

## **2 SUBDIVISION OF LAND INTO NINE (9) LOTS AND CREATION OF ACCESS TO A ROAD ZONE CATEGORY 1 AT 400 ROSSITER ROAD, KOO WEE RUP**

FILE REFERENCE INT1960755

RESPONSIBLE GENERAL MANAGER Peter Benazic

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### **RECOMMENDATION**

That a Notice of Decision to Grant Planning Permit **T180293** be issued for the **Subdivision of land into nine (9) lots and creation of access to a Road Zone Category 1** at 400 Rossiter Road, Koo Wee Rup VIC 3981 subject to the conditions attached to this report.

### **Attachments**

1	Plan of Subdivision	1 Page
2	Locality Map	1 Page
3	Copy of Objections - Circulated to Councillors only	13 Pages

### **EXECUTIVE SUMMARY:**

APPLICATION NO.:	T180293
APPLICANT:	Joey Whitehead
LAND:	400 Rossiter Road, Koo Wee Rup VIC 3981
PROPOSAL:	Subdivision of land into nine (9) lots and creation of access to a Road Zone Category 1
PLANNING CONTROLS:	Neighbourhood Residential Zone Schedule 1 Land Subject to Inundation Overlay Land adjacent to a Road Zone, Category 1 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  Six (6) objections were received
KEY PLANNING CONSIDERATIONS:	Neighbourhood and township character, impact on surrounding properties
RECOMMENDATION:	Notice of Decision to Grant a Permit

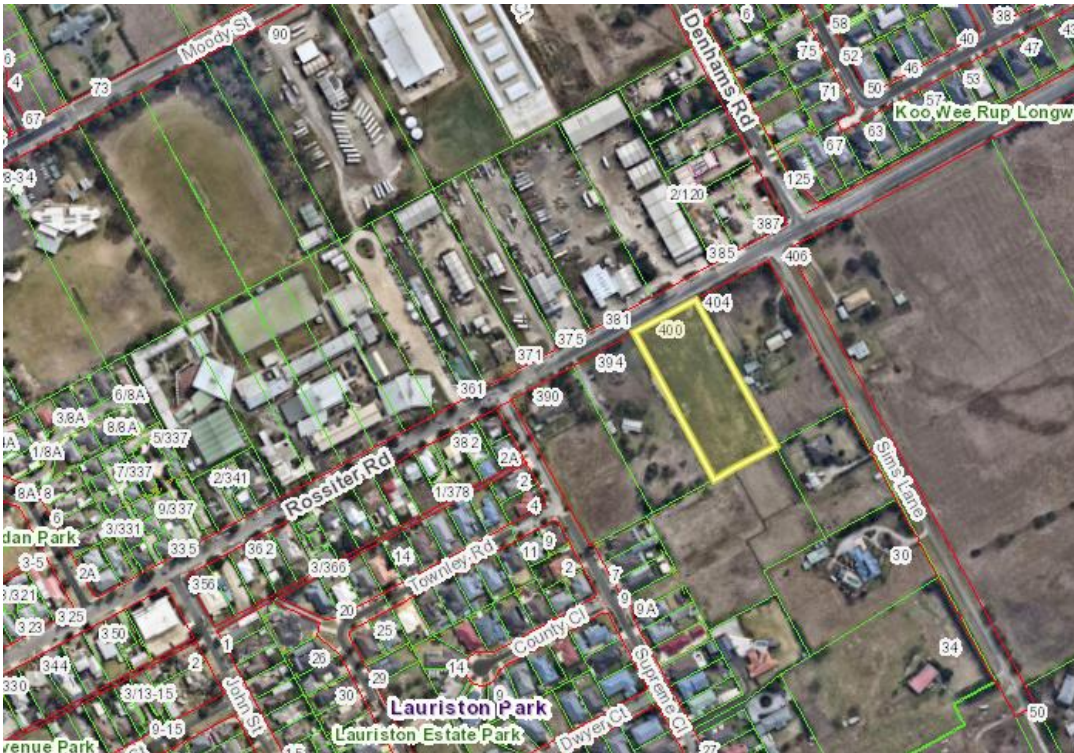
### **BACKGROUND:**

Planning Permit T030273 authorised the subdivision of the land into nine (9) lots. The plan approved by this permit had largely the same configuration as the current proposal.

The original plan submitted with the current application included the subdivision of the land into 10 lots, with a central court-bowl access designed as common property. After negotiations with Council's Planning Department, the applicant submitted revised plans. These revised plans are currently under consideration.

## SUBJECT SITE

The 8564 square metre rectangular site is located on the south eastern side of Rossiter Road.



A 3 metre wide drainage easement spans the eastern property boundary.

The site is currently vacant.

The topography of the land is generally flat.

The subject site is located towards the north eastern entrance of the Koo Wee Rup Township along Rossiter Road. The intersection of Rossiter Road and Station Street, at the centre of Koo Wee Rup's commercial district, is approximately 675 metres from the site. A shopping centre containing a supermarket is approximately 250 metres west of that intersection.

The site is well-placed with regards to access to town services, and is less than 200 metres from Koo Wee Rup Secondary School, approximately 500 metres from Koo Wee Rup Primary School. A bus stop serviced by V-Line is approximately 850 metres from the site. Cochrane Park is approximately 1 kilometre southeast, and Koo Wee Rup Regional Health Centre is approximately 1.3 kilometres southeast.

## PROPOSAL

The application proposes the subdivision of the land into nine (9) lots. The lots will measure between 700 and 768 square metres,<sup>1</sup> and will be serviced by a single road at the eastern property boundary onto Rossiter Road.



**PLANNING SCHEME PROVISIONS**

**Planning Policy Framework (PPF)**

The relevant clauses of the PPF are:

- Clause 15.01-1S      Urban design
- Clause 15.01-3S      Subdivision design
- Clause 15.01-4S      Healthy neighbourhoods
- Clause 15.01-5S      Neighbourhood character
- Clause 16.01-1S      Integrated housing
- Clause 16.01-2S      Location of residential development
- Clause 16.01-3S      Housing diversity
- Clause 18.02-1S      Sustainable personal transport

**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

<sup>1</sup> The size of lots 1 and 2 will be reduced in accordance with a condition to provide an internal service road that will eventually eliminate access from Rossiter Road (discussion below).

- Clause 21.05-5 Pedestrian and bicycle network
- Clause 21.06-1 Design and built form
- Clause 21.07-7 Local Areas - Koo Wee Rup

**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 56 Residential subdivision
- Clause 65 Decision guidelines
- Clause 66 Referral and notice provisions
- Clause 71.02 Integrated decision making
- Koo Wee Rup Township Strategy 2015

**Zone**

The land is subject to the **Neighbourhood Residential Zone Schedule 1** and a **Road Zone, Category 1**.

**Overlays**

The land is subject to the following overlays:

- Land Subject to Inundation Overlay
- Development Plan Overlay 24 (amendment currently under preparation)

**PLANNING PERMIT TRIGGERS**

The proposal for **Subdivision of land into nine (9) lots and creation of access to a Road Zone Category 1** requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.09-3 (Neighbourhood Residential Zone), a planning permit is required for subdivision.
- Pursuant to Clause 52.29-2 (Land Adjacent to a Road Zone, Category 1), a permit is required to create or alter access to a road in a Road Zone, Category 1 and subdivide land adjacent to a road in a Road Zone, Category 1.

**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.

Council has received six (6) objections to date.

It is noted that the six objections were submitted prior to a substantial revision of the proposal under Section 57A of the *Planning and Environment Act 1987*. After the revision, the application was readvertised by:

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

Only one (1) objector submitted a further objection after notice of the amended application. However, under Section 57A(7)(b), Council is required to consider all objections made in relation to the original application to be an objection of the amended application.

The key issues that were raised in the objections were:

- Noncompliance with the Koo Wee Rup Township Strategy, including lot yield mentioned in Section 4.12/Table 6, guideline for 80% of lots to measure over 700 square metres, provision of larger allotments near Urban Growth Boundary, and footpath access.
- Noncompliance with public access provisions of Clause 56.04-5, 56.06-5 and 56.07-4.
- A lack of respect for neighbourhood character, specifically with regard to the 'country feel' of Koo Wee Rup and the contrast with nearby Lauriston Park Estate, which has predominantly 3 and 4 bedroom residences on 900 square metre allotments.
- No provision of footpath to Townley Road, and the only footpath into town located across Rossiter Road.
- Addition of new intersection to cause traffic issues, especially with nearby industrial land and secondary school.
- Provision of sewerage.
- Issues with common property.

## REFERRALS

### *APA Group*

The application was referred to APA Group as a statutory referral. APA Group had no objection to the proposal and required no conditions.

### *AusNet Services*

The application was referred to AusNet Services as a statutory referral. AusNet Services had no objection to the proposal subject to conditions.

### *Country Fire Authority*

The application was referred to the Country Fire Authority as a statutory referral. The CFA had no objection to the proposal subject to conditions.

### *Melbourne Water*

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

### *South East Water*

The application was referred to South East Water as a statutory referral. South East Water no objection to the proposal subject to conditions.

### *VicRoads*

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

## DISCUSSION

The proposed nine lot subdivision has been assessed against all relevant provisions of the Cardinia Planning Scheme and represents an acceptable planning outcome. As such, the application should be supported by Council.

### **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 increase housing diversity and improving housing affordability whilst providing a subdivision layout that can integrate well with the surrounding neighbourhood and township character.

### **Koo Wee Rup Township Strategy**

The proposed subdivision is generally in accordance with the Koo Wee Rup Township Strategy (the 'Township Strategy').

The Township Strategy is an incorporated document in the Planning Scheme. In addition, 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).*

Of relevance to this application is Section 4, which specifies guidelines for residential development. Section 4.4 specifies that the Subject Site is located within Precinct 2 (new residential estates). Also relevant to this proposal is section 4.12, which identifies the subject site as suitable for infill development.

### Precinct 2 and Development Guidelines

The proposed subdivision is generally consistent with the preferred character statement identified for the area. The preferred character statement for Precinct 2 provides that:

*The open and semi-rural atmosphere of Koo Wee Rup's new residential estates will be retained particularly with provision of larger allotments. Existing asphalt roads with pathways on either side will continue into new developments and maintain existing styles and features including brick paved thresholds and street lighting. Other features which improve the overall appearance and functionality of the existing developments, such as underground power and grassed road verges will be combined with street tree planting, wide footpaths and generous street widths with an overall focus on continuity and quality within all new developments.*

An excerpt of the Township Strategy providing the location of Precinct 2 is shown below:



Development guidelines are provided for this precinct, with relevant guidelines including:

- *Maintain 80% of the lots with sizes over 700 square metres;*
- *Orientate dwellings to maximize retention of existing vegetation and allow only one access driveway to the site;*
- *Maintain spaciousness in new estates with:*
  - *Providing a minimum front setback of 7 metres or no less than the average setback of the adjoining two dwellings;*
  - *Side setbacks of 2.5 metres minimum;*
  - *Respect for the predominant building height of the neighbourhood;*
  - *No fences or if fenced, only low fences; and*
  - *Minimum lot width of 18 metres.*
- *Encourage larger allotments of over 1000 square metres towards the edge of the Urban Growth Boundary;*
- *Discourage small allotments of less than 600 square metres in the new residential estates;*
- *In the case of subdivisions, clearly outline how the new development relates to the existing and intended use and development of adjoining land;*
- *Discourage cul-de-sacs and, if used, they should be connected through to another street by a wide reserve and path for safe pedestrian and bicycle access.*

The subdivision is generally in accordance with the Koo Wee Rup Township Strategy with most lots measuring over 700 square metres, the ability of the subdivided lots to maintain a sense of spaciousness, and the absence of a cul-de-sac (with future connectivity to be provided through the realisation of the future DPO24).

This consistency with the Township Strategy is determined despite some minor deviations required to realise the aims of Council's proposed Development Plan Overlay in this area.<sup>2</sup> Whilst the plans submitted show all lots measuring over 700 square metres, it is noted that a 16 metre wide (approximately) service road will be required via condition to run parallel to Rossiter Road to align with the future Development Plan Overlay 24 and minimise permanent road access points to Rossiter Road (see discussion below). This condition will reduce the lot sizes of lots 1 and 2 (which both currently measure 720 square metres) by approximately 384 square metres each. Considering the amendment that will be required by this condition, approximately 78 percent of lots will measure over 700 square metres. This will also result in lots 1 and 2 measuring less than 600 square metres. Finally, it is noted that the lot width of lots 3 – 8 will measure less than 18 metres, they will still maintain a sense of spaciousness at approximately 16 metres in width.

In this instance, it is important to consider Clause 71.02-3 (Integrated decision making), which notes that responsible authorities should integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit. Although 80% of lots will not measure over 700 square metres, (siting at 78%) the lot width of lots 3 - 8 are slightly less than the guideline, and two lots will measure less than 600 square metres, the subdivision achieves an appropriate balance between the need to provide a range of housing options to meet the needs of the community, recognising the existing rural township character of the area, and providing for the future orderly planning of the area to the west of Sims Lane. The proposed subdivision results in lot areas and a layout that is not uncharacteristic of the surrounds and provides appropriate lot widths combined with building envelopes that will ensure development on the site can ensure the township character is maintained, including appropriate front and side setbacks.

With respect to the guideline to '*encourage larger allotments of over 1000 square metres towards the edge of the Urban Growth Boundary*', it is noted that this is an inherently relative measure and the Township Strategy is unclear as to how close to the boundary this guideline should be applied. As shown in the diagram of residential precincts above, Precinct 2 lies exclusively in the outer reaches of the Koo Wee Rup township. Additionally, the subject parcel does not abut the Urban Growth Boundary (shown by a dotted line in the diagram above). Whilst this guideline is open to a certain amount of interpretation, it is reasonable to construe that it is not relevant to the subject parcel as the site does not abut the Urban Growth Boundary.

It is important to note that the Tribunal has decided on several occasions that the Township Strategy's guidelines should not be applied in a prescriptive fashion. The recent decision of *Fox Corp Australia Pty Ltd v Cardinia SC*,<sup>3</sup> which concerned the subdivision of 19 lots at 65 Moody Street, set aside Council's refusal. In that proposal, only 57 percent of lots measured over 700 square metres. Additionally, the allotment is located at the northern edge of the Urban Growth Boundary. The Tribunal noted that '*We acknowledge the development guidelines for precinct 2 in the Strategy specify that 80% of lots are to be over 700 square metres and this will not be achieved. However, we are not persuaded that this figure needs to be applied in a prescriptive way, noting that the MSS seeks development to be generally consistent with the Strategy. . . The above inconsistency demonstrates to us that the Development Guidelines are just that: guidelines and a rigorous application of them to permit applications is not the correct approach to be taken.*'<sup>4</sup>

In the only other Tribunal decision issued since the Township Strategy became an incorporated document, Council's refusal of a two lot subdivision on a 1013 square metre site at 7 Henry Street was set aside. There, the member noted that 70 percent guideline in Precinct 1 was a 'difficult measure to implement' as '*it is unclear what geographic area this applies to, at what point in time it is to be measured and whether it is then intended that no multi unit should be allowed on lots of this size.*'<sup>5</sup>

<sup>2</sup> A detailed discussion and diagram of the proposed Development Plan Overlay is provided later in this report.

<sup>3</sup> [2017] VCAT 1837.

<sup>4</sup> *Ibid.* at [24-25].

<sup>5</sup> *Ibid.* at [34].



### Potential for infill development – Section 4.12

Under Section 4.12 of the Township Strategy, the Subject Site is identified as having potential for infill development because of its proximity to the town centre.

*[O]pportunities [for infill development] exist for subdividing the large blocks to the west of Sims Lane and south of Rossiter Road, where existing lots range in size from 8,139 square metres to 9,868 square metres. The preparation of a Development Plan Overlay needs to be considered, to address the issues of access, traffic movement, permeability, infrastructure provision and flood mitigation. Again, any subdivision should be of a medium to larger allotment size, to provide a range of housing options which cater for the needs of a diverse range of ages and households.*

With respect to the future development of these lots, Section 4.12 of the Township Strategy notes:

*In general, infill development will display a sense of spaciousness, with a front set back of 7 metres minimum, driveway orientated along one side of the property. It will provide new trees and garden space, no front fence which enables garden and nature strip to merge and site coverage of 50%.*

It is possible to achieve these objectives through restrictions on title where practicable, which will be implemented via permit conditions.

It is also noted that Table 6 in Section 4.12 identifies potential infill land supply on the assumption that yield will approximate 9 lots per hectare and lots will have a development area of 70 percent of the total lot area. At 0.87 hectares, the Subject Site is predicted in this table to have a yield of 5 lots. Whilst the application proposes 9 lots, it is suggested that prescriptive approach to this table should not be followed, particularly in light of the assumptions required to reach its conclusions and the previous decisions of the Tribunal. Again, the proposal is generally in accordance with the Township Strategy as it achieves a balance between maintaining township character and providing for increased infill development close to the town centre.

In sum, the proposal is generally consistent with the Township Strategy. It achieves a sense of spaciousness with 78% of lots measuring over 700 square metres, and with adequate restrictions on title it can be assured that setbacks and garden areas will require future development to respect the preferred township character. Whilst the proposal does not strictly comply with the development guidelines within the Township Strategy relating to lot sizes and lot width, it achieves its overall purpose. Importantly, as noted by the Tribunal, Clause 21.07-7 of the Planning Scheme only requires a proposal to be *generally consistent* with the Township Strategy—it does not prescribe strict compliance.

### **Neighbourhood Residential Zone/Clause 56 Residential Subdivision**

The proposal is suitable with regard to the Neighbourhood Residential Zone and the objectives of Clause 56 of the Planning Scheme. 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 subdivisions between 3 and 15 lots (All subsections of Clause 56 except Clauses 56.02-1, 56.03-1 to 56.03-4, 56.05-2, 56.06-1, 56.06-3 and 56.06-6).

The proposed subdivision is consistent with the purposes 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.

- **Clause 56.03 (Liveable and Sustainable Communities):** the proposal complies with the relevant standards and objectives under this clause as the subdivision achieves a preferred neighbourhood character consistent with the relevant neighbourhood character statement set out in the Koo Wee Rup Township Strategy.
- **Clause 56.04 (Lot Design):** the proposal complies with the relevant standards and objectives under this clause as it provides a range of lot sizes. Lots can provide a suitable area to contain a dwelling

and building envelopes will be required as a condition to the permit and will ensure adequate solar access and street orientation.

- Clause 56.05 (Urban Landscape): a landscape plan will be required to be implemented prior to the issuance of a statement of compliance in order to ensure compliance with the relevant objective in this clause.
- Clause 56.06 (Access and Mobility Management): footpaths will be required within the internal road network and to the south of Rossiter Road to ensure the relevant objectives of this clause are satisfied. Roads will be designed to provide safe and efficient movement for all vehicles, and the submission of a functional layout plan to be approved by Council's Engineering Department will form a condition of a permit to ensure the relevant standards of this clause are adequately addressed. As discussed below, a condition will be required to slightly modify the splay on lots 8 and 9 to provide for the safe and efficient access of a waste vehicle.
- Clause 56.07 (Integrated Water Management): the lots within the subdivision will be required to be connected to services, as conditions are required by servicing authorities. Conditions related to stormwater management will be required to be completed to the satisfaction of Council prior to issuance of a statement of compliance. With these measures in place, it is determined that the proposal satisfies the objections of Clause 56.07.
- Clause 56.08 (Site Management): Conditions will be placed on the permit to ensure compliance with this clause is met, including protection of drainage infrastructure, as well as the prevention of environmental degradation and nuisance during construction.
- Clause 56.09 (Utilities): Conditions will be placed on the permit to ensure compliance with objectives relating to electricity, telecommunications, gas, and fire hydrants. It is therefore determined that the proposal is compliant with the objectives of this clause.

### Land Subject to Inundation Overlay

The proposal is consistent with the purposes and decision guidelines of the Land Subject to Inundation Overlay. This overlay identifies land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority, and seeks to that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

A permit is required to subdivide land affected by the LSIO, and the relevant decision guidelines include:

- Any comments from the relevant floodplain management authority;
- The existing use and development of the land;
- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay; and
- The susceptibility of the development to flooding and flood damage.

The application was referred to Melbourne Water, who did not object to the proposal and did not provide any conditions.

### Clause 52.29 Land Adjacent to a Road Zone Category 1

The proposal is consistent with the purposes and decision guidelines of Clause 52.29. This Clause applies to land adjacent to a Road Zone Category 1 and aims to ensure appropriate access to identified roads and appropriate subdivision of land adjacent to identified roads. A permit is required to subdivide land adjacent to a road in a Road Zone Category 1 as well as to create access to a road in a Road Zone, Category 1.

The relevant decision guidelines include the PPF and LPPF, the views of the relevant road authority and the effect of the proposal on the operation of the road and on public safety.

The application has been referred to VicRoads, who had no objection subject to conditions. Further, the proposal is considered acceptable under this clause with a condition requiring a service road to eventually connect to an internal road network and allow for the closure of the access point to Rossiter Road in

accordance with the future Development Plan Overlay 24 (see discussion below). Based on these factors, the proposal is considered consistent with this Clause.

#### **Clause 52.01 Public Open Space Contribution and Subdivision**

Under Clause 52.01, a person who proposes to subdivide land for urban residential purposes must make a contribution to council for public open space of an amount specified in the schedule to this clause. The Schedule specifies an amount of eight per cent and this will be placed as a condition of the planning permit.

#### **Clause 65.01 Approval of an Application or Plan/Clause 65.02 Approval of an Application to Subdivide Land**

The proposal is considered consistent with clauses 65.01 and 65.02 and will deliver an orderly planning outcome with minimal impact on the amenity of the area. The land is suitable for subdivision and has been identified in the Township Strategy as having potential for infill development. This subdivision will help realise that objective, and create additional housing close to the town centre.

Clauses 65.01 and 65.02 require the consideration of a range of matters, including the Planning Policy Framework and the Local Planning Policy Framework and the purpose and decision guidelines of the relevant zone, overlay or other provisions. Other relevant guidelines of Clause 65 include the orderly planning of the area, the effect on the amenity of the area, and the matters set out in Section 60 of the Act.

#### Stormwater and drainage

With respect to Clause 65.02's requirement to consider the '*effect of development on the use or development of other land which has a common means of drainage*', and Clause 65.01's requirement to consider '*whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site*', specific conditions related to drainage and stormwater will be placed on the permit to ensure impacts to surrounding properties are minimised.

#### Movement of pedestrians and vehicles

Concerning '*the movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots*', it is noted that Council's Waste and Traffic departments have expressed a concern with the feasibility of an 8.8 metre waste vehicle to turnaround at the end of the current road leading to lot 9. Therefore, prior to the endorsement of plans, the Applicant will be required to submit swept paths demonstrating that an 8.8 metre waste vehicle can turnaround at the end of the proposed road, and modify the configuration of lots 8 and 9 to enable this to occur, if necessary. It is anticipated this condition will have a small effect on the splay traversing lots 8 and 9 and only require a small reduction in lot size. The benefit of this condition will allow waste vehicles to reach all lots in the subdivision.

#### Existing vegetation

With respect to Clause 65.02's requirement to consider '*the subdivision pattern having regard to the physical characteristics of the land including existing vegetation*', it is noted that the adjacent parcel at 404 Rossiter Road contains vegetation within 3 metres of the boundary shared with the subject site. The apparent pattern of this vegetation suggests the vegetation is planted. The structural root zones of these trees measure between 1.50 and 2.67 metres. Additionally, a 3 metre wide drainage easement spans the eastern boundary of the subject site, providing an additional buffer from the root zones of this vegetation. To ensure impacts are not caused to this vegetation, submission of a Tree Management Plan and Construction Environmental Management Plan addressing vegetation impacts will be required via condition. It is noted that Council approved a substantially similar subdivision under Planning Permit T030273.

#### **Condition relating to the provision of a service road parallel to Rossiter Road**

A condition has been provided in this recommendation from VicRoads requiring the submission of revised plans to show:

Before certification of the plan of subdivision hereby approved, amended plans that show land being set aside for a one-way, temporary service lane along the northern boundary of the site must be prepared to the satisfaction of the Roads Corporation and the Responsible Authority. The temporary service road carriageway (excluding the temporary Rossiter Road connections) must be constructed to sufficient width to allow it to ultimately function as a two-way Access Street 1 as per the Engineering Design and Construction Manual (EDCM).

There are several justifications for this condition, including:

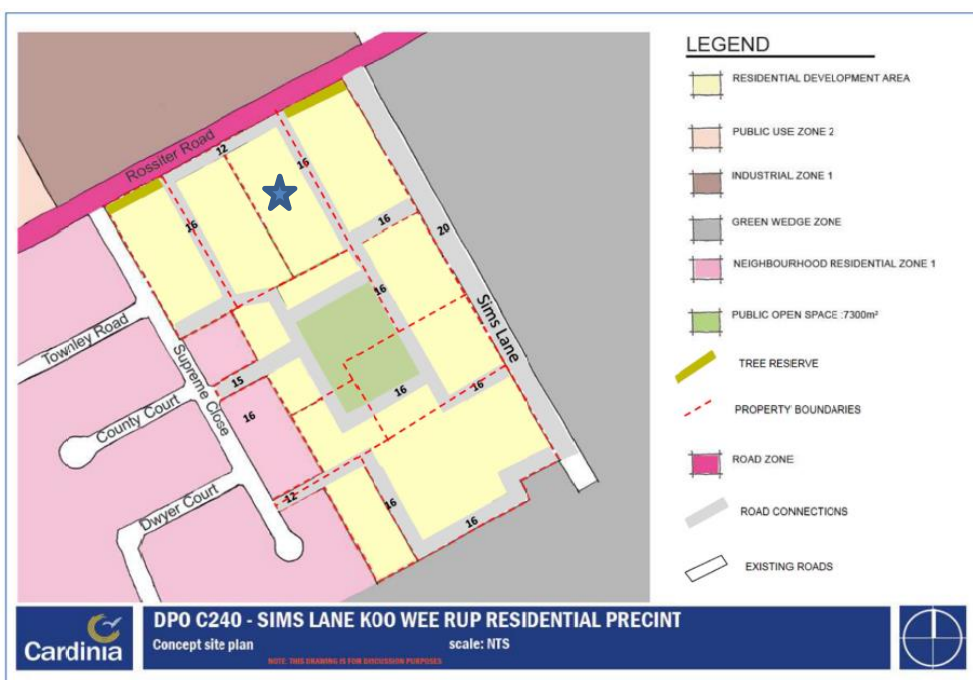
- The existing use and possible future development of the land and nearby land;
- The layout of the roads and relationship to existing roads; and
- Consideration of Amendment C240 and the Development Plan Overlay 24.

The existing use and possible future development of the land and nearby land/The layout of roads having regard to their function and relationship to existing roads

Clause 65.02 requires Council to consider ‘the existing use and possible future development of the land and nearby land’ and ‘the layout of roads having regard to their function and relationship to existing roads.’ These are relevant factors with respect to the importance of the service road to provide internal connectivity to adjacent land and eventually provide for the closure of access points to Rossiter Road. Approving the subdivision without a service road or allowing for a different configuration will likely cause a cascading effect on the subdivision of future lots in this area that would result in future subdivision applications requesting additional access points to Rossiter Road. This sort of piecemeal development will cause additional traffic impacts and ultimately result in a poor planning outcome for this area. Therefore, the application as submitted, with the inclusion of a condition requiring a service road parallel to Rossiter Road, should be approved.

Section 60 of the Planning and Environment Act 1987/Orderly planning and consideration of Amendment C240

Additionally, the provision of a 12 metre wide service road parallel to Rossiter Road is essential to the realisation of the Development Plan Overlay 24 (DPO24), which is included in Amendment C240. Council’s Strategic Planning Department is currently undergoing work for Amendment C240, which includes a Development Plan Overlay (DPO24) for the land between Sims Lane and Supreme Close, including the Subject Site.



Whilst significant background work has been completed to prepare the amendment, it is noted that the DPO24 is in the early stages of development, with Council currently awaiting the Minister's authorisation. However, permit conditions to enable the Amendment to proceed can still be considered when the absence of the works required by the condition would otherwise defeat the purposes of the Amendment. Therefore, it is noted that the DPO24 can be considered under Section 60(j) of the Act, as it is a 'relevant matter' and Clause 65.01 of the Planning Scheme as the proposal (when including proposed conditions) is consistent with the orderly planning of the area.<sup>6</sup>

As evidenced by the diagram above, the placement of the service road parallel to Rossiter Road is critical to provide the safe and efficient flow of vehicles from Sims Lane to Supreme Close and is a key element of the DPO24. The placement of the service lane will allow for the eventual closure of all access points to Rossiter Road once the development contemplated by the DPO is realised.

Because the plans submitted with the application do not include the provision of this service road, a condition will be placed on the permit to submit amended plans including the service road prior to certification. This condition will allow for the orderly planning of the area and compliance with Section 60(j) of Act by enabling the ultimate plan for the DPO24 to proceed. To allow the subdivision to occur without such a condition would substantially obstruct efforts to realise the DPO24 by creating a cascading effect on the subdivision of future lots that would result in future subdivision applications for adjacent lots requesting additional access points to Rossiter Road. This will provide additional traffic impacts in the future, as well as destroy the potential for the internal connectivity contemplated by the DPO24.

#### ***Condition relating to the provision of a footpath to Townley Road***

Council's Engineering Department has requested inclusion of the following condition:

*Construction of a minimum 1.5 metre wide concrete footpath along the south side of Rossiter Road extending from the proposed development access to Townley Road.*

This condition would require the construction of over 120 metres of concrete footpath beyond the boundaries of the subject site.

However, with regard to the common law and statutory tests governing the validity of permit conditions, it is recommended to limit the construction of the footpath to the site boundaries. Therefore, included in the recommended conditions is the following revised condition:

*Construction of a minimum 1.5 metre wide concrete footpath along the south side of Rossiter Road extending across the length of the proposed development.*

The common law test for the validity of permit conditions is contained in the High Court case of *Allen Commercial Constructions Pty Ltd v North Sydney Municipal Council*,<sup>7</sup> where it was held that for a condition to be valid it must be reasonably capable of being related to the implementation of planning policy and the scope of that policy must be ascertained from the relevant planning statute and planning instrument. Further, under the statutory test of Section 62(5)(c)(i) of the *Planning and Environment Act 1987*, the Responsible Authority may 'include a condition that specified works, services or facilities that the responsible authority considers *necessary* (emphasis added) to be provided on or to the land or other land as a result of the grant of the permit be provided by the applicant.'

There are several planning policies that regard footpath linkages, including the following:

- Within the Koo Wee Rup Township Strategy:
  - Section 7.8 contains an objective to '*encourage pedestrian and bicycle usage to reduce car dependency for short trips within the township*' and '*to provide a safe and well-maintained network of footpaths*'.

<sup>6</sup> This interpretation is supported by the Supreme Court decision of *Burns Bridge Services Pty Ltd v Greater Bendigo City Council* [2005] VSC 422.

<sup>7</sup> [1970] HCA 42.

- Section 7.9 contains policy to *'provide a well-connected network of paths to encourage walking and cycling'*.
- Additionally, Section 9.8 identifies that *'There is a need for well-maintained footpaths and bike paths to link recreation facilities, the town centre and all sections of the township. . .'*
- Clause 21.05 (Infrastructure provision) contains a strategy to *'Encourage the development of both pedestrian and bicycle links throughout the municipality'*.
- Clause 21.05-5 (Pedestrian and bicycle network) has an objective to *'develop well-located, safe and interconnected pedestrian and bicycle networks within the municipality.'* Strategies within this policy include *'Provide for safe and efficient pedestrian and bicycle movements to connect railway stations, bus stops, activity centres and major community facilities . . . in rural townships'* and to *'Ensure connectivity between new and existing development including pedestrian and bicycle paths.'*
- Clause 56.06-2 (Walking and cycling network objectives) contains standards to ensure the walking and cycling network should be designed to *'link to any existing pedestrian and cycling networks'* and *'provide an interconnected and continuous network of safe, efficient and convenient footpaths . . .'*
- Clause 56.06-5 (Walking and cycling network detail objectives) contains a standard to ensure footpaths should be designed to *'be part of a comprehensive design of the road or street reservation'*.
- Clause 15.01-4S (Healthy neighbourhoods) contains a strategy to provide *'connected, safe, pleasant and attractive walking and cycling networks that enable and promote walking and cycling as a part of daily life'*.
- Clause 18.02-1S (Sustainable personal transport) contains a strategy to *'develop high quality pedestrian environments'* and *'provide direct and connected pedestrian and bicycle infrastructure to and between key destinations including . . . public transport interchanges, [and] employment areas. . .'*

These planning policies all support the requirement to construct a footpath along the south side of Rossiter Road for use by the residents of the proposed subdivision with the expectation that future development will provide linkages to the existing footpath network.

Despite the existence of these policies to encourage footpath connectivity and networks, there is a genuine question of necessity of the extended footpath beyond the length of the site to span neighbouring parcels. It is uncertain whether such an extension would achieve the aims of the policies with relation to the proposal, and the reasonableness of such a condition is questionable. Therefore, it is suggested to include the revised condition as provided in this report. It is unfortunate that limiting the footpath construction to the development of the current site will result in ad hoc development with regard to footpath linkages; however having regard to reasonableness and necessity, the revised condition is considered appropriate in this instance.

### **Objectors' Concerns**

Six (6) objections were submitted in relation to the proposal. These objections were submitted prior to a substantial revision of the proposal under Section 57A of the *Planning and Environment Act 1987*. The amended application reduced the lot yield from 10 to 9, increased most lot sizes, and replaced the central common property accessway with a road to be vested to Council on the eastern portion of the parcel.

Whilst only one (1) further objection was received by an original objector after the amendment, under Section 57A(7)(b), Council is required to consider all objections made in relation to the original application to be an objection of the amended application.

A response is provided to the following concerns lodged by objectors:

- *Noncompliance with the Koo Wee Rup Township Strategy, including lot yield mentioned in Section 4.12/Table 6, guideline for 80% of lots to measure over 700 square metres, provision of larger allotments near Urban Growth Boundary, and footpath access.*

- As mentioned in the section of this report dedicated to the Township Strategy, the proposal is generally in accordance with this document. Reference is made to the above section, which responds to each of these concerns.
- *Noncompliance with public access provisions of Clause 56.04-5, 56.06-5 and 56.07-4.*
  - 56.04-5 concerns common areas. The amendment to the application replaced all common property with a road. Therefore, this section is not relevant to the current proposal.
  - 56.06-5 concerns walking and cycling networks. A footpath will be required on site via condition. Functional layout plans required via condition will also ensure adequate detail is provided to enable safe travel for pedestrians, vehicles and cyclists.
  - 56.07-4 concerns stormwater management. This objective is specifically addressed by standard engineering conditions.
- *A lack of respect for neighbourhood character, specifically with regard to the 'country feel' of Koo Wee Rup and the contrast with nearby Lauriston Park Estate, which has predominantly 3 and 4 bedroom residences on 900 square metre allotments.*
  - Building envelopes and fencing controls will be required via a restriction on title to ensure any subsequent development respects the preferred neighbourhood character. Allotments within Lauriston Park Estate to the west measure between 500 and 1 hectare, with the smaller allotments abutting Townley Road and Supreme Close (closest to the subject site). The lots proposed by the application are comparable and do not unreasonably deviate from the pattern of subdivision in the area.
- *No provision of footpath to Townley Road, and the only footpath into town located across Rossiter Road.*
  - Reference to the section of this report regarding a condition requiring a footpath to Townley Road is made, which responds to these concerns.
- *Addition of new intersection to cause traffic issues, especially with nearby industrial land and secondary school.*
  - The new intersection has been considered by VicRoads, who have provided conditional consent. It is noted that the provision of a service road along the northern property boundary will allow for the future closure of access to Rossiter Road when the Development Plan Overlay 24 is realised. The DPO24 provides for an internal loop road with access from Sims Land and Supreme Close.
- *Provision of sewerage.*
  - A condition on the permit required by determining referral authority South East Water will require the owner of the subject land to enter into an agreement with for the provision of sewerage and fulfil all requirements to its satisfaction.
- *Issues with common property.*
  - The Applicant submitted an amendment to the proposal removing the common property and replacing it with a road.

## CONCLUSION

The proposed application is consistent with State and Local Planning Policy, and the zone and overlay provisions that apply to the Subject 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 and should be supported.

It is recommended that Council issues a Notice of Decision to grant Planning Permit Application **T180293** for the **subdivision of land into nine (9) lots and creation of access to a Road Zone, Category 1** at **400 Rossiter Road, Koo Wee Rup** subject to the following conditions:

## CONDITIONS

### Amended Plans Required

1. Before the plan of subdivision is certified under the *Subdivision Act 1988*, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a. An adequate road width to accommodate the turning movements of an 8.8 metre long service vehicle at the head of the court adjacent to lots 8 and 9. Adequate road width must be demonstrated with swept paths to the satisfaction of the Responsible Authority.
  - b. A title plan showing building envelopes with a front setback of at least 7 metres and side setbacks of at least 2.5 metres for lots 3 – 9, and the following restrictions to the satisfaction of the Responsible Authority:
    - i. Burdening lots 3 – 9:
      1. Building site coverage must not exceed 50 percent.
      2. No building or part of a building may be constructed outside of a building envelope.
    - ii. Burdening all lots:
      1. Front fences must not exceed 1.5 metres in height and must not have less than 30 percent transparency.
  - c. The location of tree protection fencing that will protect vegetation on neighbouring lots from construction impacts.
  - d. The retention of all trees on the adjoining property that are listed in the arborist report submitted with the application, with their tree protection zones free from any buildings, roads, footpaths, earthworks, trenching or any other works and/or the implementation of adequate measures supported by an arborist's report to ensure the retention of these trees to the satisfaction of the Responsible Authority.
  - e. Any changes to the site plans required by the endorsed Tree Management Plan required by Condition 24.

#### **Roads Corporation (VicRoads) Conditions**

2. Before certification of the plan of subdivision hereby approved, amended plans that show land being set aside for a one-way, temporary service lane along the northern boundary of the site must be prepared to the satisfaction of the Roads Corporation and the Responsible Authority. The temporary service road carriageway (excluding the temporary Rossiter Road connections) must be constructed to sufficient width to allow it to ultimately function as a two-way Access Street 1 as per the Engineering Design and Construction Manual (EDCM).
3. Unless otherwise agreed in writing by VicRoads, prior to the commencement of any works, a Functional Layout Plan (FLP) must be submitted to and approved by the Roads Corporation (VicRoads). The plans must be drawn to scale with dimensions and must show details of the two new temporary vehicle crossovers onto Rossiter Road that includes but is not limited to:
  - a. Details of the shape and sealing of the crossovers to be generally in accordance with SD SD6024, but modified for entry-only and exit-only.
  - b. Details of the culverts, with their size being based on drainage analysis provided by the permit holder.
4. Prior to Statement of Compliance, the temporary service lane and associated works must be provided and available for use to the satisfaction of the Responsible Authority and at no cost to VicRoads.

#### **Agreement Required**

5. Before a Statement of Compliance is issued, an agreement must be made with the Responsible Authority under Section 173 of the *Planning & Environment Act 1987* that is recorded on the Certificate of Title to the land. The agreement must state to the satisfaction of the Responsible Authority:



- a. The owner of each lot acknowledges that direct access to and from Rossiter Road is temporary and will be closed at the discretion of Council after suitable alternative access to the local road network is available.

### Engineering Conditions

6. Before a Statement of Compliance is issued, the following works must be completed in accordance with plans and specifications approved by and to the satisfaction of the Responsible Authority:
  - a. Construction of an access from Rossiter Road to a standard nominated and approved by VicRoads and the Cardinia Shire Council.
  - b. Construction of kerb & channel and associated underground drainage across the Rossiter Road frontage of the subject land.
  - c. Construction of a minimum 1.5 metre wide concrete footpath along the south side of Rossiter Road extending across the length of the subject site.
  - d. Construction of the internal roads in accordance with Council standards that includes a sealed full depth road pavement, kerb & channel, underground drainage, concrete footpath on one side only and concrete vehicle crossings.
7. Before the submission and approval of detailed design construction plans (engineering plans) and the certification of the relevant plan of subdivision for each stage, a *functional layout plan* for the subdivision or stage of subdivision, generally in accordance with the standards nominated in the Cardinia Shire Council "Guidelines for the Development & Subdivision of Land", "Development Construction Specification" and the Water Sensitive Urban Design (WSUD) Guidelines, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority.

When approved, the *functional layout plan* will be endorsed and will then form part of the permit. Three copies of the *functional layout plan* must be drawn to a scale of 1:500 to acceptable drafting standards and an electronic copy (pdf) must be provided.

The functional layout plan must show:

- a. A fully dimensioned subdivision layout, including proposed street names, approximate lot areas, lot numbers and widths of street reservations,
- b. Topography and existing features, including contours for the subject land and any affected adjacent land,
- c. Identification by survey of all trees (or group of trees) existing on the subject land, including dead trees and those that overhang the subject land from adjoining land,
- d. Details of tree protection zones (TPZs) for all trees to be retained on the subject land,
- e. All trees proposed for removal from the subject land clearly designated,
- f. Typical cross-sections for each street type, dimensioning individual elements, services offsets and any other spatial requirements identified in the Development Plan,
- g. Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls,
- h. The proposed minor drainage network and any spatial features requiring access,
- i. The major drainage system, including any watercourse, lake, wetland, sediment pond rain gardens, bio-infiltration system and/or piped elements showing preliminary sizing,
- j. Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination,
- k. Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for the construction and maintenance,
- l. A table of offsets for all utility services and street trees,
- m. Preliminary location of reserves for electrical kiosks, and
- n. Traffic management plan showing sufficient notional (unmarked) on-street car parking spaces, at the rate of one space per lot, traffic control devices and large vehicle turning overlays.

8. Before the Statement of Compliance is issued, all road and drainage infrastructure must be designed and constructed in accordance with plans and specifications approved by the Responsible Authority. The works must comply with the standards nominated in the Cardinia Shire Council “Guidelines for the Development & Subdivision of Land”, “Development Construction Specification” and the “Water Sensitive Urban Design (WSUD) Guidelines”.
9. 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.
10. At least 14 days before any works start, a site specific Construction Environmental Management Plan (CEMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the CEMP will be endorsed and will then form part of the permit. All works must be undertaken in accordance with the approved CEMP.

The CEMP must address all environmental risks and include:

Engineering requirements

- a. Temporary stormwater management including sedimentation control.
- b. Provision of pollution and contamination controls including noise and dust.
- c. Location of stockpiles and stockpile management.
- d. Location of site office and facilities.
- e. Equipment, materials and goods management.

Environment requirements

- f. Tree protection zones, trees to be retained and trees to be removed.
- g. Native vegetation protection measures including tree protection fencing in accordance with the Tree Management Plan required by Condition 24.

11. All roads used for the purpose of haulage of imported or exported materials for construction must be:
  - a. Approved in writing by the Responsible Authority for the submitted haulage strategy, at least seven days prior to the commencement of use,
  - b. Maintained in accordance with the Responsible Authority's maintenance intervention levels, or as requested by the Responsible Authority if the road deteriorates during the haulage period, and
  - c. Reinstated to the satisfaction of the Responsible Authority.
12. Before a certificate of practical completion is issued, CCTV results for the full length of all stormwater drainage pipes where Council is the responsibility authority, must be submitted for assessment. The submitted information is to be to the satisfaction of the Responsible Authority.
13. Before a Statement of Compliance is issued under the *Subdivision Act 1988* the permit holder must provide survey enhanced “as constructed” GIS data for the drainage, road and footpath information components of the subdivision, in accordance with the current version of D-SPEC and R-SPEC. Council’s preferred format for the submission of the graphical data is in “MapInfo Native Format”. A secondary format is “MapInfo MID/MIF”. Grid Co-ordinates must be MGA zone 55 (GDA 94). Please refer to the A-SPEC website for further information: [www.a-specstandards.com.au](http://www.a-specstandards.com.au).
14. Before a certificate of practical completion is issued, “as constructed” digital road and drainage information in AutoCAD format with all Xrefs binded into the drawings and showing any amendments during construction, must be submitted for all civil works where Council is the Responsibility Authority.
15. Lighting of streets and pedestrian/cycle paths must be designed and provided (prior to the issue of a Statement of Compliance for the relevant stage) in accordance with Australian Standard 1158.1 to the satisfaction of the Responsible Authority.

## **Parks and Gardens Conditions**

16. Before a Statement of Compliance is issued, a Detailed Landscape Works Plan must be submitted to and approved by the Responsible Authority. The Detailed Landscape Works Plan must be prepared by a person suitably qualified or experienced in landscape design to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The landscape works plan must be drawn to scale with dimensions and one (1) copy must be provided in an approved electronic format (PDF and CAD). The Detailed Landscape Works Plan must be consistent with the endorsed landscape master plan and must show and include to the satisfaction of the Responsible Authority:
- How the proposed design responds to the requirements of the Cardinia Shire Council developer landscape guidelines, including checklist 2 (as amended from time to time).
  - New plantings, including their layout to be provided in any road reserves and municipal reserves.
  - A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant. The plant schedule must be consistent with adjoining sites where roads are continued through.
  - The proposed road reservation widths and the treatment of interfaces with surrounding road reserves, including areas within the road reserves set aside for the retention of existing vegetation.
  - The removal of existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds.
  - The implementation of any landscape principles and guidelines contained in the Koo Wee Rup Township Strategy.

All species selected must be to the satisfaction of the Responsible Authority and should be drought tolerant and proven hardy cultivars suitable to the local conditions. Plantings must not impact sight lines for vehicles or pedestrians.

17. Before a Statement of Compliance is issued, the landscape works shown on the approved Detailed Landscape Works Plan must be carried out and completed to the satisfaction of the Responsible Authority or bond landscaping works incomplete at the completion of civil works by agreement with the Responsible Authority. Payment must be made in the form of a cash bond or bank guarantee.
18. Prior to the grant of Practical Completion for landscape works by the Responsible Authority ('Practical Completion'), 'as constructed' plans must be provided to the satisfaction of the Responsible Authority. The 'as constructed' plans must be provided in AutoCAD as well as digital landscape information in accordance with the current version of A-SPEC. All graphical information must be provided in the datum of GDA94 and projection of MGA Zone 55.
19. Before a Statement of Compliance is issued, bonding must be provided to the Responsible Authority to cover all landscaping works for a twenty four (24) month maintenance period. Payment must be made in the form of a cash bond or bank guarantee.
20. Before the installation of trees to be planted within the streetscape, an inspection of the plant stock must be undertaken by Council's Landscape Development Department. Any trees deemed unsuitable must not be planted within the streetscape.
21. The permit holder must notify Council's Landscape Development Department a minimum of seven (7) days before commencing street tree planting and landscaping so that surveillance of the works can be undertaken.
22. The landscaping shown on Detailed Landscape Works Plan must be maintained to the satisfaction of the Responsible Authority for a minimum of 24 months from the date of Practical Completion of the landscaping. All maintenance activities are to be undertaken until a Certificate of Final Completion is issued by the Responsible Authority. During this period:
- any dead, diseased or damaged plants or landscaped areas must be repaired or replaced except for within the final 12 months of the maintenance period whereby trees must not be replaced. In

accordance with the Cardinia Shire Council developer landscape guidelines funds will be retained from the landscape maintenance bond for the works to be undertaken by Council following issuing of final completion; and

- b. the Responsible Authority may direct maintenance activities to be undertaken.

The direction to undertake maintenance activities must be completed within 14 days of the written notification being received from the Responsible Authority.

### Environment Conditions

23. Before the commencement of works, a fence must be erected around any tree shown for retention on the endorsed plan including neighbour's trees. This fence will protect the trees by demarcating the tree protection zone and must be erected at a radius of  $12 \times$  the diameter at a height of 1.3 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the trees, excepting the approved area of encroachment as shown on site plans to the satisfaction of the Responsible Authority. The protection fence must be constructed of chain mesh or similar to the satisfaction of the Responsible Authority. The protection fence must remain in place until all works are completed to the satisfaction of the Responsible Authority.

Except with the written consent of the Responsible Authority, within the tree protection zone, the following are prohibited:

- a. vehicular access.
- b. trenching or soil excavation.
- c. storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products.
- d. entry and exit pits for underground services.
- e. any other actions or activities that may result in adverse impacts to retained native vegetation.

24. Prior to the endorsement of plans, a Tree Management Plan prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority. The Tree Management Plan must detail the following to the satisfaction of the Responsible Authority:

- a. The location of tree protection zones for any retained tree including neighbouring trees.
- b. All construction and earthworks must not result in the destruction of any retained trees. This may require specific construction methods and/or a grassed/mulched nature strip along the boundary.
- c. The location of any utilities. Underground services must not encroach into a Structural Root Zone of any tree retained including neighbouring trees. Services must not be installed by open trenching, but employ boring/tunnelling if they pass through a tree protection zone, and be at  $\geq 1000$ mm depth.
- d. Landscaping works (e.g. paving, new turf) must not reduce the natural soil level  $> 50$ mm within retained tree protection zones including neighbouring trees. Any landscaping works within the tree protection zones must be done by hand, and large roots ( $> 50$ mm diameter) if encountered must be left intact.
- e. Any other recommendations deemed appropriate by the qualified arborist.

25. Before a Statement of Compliance is issued under the *Subdivision Act 1988* all works directed under the Tree Management Plan must be completed to the satisfaction of the Responsible Authority.

### General Subdivision Conditions

26. 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 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.

27. 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.

#### **Public open space contribution**

28. Before a Statement of Compliance is issued under the *Subdivision Act 1988*, a sum equivalent to 8 per cent of the site value of all the subject land in the subdivision must be paid to the Responsible Authority.

#### **South East Water Conditions**

##### Potable water

29. The owner of the subject land must enter into an agreement with South East Water for the provision of drinking water supply and fulfil all requirements to its satisfaction.

##### Sewer

30. The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.

##### General conditions

31. The Plan of Subdivision must be accompanied by an Owners Corporation Schedule. All lots shown on the Plan of Subdivision must be included in the Owners Corporation Schedule.

Or

The owner of the subject land can enter into an agreement with South East Water for the provision of separate services to each individual lot.

32. Prior to certification, the Plan of Subdivision must be referred to South East Water, in accordance with Section 8 of the *Subdivision Act 1988*.

#### **Country Fire Authority Conditions**

##### Hydrants

33. Prior to the issue of a Statement of Compliance under the *Subdivision Act 1988* the following requirements must be met to the satisfaction of the CFA:

- a. Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
- b. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

#### Roads

34. Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.

- a. The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 meters. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.
- b. Curves must have a minimum inner radius of 10 metres.
- c. Have a minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.
- d. Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.

#### **AusNet Services Conditions**

35. The applicant must:

- a. Enter in an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for supply of electricity to each lot on the endorsed plan.
- b. Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for the rearrangement of the existing electricity supply system.
- c. Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by AUSNET ELECTRICITY SERVICES PTY LTD.
- d. Provide easements satisfactory to AUSNET ELECTRICITY SERVICES PTY LTD for the purpose of "Power Line" in the favour of "AUSNET ELECTRICITY SERVICES PTY LTD" pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing AUSNET ELECTRICITY SERVICES PTY LTD electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
- e. Obtain for the use of AUSNET ELECTRICITY SERVICES PTY LTD any other easement required to service the lots.
- f. Adjust the position of any existing AUSNET ELECTRICITY SERVICES PTY LTD easement to accord with the position of the electricity line(s) as determined by survey.
- g. Set aside on the plan of subdivision Reserves for the use of AUSNET ELECTRICITY SERVICES PTY LTD for electric substations.
- h. Provide survey plans for any electric substations required by AUSNET ELECTRICITY SERVICES PTY LTD and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. AUSNET ELECTRICITY SERVICES PTY LTD requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88(2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
- i. Provide to AUSNET ELECTRICITY SERVICES PTY LTD a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.

- j. Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by AUSNET ELECTRICITY SERVICES PTY LTD. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998.
- k. Ensure that all necessary auditing is completed to the satisfaction of AUSNET ELECTRICITY SERVICES PTY LTD to allow the new network assets to be safely connected to the distribution network.

### Expiry

This permit for subdivision 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.

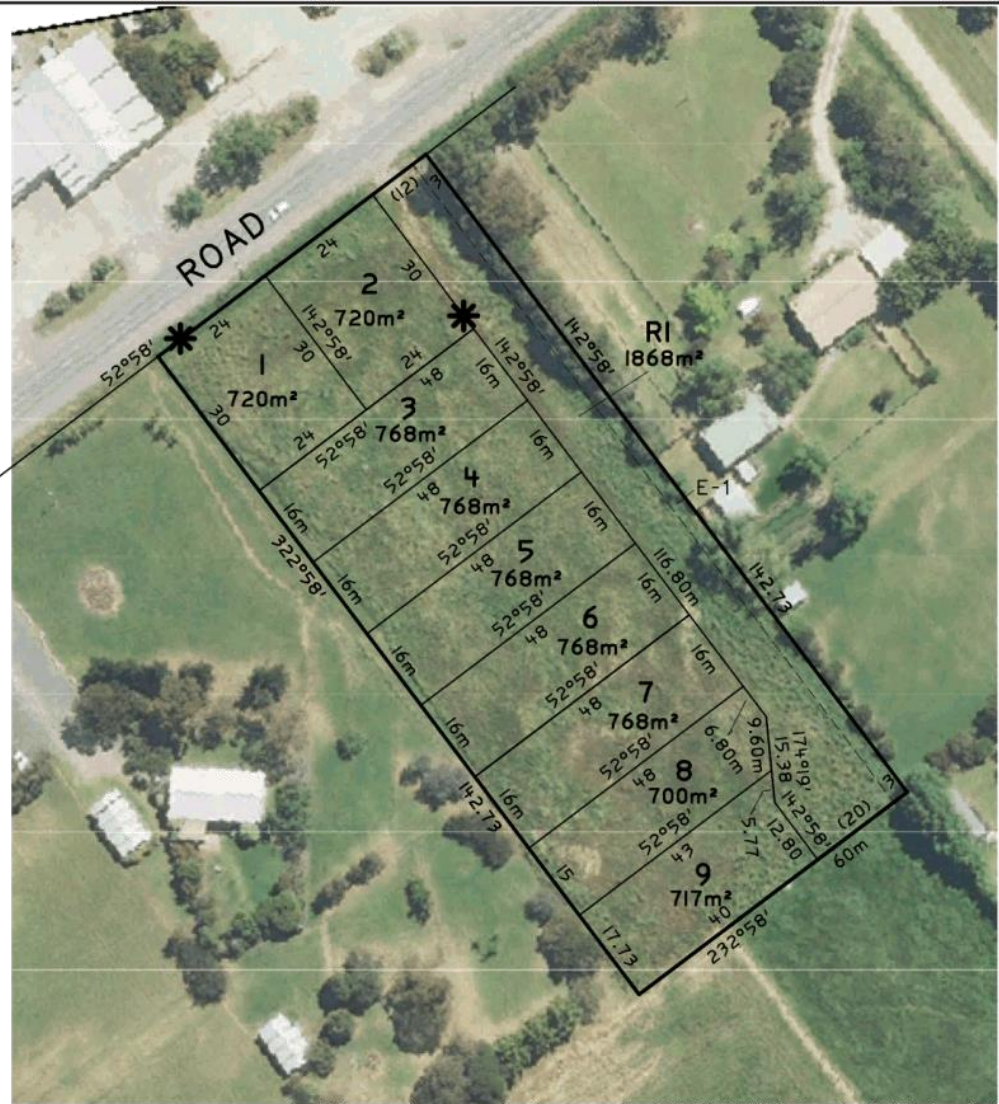
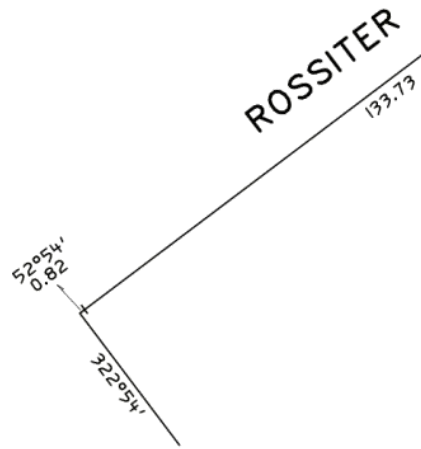
In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

(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.)

### Notes

- No work shall be commenced in, on, under or over the road reserve without having first obtaining all necessary approvals under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.
- A "Vehicle Crossing Permit" must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.
- Cardinia Shire Council developer landscape guidelines are available at [https://www.cardinia.vic.gov.au/landscaping\\_guidelines](https://www.cardinia.vic.gov.au/landscaping_guidelines). The guidelines are amended from time to time.
- At Practical Completion of landscape works the outstanding landscape works bond will be released and only a landscape maintenance bond will be retained. Please contact Council's Landscape Development Department in relation to the of the cash bond or bank guarantee amount.
- The bond will be released upon satisfactory completion of works. Refer to the Cardinia Shire Council developer landscape guidelines (as amended from time to time) for bond calculation details.
- With respect to the bonding required by Condition 19:
  - Refer to the Cardinia Shire Council developer landscape guidelines (as amended from time to time) for bond calculation details.
  - A Certificate of Final Completion will be issued by the Responsible Authority and the bond released, less any moneys retained for imperfect works, following the satisfactory completion and satisfactory maintenance of the landscaping for a minimum of 24 months.
  - A Certificate of Final Completion will not be granted between 1 November and 31 March.
  - Please contact Council's Open Space Department in relation to the costs of the cash bond or bank guarantee.
- Refer to A-SPEC website [www.a-specstandards.com.au/o-spec](http://www.a-specstandards.com.au/o-spec) for minimum Council requirements with regard to 'as constructed' plans in accordance with Condition 18.
- CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' publication available on the CFA web site ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au)).

PLAN OF PROPOSED SUBDIVISION  
 PARISH OF YALLOCK  
 PART OF CROWN SECTION 4  
 C/T VOL 9753 FOL 983  
 LOT 1 ON LP207302W  
 400 ROSSITER ROAD KOO WEE RUP 3981



**BW** Beveridge Williams  
 development & environment consultants  
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\* DENOTES ACCESS POINT

SCALE 1:800  
 8 0 8 16 24 32  
 LENGTHS ARE IN METRES

ORIGINAL SHEET SIZE: A3  
 SHEET 1 OF 1 SHEET

AREAS & DIMENSIONS ARE APPROX ONLY & ARE SUBJECT TO SURVEY  
 E-1 EXISTING DRAINAGE EASEMENT

REF 1702015  
 DRG No. 1702015pps.lcd  
 VERSION 2



### 400 Rossiter Rd, Koo Wee Rup



115.2 0 57.60 115.2 Meters

25-Feb-2019

Notes

1: 2,268

Data Source: State & Local Government. © CARDINIA SHIRE COUNCIL



### Wider Locality 400 Rossiter Rd, Koo Wee Rup



230.4 0 115.19 230.4 Meters

1: 4,535

Data Source: State & Local Government. © CARDINIA SHIRE COUNCIL

25-Feb-2019

Notes

