



Cardinia

MINUTES OF TOWN PLANNING COMMITTEE

MONDAY, 2 SEPTEMBER 2019

MINUTES OF TOWN PLANNING COMMITTEE

held in the Council Chambers, 20 Siding Avenue, Officer
on Monday, 2 September 2019
The meeting commenced at 7:00pm

- PRESENT:** Mayor, Graeme Moore, Chairman
- Councillors Carol Ryan, Jodie Owen, Collin Ross, Jeff Springfield and Leticia Wilmot
- Messrs Jenny Scicluna (Acting CEO), Tom Mcqualter (EMOC), Tracey Parker (GMLC), Peter Benazic (GMIE), Jack Coogan (GO)
- APOLOGIES:** Councillors Michael Schilling, Brett Owen and Ray Brown

DECLARATION OF PECUNIARY AND OTHER INTERESTS
Nil.

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1 USE AND DEVELOPMENT OF LAND FOR A PLACE OF WORSHIP AND CAR PARKING REDUCTION AT 2/6 WEBSTER WAY, PAKENHAM

FILE REFERENCE INT1964763

RESPONSIBLE GENERAL MANAGER Peter Benazic

AUTHOR Vageesha Wellalage

RECOMMENDATION

That a Notice of Decision to Grant Planning Permit **T190196** be issued for **use and development of land for a place of worship, signage and reduction in car parking** at Factory **2/6 Webster Way, Pakenham** subject to the conditions attached to this report

Attachments

1	Locality Plan	1 Page
2	Development Plans	4 Pages
3	Copies of Objections - Circulated to Councillors only	7 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T190196
APPLICANT:	Mrs Pamala D'sa
LAND:	FY 2/6 Webster Way, Pakenham VIC 3810
PROPOSAL:	Use and Development of land for a place of worship, signage and carparking reduction.
PLANNING CONTROLS:	Industrial 1 Zone Land Subject to Inundation Overlay
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. Council received four (4) objections to the proposal to date.
KEY PLANNING CONSIDERATIONS:	Appropriateness of the proposed use within an industrial area Availability of car parking spaces Amenity impacts
RECOMMENDATION:	Approval

BACKGROUND:

There is no relevant planning permit history for the site.

SUBJECT SITE

The subject site is located on Webster Way Pakenham and part of a warehouse development known as 6/25 Bald Hill Road. The development gains access from both Bald Hill Road and Webster Way, via existing crossovers.

The site is affected by four easements named E-1 to E-4. Easements E1, E2 and E3 are for the purpose of drainage. Easement E-4 is created in favour of South East Water for the purpose of sewerage.

The site currently contains a warehouse development consisting of 14 warehouses that are used for various businesses.

The topography of the land is relatively flat.

The main characteristics of the surrounding area are:

- North The properties located on the northern side of the subject site are developed for industrial purposes and contain a warehouse on each allotment.
- South The properties located on the southern side are developed for residential purposes and contain a dwelling on each allotment together with the usual outbuildings.
- East Webster Way is located on the eastern side of the subject site.
- West The property on the western side is developed for industrial purposes and contains a warehouse

PROPOSAL

Approval is sought for the use and development of the land for a place of worship, signage and reduction in car parking.

Use

It is proposed to use the warehouse on Lot 4 of PS616067 for a place of worship, South Eastern Christian Church. The church will be operating from Monday to Sunday while the main church service will be held on Sunday. The operating hours are as follows:

Monday to Saturday	9am-5pm
Sunday	8am – 6pm
Main Service on Sunday	10am-1pm

The maximum number of people attending the church during the above operating hours are as follows:

Monday to Saturday	Maximum of 20 people at all times
Sunday	Maximum of 80 people between 10am -1pm Maximum of 20 people between 8am -10am and 1pm-6pm

The church will carry out administrative/cleaning tasks on weekdays and small group gatherings for prayer, Bible study or special interest groups, while the main service is held on Sunday between 10 am -1pm. The application states that there will be no weddings or funerals hosted at this premises.

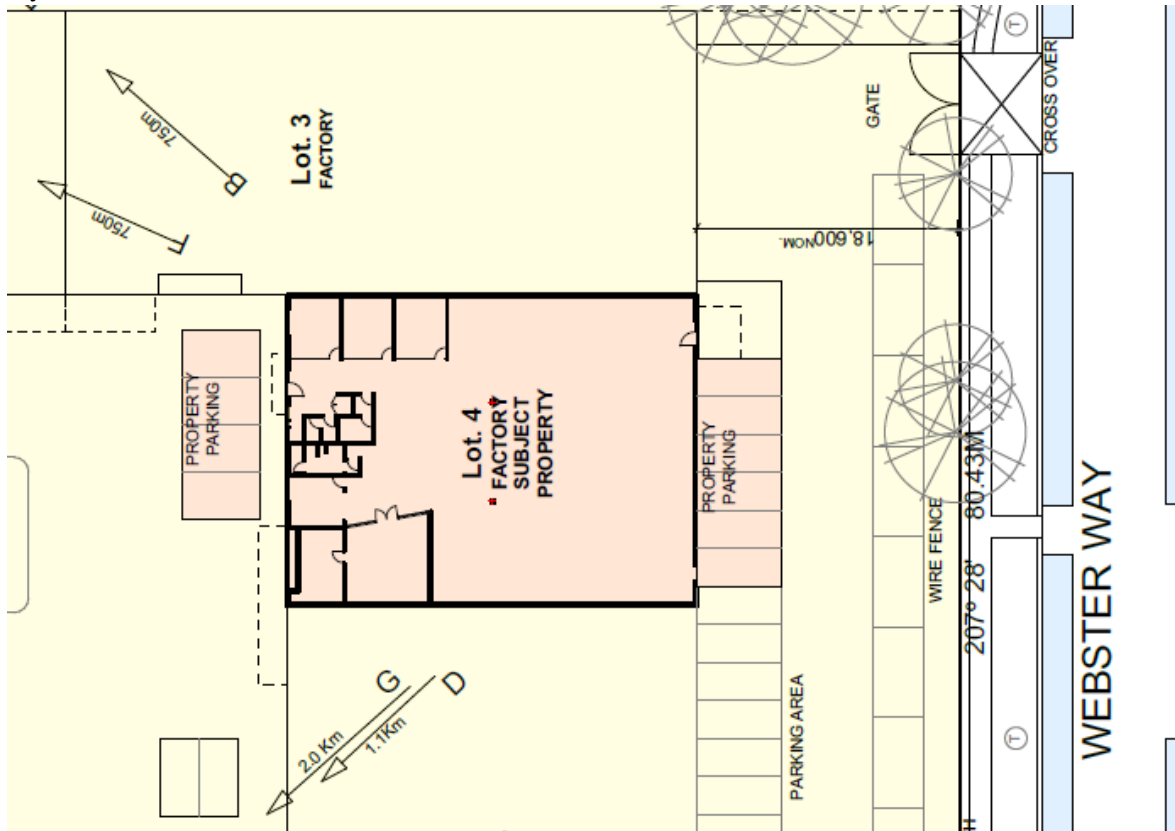
Development

The internal floor layout of the warehouse will remain unchanged. No construction works have been proposed to alter the currently floor layout.

The proposal includes two signs located on the front and rear elevations of the building. Each sign has a dimension of 5.95 square metres (3.5m x 1.7m).

Car parking

The warehouse currently has 10 allocated car parking spaces on the plan of subdivision. Four car parking spaces have been located in the front of the building and the rest is located at the rear of the building. The layout is as follows:



Further in this report outlines the assessment under Clause 52.06 Car Parking, :

The proposed use is also required to provide two bicycle parking spaces for the visitors. Although no formal bike parking spaces are provided within the development, the building includes a storage area to accommodate for two without any operational impacts to the proposed use of the site.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11.03 Planning for Places
- Clause 13.07 Amenity
- Clause 15.01 Built Environment
- Clause 17 Economic Development
- Clause 18.02 Movement Networks
- Clause 19.02 Community Infrastructure

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.04-1 Employment
- Clause 21.04-4 Industry

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.06 Car Parking
- Clause 65 Decision Guidelines

Cardinia Shire's Liveability Plan 2017-2029

This proposal has regard to Cardinia Shire's Liveability Plan 2017-2029, in particular:]

- Improved Social Cohesion
- Improved safety
- Reduce financial vulnerability (use for any apps creating jobs etc)

Zone

The land is subject to the **Industrial 1 Zone**

Overlays

The land is subject to the following overlays:

- Land Subject to Inundation Overlay

PLANNING PERMIT TRIGGERS

The proposal for use and development of land for a place of worship, signage and reduction in car parking requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 33.01-1 of the Industrial 1 Zone a planning permit is required for the use of the land for a place of worship.
- Pursuant to Clause 52.06-3 of the Car Parking provisions a permit is required to reduce (including to zero) the number of spaces required under Clause 52.06-5.
- Pursuant to Clause 52.05-12 of signs provisions, a permit is required for business identification signage exceeding 8 square metres.

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.

Council has received four (4) objections to date.

The key issues that were raised in the objections are:

- Insufficient car parking spaces to operate the use
- Impact on weekend activities of other warehouses within the development

DISCUSSION

Use

The property is located in an Industrial 1 Zone where the purposes of the zone is to “to provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities”.

Pursuant to Clause 33.01-1, a permit is required for the use of the land for a place of worship, therefore, consideration must be given to the impact of the proposal on the availability of industrial spaces for industrial type uses. The development contains a total of 21 warehouses with the majority of them used for retail/commercial type uses. It is considered that the proposed use is compatible with the surrounding uses. Considering the amount of current and upcoming large industrial developments within the Pakenham area, it is not considered the proposed use will have an impact on the availability of industrial spaces.

Although the proposed use is not a conventional industrial use the location of the use within an industrial area is considered appropriate as it will ensure minimal offsite amenity impacts. The type of use requires a larger floor area than what's available in general commercial areas and separation from residential areas will minimise the impact on the surroundings. As such the location is considered most suitable for the type of use proposed.

The proposed place of worship is not a conventional industrial use, however, these uses provide minimal detrimental impact to the surrounding industrial uses and enable the establishment of a use that can contribute to the local community. Similar uses such as restricted recreation facilities like gymnasiums, play centres and swimming pools, attract a large number of people at one time, and it is not uncommon for them to sit within the industrial areas.

Appropriate conditions in terms of the numbers of patrons and hours of operation can ensure that the development does not detrimentally impact future industrial development surrounding site.

Car Parking

Pursuant to Clause 52.06-2, before a new use commences, the number of car parking spaces required under Clause 52.06-5, must be provided to the satisfaction of the Responsible Authority. Clause 52.06-5 requires that for the use of the land for a Place of Assembly, 0.3 car spaces are provided per patron.

Days	Max No of Patrons	Required	Provided	Shortfall
Monday - Friday	20	6	10	0
Sunday (10am-1pm)	80	24	10	14
Sunday (8am-10am, 1pm-6pm)	20	6	10	0

According to the above, the subject site is allocated ten (10) car spaces, therefore the weekday events meet the required car parking rate and will have surplus spaces available. However for the Sunday Services there will be a shortfall of 14 spaces.

Clause 52.06-6 of the Cardinia Planning Scheme requires that an application to reduce the required car parking provision must be accompanied with a car parking demand assessment. A car parking demand assessment was submitted with the application, prepared by a Traffkd, a qualified traffic engineering consultancy.

The report outlines the availability of additional car parking within the vicinity of the subject site and suggests that the proposed use can operate without detrimental impact on surrounding uses. The report indicates the operating hours of the other tenancies within the development and majority of these tenancies are closed for business on Sundays. The assessment is as follows:

Address	Business	Operating Hours	
		Weekday	Weekend
1/25 Blair Hill Road	Virsa Indian Restaurant and Cafe	5 pm - 10: 30 pm	5 pm - 10: 30 pm
3/25 Blair Hill Road	Miles Mechanic	8 am - 5 pm	Sat 8: 30 am - 12:30 pm
6/25 Blair Hill Road	Elite Body Works	9 am - 5 pm	Sat 8 am - 1 pm
7/25 Blair Hill Road	BOC Tyres	8 am - 5 pm	Sat 8 am - 12 pm
8/25 Blair Hill Road	Cannbro Fencing and Supplies	7:30 am - 4 pm	CLOSED
9/25 Blair Hill Road	GJS Equipment	9 am - 5 pm	CLOSED
10/25 Blair Hill Road	Pakenham Karate Academy	Mon 5pm - 8pm Tue 4:30pm - 7pm Wed 5:30 pm - 8 pm Thur 5 pm - 7 pm Fri 6pm - 8pm	CLOSED
11/25 Blair Hill Road	National Windscreens	8 am - 5 pm	By Appointment Only
12/25 Blair Hill Road	Anchor Right	Opening times not available - Business was not observed to operate during parking occupancy surveys	
13/25 Blair Hill Road	Gym Assist	6:30 am - 6:30 pm	CLOSED
14/25 Blair Hill Road	Stateline Furniture	Opening times not available - Business was not observed to operate during parking occupancy surveys	
15-17/25 Blair Hill Road	Top Tree Furniture	Mon - Thur 10 am - 4 pm Fri - CLOSED	Sat 10 am - 4 pm Sun 10 am -4 pm
20/25 Blair Hill Road	Energy Connections		CLOSED
21/25 Blair Hill Road	Tymbarra	8 am - 4 pm	CLOSED

Although majority of the car parking spaces are available on Sunday, the car parking area within the development is not considered a common car park given the spaces are allocated to each warehouse on the plan of subdivision.

The application provides consent from the owners of five warehouses, which later reduced to three warehouses to use their car parking spaces on Sundays. The warehouses are No 2, No3 and No7 which provides additional 20 car parking spaces for the proposed place of worship on Sunday. Since the consent is not provided as a formal agreement between the two tenancies, it is not guaranteed the 20 additional car parking spaces will be available at all times, should the businesses decide to operate on Sundays. Therefore limited consideration has been given to this aspect.

As mentioned above, the traffic report indicates that there are additional car parking within the vicinity of the subject site including on street parking. The report has been assessed by the Council's Traffic Engineers and they are satisfied that the combination of on street parking and the additional 20 car parking spaces provided by other businesses are sufficient to cater the car parking demand generated by the use on Sundays.

The response also suggest that the demand for car parking can also be controlled by restricting the number of patrons and hours of operation which will be imposed as conditions on the permit.

Signage

The application proposes a total of 11.9 square metres in signage. The maximum signage allowed within the industrial area is 8 square metres without a planning permit. However, additional signage can be erected with planning approval.

The subject site is located within an industrial area where large signage is common. The proposed two signs have 5.95 square metres each and will be located in front and the rear. Therefore, the proposed signs are scattered and will not occupy a large area of the building. As such, will not be prominent in the area. The text and colours of the signs blends well with the environment.

Amenity Impacts

As noted above the subject site is well separated from sensitive uses. The one concern with this type of use relates to the potential noise impacts and traffic management.

The proposed car parking and traffic management for the proposed use can be adequately accommodated on the site without detrimentally impacting on the future industrial uses or impacting on the amenity of the wider site context.

As such it is considered that the proposed development has minimised any off site amenity impacts and satisfies the requirements of the Cardinia Planning Scheme.

Objectors concerns

Four objections were received to the proposal which highlighted concerns with the impact on parking for the surrounding warehouses and potential impacts on the weekend activities of the businesses. Car parking concerns have been addressed above and appropriate conditions will be placed on the permit to ensure the car parking area is managed appropriate to avoid any impacts on adjoining businesses.

CONCLUSION

Considering the above matters discussed on the report, the proposal for the use and development of land for a place of worship, signage and reduction in car parking is consistent with the relevant objectives and decision guidelines of Cardinia Planning Scheme, in particular the Industrial Zone, Clause 52.06 Car Parking and Clause 52.05 Signs.

It is recommended that a Notice of Decision to Grant Planning Permit T190196 be issued for use and development of land for a place of worship, signage and reduction in car parking at FY 2/6 Webster Way, Pakenham 3810 subject to the following conditions.

CONDITIONS

1. Prior to the commencement of the use, a car parking management plan must be submitted to and approved by the Responsible Authority. The plan must outline measures that will be undertaken to ensure patron and staff do not impact on the car parking and access to other uses within the industrial complex. This should include, but is not limited to, information brochures for patrons, car parking plans to be displayed on site and staff checks of the site prior to services.
2. The layout of the site and the size of the proposed buildings and works, as shown on the approved plans, must not be altered or modified without the consent in writing of the Responsible Authority.
3. The use of the premises must not be changed without the written consent of the Responsible Authority.
4. Except with the written consent of the Responsible Authority, the use may operate only between the hours of:
 - a. Monday to Saturday 9 am – 5 pm
 - b. Sunday: 8am -6pm
5. The maximum number of staff and patrons allowed on the premises are:
 - a. Monday to Saturday maximum of 20 people at all times
 - b. Sunday maximum of 80 people between 10am -1pm
maximum of 20 people between 8am -10am and 1pm-6pm

Except with the prior written consent of the Responsible Authority.

6. The loading and unloading of vehicles must always be carried on entirely within the site and must not interfere with other traffic.
7. Vehicles under the control of the operator of the building and staff vehicles, must not be parked on any nearby road.

8. The areas shown on the approved plan for car parking, access and landscaping must not be used for any other purpose and maintained to the satisfaction of the responsible authority.
9. Noise emissions from the premises must comply with the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) no. N-1.
10. The amenity of the area must not be detrimentally affected by the use or development through the:
 - a. Transport of materials, goods or commodities to or from the land;
 - b. Appearance of any building, works or materials;
 - c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil; or
 - d. Presence of vermin.
11. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
12. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes.
13. The location and details of the signs, including those on the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
14. The sign/s must not be illuminated by external or internal light except with the written consent of the Responsible Authority.
15. No signs other than those allowed by this permit or the planning scheme may be displayed on the subject land without the written consent of the Responsible Authority.

Permit Expiry

In accordance with Section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:

- a) The use is not started within two years of the date of this permit.
- b) This permit for advertising signage expires 10 years after the date it is issued.

In accordance with Section 69 of the Planning and Environment Act 1987, the Responsible Authority may extend the periods referred to if a request is made before the expiry date or within three months afterwards.

Notes:

Any proposed advertising signs must comply with the provisions of the Cardinia Planning Scheme. Advertising signs which do not comply with the provisions of the Cardinia Planning Scheme will require a planning permit.



1 USE AND DEVELOPMENT OF LAND FOR A PLACE OF WORSHIP AND CAR PARKING REDUCTION AT 2/6 WEBSTER WAY, PAKENHAM

Moved Cr C Ryan Seconded Cr J Owen

That the application be deferred to the next General Council meeting to allow further information to be considered.

Cd.



2 USE AND DEVELOPMENT OF THE LAND, IN STAGES, FOR A PLACE OF ASSEMBLY (CINEMA), FOOD & DRINK PREMISES, MEDICAL CENTRE, SHOPS (INCLUDING DISCOUNT DEPARTMENT STORE AND SUPERMARKET), CREATION OF EASEMENTS, SIGNAGE, REDUCTION IN CAR PARKING, SALE & CONSUMPTION OF LIQUOR AND, TO CREATE & ALTER ACCESS TO A ROAD ZONE CATEGORY 1 AT LOT 1 PC356180X, 900 PRINCES HIGHWAY, PAKENHAM VIC 3810 & RESERVE 1 PS531572Q.

FILE REFERENCE INT1965433

RESPONSIBLE GENERAL MANAGER Tracey Parker

AUTHOR Emily Cook

RECOMMENDATION

That a Refusal to Grant Planning Permit **T180454** be issued for the use and development of the land, in stages, for a place of assembly (cinema), food & drink premises, medical centre, shops (including discount department store and supermarket), creation of easements, signage, reduction in car parking, sale & consumption of liquor and, to create & alter access to a Road Zone Category 1 **at Lot 1 PC356180X, 900 Princes Highway, Pakenham VIC 3810 & Reserve 1 PS531572Q** on the following grounds:

- The proposal is contrary to the aims and objectives of the State Planning Policy Framework as it relates to Clause 11 Settlement, Clause 15 Built Environment & Heritage and Clause 17 Economic Development as it detracts from the economic viability of existing and planned activity centres and, results in poor urban design outcomes.
- The proposal is contrary to the aims and objective of the Local Planning Policy Framework as it relates to Clause 21.01 Cardinia Shire Key Issues and Strategic Vision, Clause 21.03 Settlement and Housing and Clause 21.04 Economic Development as it does not reflect the hierarchy of existing and planned activity centres, the required format of activity centres and unduly impacts existing and planned activity centres.
- The proposal is not generally in accordance with the Cardinia Road Precinct Structure Plan (September 2008) as it does not reflect requirements for peripheral commercial land and does not provide for required built form outcomes.
- The proposal is contrary to orderly planning as it does not reflect the hierarchy of activity centres, detracts from existing activity centres, inhibits development of future activity centres and results in poor urban design outcomes.

Attachments

1	Locality Map	2 Pages
2	Development Plans	11 Pages
3	3D Renders of the Proposed Development	8 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.: **T180454**

APPLICANT: **Roberts Day Pty Ltd/Anthony Msonda-Johnson**

LAND:	Lot 1 PC356180X, 900 Princes Highway, Pakenham VIC 3810 & Reserve 1 PS531572Q.
PROPOSAL:	Use and development of the land, in stages, for a place of assembly (cinema), food & drink premises, medical centre, shops (including discount department store and supermarket), creation of easements, signage, reduction in car parking, sale & consumption of liquor and, to create & alter access to a Road Zone Category 1
PLANNING CONTROLS:	Mixed Use Zone Development Contribution Plan Overlay – Schedule 1 Clause 52.02 Easements, Restrictions and Reserves Clause 52.05 Signs Clause 52.06 Car Parking Clause 52.27 Licenced Premises Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road Clause 65 Decision Guidelines Cardinia Road Precinct Structure Plan (September 2008)
NOTIFICATION & OBJECTIONS:	Six (6) objections received.
KEY PLANNING CONSIDERATIONS:	Hierarchy of Activity Centres Activity Centre Planning/Design Economic Impact and Viability Urban Design Precinct Structure Planning
RECOMMENDATION:	Planning permit application T180454 be refused on the grounds outlined by this report.

BACKGROUND:

Planning permit application T160498, which sought the development of the subject site for shops, restricted retail premises, indoor recreation facility, convenience restaurant, signage and associated buildings and works, waiver of loading bay in association with a restaurant and access to a Road Zone Category 1 was lodged in August 2016. VicRoads objected to this application including the proposed access to the Princes Highway. This application was subsequently withdrawn in September 2017.

Since that time the applicant has entered into discussions and negotiations with VicRoads.

Council received the current planning permit application in July 2018.

SUBJECT SITE

The site is located on the northern and western sides of Olympic Way and, the southern side of the Princes Highway.

There are no existing crossovers to the land and no easements within the site.

A reserve with a width of 0.1m adjoins entire length of the site's southern boundary (229.34 metres). This 'revenge strip' runs parallel between the site and Olympic Way, preventing legal access from Olympic Way to the site.

The site currently is vacant and the topography of the land is flat.

The main characteristics of the surrounding area are:

NORTH Princes Highway, Michael Street, the Pakenham Homemaker Centre and the Pakenham (Purton Road) Industrial Park.

SOUTH	Olympic Way, Cardinia Life (gym and Toomuc Recreation Reserve).
EAST	Olympic Way and Toomuc Recreation Reserve.
WEST	Undeveloped land, Dan Murphy's, Lakeside Boulevard Activity Centre and O'Brien Parade.

PROPOSAL

The proposal is for the use and development of the land, in stages, for a place of assembly (cinema), food & drink premises, medical centre, shops (including discount department store and supermarket), creation of easements, signage, reduction in car parking, sale & consumption of liquor and, to create & alter access to a Road Zone Category 1.

Uses

Use	Area/Details
Place of Assembly (cinema, includes outdoor terrace).	5,150sqm 8 screens 1060 seats
Medical Centre	379sqm 5 practitioners
Supermarket (Coles)	4,112sqm
Shops (including bottle shop, kiosks, speciality retail and food/drink premises)	2,502sqm
Discount Department Store (Kmart)	6,391sqm

Buildings and Works

The proposal includes the construction of a multi storey development to accommodate the above uses in 2 stages. The development is an internalised shopping centre which is rectangular in shape and covering the entire site. Internally, the development is designed around a central entry/foyer at ground level.

Stage 1

The western portion of the ground floor level includes the supermarket and associated bottle shop. The eastern portion of the ground floor level includes the discount department store. Shops, as well as food and drink premises, are located in the centre of this level. The proposal allows for a pedestrian thoroughfare through the ground floor level from the Princes Highway to Olympic Way. An outdoor seating area is proposed adjoining Olympic Way.

Stage 2

Second/upper storey of the development comprising of the cinema and medical centre.

Car Parking, Access, Pathways

Vehicular access to the development is proposed via two access points, one to the Princes Highway and one to Olympic Way. The Princes Highway access includes a single left-in-left out access (and does not include any changes to the existing Princes Highway median). Access to Olympic Way includes full entry and exit in both directions.

The proposal includes a total of 657 car parking spaces. The development includes an underground/basement car park comprising of 597 car parking spaces. The basement car park allows for vehicular circulation with pedestrian access via centralised escalators and lifts.

The proposal also includes an at-grade car park comprising of 61 car parking spaces adjoining the Princes Highway.

A total of 74 bicycle parking spaces are proposed; 40 spaces within the underground/basement car park and 34 spaces within the at-grade car park.

The proposal includes the construction of new pedestrian footpaths along the southern and eastern boundaries of the site. The proposal also includes the realignment of the existing shared path within the Princes Highway and, the inclusion of a new pedestrian/pram crossing point north of the Olympic Way roundabout.

All car parking forms parts of Stage 1.

Additional Works

The proposal also includes:

- Construction of an additional right turn lane from Princes Highway into Lakeside Boulevard.
- Lengthening of the existing right turn lane from Princes Highway into Olympic Way.
- Construction of an exclusive right turn lane from Olympic Way onto Princes Highway.
- Construction of an exclusive left turn slip lane from Olympic Way onto Princes Highway.

Creation of Easements

A 0.10m reserve (Reserve No. PS531572Q) adjoins the length of the subject sites southern boundary. This 'revenge strip' prevents legal access from the site to Olympic Way (southern side). The proposal therefore includes the creation of easements to allow legal access from the site to Olympic Way. The proposed building is not located on this reserve.

Sale & Consumption of Alcohol

The proposal includes a bottle shop and therefore seeks the sale of packaged liquor.

The proposal includes a licenced cinema and therefore seeks the sale and consumption of liquor.

Signage

The proposal includes a range of business identification signage.

Signage includes: centre identification signage, 6 centre tenant pylon signs, additional identification signage for major retailers (supermarket, discount department store, bottle shop), parking availability electronic signage and loading bay demarcation signage.

All signage, excluding Sign 15, are integrated into the built form (ie. attached to the building and not free standing). Sign 15 is free standing.

All signage is to be internally illuminated.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11 Settlement
- Clause 15 Built Environment & Heritage
- Clause 17 Economic Development

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 Cardinia Shire Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Economic Development

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.02 Easements, Restrictions and Reserves
- Clause 52.05 Signs
- Clause 52.06 Car Parking
- Clause 52.27 Licenced Premises
- Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road.
- Clause 65 Decision Guidelines
- Cardinia Road Precinct Structure Plan (September 2008)
- Pakenham Township Development Contributions Plan (September 1997)
- Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017)

Cardinia Shire's Liveability Plan 2017-2029

This proposal is not considered to have regard to Cardinia Shire's Liveability Plan 2017-2029, in particular:

- Social Cohesion, while the proposal may assist in bringing people together within the development, it would do so by detracting people from the existing Lakeside Boulevard Main Street Activity Centre.
- Safety, the design of the proposal includes large blank walls to adjoining roads thereby limiting passive surveillance to adjoining walking/cycling areas.
- Reduce Harm, the proposal includes the sale of packaged and a licenced cinema.

Zone

The land is subject to the Mixed Use Zone.

Overlays

The land is subject to the Development Contribution Plan Overlay – Schedule 1.

PLANNING PERMIT TRIGGERS

The proposal for the use and development of the land, in stages, for a place of assembly (cinema), food & drink premises, medical centre, shops (including discount department store and supermarket), creation of easements, signage, reduction in car parking, sale & consumption of liquor and, to create & alter access to a Road Zone Category 1 requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.04-2 of the Mixed Use Zone, a planning permit is required for a Section 2 use - a place of assembly (cinema).
- Pursuant to Clause 32.04-2 of the Mixed Use Zone, a planning permit is required for the use of the land for food & drink premises exceeding 150sqm.
- Pursuant to Clause 32.04-2 of the Mixed Use Zone, a planning permit is required for the use of the land for a medical centre exceeding 250sqm.
- Pursuant to Clause 32.04-2 of the Mixed Use Zone, a planning permit is required for the use of the land for shops exceeding 150sqm.
- Pursuant to Clause 32.04-8 of the Mixed Use Zone, a planning permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.04-2 (place of assembly, food & drink premises, medical centre and shops).
- Pursuant to Clause 52.02 of Easements, Restrictions and Reserves, a planning permit is required to create an easement.

- Pursuant to Clause 52.05-13 of Signs, a planning permit is required for business identification signage and internally illuminated signage.
- Pursuant to Clause 52.06-3 of Car Parking, a planning permit is required to reduce the number of car parking spaces required under Clause 52.06-5.
- Pursuant to Clause 52.27 of Licenced Premises, a planning permit is required to use land to sell or consume liquor (packaged liquor - bottle shop and licenced venue - cinema).
- Pursuant to Clause 52.29-2 of Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road, a planning permit is required to create or alter access to a road in a Road Zone, Category 1 (Princes Highway).

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 three (3) signs on site

The notification has been carried out correctly, and Council has received six (6) objections to date.

The key issues that were raised in the objections are:

- The proposal is contrary to the requirements of the Cardinia Road Precinct Structure Plan. The proposed uses are not compatible with the peripheral commercial designation for the site.
- The subject site forms part of the Neighbourhood Activity Centre and is therefore not an appropriate location for a cinema. Cinemas should be located within higher-order Town Centres.
- The proposed retail floorspace exceeds the designation for the Lakeside Neighbourhood Activity Centre as per the Cardinia Road Precinct Structure Plan and is too large for a neighbourhood centre.
- The proposal is contrary to higher order planning policy including Plan Melbourne, the South-East Growth Corridor Plan (GCP) and the Cardinia Planning Scheme. The proposal does not align with the Officer Precinct Structure Plan (September 2011).
- The economic impact assessment submitted in support of the application overstates retail floor area demand, relies upon excessive trade area and population estimates and fails to consider all future planned centres (including the Pakenham East Neighbourhood Activity Centre).
- There is insufficient population within the area to support the 2 existing discount department stores in Pakenham town, the proposal and a future discount department store in the Officer Town Centre.
- The economic impact of the proposal is unjustified and will undermine other existing centres (including Arena and Lakeside).
- The proposal is not integrated with the existing Lakeside Boulevard Activity Centre.
- The proposal will detrimentally impact the existing Lakeside Boulevard Activity Centre and may result in empty shops.
- The proposal is an over-development of site and does not include a sense of space around the proposed building. The boundary-to-boundary design of the building is imposing to the Princes Highway.
- The proposal undermines the growth corridor hierarchy for activity centres.
- The proposal undermines the existing Pakenham Town Centre and future Officer Town Centre.
- The proposal will prevent the development of the future Officer Town Centre.
- The proposal does not have economic or strategic justification and will undermined other existing and planned centres.
- The proposal is not in accordance with the Mixed Use Zone.
- The proposal will result in traffic issues, particularly relating to the safety of the Princes Highway and existing intersections.

- The proposal will result in parking and loading/unloading issues, particular associated with current use of Cardinia Life, Olympic Way and Toomuc Reserve.
- There are currently sufficient shopping centres and/or supermarkets in the area.
- Preference for Kmart to be located in the Pakenham Town Centre instead.

REFERRALS

VicRoads

The application was referred to VicRoads as a statutory referral. VicRoads have consented to the application and the proposed road works, subject to conditions.

Public Transport Victoria

Pursuant to Clause 66.02-11 an application for a new retail premises exceeding 4000sqm, a place of assembly exceeding 400 seats and/or an application which results in the alteration of public transport stops is required to be referred to the Head of Transport for Victoria. It is noted that the application was referred prior to the amendment of this Clause and was therefore referred to Public Transport Victoria.

Public Transport Victoria did not object and did not require any conditions to be included on the permit.

DISCUSSION

The proposed use and development of the land, in stages, for a place of assembly (cinema), food & drink premises, medical centre, shops (including discount department store and supermarket), creation of easements, signage, reduction in car parking, sale & consumption of liquor and, to create & alter access to a Road Zone Category is not consistent with the aims and objectives of the State Planning Policy Framework, Local Planning Policy Framework and other relevant planning provisions as outlined below.

Planning Framework

The Cardinia Shire growth corridor is key to providing for the housing, employment and day-to-day needs of current and future residents. This corridor is centred on the Princes Highway and will ultimately house and employ the majority of Cardinia's residents.

The Cardinia Shire Planning Scheme establishes a framework for considering the retail and commercial needs of the municipality. This is largely done through planning for activity centres, particularly in the growth area.

Clause 21.03-2 *Urban Growth Area*, sets out a framework for the staging and development of activity centres. Pakenham and Officer are Major Activity Centres with supporting Neighbourhood Activity Centres planned at Cardinia Road (Arena) and Lakeside Boulevard. Clause 21.04-3 *Activity Centres*, reaffirms the need to recognise this hierarchy of activity centres by facilitating their development.

The current proposal does not respect this activity centre hierarchy.

At a macro level, the site is located approximately half way between the existing Pakenham Major Activity Centre and the future Officer Major Activity Centre; thereby forming part of neither.

At a micro level, the site does not form part of the Lakeside Neighbourhood Activity Centre. Lakeside is a traditional main street centre (which includes two (2) small supermarkets). The subject site is located approximately 200m away from this main street and therefore does not form a legible or walkable part of the activity centre.

Clause 21.04-3 *Activity Centres*, requires main street development (as opposed to internalised centres) for activity centres within the Shire. The proposal is a standalone internalised centre.

Economic Implications

The applicant submitted a Market Assessment and Economic Implications Report which found that the proposal would not result in an oversupply for retail floor space and would result in economic/social benefits (increased shopping choice and jobs - although these were not quantified). The applicants report asserted

that the proposal would not affect the viability of existing retailers, will increase visitation to Lakeside and would not significantly affect the future Officer Major Activity Centre.

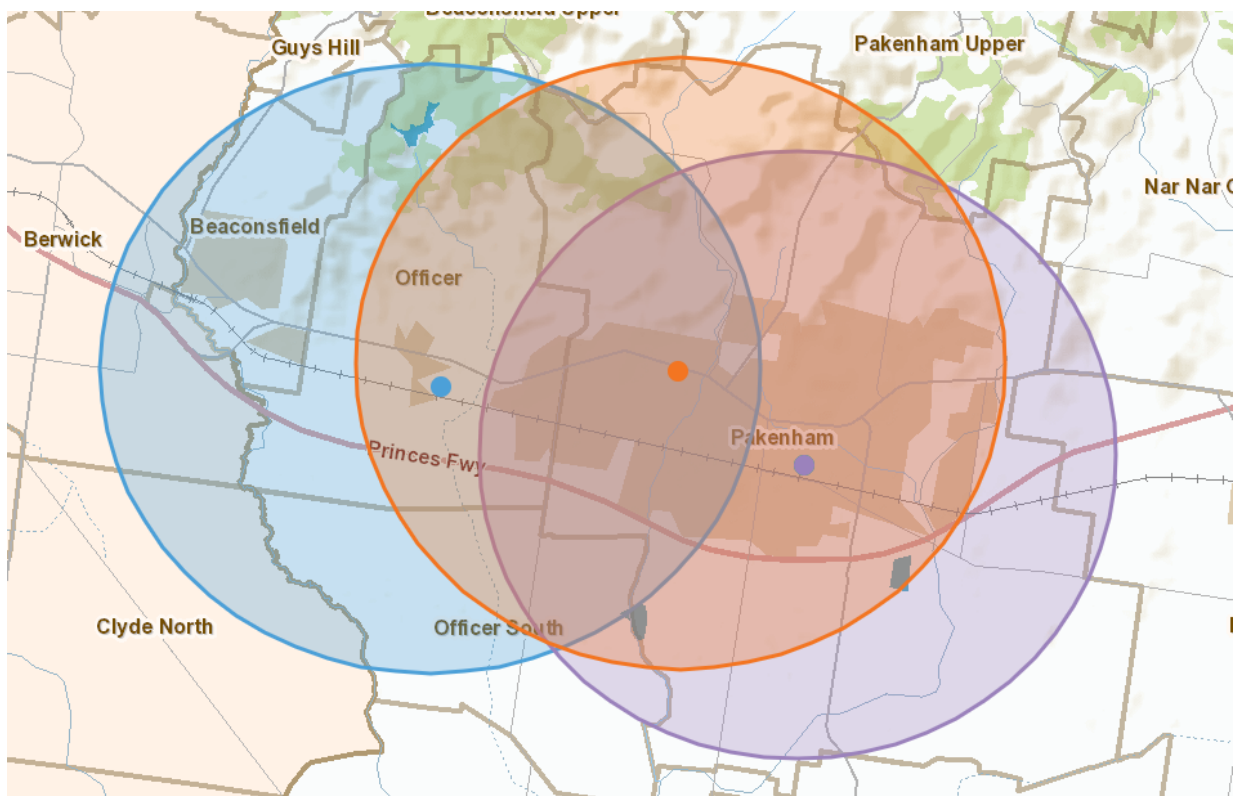
However, key to considering economic impacts is if there is sufficient population to support the proposal as well as other established and planned activity centres. Given the proposal seeks to replace the existing supermarket (albeit with a larger store), this economic impact is considered less than the impact of the proposed discount department store.

The applicant's economic impact assessment asserts that there is sufficient population within the wider area to support not only the 2 existing discount department stores (Pakenham Target and Big W) and the proposal, but ultimately a fourth in the Officer Town Centre as well. However, the statistical population growth relied upon by that report is extensive and includes land almost to Warragul and beyond Lang Lang. This is not considered to accurately represent future patrons.

Furthermore, retail developments typically receive the majority of their revenue (generally around 60%), from people living within 5km of the development. This is referred to as the sites trade area. The subject site is located approximately 2.7km from the existing Pakenham Major Activity Centre and 5km from the future Officer Major Activity Centre.

It is therefore considered that the trade area for the proposal would unreasonably overlap with that of the existing Pakenham Major Activity Centre and the future Officer Major Activity Centre. By encroaching into the existing trade area for Pakenham, the proposal threatens the ongoing economic viability of this Major Activity Centre. By encroaching into the future trade area for Officer, the proposal prejudices the future viability and develop-ability of this Major Activity Centre (identified as regionally significant by the Officer Precinct Structure Plan (September 2011)).

Trade areas:



Furthermore, the subject site is not connected to the existing Lakeside Boulevard Neighbourhood Activity Centre. As an internalised development, with no connection to the main street, the proposal is expected to divert patrons away from the main street thereby detracting from its ongoing economic viability.

Whilst the proposal may result in some economic and social benefits, these have not been quantified. The overall impact of the proposal on the Lakeside Neighbourhood Activity Centre, existing Pakenham Major Activity Centre and future Officer Major Activity Centre is therefore considered to be a community dis-benefit which is not outweighed by possible benefits.

Further Planning Considerations

In opposition to Clause 11 *Settlement* of the State Planning Policy Framework, the proposal detracts from the economic viability of activity centres and represents poor urban design outcomes. While the site has good vehicle and public transport access via the Princes Highway, its distance from Lakeside Neighbourhood Activity Centre mains street discourages walkability.

Contrary to Clause 15 *Built Environment and Heritage*, the large expanses of blank walls and lack of windows limits passive surveillance and safety. The scale and massing of the proposal is not in keeping with the area and detracts from the visual amenity of the public realm (adjoining roads and Toomuc Reserve).

As opposed to the objectives of Clause 17 *Economic Development*, the range of uses is proposed at the expense of other activity centres. While some community benefit may result, overall the impact is considered to be a net community disadvantage. The internalised design, located 200m from Lakeside Boulevard, would detract from the existing centres patronage and viability.

As such, the application is not considered to provide for the orderly planning of the area despite the provisions of Clause 65.

Cardinia Road Precinct Structure Plan (September 2008)

The Cardinia Road Precinct Structure Plan (PSP) guides long term development to meet future community needs. This is done, in part, by establishing a hierarchy of activity centres. Major Activity Centres at Pakenham and Officer are noted and, supporting Neighbourhood Activity Centres specifically planned for at Lakeside and Arena. The proposal does not reflect this hierarchy as the subject site does not form part of the Lakeside Neighbourhood Activity Centre.

The Cardinia Road PSP clearly differentiates commercial land as either core business or peripheral commercial. Core business provides for day-to-day needs while peripheral commercial provides other less utilized services. The subject site is identified for peripheral commercial development.

The proposal includes a supermarket which is the core retail component of any Neighbourhood Activity Centre. By locating this vital component 200m away from the main street, the proposal would divert patrons away from the heart of the activity centre. Furthermore, the proposed design (with long facades and continuous concrete walls), fails to provide for the Cardinia Road PSP objectives relating to built form and active safe frontages.

It is noted that the Cardinia Road PSP includes a draft Urban Design Framework for the Lakeside Neighbourhood Activity Centre and seeks development in accordance with the Toomuc Sports Precinct Urban Design Study (2006). An Urban Design Framework has not been prepared and is no longer considered relevant given the majority of the activity centre has been developed. The Toomuc Sports Precinct Urban Design Study (2006) has been considered however this draft document has not been endorsed by Council.

Urban Design

On this basis, the proposed built form and urban design is not supported.

The subject site is a prominent corner location with 3 road frontages one of which is the Princes Highway. The proposal includes large expanses of high blank walls. While the proposal partially addresses the Princes Highway, only 34% of the ground floor façade is activated. The long inactive frontages do not allow for passive surveillance and reduce safety. Passive surveillance from the upper levels is not achieved due to setbacks.

The proposed building is the same size as a city block. The built form is therefore monolithic and does not respect the scale of area. This scale of built form and lack of passive surveillance does not provide for the objectives of the Urban Design Guidelines for Victoria (Department of Environment, Land, Water and Planning, 2017).

The proposed signage is considered compatible with the proposed use and suitable for the scale/type of development.

Traffic & Car Parking

In accordance with Clause 52.06 Car Parking, the proposal generates a requirement for 895 car parking spaces. It is noted that the applicants Traffic Impact Assessment (TIA) calculates a different car parking requirement (total 831). The applicants TIA applies the restricted retail premises car parking rate to the discount department store. However, in accordance with Clause 73.04-13 Nesting Diagrams, department store is included under shop.

The proposal therefore represents a reduction of 238 car parking spaces or 27%. This reduction is justified based on the nature of the mixed use development and the differing peaks usage times associated with those various uses. The application has been referred to Council's Traffic Department who have consented to the reduction. The proposal also includes 34 customer bicycle parking spaces and 40 staff bicycle parking spaces.

In accordance with Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road, the application was referred to VicRoads who have consented to the application (including the proposed road works) subject to conditions.

The proposed road works/upgrades are compatible with the proposed development of the site, subject to VicRoads approval.

The proposal would result in additional traffic, parking and loading/unloading requirements however this is considered to be mitigated by the extensive car parking and road upgrade works.

CONCLUSION

The proposed use and development of the land, in stages, for a place of assembly (cinema), food & drink premises, medical centre, shops (including discount department store and supermarket), creation of easements, signage, reduction in car parking, sale & consumption of liquor and, to create & alter access to a Road Zone Category 1 is contrary to the purpose and objectives of the Cardinia Shire Planning Scheme and should not be supported.



- 2 USE AND DEVELOPMENT OF THE LAND, IN STAGES, FOR A PLACE OF ASSEMBLY (CINEMA), FOOD & DRINK PREMISES, MEDICAL CENTRE, SHOPS (INCLUDING DISCOUNT DEPARTMENT STORE AND SUPERMARKET), CREATION OF EASEMENTS, SIGNAGE, REDUCTION IN CAR PARKING, SALE & CONSUMPTION OF LIQUOR AND, TO CREATE & ALTER ACCESS TO A ROAD ZONE CATEGORY 1 AT LOT 1 PC356180X, 900 PRINCES HIGHWAY, PAKENHAM VIC 3810 & RESERVE 1 PS531572Q.

Moved Cr J Owen Seconded Cr C Ryan

That the application be deferred to the next General Council meeting to allow further information to be considered and other Councillors are present for discussion.

Cd.

3 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

FILE REFERENCE INT1964899

RESPONSIBLE GENERAL MANAGER Tracey Parker

AUTHOR Luke Connell

RECOMMENDATION

That the report be noted.

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 Start	Exhibition End	Status
C205	EDM Group	80 McDonalds Track Lang Lang	Rezone part of the land at 80 McDonalds Track, Lang Lang (Lot 3 on PS542732), and Lots 1 and 2 (PS542732) Westernport Road, Lang Lang, from Farming Zone to Industrial 1 Zone, apply Schedule 20 to the Development Plan Overlay to this land and concurrently consider, under Section 96A of the Planning and Environment Act 1987, a planning permit application to subdivide the land at 80 McDonalds Track, Lang Lang into two (2) lots.	Thu 02/11/2017	Mon 18/12/2017	Adopted by Council on 16/07/2018. A bushfire assessment was completed with CFA approval and submitted to DELWP on 12/06/2019. Awaiting approval from the Minister for Planning.
C222	XWB Consulting on behalf of Leigh Hartwig and Robert Perkins	85 McNamara Road, Bunyip	Amendment C222 proposes to: <ul style="list-style-type: none"> • rezone land from Farming Zone Schedule 1 (FZ1) to Low Density Residential Zone Schedule 3 (LDRZ3) (55 & 85 McNamara Road), • apply a Development Plan Overlay Schedule 21 (DPO 21) (85 	Thu 08/08/2019	Fri 06/09/2019	On exhibition.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			McNamara Road), <ul style="list-style-type: none"> • apply a Design and Development Overlay Schedule 1 (DDO1), and • delete the Environmental Significance Overlay Schedule 1 (ESO1). 			
C226	Cardinia Shire Council	Lot 5 PS321195 67 Whiteside Rd Officer, Lot 2 PS327845 130 Whiteside Rd Officer and Lot PP PS746064 325 Princes Hwy Officer	Repair inconsistent policy in the Urban Growth Zone Schedule 3 (UGZ3) and the applied Schedule of the Rural Conservation Zone (RCZ) that prevents development in the 3 lots identified from occurring in line with the Officer Precinct Structure Plan (PSP) that was adopted by Council in 2011. The amendment proposes to add a Schedule to the RCZ removing the minimum subdivision requirements for the 3 sites identified, that would otherwise exist in the provision. This ensures there is a match between the policy intention of the PSP and the provisions in the UGZ3 and the applied zone (RCZ).	Thu 22/06/2017	Mon 24/07/2017	On 11/05/2018 Council received advice from DELWP stating that, based on new environmental risk regulations approved via Amendment VC140 on 12/12/2017, further work is required prior to the Minister considering the amendment. A draft Bushfire Development Report (June 2019) was received from Terramatrix. Council Officers have provided a response to the draft.
C228	Cardinia Shire Council	Pakenham Activity Centre	Apply the Activity Centre Zone (ACZ) to the Pakenham Activity Centre.			On 20/05/2019 Council adopted to request for authorisation to prepare an amendment and to re-adopt, with minor changes, the updated draft Pakenham Structure Plan 2018 and the draft Pakenham Activity Centre Urban Design Framework 2018. Awaiting response from

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
						the Minister for Planning.
C229	Cardinia Shire Council	Tynong, Garfield and Bunyip	Apply the Environmental Significance Overlay (ESO) to Tynong, Bunyip and Garfield to facilitate the provision of habitat corridors for the Southern Brown Bandicoot.	Thu 04/10/2018	Wed 07/11/2018	Exhibition closed. Submissions are under assessment.
C232	Victorian Planning Authority	Officer Precinct	Implement the revised Officer Precinct Structure Plan (Amended February 2018) by making changes to the zone, overlay and ordinance provisions of the Cardinia Planning Scheme.	Thu 22/03/2018	Fri 27/04/2018	Adopted by VPA on 15/05/2019. Awaiting approval from the Minister for Planning.
C234	Victorian Planning Authority and Cardinia Shire Council	Pakenham East Precinct	Incorporate the Pakenham East Precinct Structure Plan (PSP) and rezone the majority of land to Urban Growth Zone Schedule 5 (UGZ5) to facilitate the development of the land generally in accordance with the PSP, and make a number of other consequential changes to the Cardinia Planning Scheme to support the implementation of the PSP.	Thu 18/01/2018	Fri 23/02/2018	Adopted by VPA on 10/10/2018. Awaiting approval from the Minister for Planning.
C235	Planning Central	145 Rossiter Road, Koo Wee Rup	Rezone land from Farming Zone to Neighbourhood Residential Zone Schedule 1 (NRZ1). Apply a Development Plan Overlay Schedule 22 (DPO22), and corrects the mapping of the Heritage Overlay for the adjacent heritage property 'Shepton Mallet'.	Thu 27/06/2019	Fri 02/08/2019	Exhibition closed. Submissions are under assessment.
C237	Cardinia Shire	Multiple addresses	Amend various provisions of the	Thu 07/06/2018	Thu 19/07/2018	Adopted by Council on

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
	Council		Cardinia Planning Scheme to correct mapping anomalies, delete redundant controls and correct ordinance errors.			17/09/2018. Awaiting approval from the Minister for Planning.
C238	Cardinia Shire Council	Beaconsfield Precinct - Glismann Road and Old Princes Highway.	Rezone to General Residential Zone (Schedule 2) and introduce a Development Plan Overlay (DPO), a site specific Environmental Audit Overlay (EAO) and remove the Environment Significance Overlay 1 (ESO1). An ICP will be implemented at a later stage.			On 14/03/2019 DELWP requested additional information. DELWP's request is being reviewed.
C240	Cardinia Shire Council	Koo Wee Rup Township	Implement the objectives of the Koo Wee Rup Township Strategy by applying Development Plan Overlays 23 & 24 and Design and Development Overlays 8 & 9 over various precincts within Koo Wee Rup.			On 19/03/2019 Council adopted to request for authorisation to prepare an amendment. Awaiting response from the Minister for Planning.
C242	Cardinia Shire Council	Pakenham Activity Centre	<p>Introduce a permanent Heritage Overlay for the following places identified in the 'Pakenham Structure Plan Heritage Review (February 2018)'. <ul style="list-style-type: none"> • HO279 18A Henry Street, Pakenham • HO281 49 James Street, Pakenham • HO283 39 Main Street, Pakenham • HO284 62 Main Street, Pakenham • HO285 84 Main Street, Pakenham • HO286 90-92 Main Street, Pakenham • HO288 1-7 Station Street, Pakenham • HO290 23 Rogers Street, Pakenham </p>	Thu 09/08/2018	Fri 07/09/2018	Adopted by Council on 17/06/2019. Awaiting approval from the Minister for Planning.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			<ul style="list-style-type: none"> • HO287 11, 14, 17 & 5-19 Rogers Street, Pakenham • HO291 1-23 Dame Pattie Avenue, Pakenham • HO291 2-18 Dame Pattie Avenue, Pakenham • HO292 3-10 Henty Street, Pakenham • HO227 6 Henty Street, Pakenham • HO293 5-21 James Street, Pakenham • HO293 6-32 James Street, Pakenham • HO293 1 Snodgrass Street, Pakenham • HO228 21 James Street, Pakenham 			
C244	Cardinia Shire Council	Pakenham Activity Centre Parking Precinct	Implement the key objectives of the Pakenham Parking Precinct Plan (May 2018) by applying the Parking Overlay to the Pakenham Activity Centre.	Thu 04/10/2018	Tue 06/11/2018	Adopted by Council on 17/06/2019. Awaiting approval from the Minister for Planning.
C250	Cardinia Shire Council	Cardinia Shire	Implementation of Cardinia Planning Scheme Review 2018.			On 10/12/2018 Council adopted to request for authorisation to prepare an amendment and to endorse the Cardinia Planning Scheme Review. Awaiting response from the Minister for Planning.

3 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

Moved Cr C Ryan Seconded Cr J Springfield

That the report be noted.

Cd.

4 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)

FILE REFERENCE INT1964790

RESPONSIBLE GENERAL MANAGER Peter Benazic

AUTHOR Owen Hardidge

RECOMMENDATION

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

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, the breaches may give rise to criminal liability, which may result in infringements being issued, or charges being filed in the Magistrates Court of Victoria.

If Council cannot obtain appropriate remediation by consent, Council undertakes enforcement action at the Victorian Civil and Administrative Tribunal (VCAT).

VCAT enforcement actions will usually be delayed until Magistrates' Court proceedings are completed.

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

Current Enforcement Cases

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

Property Address	Nature of Contravention	Status
765 Gembrook Rd, Pakenham Upper (OH:LK:16299)	Native vegetation removal, and earthworks creating driveway and hardstand, in breach of Rural Conservation Zone – Schedule 2, Environmental Significance Overlay Schedule 1, and Clause 52.17	Magistrates' Court proceeding, alleging that the owner has conducted earthworks that require a permit, and cleared native vegetation, both without a permit. The case was listed to proceed as a contested hearing on 30 July 2019 , but was "not reached" (court time not available) and was adjourned to 13 November 2019
Officer South Rd, Officer OH:JALF:18419	Land used for materials recycling, being a prohibited use, contrary to the Urban Growth Zone.	VCAT enforcement order application was listed for contested hearing on the 11 th August 2019. The owner of the land had removed waste from the land to Council satisfaction, and the application was withdrawn.
13-15 Carney St, Koo Wee Rup OH:JALF:19446	Use of the land as a store, without a planning permit, contrary to the Commercial 1 Zone.	VCAT enforcement order application filed, listed for contested hearing on 12 November 2019 .
112 Murray Rd, Cora Lynn JALF:JALF:19463	Use of the land for the purpose of a dwelling, without a planning permit, and alteration and use of a building (approved by planning permit T020163) contrary to the conditions of the permit.	VCAT enforcement order application is listed for Practice day hearing on 30 August 2019.

Conclusion

The list of current enforcement activities is presented for information.

Glossary of terms

Practice day 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.

Mention hearing

A mention hearing is a brief hearing, where the Court or VCAT lists the matter for brief hearing. If the case can be dealt with swiftly, it will be dealt with at a Mention hearing. For more lengthy matters (such as contested hearings) the case will be further adjourned. In the Magistrates' Court, the Court may hear a "guilty plea" during a mention hearing.

Administrative 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.

Adjournment

A court or Tribunal will adjourn a case when the matter is deferred until another date. This can occur for a number of reasons, and is at the discretion of the Magistrate or VCAT member.

Land Management Plan

These plans are used to describe actions that will remediate the land, and commonly describe rehabilitation following unlawful vegetation removal. This plan will then become mandatory, by being incorporated into an Enforcement Order or a Section 173 agreement. The contents of the Plan will be decided by Council's Environment Team, or Vegetation Management officer.

Contested hearing / Full hearing

A contested (or "full" hearing) means the matter is disputed by the accused/respondent, and Council and the respondent will fully present and test each other's evidence and/or submissions. A contested (of "full") hearing is effectively a "trial".

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.

4 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)

Moved Cr C Ryan Seconded Cr J Springfield

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

Cd.

5 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY

FILE REFERENCE INT1964776

RESPONSIBLE GENERAL MANAGER Peter Benazic

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted.

EXECUTIVE SUMMARY

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

Central Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
26/07/2019	T180148 - PC1	Princes Highway, PAKENHAM VIC 3810	1	Issued	18 June 2019
26/07/2019	T190323	27 Skyline Drive, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	04 June 2019
29/07/2019	T190303	70 Mulcahy Road, Pakenham VIC 3810	Native vegetation removal	Issued	27 May 2019
30/07/2019	T190319	30-34 Toomuc Valley Road, Pakenham VIC 3810	Development of the land for five (5) buildings associated with an education facility	Issued	31 May 2019
1/08/2019	T180588 - PC1	80 Mulcahy Road (proposed Lot 4 Michael Street), Pakenham VIC 3810	Development of the land for a Store (self-storage facility), associated works, and a reduction in on-site car parking	Issued	05 June 2019
1/08/2019	T180588 - PC2	80 Mulcahy Road (proposed Lot 4 Michael Street), Pakenham VIC 3810	Development of the land for a Store (self-storage facility), associated works, and a reduction in on-site car parking	Issued	17 June 2019
1/08/2019	T190173	153 Main Street, Pakenham VIC 3810	Additions and alterations to existing hotel	Issued	26 March 2019
2/08/2019	T160792 - PC4	Michael Street, Pakenham VIC 3810	PC4 - (Con. 31 LMP)	Issued	09 May 2018
2/08/2019	T170261 - PC2	Station Street, Pakenham VIC 3810	Use and development of the land for multiple dwellings, buildings and works associated with retail, associated works and waiver of loading and unloading requirements (Landscape plans)	Issued	20 December 2018
7/08/2019	T170302 - PC1	40 Tahoe Circuit, Pakenham VIC 3810	Use of the land for animal husbandry and associated buildings and works	Issued	19 July 2018
9/08/2019	T160792 - 2	Michael Street, Pakenham VIC 3810	Development of 79 dwellings, subdivision of land, reduction in car parking and native vegetation removal	Issued	30 July 2019
9/08/2019	T190030 - PC1	125 Mulcahy Road, PAKENHAM VIC 3810	Condition 1	Issued	03 July 2019
14/08/2019	T190252	Galton Walk, Pakenham VIC 3810	Proposed single dwellings	Lapsed	14 May 2019

Port Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
18/07/2019	T190134	140 O` Briens Road, Yannathan VIC 3981	Building and works associated with horse stables	Issued	12 March 2019
18/07/2019	T190245	3235 Princes Highway, Bunyip VIC 3815	Development of the land for an outbuilding	Issued	01 May 2019
19/07/2019	T190244	10 Production Way, Pakenham VIC 3810	Development of the land for one (1) warehouse and associated works	Issued	01 May 2019

22/07/2019	T190372	80 Fincks Road, Bayles VIC 3981	Alterations and additions to an existing dwelling	Issued	24 June 2019
23/07/2019	T190036 - PC1	4385 South Gippsland Highway, Caldermeade VIC 3984	Alterations and additions to an existing food and drink premises (restaurant), use and development of the land for rural industry (milk processing factory), ancillary office and associated works	Issued	09 July 2019
24/07/2019	T180605 - PC1	21 Cameron Way, Pakenham VIC 3810	Development of two (2) dwellings to the rear of an existing dwelling.	Issued	11 June 2019
24/07/2019	T190292	37 Shinners Close, Bunyip VIC 3815	Earthworks exceeding 1 metre in cut	Issued	20 May 2019
24/07/2019	T190353	10 Cameron Way, Pakenham VIC 3810	Subdivision of the land into two (2) lots (in accordance with development permit T180410)	Issued	20 June 2019
26/07/2019	T190278	30 Bourke Road, Pakenham VIC 3810	Use and development of the land for Rural Industry and reduction in requirements of Clause 52.34 (bicycle facilities)	Issued	16 May 2019
26/07/2019	T190359	70 Sanders Road, Garfield North VIC 3814	Development of the land for two replacement outbuildings (pool house & pump shed)	Issued	20 June 2019
29/07/2019	T180027 - PC1	42-48 Wattletree Road, Bunyip VIC 3815	Condition 1 of permit a) All bearings, distances, levels, street names, lot numbers, lot sizes, reserves and easements. b) A 7.0m bandicoot buffer along all allotments abutting Wattletree Road. c) Building envelopes for each lot (for Stages 2 and 3) showing minimum setbacks of 7 metres from Wattletree Road and internal road network and 2.5 metres from lot boundaries with the exception of lots 12 and 13 which must provide 3 metre setbacks from the east and west boundaries respectively consistent with the location of future easements. d) Vegetation removal clearly shown within the relevant staging of the subdivision. e) Compliance with Clause 32.08-4 showing minimum garden area requirement which must be consistent with the building envelopes (Stages 2 and 3). f) The provision of a culvert below the main vehicle access into the subdivision from Wattletree Road to facilitate the movement of the Southern Brown Bandicoot. g) Vehicle crossover details to each lot including the existing dwelling for each stage of the subdivision. Lot access and driveways must be located to avoid loss of roadside vegetation	Issued	10 April 2019
29/07/2019	T190194	8 Mary Street, Bunyip VIC 3815	Subdivision of the land into three (3) lots	NOD	08 April 2019
29/07/2019	T190211	25 Silver Way, Koo Wee Rup VIC 3981	The development of the land for the purpose of a dwelling in the land subject to inundation overlay	Issued	15 April 2019
29/07/2019	T190296	425 Dessent Road, Cora Lynn VIC 3814	Development of the land for an outbuilding (garage) and associated earthworks	Issued	22 May 2019
1/08/2019	T190005	30 Evans Road, Bunyip VIC 3815	Development of the land for three (3) buildings associated with Animal husbandry (Horse stables (2) and covered arena), an agricultural building, associated earthworks and earthworks for an outdoor arena.	Issued	07 January 2019
2/08/2019	T190013 - PC1	49 Henry Street, Koo Wee Rup VIC 3981	Condition 3	Issued	28 June 2019
2/08/2019	T190109 - PC1	12 Sybella Avenue, Koo Wee Rup VIC 3981	Development of land for a dwelling	Issued	01 July 2019
2/08/2019	T190256	13 Agnoletto Court, Bunyip VIC 3815	Buildings and works associated with a dwelling	Issued	08 May 2019
2/08/2019	T190406	50 A' Beckett Road, Bunyip VIC 3815	Development of the land for an outbuilding (garage)	Issued	07 July 2019
2/08/2019	T190413	1 Shinners Close, Bunyip VIC 3815	Development of the land for an outbuilding (shed)	Issued	10 July 2019
2/08/2019	T190432	4 Ravendene Court, Maryknoll VIC 3812	Development of the land for an outbuilding (shed)	Issued	18 July 2019
6/08/2019	T190034 - 1	210 Soldiers Road, Caldermeade VIC 3984	My reason for altering the location of shed has been as a result of complying with condition 1 of the permit as detailed below. Melbourne Water: 1. Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Site, ground floor and elevation plans must be submitted with ground and floor levels amended to show: a) Finished floor levels of the hay shed 300mm above the applicable flood level. 2. The hay shed must be constructed with finished floor levels set no lower than 600mm above the natural surface, which is 300mm above the applicable flood level. Because of the 600mm fill required, I now find that access to proposed shed will be easier if erected on the other side of the existing laneway as indicated in green on attached	Withdrawn	12 July 2019

			drawings.		
7/08/2019	T190053	60 Beatties Road, Koo Wee Rup VIC 3981	Use and development of the land for a dwelling, outbuilding and earthworks	Issued	01 February 2019
7/08/2019	T190112	245 Eight Mile Road, Nar Nar Goon VIC 3812	Use and development of the land for a replacement dwelling	Issued	26 February 2019
7/08/2019	T190143	115 Colemans Road, Lang Lang VIC 3984	Use and development of the land for a dwelling and outbuilding	Issued	17 March 2019
7/08/2019	T190189	10 Industrial Drive, Pakenham VIC 3810	Use and development of the land for Materials Recycling, with ancillary office	Issued	04 April 2019
7/08/2019	T190330	352-354 Rossiter Road, Koo Wee Rup VIC 3981	Use of the land for the purpose of a restricted recreation facility (wellness centre)	Withdrawn	07 June 2019
8/08/2019	T160197 - 1	32 Racecourse Road, Pakenham VIC 3810	Use and development of the land for a Convenience Restaurant, development of a Service Station, display of associated signage and creation of an access to a Road Zone, Category 1 in accordance with the endorsed plans	Issued	28 February 2019
8/08/2019	T190291	Lot TT PS728893, Southeast Boulevard (Proposed Lot 18 PS823245, 6 Mega Rise), Pakenham VIC 3810	Development of the land for two (2) warehouses and associated works	Issued	07 June 2019
12/08/2019	T190154	5 Bluegrass Crescent, Pakenham VIC 3810	Removal of a restrictive covenant	Withdrawn	19 March 2019
12/08/2019	T190297	47 Riverside Avenue, Bunyip VIC 3815	Development of the land for an outbuilding	Issued	23 May 2019
12/08/2019	T190349	Lot TT PS728893, Southeast Boulevard (Future Lot 1 PS823245, 47 Commercial Drive), Pakenham VIC 3810	Development of the land for three (3) warehouses and associated works	Issued	18 June 2019
13/08/2019	T190110	450 Seven Mile Road, Nar Nar Goon VIC 3812	Re-subdivision of the land into two (2) lots (Boundary Re-alignment)	Lapsed	04 March 2019
14/08/2019	T190304	3480 Princes Highway, Bunyip VIC 3815	Use of the land for Animal keeping (dog breeding) and associated buildings and works	Issued	24 May 2019
14/08/2019	T190338	330 Sanders Road, Bunyip North VIC 3815	Development of the land for an outbuilding (machinery shed)	Issued	13 June 2019
14/08/2019	T190454	195 Garfield North Road, Garfield North VIC 3814	Development of the land for a building (shed) associated with agriculture (fire-affected property)	Issued	29 July 2019

Ranges Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
18/07/2019	T170671 - PC8	Rix Road, Officer VIC 3809	Condition 11 (Stage 22) Subdivision of the land in stages, associated works (including road-works within land affected by the Land Subject to Inundation Overlay) and creation of restrictions	Issued	03 July 2019
18/07/2019	T190144	Belgrave-Gembrook Road, Gembrook VIC 3783	Alterations and additions to existing sports pavilion	Issued	01 April 2019
18/07/2019	T190331	450 Princes Highway, Officer VIC 3809	Buildings and works (dwelling extension)	Issued	18 June 2019
19/07/2019	T190214	1 Wattle Court, Emerald VIC 3782	Development of land for an outbuilding (shed)	Issued	16 April 2019
19/07/2019	T190351	19 Sydney Avenue, Emerald VIC 3782	The removal of 1 tree.	Issued	19 June 2019
24/07/2019	T180851	4 Beaconsfield Avenue, BEACONSFIELD VIC 3807	Buildings and works associated with an existing education facility and signage	Issued	21 December 2018
26/07/2019	T180289 - PC1	35 Station Road, Gembrook VIC 3783	Subdivision of land into two (2) lots and vegetation removal	Issued	26 June 2019
26/07/2019	T190336	93 Carpenter Road, Officer VIC 3809	Development of the land for a bunker	Withdrawn	07 June 2019
29/07/2019	T160507 - 1	43-45 Wallace Street, Beaconsfield VIC 3807	Amended Permit – Amend hours of operation and reduction in car parking by five (5) spaces	NOD	05 February 2019
29/07/2019	T180658	24 View Hill Road, Cockatoo VIC 3781	Earthworks exceeding 1 metre (in association with a dwelling)	Issued	22 October 2018
29/07/2019	T190317	16 Socrates Crescent, Officer VIC 3809	Development of land for a single dwelling that is non-compliant with the Small Lot Housing Code	Withdrawn	30 May 2019

30/07/2019	T180476 - PC2	35 Maisey Road, Gembrook VIC 3783	Section 173 Agreement	Issued	12 June 2019
30/07/2019	T190234	3 Socrates Crescent, Officer VIC 3809	Development of land for a single dwelling that is non-compliant with small lot housing code regulation 14.4	Withdrawn	29 April 2019
31/07/2019	T180840 - PC1	50 Ure Road, Gembrook VIC 3783	Use and development of the land for a dwelling and outbuilding	Issued	15 July 2019
31/07/2019	T180844 - PC1	17 Aura Vale Road, Menzies Creek VIC 3159	Use and Development of the land for a dwelling	Issued	09 July 2019
1/08/2019	T190107	13 Bond Lane, Gembrook VIC 3783	Development of the land for two (2) outbuildings, carport and earthworks exceeding one (1) metre	NOD	24 February 2019
2/08/2019	T190023	23 Steane Street, Cockatoo VIC 3781	Alterations and additions to an existing dwelling (dwelling extension & deck)	Issued	18 January 2019
2/08/2019	T190071 - PC1	7-9 Haupt Place, Beaconsfield Upper VIC 3808	Development of the land for a habitable outbuilding	Issued	09 July 2019
5/08/2019	T180833	6 Ann Street, Beaconsfield VIC 3807	Development of the land for three (3) dwellings and subdivision of the land into three (3) lots	NOD	18 January 2019
5/08/2019	T190170	1580 Pakenham Road, Cockatoo VIC 3781	Development of the land for an outbuilding and stables	Issued	22 March 2019
5/08/2019	T190192	40 Apple Tree Lane, Pakenham Upper VIC 3810	earthworks associated with a horse arena	Issued	08 April 2019
5/08/2019	T190277	266 Brown Road, Pakenham VIC 3810	Alterations and additions to a dwelling (carport) and development of a building associated with agriculture	Issued	15 May 2019
5/08/2019	T190326	200 Rainy Hill Road, Cockatoo VIC 3781	Development of the land for a building associated with Agriculture (Apiculture)	Issued	06 June 2019
7/08/2019	T180616	3 Beaconsfield-Emerald Road, Emerald VIC 3782	Construction of two (2) double storey dwellings and vegetation removal.	NOD	17 September 2018
7/08/2019	T180820 - PC1	110 Bayview Road, Officer VIC 3809	Subdivision of land, the creation of reserves and associated works (including roadworks in land subject to inundation overlay) generally in accordance with the endorsed plans.	Issued	08 July 2019
7/08/2019	T190111	72 Parker Road, Gembrook VIC 3783	Use and development of the land for a dwelling and outbuilding	Issued	27 February 2019
7/08/2019	T190371	27 McBride Road, Beaconsfield Upper VIC 3808	Development of land for an dwelling extension (verandah)	Issued	25 June 2019
8/08/2019	T180795	4 Ann Street, Beaconsfield VIC 3807	Development of the land for three (3) dwellings	NOD	30 November 2018
9/08/2019	T180722	96 St Georges Road, Beaconsfield Upper VIC 3808	Use and development of the land for the purpose of a dwelling, carport, outbuilding, associated earthworks and the removal of vegetation.	Issued	02 November 2018
9/08/2019	T180694 - PC1	3 Goff Street, Beaconsfield VIC 3807	Construction of four (4) dwellings on a lot	Issued	30 May 2019
12/08/2019	T170249 - PC1	30 Lakeside Drive, Emerald VIC 3782	Development of the land for a garage and extension to existing verandah	Withdrawn	08 March 2018
12/08/2019	T170376 - 1	33 Officer Road, Officer VIC 3809	Use and development of the land for a place of worship and the removal of native vegetation	Issued	28 June 2019
12/08/2019	T190101	25 High Street, Guys Hill VIC 3807	Development of dwelling additions and alteration	Issued	21 February 2019
14/08/2019	T190117	24 Larmour Road, Pakenham VIC 3810	Removal of easement (electricity easement)	Issued	04 March 2019
14/08/2019	T190138 - PC1	6 Davey Road, Emerald VIC 3782	Use and development of the land for a private tennis court, retaining wall, earthworks and associated vegetation removal	Issued	25 July 2019

5 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY

Moved Cr C Ryan Seconded Cr J Springfield

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 INT1964781

RESPONSIBLE GENERAL MANAGER Peter Benazic

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	Outcome
16/08/2019	T190026	33 Highland Drive Pakenham	Variation of a restrictive covenant	Refusal	Applicant	Waiting on hearing
18/12/2019	T170516	Merretts Road, Avonsleigh	Use and development of the land for a dwelling, outbuilding, removal of vegetation and associated earthworks	Approved	Applicant review of conditions	Waiting on hearing
18/11/2019	T180406	Tivendale Road, Officer	Subdivision of Land	Failure to determine	Applicant	Waiting on hearing
23/9/2019	T180793	48-50 James Street, Pakenham	Use and Development of Two Offices, Two Retail Premises, Thirty-Six Apartments and a Reduction in Car Parking	Failure to determine	Applicant	Waiting on hearing
9/7/2019	T180200	152 & 156 Army Road, Pakenham	Construction of 26 dwellings and native vegetation removal	Approved	Objector	Approved
5/9/2019	T180303	61-63 Princes Highway, Pakenham	Use and development of a Medical Centre	Objector	Approved	Waiting on hearing

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

Moved Cr C Ryan Seconded Cr J Springfield

That the report be noted.

Cd.

Meeting closed at 7:08pm

Minutes Confirmed
Chairman