal for variation of covenant requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 52.01 of Easements, Restrictions and Covenants a planning permit is required for variation of restriction.

PUBLIC NOTIFICATION

The application has been 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 site

Although posting a notice on the newspaper is required for variation of covenant under the Planning and Environment Act, this has not been completed due to Council's decision to refuse the application.

The notification has been carried out correctly, and Council has received 1 objection to date.

The key issues that were raised in the objection are:

- Building scale and neighbourhood character of future dwellings
- Increase in traffic

REFERRALS

- No referrals were required.

DISCUSSION

Variation of covenant

The proposed variation to the covenant will allow the development of each approved lot.

Section 60 of the Planning and Environment Act 1987 sets out the matters to be considered in making a decision on a planning permit application and includes requirements in relation to applications for the removal or variation of restrictive covenants which are set out below:

*“The responsible authority must not grant a permit which allows the removal or variation of a restriction (within the meaning of the **Subdivision Act 1988**) unless it is satisfied that the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer—*

- (a) financial loss; or*
- (b) loss of amenity; or*
- (c) loss arising from change to the character of the neighbourhood; or*
- (d) any other material detriment—*
as a consequence of the removal or variation of the restriction. “

Section 60(2) of the Planning and Environment Act 1987 applies to restrictive covenants created on or after 25 June 1991. This section states that a planning permit cannot be granted to remove or vary a registered restrictive covenant unless the responsible authority is satisfied that any benefiting landowner will be unlikely to suffer material detriment, including financial loss or loss of amenity.

The proposal seeks to vary the restrictive covenant that does not allow more than one dwelling on the land. One objection has been received in relation to the application from owners who are benefited of the restrictive covenant, PS702072L, and therefore the provisions of Section 60 (2) of the Planning and Environment Act 1987 apply. In light of the objection that have been received from the owners who are benefited by the restrictive covenant, it is considered that Council is not able to be satisfied that the owner of the land benefited by the restriction will be unlikely to suffer material detriment as a consequence of the removal or variation of the restriction.

It is considered that the owners of land benefited by the restriction are likely to suffer detriment arising from change to the character of the neighbourhood; as a consequence of the removal of the restriction, as such should not be supported.

Objectors concerns

The concerns of the residents have been suitably addressed above and throughout the report which Council recognises and supports their concerns in relation to the proposal in addition to areas of non-compliance with the Cardinia Planning Scheme.

Conclusion

The variation of the covenant to allow a dwelling to be constructed within proposed lot two is inappropriate and would cause material detriment to the beneficiaries of the covenant. Council recommends that the application be refused for reasons discussed throughout the report.

3 VARIATION OF COVENANT PS702072L AT 15 CHANDRA CLOSE
PAKENHAM

Moved Cr C Ross Seconded Cr G Blenkhorn

That a Refusal to Grant Planning Permit T150687 be issued for Variation to covenant under Clause 52.02 at 15 Chandra Close, Pakenham Victoria 3810 on the following grounds:

- The proposed variation would create an unreasonable detrimental impact on the adjoining properties.

Cd.

4 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

FILE REFERENCE INT1634416

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Owen Hardidge; Tracey Parker

RECOMMENDATION

That the report be noted.

Attachments

Nil.

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY:

The report provides an update on the status of active planning scheme amendments and planning scheme amendment requests received.

Status of active amendments

The following table provides details relating to planning scheme amendments that are currently being processed.

CARDINIA PLANNING SCHEME AMENDMENT ACTIVITY REPORT						
A/No.	Proponent	Address	Purpose	Exhibition		Status
				Start	End	
C188	Cardinia Shire Council	Cardinia Shire	The amendment proposes to introduce Schedules 2 and 3 to the Low Density Residential Zone and numbers the existing unnumbered schedule to the Low Density Residential Zone to Schedule 1. It also rezones all of the land within the Urban Growth Boundary of Gembrook and Upper Beaconsfield that is currently zoned Rural Living Zone to the Low Density Residential Zone and apply a number of overlays to the land.	14/05/2015	15/06/2015	Adopted by Council on 15/02/2016. Awaiting Minister's approval.
C198	Cardinia Shire Council	Beaconsfield	Amends the Municipal Strategic Statement to incorporate the Beaconsfield Structure Plan into the Local Planning Policy Framework.	07/08/2014	08/09/2014	Amendment approved with changes and gazetted on 12/05/2016.
C206	Cardinia	16	Rezone 16	07/01/2016	08/02/2016	Panel hearing

	Shire Council	Beaconsfield-Emerald Road Emerald	Beaconsfield-Emerald Road Emerald from Rural Conservation Zone 2 to Public Park and Recreation Zone.			held on 02/05/2016. Awaiting panel report.
C209	Cardinia Shire Council	Pakenham Golf Course	Rezone of part of the golf course from Public Park and Recreation Zone to Low Density Residential Zone and apply a schedule to allow a minimum lot size of 2000m2.	22/10/2015	23/11/2015	Authorisation received from the Minister for Planning. Exhibition documents being prepared
C211	Cardinia Shire Council	Pakenham Structure Plan area	Amends the Municipal Strategic Statement to incorporate the Pakenham Structure Plan into the Local Planning Policy Framework. Adds the Pakenham Structure Plan as an incorporated document in the Planning Scheme.	12/05/2016	14/06/2016	On exhibition until 14 June 2016.
C212	Cardinia Shire Council	Various sites	Correction of minor zoning and overlay anomalies, and correction of errors in the description of heritage places in the Schedule to Clause 43.01.	12/05/2016	14/06/2016	On exhibition until 14 June 2016

4 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

Moved Cr C Ross Seconded Cr G Blenkhorn

That the report be noted.

Cd.

5 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATED AUTHORITY

FILE REFERENCE INT1634419

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted.

Attachments

Nil.

EXECUTIVE SUMMARY

1. The following matters have been dealt with under delegated powers since the last report to Council.

Central Ward – Decisions 16/04/16 to 19/05/16				
Date	Permit No	Location	The Proposal	The Decision
19/04/2016	T150384 - PC1	36 Silver Gum Drive, Pakenham Victoria 3810	Development of the land for three (3) dwellings	Issued
19/04/2016	T160112	8 Caversham Drive, Pakenham VIC 3810	The subdivision of the land into four (4) lots	Issued
20/04/2016	T150047 - PC2	10 Caversham Drive, Pakenham Victoria 3810	Development of the land for ten (10) dwellings and a reduction in visitor car parking	Issued
20/04/2016	T150640	12/25 Sharnet Circuit, Pakenham Victoria 3810	The use of the land for an indoor recreation facility(Power lifting studio) in an Industrial 1 Zone	Lapsed
22/04/2016	T120622 - 2	22 Rogers Street, Pakenham Victoria 3810	Development of the land for four (4) additional single storey dwellings to the rear of an existing dwelling, a five (5) lot subdivision and creation of easement.	Withdrawn
22/04/2016	T050298 - PC1	1160 Koo Wee Rup Road, Pakenham Victoria 3810	Amended Permit - The subdivision of the land into 108 lots and the acquisition and creation of a carriageway easement on part Lot H PS511176M Exchange Drive	Issued

22/04/2016	T140568 - 1	3 Sharnet Circuit, Pakenham Victoria 3810	Amended Permit: Subdivision of the land into nineteen (19) lots in three stages	Issued
26/04/2016	T100512 - PC1	19 Pinehill Drive, Pakenham Victoria 3810	The subdivision of land into two (2) lots	Issued
26/04/2016	T150249	39 Windermere Boulevard, Pakenham Victoria 3810	The development of the land for two (2) dwellings	Issued
26/04/2016	T150525	42 Pinehill Drive, Pakenham Victoria 3810	The subdivision of land into two (2) lots	Lapsed
26/04/2016	T130484 - PC2	Village Way, Pakenham Victoria 3810	The development of the land for shops, convenience restaurant, fifteen (15) dwellings and a reduction in the car parking requirement of Clause 52.06 and loading bay requirement of Clause 52.07	Issued
26/04/2016	T160141	9 Rosalie Court, Pakenham VIC 3810	The subdivision of land into two (2) lots	Issued
27/04/2016	T160136	48 Main Street, Pakenham VIC 3810	Two (2) advertising signs	Issued
29/04/2016	T150762	1 Corporate Terrace, Pakenham Victoria 3810	Development of the land for three (3) warehouses and associated offices	Issued
2/05/2016	T140708 - PC1	30 Henty Street, Pakenham Victoria 3810	The development of the land for three (3) dwellings on a lot (two (2) additional dwellings) and the subdivision of the land into three (3) lots	Issued
2/05/2016	T150481 - PC1	48 John Street, Pakenham Victoria 3810	Use and development of the land for an office building in the Mixed Use Zone and reduction in car parking requirements of Clause 52.06 Car Parking	Issued
2/05/2016	T160121	97 Bluehills Boulevard, Pakenham VIC 3810	Development of the land for two (2) dwellings on a lot	Withdrawn
5/05/2016	T140770 - 1	24 Bormar Drive, Pakenham Victoria 3810	Amended Permit - Building and works associated with thirty two (32) warehouses with ancillary offices	Issued
5/05/2016	T160182	4 James Street, Pakenham VIC 3810	The subdivision of the land into three (3) lots	Issued
6/05/2016	T150204	Toomuc Valley Road, Pakenham Victoria 3810	Removal of native vegetation	Lapsed

6/05/2016	T150790	71 Racecourse Road, Pakenham Victoria 3810	Subdivision of land adjacent to a road in a Road Zone Category 1 and creation of access to a road in a Road Zone Category 1	NOD
10/05/2016	T160133	34 Army Settlement Road, Pakenham VIC 3810	Development of the land for an outbuilding	Issued
12/05/2016	T150047 - PC3	10 Caversham Drive, Pakenham Victoria 3810	Development of the land for ten (10) dwellings and a reduction in visitor car parking	Issued
12/05/2016	T160084	108-110 Princes Highway, Pakenham Victoria 3810	Buildings and works associated with existing hotel (including covered playground area and verandah) and the display of an internally illuminated sign	Issued
13/05/2016	T150559 - PC2	14 Fairway Court, Pakenham Victoria 3810	Buildings and works for the construction of a dwelling in the Floodway Overlay and the removal of vegetation in a Vegetation Protection Overlay(Schedule 1)	Withdrawn
17/05/2016	T150559 - PC1	14 Fairway Court, Pakenham Victoria 3810	Buildings and works for the construction of a dwelling in the Floodway Overlay and the removal of vegetation in a Vegetation Protection Overlay(Schedule 1)	Issued
Port Ward – Decisions 16/04/16 to 19/05/16				
Date	Permit No	Location	The Proposal	The Decision
17/05/2016	T130769 - PC1	27 Archer Road, Garfield Victoria 3814	Subdivision of the land into thirteen (13) lots, creation of a road reserve and removal of vegetation	Issued
18/04/2016	T130294 - PC1	15 Wheeler Road, Maryknoll Victoria 3812	Amended Permit - Multi-lot residential subdivision of the land, removal of native vegetation and removal of easements (E-1, E-3 and part of E-4 on PS736378T) and the creation of easements generally in accordance with the approved plans	Withdrawn
18/04/2016	T140399	20 Mintern Road, Tynong North Victoria 3813	Earthworks	Withdrawn
18/04/2016	T160111	4 Greenhill Court, Bunyip VIC 3815	Development of the land for an outbuilding (shed)	Issued

19/05/2016	T120437 - 1	72 Railway Avenue, Garfield Victoria 3814	Amended Permit - The development of land for the purpose of four (4) dwellings and subdivision of land in to four (4) lots, generally in accordance with the approved plans.	Issued
20/04/2016	T150662 - PC1	1070 Koo Wee Rup Road, Pakenham Victoria 3810	Development of the land for a rural store within 100 metres from a dwelling not in the same ownership in a Green Wedge Zone-Schedule 1 and Land Subject to Inundation Overlay	Issued
21/04/2016	T140692 - PC2	Baroona Road, Maryknoll Victoria 3812	Development of the land for a dwelling in a BMO, associated earthworks exceeding 1 metre, and outbuilding exceeding 120 Sq. metres in a DDO1 and associated vegetation removal within a DDO1 and VPO1.	Issued
21/04/2016	T150318 - PC2	560 Main Drain Road, Koo Wee Rup Victoria 3981	Section 173 - The subdivision of the land into two (2) allotments (boundary realignment) in the Special Use Zone and the Land Subject to Inundation Overlay	Issued
21/04/2016	T150430 - PC1	290 Temby Road, Iona Victoria 3815	Development of the land for an outbuilding (cattle shed) with a gross floor area exceeding 200 square metres within the Special Use Zone and LSIO.	Issued
21/04/2016	T150546	18 Tynong Road, Tynong Victoria 3813	Three (3) lot subdivision and creation of easements	NOD
21/04/2016	T160138	50 Butler Road, Bunyip North VIC 3815	Re-subdivision of the land (boundary realignment)	Issued
26/04/2016	T160238	314 Snell Road, Maryknoll VIC 3812	Earthworks in excess of a meter for the development for a dwelling	Issued
28/04/2016	T140539 - PC2	13 Princess Street, Bunyip Victoria 3815	Subdivision of the land into thirteen (13) lots in two (2) stages	Issued
28/04/2016	T140085 - PC1	22 Halifax Road, Nar Nar Goon North Victoria 3812	Earthworks associated with an inground swimming pool	Issued
28/04/2016	T140586 - PC1	5 Station Street, Lang Lang Victoria 3984	Development of the land for two (2) dwellings on a lot.	Issued
28/04/2016	T150675	327 Monomeith Road, Monomeith Victoria 3984	The realignment of boundaries between three (3) allotments	Issued

28/04/2016	T160078	9 Knights Court, Tynong Victoria 3813	Use and development of the land for a dwelling and buildings and works associated with agriculture for horse stables used in association with a horse training facility in Special Use Zone Schedule 3 and Land Subject to Inundation Overlay	Issued
28/04/2016	T160083	2 Railway Avenue, Tynong Victoria 3813	Subdivision of land into two (2) lots	Issued
28/04/2016	T120247 - PC1	52 James Street, Lang Lang Victoria 3984	Amend Permit - Multi lot residential subdivision and removal of native vegetation and easement (E-1 PS612399C)	Issued
29/04/2016	T150813	18 Gardner Street, Koo Wee Rup Victoria 3981	Development of the land for two (2) dwellings on a lot (one (1) additional dwelling)	Issued
29/04/2016	T160079	1100 Westernport Road, Lang Lang East Victoria 3984	Development of the land for a dwelling	Issued
29/04/2016	T160142	501 Dore Road, Nar Nar Goon North VIC 3812	Development of the land for a dwelling	Withdrawn
29/04/2016	T160143	380 Fourteen Mile Road, Garfield VIC 3814	Construction of a building (shed) associated with agriculture	Issued
29/04/2016	T160158	18 Southeast Boulevard, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued
3/05/2016	T160040	105 Duncan Road, Cardinia Victoria 3978	Buildings and works for one (1) outbuilding and one (1) rural store building; Use of the land for a rural store; Buildings and works for one (1) storage & services building and an animal enclosure associated with the existing use of the land for greyhound kennels	Issued
4/05/2016	T150008	380 Koo Wee Rup Road, Koo Wee Rup Victoria 3981	Buildings and works for the construction of a building associated with the existing use of the land for intensive animal husbandry (poultry farm).	NOD
4/05/2016	T150577	7 Livestock Way, Pakenham Victoria 3810	Change of use for a skip bin business (transfer station)	Issued
5/05/2016	T150719	1210 Longwarry Road, Bunyip Victoria 3815	Buildings and works for an extension to an existing agricultural building	Issued

5/05/2016	T150203	Fechner, Koo Wee Rup Victoria 3981	Use and development of the land for a rural store in Special Use Zone Schedule 1 and Land Subject to Inundation Overlay	Refused
5/05/2016	T150738 - PC1	450 Cardinia Road, Officer South Victoria 3809	Construction of an outbuilding and associated earthworks within 100m of a waterway and designated floodplain in the GWZ1 and FO	Issued
6/05/2016	T150305	50 Nar Nar Goon-Longwarry Road, Bunyip Victoria 3815	Buildings and works for the construction of three (3) warehouses and the creation of access to a road in a Road Zone Category 1 and removal of native vegetation	Issued
11/05/2016	T160226	50 Rosebery Street, Lang Lang VIC 3984	Development of the land for a verandah to an existing dwelling	Withdrawn
13/05/2016	T150722	177 McInnes Road, Tynong North Victoria 3813	Earthworks associated with a horse arena	Issued
13/05/2016	T150739 - PC1	Temby Road, Iona Victoria 3815	The use and development of the land for a dwelling	Issued
13/05/2016	T160203	5 Nellie Street, Lang Lang VIC 3984	Development of the land for an outbuilding	Issued
13/05/2016	T160240	19 Richards Road, Nar Nar Goon VIC 3812	Development of the land for an outbuilding	Issued
17/05/2016	T160164	820 Longwarry-Modella Road, Modella VIC 3816	The development of the land for a rural store	Issued
17/05/2016	T160243	18 Jade Avenue, Koo Wee Rup VIC 3981	Development of the land for a dwelling	Withdrawn

Ranges Ward – Decisions 16/04/16 to 19/05/16

Date	Permit No	Location	The Proposal	The Decision
18/04/2016	T160148	45 Mount Shamrock Road, Pakenham VIC 3810	Development of the land for an outbuilding (over 4m in height and over 120sqm)	Issued
19/04/2016	T120607 - 2	138 Rix Road, Officer Victoria 3809	AMENDED PERMIT - Multi lot residential subdivision of land and creation of an access to a Road Zone Category 1	Issued
19/04/2016	T100758 - PC3	Majestic Drive, Officer Victoria 3809	Use and development of an education facility and associated advertising signage	Withdrawn

19/04/2016	T150290 - 1	Bridge, Officer Victoria 3809	Subdivision in stages and associated works, including road-works within a Floodway Overlay and Land Subject to Inundation Overlay, construction of single dwellings on lots less than 300sqm and creation of restriction.	Issued
19/04/2016	T160132	280 Mountain Road, Gembrook VIC 3783	Use and development of the land for a dwelling with a reduced setback in a Green Wedge Zone (Schedule 1) and Bushfire Management Overlay and earthworks exceeding 1 metre in an Environmental Significance Overlay (Schedule 1)	Issued
20/04/2016	T140251 - PC1	24 Whiteside Road and 265 Princes Highway, Officer Victoria 3809	Subdivision of the land, subdivision adjacent to a road in a Road Zone Category 1 and subdivision, buildings and works and removal of vegetation within the Heritage Overlay	Issued
20/04/2016	T150269 - PC1	Brunt Road, Officer Victoria 3809	AMENDED PERMIT - Subdivision of the land, remove an easement (electricity), create a reserve and removal of native vegetation	Issued
21/04/2016	T120607 - PC1	138 Rix Road, Officer Victoria 3809	Multi lot residential subdivision of land and creation of an access to a Road Zone Category 1	Withdrawn
21/04/2016	T150226 - PC1	135 Bathe Road, Pakenham Victoria 3810	Use and development of the land for a dwelling exceeding 7 metres in height, within 100m of a dwelling not in the same ownership, within 20 metres of road and in a Bushfire Management Overlay, earthworks exceeding 1 metre and removal of vegetation	Issued
21/04/2016	T160116	48 Second Avenue, Cockatoo VIC 3781	Earthworks relating to a swimming pool	Withdrawn
26/04/2016	T140521 - PC2	15 Bayview Road, Officer Victoria 3809	Subdivision of the land and subdivision of the land adjacent to a road in a Road Zone Category 1 Zone	Withdrawn
26/04/2016	T150578 - PC1	45 Orchard Road, Gembrook Victoria 3783	Re-subdivision (boundary realignment) of two (2) existing lots	Issued
27/04/2016	T150749	5 Lowen Road, Cockatoo Victoria 3781	Development of the land for a dwelling and associated earthworks.	Issued
28/04/2016	T130764 - PC1	226 Rix Road, Beaconsfield Victoria 3807	Multi lot subdivision of the land	Issued

28/04/2016	T150269 - PC1	Brunt Road, Officer Victoria 3809	AMENDED PERMIT - Subdivision of the land, remove an easement (electricity), create a reserve and removal of native vegetation	Issued
28/04/2016	T150825	245 Gembrook-Tonimbuk Road, Gembrook Victoria 3783	Development of the land for a dwelling and vegetation removal	Lapsed
28/04/2016	T160080	11 Aclare Road, Cockatoo Victoria 3781	Three (3) lot boundary realignment	Lapsed
29/04/2016	T150824	3 Avondale Street, Officer Victoria 3809	Building and works (dwelling) within the Significant Landscape Overlay - Schedule 6	Issued
29/04/2016	T160129	210 Harewood Park Road, Gembrook VIC 3783	Development of the land for an outbuilding	Issued
2/05/2016	T150093 - PC2	5-7 Devon Avenue, Cockatoo Victoria 3781	The development of the land for a dwelling (exceeding 7 metres in height) and associated earthworks (exceeding 1 metre) within the Significant Landscape Overlay and Design and Development Overlay	Issued
3/05/2016	T160074 - 1	431 Princes Highway, Officer Victoria 3809	Use and development of the land for an office and a reduction in the car parking requirement of Clause 52.06 generally in accordance with the approved plans	Issued
3/05/2016	T160157	8 Cerulean Drive, Officer VIC 3809	Signage	Refused
4/05/2016	T160128	Bridge Road, Officer VIC 3809	Removal of reserve status and subdivision in stages to create a lot for a school, a neighbourhood convenience centre, a community centre and two reserves	Issued
4/05/2016	T160181	94 Norbury Road, Beaconsfield Upper VIC 3808	Development of the land for a Pergola	Withdrawn
5/05/2016	T150826 - PC1	Viridian Avenue, Officer Victoria 3809	The subdivision of land into fifty-three (53) lots with common property generally in accordance with the approved plans	Withdrawn
5/05/2016	T160091	4 Mahon Avenue, Beaconsfield VIC 3807	Subdivision of the land into two (2) lots	Issued
5/05/2016	T160159	226 Payne Road, Beaconsfield VIC 3807	Use and Development of the land for Agriculture (extensive animal husbandry)	Issued

5/05/2016	T140462 - 2	18 First Avenue and 9-11 Second Avenue, Cockatoo Victoria 3781	Development of the land for a dwelling and outbuilding with reduced setbacks, earthworks exceeding 1 m and associated vegetation removal.	Issued
6/05/2016	T130127 - PC1	10 Cornish Road, Emerald Victoria 3782	Development of the land for a dwelling and earthworks exceeding one (1) metre	Issued
6/05/2016	T140585 - PC1	81 Main Street, Gembrook Victoria 3783	The subdivision of the land and development of the land for two (2) shops and reduction in car parking requirements under Clause 52.06	Issued
9/05/2016	T160058	6 Rainy Hill Road, Cockatoo Victoria 3781	Development and use of land for a recreational ropes course	Withdrawn
10/05/2016	T140461 - 1	4 clematis park road, clematis Victoria 3782	AMENDED PERMIT - development of the land for an extension to an existing garage with a reduced setback and for an outbuilding exceeding 150 square metres in total floor area and exceeding 7 metres in height above natural ground level in a bushfire management overlay	Issued
10/05/2016	T150780	85 Bayview Road, Officer Victoria 3809	Subdivision of land and removal and/or variation of an easement	Issued
10/05/2016	T160037	23a Paternoster Road, Cockatoo Victoria 3781	The development of the land for an outbuilding(carport)	Issued
12/05/2016	T150701	29 Wright Road, Avonsleigh Victoria 3782	Use of the land for a Dependent Persons Unit	Lapsed
12/05/2016	T150615	84 Split Rock Road, Beaconsfield Upper Victoria 3808	External and internal alterations to a building within the Heritage Overlay	Issued
12/05/2016	T150746 - PC1	16 Old Gembrook Road, Emerald Victoria 3782	Buildings and works for a garage and carport (within 10m of a dwelling, within 5m of a boundary and exceeding 120sqm) within the DDO1 and BMO	Issued
12/05/2016	T150826 - PC3	Viridian Avenue, Officer Victoria 3809	The subdivision of land into fifty-three lots with common property generally in accordance with the approved plans	Issued
12/05/2016	T160086	11 Turquoise Walk, Officer VIC 3809	Development of the land for a dwelling on a lot less than 300sqm and within the Land Subject to Inundation Overlay	Withdrawn
13/05/2016	T150515 - PC1	63 Cooida Road, Beaconsfield Victoria 3807	Use and development of the land for a replacement dwelling in excess of 7m in height in accordance with the Environmental Significance Overlay Schedule 1	Issued

13/05/2016	T150802	2 Stone Road, Gembrook Victoria 3783	Construction of two (2) outbuildings (garage and shed) and associated earthworks	Issued
13/05/2016	T160041	20 Woods Street, Beaconsfield Victoria 3807	The development of a car park and access way associated with a Medical Centre	Issued
13/05/2016	T160110	6 Belgrave-Gembrook Road, Cockatoo VIC 3781	Development of the land for an outbuilding	Issued
13/05/2016	T160179	Lilliput Lane, Pakenham VIC 3810	Development of the land for a dependent persons unit	Issued
17/05/2016	T150147 - PC2	Harold Street, Officer Victoria 3809	The development of the land for five (5) dwellings on five (5) lots less than 300 square metres	Issued
17/05/2016	T150733	360 Princes Highway, Officer Victoria 3809	Development of the land for nineteen (19) dwellings and associated works	Issued

5 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATED AUTHORITY

Moved Cr C Ross Seconded Cr G Blenkhorn

That the report be noted.

Cd.

6 PLANNING MATTERS CURRENTLY THE SUBJECT OF APPEAL AT THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL & THEIR OUTCOMES

FILE REFERENCE INT1634424

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted.

Attachments

Nil.

EXECUTIVE SUMMARY

The following list is presented to keep Council informed of applications that are currently the subject of appeals proceedings.

Hearing Date	App No.	Address	Proposal	Council Decision	Appealed By	Status/ VCAT Decision
22-Apr-16	T080447-1	11-15 Vista Court Gembrook	The use and development of land for the purpose of twenty (20) dwellings, of which ten (10) are to be used as a retirement village (over 55's) and associated earthworks exceeding one (1) metre.	Refusal	Applicant	Awaiting hearing
06-Jul-16	T150725	20 Lecky Road, Officer	Development of the land for Major Promotional Signage	Refusal	Applicant	Awaiting hearing
18-Jul-16	T150194	Henry Road Pakenham	Development of the land for three (3) dwellings on the lot	Refusal	Applicant	Awaiting hearing
17-May-16	T150371	20 Racecourse Road Pakenham	Signage	Refusal	Applicant	Awaiting decision
15-Apr-16	T140675	325 Princes Highway, Officer	Subdivision	Failure to decide	Applicant	Permit Issued

6 PLANNING MATTERS CURRENTLY THE SUBJECT OF APPEAL AT THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL & THEIR OUTCOMES

Moved Cr C Ross Seconded Cr G Blenkhorn

That the report be noted.

Cd.

7 PLANNING ENFORCEMENT MATTERS

FILE REFERENCE INT1634427

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Owen Hardidge

RECOMMENDATION

That the list of enforcement matters currently before VCAT & the Magistrates' Court (and the County Court) be noted.

Attachments

Nil.

EXECUTIVE SUMMARY

The following list of enforcement matters currently before VCAT & the Magistrates' Court is submitted for Councillors information.

BACKGROUND

Where breaches of the Planning Scheme are detected that cannot be satisfactorily resolved Council undertakes enforcement action at the Victorian Civil and Administrative Tribunal (VCAT).

These matters can take several forms and the following are the usual steps in the enforcement process.

Where breaches are sufficiently serious, criminal proceedings in the Magistrates' Court will be commenced, and if so, the successful criminal proceedings will usually be followed by VCAT proceedings (criminal proceedings taking precedence over "civil" proceedings).

1). Multi-purpose Hearing

This is the first stage of the VCAT process, and is held shortly after the application is lodged. It is used to assess the future path of the case, and determine if the case can be settled, or will need to proceed to a full hearing.

2). Admin Mention

Administrative Mention is a hearing held without the parties in attendance and requires written correspondence from both parties to update the Member on the process of the matter.

3). Adjournment

An adjournment will be asked for where there has been some discussion between Council and the Respondent, and more time is to be allowed for the Respondent (or Council as the Applicant) for a variety of reasons.

4). Offset plan

An Offset Plan goes by a few different names, including a Property Management Plan or a Property Remediation Plan. These plans are used when a Respondent has removed vegetation or otherwise damaged vegetation on the Land and Council is seeking a remedy for this removal, normally requiring replanting to occur on the Land. This plan is

what Council will seek in the shape of an Enforcement Order, and the contents of the Plan will be decided by Council's Environment Team.

5). Full hearing

A full hearing is a hearing which is to be contested by the Respondent.

6). Consent Orders

Consent Orders are an agreement between Council and the Respondents to, in most cases, create an Enforcement Order with conditions that are agreed to by both Parties. This is done where a Respondent has accepted there has been a breach of the Act and wants to comply with Council's proposed Enforcement Order. This saves on time and money by avoiding a hearing or lengthy VCAT processes.

The following list indicates such enforcement activities that are currently before VCAT or the Magistrates' Court.

Property Address	Nature of Contravention	Status
41 Burton Rd, Beaconsfield Upper (ref: OH:LK:14151)	Vegetation removal and use of land as contractor's depot without a permit	VCAT enforcement proceedings filed. Contested hearing listed June 2016 . Respondents have filed applications for planning permission regarding non-conforming uses, though there is confusion as to how they affect the enforcement action. Currently with Planning department.
205 Obriens Rd, Bayles (ref: OH:AK:15260)	Ongoing materials recycling issue on Green Wedge Land. Continuing failure to comply with VCAT enforcement order.	Magistrates' Court prosecution for failure to comply with VCAT order commenced. Plea of guilty entered. Further adjourned at request of accused, as mortgagee is imminently re-taking possession, which may prompt (partial) remediation of the land. Listed for next mention 2 June 2016 .
715 Gembrook Rd, Pakenham Upper (ref: OH:AB:14130, OH:SMAY:15227)	Alleged land use (burning off) and building breaches, that relates to extensive and complex planning history of the site.	Magistrates' Court proceeding adjourned to 15th June 2016 , to allow accused to file application in VCAT for declaration as to existing use rights. Magistrates' Court proceeding may be delayed pending determination of this issue. Council commenced Building and Local Law prosecution of the owner, arising from construction and commercial-scale burn offs on the site. The owner asserts that burning off activities are protected by the planning scheme, and the prosecution will have to litigate this issue in some form. The property has a 17 yr history of litigated planning disputes between

		1997 and 2015.
168 Brown Rd, Pakenham (ref: OH:LK:15225)	Native vegetation removal, contrary to Environmental Significance Overlay, Green Wedge Zone and cl 52.17.	Magistrates' Court prosecution for alleged vegetation removal contrary to the scheme. On 19 May 2016 , the accused appeared in the Dandenong Magistrates' Court, and by consent agreed to participate in the Criminal Justice Diversion Program. The accused accepted responsibility for the alleged vegetation removal, and consent to a Diversion plan with the following conditions: - To prepare a 10 year Land Management Plan for the remediation of the land (already prepared and accepted by Council) - To consent to the plan being made enforceable by VCAT enforcement order (to be obtained by consent) - To pay the costs of such application - To pay Council costs in the Magistrates Court proceeding (\$117)
67 Payne Rd, Beaconsfield (ref: EH:LK:15259)	Earthworks (fill) in excess of permit / without a permit, contrary to Green Wedge Zone and Environmental Significance Overlay.	Magistrates' Court prosecution. The accused appeared in the Dandenong Magistrates' Court on 21 April 2016 , and pleaded guilty to 1 charge of breaching the scheme, namely undertaking earthworks without a permit, and failing to provide plans for endorsement. The director of the accused company (the land owner) appeared. The company was placed on an Adjourned Undertaking (aka Good behaviour bond), ordered to donate \$1,500 to the Court fund, and ordered to pay Council costs.

CONCLUSION

The list of current enforcement activities is presented for information.

7 PLANNING ENFORCEMENT MATTERS

Moved Cr C Ross Seconded Cr G Blenkhorn

That the list of enforcement matters currently before VCAT & the Magistrates' Court (and the County Court) be noted.

Cd.

Meeting closed at 7.17pm

Minutes Confirmed
Chairman