



Cardinia

MINUTES OF TOWN PLANNING COMMITTEE

MONDAY, 1 AUGUST 2016

MINUTES OF TOWN PLANNING COMMITTEE

held in the Council Chambers, 20 Siding Avenue, Officer
on Monday, 1 August 2016
The meeting commenced at pm

PRESENT: Mayor, Jodie Owen, Chairman

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

Messrs Andrew Paxton (GMPD), Doug Evans (MG)

APOLOGIES:
Nil

DECLARATION OF PECUNIARY AND OTHER INTERESTS
Nil.

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1 AMENDED PERMIT - THE DEVELOPMENT OF 5 DWELLINGS AT 5 AND 6 SPENCER PLACE PAKENHAM

FILE REFERENCE INT1652883

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Isla English

RECOMMENDATION

That a Notice of Decision to Grant Amended Planning Permit T130758 - 2 be issued for the development of the land for the purpose of five (5) dwellings, generally in accordance with the approved plans at 5 Spencer Place, 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	12 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T130758-2
APPLICANT:	Studio Three
LAND:	Lot 12 and Lot 13 PS545653, 5 and 6 Spencer Place Pakenham.
PROPOSAL:	Amended planning permit - the development of land for five (5) dwellings
PLANNING CONTROLS:	General Residential 1 Zone Development Contributions Plan Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the <i>Planning and Environment Act 1987</i> , by sending notices to adjoining land owners and occupiers. Council has received 8 objections from 5 people to date.
KEY PLANNING CONSIDERATIONS:	Amenity impact
RECOMMENDATION:	Notice of Decision

BACKGROUND:

Planning Permit T130758 was issued on July 14 2014 under delegation, for the development of five dwellings on the site. A Secondary Consent* applications was approved by Council in October 2014 that reduced the floor level of dwelling four (4) and five (5) and increased the floor level of dwelling one (1) and two (2).

On the 17 November 2014, concern was raised by a nearby resident at the extent of the works been undertaken on the site. An investigation by Council Compliance Officers was undertaken which revealed extensive fill had been placed on the site. This resulted in the raise of ground level, which in turn raised the finished floor level of three of the five dwellings being constructed up to 1 metre.

No building or works has been undertaken on the site since December 2014. The applicant applied under Secondary Consent for approval; however Council Officers considered that the amendment could not be undertaken as Secondary Consent and directed the applicant to apply for an amended planning permit.

A report was prepared for Council to determine at last October's Town Planning Meeting however the applicant requested it be withdrawn and a new solution sought. There have been onsite meetings between consultants and neighbours over Christmas, with an aim at addressing neighbours issues to the built form of the units.

In February a new application was received to amend the plans to approve the development site with a final change received in June 2016. Following the third set of plans advertised, in less than 12 months, Council officers are able to present this application to Council for determination.

**Secondary Consent is the approval of an amendment without having to go through the assessment process (referrals, advertising etc.). It is undertaken for minor changes to proposals or where a small mistake has been made on a planning permit.*

SUBJECT SITE

The main characteristic of the surrounding area is residential. Spencer Place is located on the Manna Gum Estate ridgeline, parallel with Army Road. Dwellings 1, 2 and 3 are positioned to view across Kenney Creek and onto the Pakenham Ridge bushland reserve, parallel to Pakenham Road, with view over towards Westernport Bay.

Sweet Gum Court is located west of the subject site, with dwellings built into the hill side, below natural ground level of the subject site. As a result, the dwellings in Sweet Gum have large excavated areas with retaining walls built along the rear property boundary with the neighbouring fence built two to three meters above their amended ground level and open space areas.

The site is located on the northern side of Spencer place in the bowl of the court. The site consists of two lots with two crossovers located on the southern side of the subject site. There is a 2 metre wide sewerage easement along the southern boundary of Lot 12.

The site topography originally consisted of over a 2 metre fall over the site falling from north east to south west. It has been modified and has been built up resulting in minimal fall over the land.

The site currently contains five dwellings partially constructed. The frames are built with some brick work having commenced and the rooves are on. Council's building department issued a stop work notice on 23 December 2014 when it came to Council's attention the works being undertaken were not in accordance with permit issued.

Site fill

A significant site fill has occurred on the site, which was not approved. This raised the finished floor levels by 1 metre for two of the five dwellings and 500mm for dwelling 3 which significantly impacts the amenity of the adjoining residences.

Whilst excavation and fill are not planning triggers under the planning scheme, the development of retaining walls, the development of the dwellings and the finished floor levels are planning considerations.

A large retaining wall 1.2m in height and 53m long has been built along the western boundary wall. This has been undertaken without consent with land fill added to raise the ground level.

Dwelling 1 has been built with a finished floor level of 81.45m, an increase of 1 metre for the dwelling (approved 80.45m). The natural ground level is 79.41m. The residents to the west have a ground level of 77.22m, with land along the rear of the property terraced along the western boundary.

Dwelling 2 has been built with a finished floor level of 81.450m, an increase of 450mm for the dwelling (approved 81.00m) and an increase of 1 metre for the garage (80.450m). The natural ground level is 80.34m.

The residents to the west have a finished floor of 100m. The finished floor level of the dwelling is 102.06m.

Dwelling 3 has been built with a finished floor level of 81.45m, an increase of 450mm for the dwelling (approved 81.00). The natural ground level is 80.34m.

The residents to the west have a ground level of 77.93m, which has been excavated into terraces along the western boundary.

Dwelling 4 and 5 has been built with a finished floor level of 81.75m, an increase from 81.50m.

Dwelling Form and Materials

All new dwellings are to be of single storey construction, with brick walls and pitched concrete tiled roof. All dwellings comprises of three bedrooms, two bathrooms, kitchen, family and meals areas, laundry and double car garages.

The dwellings have a general wall height of 2.4-2.5 metres with an overall height of 5 metres.

Access and parking

Access to the site will be via a shared access way, which will run in between the dwellings. The driveway will be a minimum of 3 metres width and will allow for landscaping works directly along the northern boundary.

Each dwelling is provided with a double garage with internal dimensions of 5.5 metres by 6 metres.

Fencing

There is an existing fence along the western, southern and eastern boundaries of the site and height is varying from 1.65 metres to 1.8 metres. No front fencing is proposed as part of this development. All internal fencing between each dwelling is to be approximately 1.8 metres in height and will be constructed as timber fences.

The design, siting and form of the dwellings have already been approved under a Planning Permit.

PROPOSAL

An application has been received to approve amended plans for the development of five dwellings.

As previously stated, there has been significant site fill that has occurred on the land which was not approved. This raised the finished floor levels by 1 metre for two of the five dwellings and 500mm for dwelling 3 which significantly impacts the amenity of the adjoining residences.

The changes proposed include the removal of the soil from the land and the removal of the 53m retaining wall to the west side of the property or rear of Dwellings 1 to 3.

Approximately 159m³ to 238m³ of soil is proposed to be removed from the rear of dwellings 1, 2 and 3.

By reducing current ground levels to the bottom of the existing fence line, the overlooking issues are reduced, which was a major concern.

Currently the units sit on top of the existing fence between houses in Sweet Gum Court. Dwellings in Sweet Gum Court already have rear boundary fence/wall heights of approximately 3.65m. If the dirt is not removed from the site, a new fence will be required to be built on top of the existing fence to mitigate overlooking by residents. This will have resulted in residences of Sweet Gum Court rear back fences at an approximate height of 5.45m

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11.02-1 - Supply of urban land
- Clause 15.01-1 – Urban design
- Clause 15.01-2 – Urban design principles
- Clause 15.01-5 – Cultural identity and neighbourhood character
- Clause 16.01-1 – Integrated housing
- Clause 16.01-2 – Location of residential housing
- Clause 16.01-4 – Housing Diversity
- Clause 16.01-5 – Housing affordability

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01-4 – Strategic vision
- Clause 21.01-5 – Strategic framework plan
- Clause 21.03-1 – Housing
- Clause 21.03-3 – Townships
- Clause 21.06-1 – Design and built form

Relevant particular/general provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.06 Car parking
- Clause 55 Two or more dwellings on a lot and residential buildings
- Clause 65 The decision guidelines

Zone

The land is subject to the General Residential 1 Zone

Overlays

The land is subject to the following overlays:

- Development Contribution Overlay - Schedule 1

PLANNING PERMIT TRIGGERS

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

- Pursuant to Clause 32.08-4 of the General Residential Zone planning permit is required for the development of land for five dwellings

PUBLIC NOTIFICATION

The application has been advertised twice pursuant to Section 52 of the Planning and Environment Act 1987, by:

- Sending notices to the owners and occupiers of adjoining land.

The notification has been carried out correctly, and Council has received 8 objections from 5 separate owners of adjoining properties.

The key issues that were raised in the objections are:

- *Infringement of privacy*
- *Surveillance*
- *Devaluating of property*
- *Safety at the retaining wall and fencing structure been built*
- *Safety*
- *Views*
- *Out of character – high fence*
- *Breach of the building Act*
- *Drainage/flooding concerns*

REFERRALS

No external referrals were required

DISCUSSION

The increase of the finished floor level has had a marked impact to the adjoining residents, particularly the owners and occupiers of Sweet Gum Court. Plans endorsed showed a finished floor level of 80.450mm for dwellings 1 and 2 which showed an increase of a metre from the approved plan. Dwelling 3 has been built up by half a metre.

This has resulted in these three dwellings been built up to the height of the existing boundary fence. Originally the applicant wanted to construct a 1.8m high fence to obscure views however this further exacerbates the problem. Residents along Sweet Gum Court have rear fencing approximately 3.5m to 4m in height, constructing further fencing would result in an overall height of 5.5m.

The applicant is now proposing to remove soil to the rear of the three dwellings to reduce the need for a new fence on top of an existing fence to the rear of the property boundary.

This is not an ideal solution; however it does reduce the impact on residents of Sweet Gum Court.

Clause 55 Two or More Dwellings on a Lot and Residential Buildings

Whilst many of the requirements of clause 55 are able to be met, it is the impact of the finished floor levels that impact on the amenity of neighbouring residents.

Clause 55.03-2 Building Height

The development does not adequately address Clause 55.03-2 Building Height. The objective is to ensure that the height of buildings respects the existing or preferred neighbourhood character. Whilst the development is single storey, the result of the land fill has been to the detriment to the adjoining residents

The design guidelines require Council to consider:

- The effect of the slope of the site on the height of the building.
- The relationship between the proposed building height and the height of existing adjacent buildings.
- The visual impact of the building when viewed from the street and from adjoining properties.

Whilst the development is single storey, the result of the land fill has been to the detriment of the adjoining residents. However, by removing the dirt from the rear yards of the dwellings, it will improve the impact onto the neighbouring properties.

Clause 55.04-6 Overlooking

Clause 55.04-6 Overlooking objective requires a development to limit views into existing secluded private open space and habitable room windows.

As the dwellings have been built to such a significant level compared to the neighbours to the west, this is difficult to resolve. If additional fencing is located along the boundary line it creates a huge fence, reminiscent of the acoustic fencing along the Pakenham By pass.

The removal of the soil from the dwellings along the fence line does reduce the direct overlooking. Council would require appropriate conditions to ensure the direct removed will be to a certain level.

Another mechanism that would assist overlooking is to require obscure glazing on windows to restrict overlooking into neighbouring properties, and tree planting along fence lines.

Objector concerns

The objectors have highlighted a number of concerns with the development

- Infringement of privacy
- Surveillance
- Devaluating of property
- Safety at the retaining wall and fencing structure been built
- Safety
- Views
- Out of character – high fence
- Breach of the building Act
- Infringement of privacy / Surveillance/ Safety

By removing the soil from the site to its approved site levels, the impacts on adjoining properties is reduced. The open space areas can be suitably landscaped and bedroom windows can be treated to reduce overlooking.

Concern was raised with the stability of the boundary fence. If the fence needs to be removed, an amended permit condition has been placed on the permit requesting a building permit to be issued.

- Devaluating of property

The protection of property values is not supported by VCAT as a planning consideration

- Safety at the retaining wall and fencing structure been built

Any approval granted will require building permits to be issued to ensure the fencing and retaining wall are structurally sound. The retaining wall is to be removed as part of the removal of the soil and the fence will be repaired or replaced

- Views

Neighbouring properties have objected to views being obscured and requested to rooves being altered. This is not considered appropriate as the protection of views is not supported by VCAT as a planning consideration.

- Out of character – high fence

Council does not support the development of an additional fence on a fence as a solution. It is considered to be intrusive and detrimental to the adjoining property owners who are the ones impacted by it. The applicant has agreed to the remove the soil, reducing the need for a second fence.

- Breach of the Building Act

There are outstanding issues with the Councils building department. Once the planning application is determined, then building actions can be resolved

- Drainage/Flooding

There have been reports of flooding in people's backyards as a result of the retaining wall. The retaining wall is to be removed from the premises. There is an approved stormwater detention system built on the property as per permit conditions to deal with storm water on the site.

CONCLUSION

The increase of the finished floor level has had a marked impact to the adjoining residents, particularly the owners and occupiers of Sweet Gum Court. Plans endorsed allowed a finished floor level of 80.450mm, what has been built gives a finished floor level of 81.450, an increase of a metre.

This has resulted in the dwellings been built in excess of the existing boundary fence. As the fence is 1.65m in height, residents at number 5, 7, 9 and 11 Sweet Gum will have rear boundary fences totalling over 4m in height.

The fencing will result in an unacceptable intrusion for the residents. Council is supportive of residential developments such as this application; however it must not be approved at the expense to adjoin property owners.

It is consider that the removal of soil, the requirement of obscure glazing on windows and landscaping along the rear of the fence (proposed condition 1) will allow this development to occur without detriment to neighbouring properties

CONDITIONS

1. Before the works continue on site, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with *the plans submitted with the application* but modified to show:
 - a) An amended landscape plans from a registered landscape architect demonstrating suitable landscape treatments for the rear yards of all dwellings. It must be shown suitable plant screening in light of the topography of the site.
 - i. Details of surface finishes of pathways and driveways.
 - ii. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - iii. Landscaping and planting within all open areas of the subject land.
 - b) Place appropriate measures to reduce overlooking from bedroom 2 and 3 windows in dwelling 1 and 2 and in bedroom 3 of dwelling 3. This can be done either by having fixed, obscure glazing in any part of the window below 1.7 metre above floor level or have permanently fixed external screens to at least 1.7 metres above floor level and be no more than 25 per cent transparent.
2. The layout of the site and the size of the proposed buildings and works, as shown on the endorsed plan/s, must not be altered or modified without the written consent of the Responsible Authority.
3. Once the development has commenced it must be continued and completed to the satisfaction of the Responsible Authority.

4. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
5. Before the development is occupied, all proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated to the satisfaction of the Responsible Authority. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority.
6. Before the development is occupied any redundant existing vehicle crossing must be removed and the nature strip and *kerb and channel* reinstated at the cost of the owner and to the satisfaction of the Responsible Authority.
7. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority.
8. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
9. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.
10. Before the development starts, drainage plans must be submitted to and approved by the Responsible Authority. The plans must show the provision of a stormwater detention system. The stormwater detention system will become the responsibility of the property owner or body corporate to maintain to the satisfaction of the Responsible Authority.

Note: As the development has an impervious ratio greater than 35%, the developer shall engage the services of a suitably experienced Engineer to design a stormwater detention system that will reduce the intensity of the storm water discharge entering Council's drainage system, i.e.: a detention system. The storm water detention system shall provide for the same five (5) year ARI peak discharge as that for a standard house lot with no storm water detention.

A standard house lot is assumed to have a fraction impervious area of 35%. Calculations and a plan shall be submitted to Council for approval prior to construction. The storm water detention system must be constructed prior to the occupation of the proposed development.

11. The development approved by this permit must not be occupied until the following works have been completed to the satisfaction of the Responsible Authority:
 - a) The landscaping works shown on the endorsed plans must be carried out and completed;
 - b) The areas set aside on the endorsed plan/s for access and car parks have been constructed, sealed and drained;
 - c) The construction of the stormwater detention system, if required;
 - d) The development is provided with an appropriate drainage connection point and connected to an underground drain;
 - e) The premises are connected to a reticulated sewerage system of a sewerage authority;
 - f) Provision of power and telephone lines to all new dwellings must be placed underground from the main point of service supplied by the relevant authority outside the boundaries of the subject land.

- g) A bin storage area must be provided for each dwelling and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
 - h) A mail box must be provided to the satisfaction of the Responsible Authority and Australia Post.
 - i) A clothesline must be provided for each dwelling and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
 - j) Lighting must be provided near the front entrance of each dwelling to the satisfaction of the Responsible Authority.
12. The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building, including the roof, must be of a non-reflective nature.
 13. All pipes, fixtures, fittings and vents servicing any building on the subject land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
 14. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
 15. All wastewater from the proposed dwellings must be discharged into the reticulated sewerage system to the satisfaction of the Responsible Authority.
 16. Before an occupancy permit is approved, a survey plan must be prepared by a registered surveyor demonstrating the ground levels of public open space areas for dwellings 1, 2 and 3 are in accordance with the endorsed plans
 17. If the western property boundary fence between dwellings 1 to 3 and properties at 5, 7, 9 and 11 Sweet Gum Court is damaged due to the removal of the retaining wall or works undertaken to reinstate the land, the developer must replace the fence at his cost. The replacement fence must be approved by a building surveyor to ensure its safety for residents in Sweet Gum Court

Expiry of Permit:

This permit will expire if one of the following circumstances applies:

- a) The development is not started within **two (2) years** of the date of this permit.
- b) The development is not completed within **four (4) years** of the date of this permit.

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

Notes/Footnotes

A Building Permit may be required for this development. To obtain a building permit you will need to contact a registered building surveyor.

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

Date amended:	What has been amended?	Responsible Authority
1 August 2016	Renumber conditions 1 to 15, include a new condition 1 and add condition 16 and 17	Cardinia Shire Council

1 AMENDED PERMIT - THE DEVELOPMENT OF 5 DWELLINGS AT 5 AND 6 SPENCER PLACE PAKENHAM

Moved Cr G Blenkhorn Seconded Cr D Young

- A. That a Refusal to Grant an Amendment to Planning Permit T130758-2 be issued for the development of land for five dwellings at Lot 12 and Lot 13 PS545653, 5 and 6 Spencer Place, Pakenham on the following grounds:
1. The proposal will have an adverse impact on the adjoining properties in Sweet Gum Court, due to the extent of fill imported
 2. The proposal fails to adequately satisfy the following Clauses of the Cardinia Planning Scheme:
 - a) Clause 55.02 Neighbourhood Character
 - b) Clause 55.03-2 Building height objective
 - c) Clause 55.04-6 Overlooking objective
 - d) Clause 55.05-1 Accessibility objective
 3. The dwellings built have created unacceptable amenity issues to neighbouring properties and the proposed amendment does not adequately address these amenity impacts.
- B. That Council takes steps to enforce the Cardinia Planning Scheme including but not limited to seeking an enforcement order with VCAT with the potential to requiring the removal of dwellings 1, 2 and 3 from the subject land.

Cd.

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

FILE REFERENCE INT1652893

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted

Attachments

Nil.

EXECUTIVE SUMMARY

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

Hearing Date	App No.	Address	Proposal	Council Decision	Appealed By	Status/VCAT Decision
17-Oct-16	T130036-1	Bridge Road Officer	Use and development of the land for a restricted place of assembly, installation and use of 60 electronic gaming machines and sale and consumption of liquor (full club licence)	Refusal	Applicant	Awaiting hearing
29-Jul-16	T140723	1 Bridle Place, Pakenham	Cancellation of Planning Permit - issued in breach of covenant	Initiated cancellation	Applicant	Awaiting hearing
22/04/2016 Hearing 5/10/16 Compulsory Conference - 10/08/16	T080447-1	11-15 Vista Court Gembrook	The use and development of land for the purpose of twenty (20) dwellings, of which ten (10) are to be used as a retirement village (over 55's) and associated earthworks exceeding one (1) metre.	Refusal	Applicant	Awaiting hearing
06-Jul-16	T150725	20 Lecky Road, Officer	Development of the land for Major Promotional Signage	Refusal	Applicant	Withdrawn
18-Jul-16	T150194	Henry Road Pakenham	Development of the land for three (3) dwellings on the lot	Refusal	Applicant	Awaiting hearing

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

Moved Cr G Blenkhorn Seconded Cr K Lempriere

That the report be noted

Cd.

3 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATED AUTHORITY

FILE REFERENCE INT1652898

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted

Attachments

Nil.

EXECUTIVE SUMMARY

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

Central Ward – Decisions from 17/06/16 to 14/07/16				
Date	Permit No	Location	The Proposal	The Decision
21/06/2016	T150758	5 Bilby Court, Pakenham Victoria 3810	Variation to covenant	Issued
22/06/2016	T150475 - PC1	705 Princes Hwy, Pakenham Victoria 3810	Subdivision of the land (24 lots) adjacent to a Road Zone Category 1	Issued
23/06/2016	T160135	25 Bronzewing Street, Pakenham VIC 3810	Development of two (2) dwellings on a lot and associated works generally in accordance with the endorsed plans	Issued
23/06/2016	T160168	14 Pinehill Drive, Pakenham VIC 3810	Subdivision of the land into two (2) lots	NOD
23/06/2016	T160206	34 Bate Close, Pakenham VIC 3810	Subdivision of the land into two (2) lots and construction of two (2) warehouses and associated earthworks	Issued
23/06/2016	T160285	U 2/22 Rogers Street, Pakenham VIC 3810	Development of the land for a carport	Issued
24/06/2016	T150579 - 1	Corporate Terrace, Pakenham Victoria 3810	Subdivision of land into three (3) lots	Issued
27/06/2016	T150775 - 1	6 Lavit Lane, Pakenham Victoria 3810	Amended Permit - Subdivision of the land into twelve (12) lots	Issued
28/06/2016	T150828	2 Wadsley Avenue, Pakenham Victoria 3810	Development of the land for 8 dwellings	Issued
29/06/2016	T130540 - 1	3 & 6 Lavit Lane, Pakenham Victoria 3810	Amended Permit - Development of land for twelve (12) dwellings	Issued
29/06/2016	T160165	1 Conrad Court, Pakenham VIC 3810	Development of the land for seven (7) dwellings	Issued
29/06/2016	T160335	98-102 Princes Highway, Pakenham VIC 3810	The development of the land for alterations to a convenience restaurant (the terrace and playground areas) and removal of four (4) trees	Issued
30/06/2016	T160246	64 Racecourse Road, Pakenham VIC 3810	The development of the land for a second dwelling	Issued
30/06/2016	T160308	14 Main Street, Pakenham VIC 3810	Extension and alterations to an existing childcare centre and business Identification signage	Issued
1/07/2016	T160336	6 Settlers Court, Pakenham VIC 3810	Use of the land for shared housing	Withdrawn

7/07/2016	T160355	21 Elwood Avenue, Pakenham VIC 3810	Construction of a verandah to an existing dwelling	Withdrawn
11/07/2016	T160191	153 Main Street, Pakenham VIC 3810	Business Identification Signage	Issued
11/07/2016	T100677 - 1	825 Princes Highway, Pakenham Victoria 3810	Buildings and works and use of the land for a gymnasium, shops, trade supplies and landscape gardening supplies, reduction in car parking, native vegetation removal and creation and alteration of access to a Road Zone Category 1,	Issued
11/07/2016	T160208	157 Ahern Road, Pakenham VIC 3810	Subdivision of the land into three (3) lots	Lapsed
Port Ward - Decisions from 17/06/16 to 14/07/16				
Date	Permit No	Location	The Proposal	The Decision
20/06/2016	T160229	12 Southeast Boulevard, Pakenham VIC 3810	Creation of an easement	Issued
21/06/2016	T150582 - PC1	8-10 Nash Road, Bunyip Victoria 3815	Subdivision of land into three (3) lots	Issued
21/06/2016	T160193	5-7 Ridge Place, Pakenham VIC 3810	Re-subdivision of two (2) lots (boundary realignment)	Issued
21/06/2016	T160297	12 Ravendene Court, Maryknoll VIC 3812	Earthworks exceeding 1 metre associated with the development of the land for a dwelling	Issued
22/06/2016	T160117	468 Bessie Creek Road, Nar Nar Goon North VIC 3812	Use and development of the land for an outbuilding and associated earthworks	Issued
23/06/2016	T160339	230 No 4 Drain Road, Bayles VIC 3981	Boundary lot re-alignment of two (2) lots	Withdrawn
23/06/2016	T150179 - PC2	75 Range Road, Lang Lang Victoria 3984	Buildings and works in association with an extension to an existing safety wall including earthworks and the removal of vegetation	Issued
23/06/2016	T160237	31 Wattle Court, Lang Lang VIC 3984	Development of the land for an outbuilding	Issued
23/06/2016	T160254	210 Koo Wee Rup-Longwarry Road, Koo Wee Rup VIC 3981	Development of the land for a verandah	Issued
23/06/2016	T160259	24 Rosebery Street, Lang Lang VIC 3984	Development of the land for an outbuilding	Issued
23/06/2016	T160350	U 26/27 Jefferson Road, Garfield VIC 3814	The development of the land for a dwelling extension (verandah) on a lot less than 300 square metres	Issued
27/06/2016	T150822 - PC1	41 Hope Street, Bunyip Victoria 3815	Subdivision of the land into two (2) lots	Issued
28/06/2016	T160304	180 Rossiter Road, Koo Wee Rup VIC 3981	Development of the land for a dwelling	Issued
28/06/2016	T160338	48 A` Beckett Road, Bunyip VIC 3815	The development of the land for an outbuilding within five (5) metres of a property boundary	Issued
30/06/2016	T160014	Cardinia Road, Cardinia Victoria 3978	The use and development of a Telecommunications Facility, associated equipment shelter and associated works in accordance with the endorsed plans	NOD
30/06/2016	T160015	310 Tooradin Station Road, Dalmore Victoria 3981	The use and development of a Telecommunications Facility, associated equipment shelter and associated works	Issued
5/07/2016	T150742	31 High Street, Bunyip Victoria 3815	Use and development of the land for a child care centre.	NOD
5/07/2016	T150745	145 Daleys Road, Koo Wee Rup Victoria 3981	Earthworks associated with a horse exercise track within the GWZ1 and	NOD

			LSIO	
5/07/2016	T160172	13 Gwen Meredith Drive, Bunyip VIC 3815	Development of the land for an outbuilding (shed)	Issued
5/07/2016	T160188	11 Henry Road, Bunyip VIC 3815	Development of the land for a dwelling exceeding 7 meters in height	Issued
6/07/2016	T110314 - PC1	36 Bunyip-Modella Rd, Bunyip Victoria 3815	The development of the land for a self-storage facility, the use and development of the land for a caretakers dwelling and native vegetation removal generally in accordance with the approved plans	Issued
6/07/2016	T150641	895 Bunyip River Road, Vervale Victoria 3814	To continue the use of the land for a dwelling and to construct a replacement dwelling under Clause 63.10.	Issued
6/07/2016	T160261	190 Caldermeade Road, Caldermeade VIC 3984	Development of the land for an outbuilding	Issued
11/07/2016	T150729	275 Heads Road, Yannathan Victoria 3981	Two (2) lot boundary re-alignment	Issued
11/07/2016	T160211	7 Nar Nar Goon-Longwarry Road, Garfield VIC 3814	subdivision of land into two (2) allotments	Issued
14/07/2016	T160118	544 Garfield North Road, Garfield North VIC 3814	Use and development of the land for a dwelling	Issued

Ranges Ward – Decisions from 17/06/16 to 14/07/16

Date	Permit No	Location	The Proposal	The Decision
20/06/2016	T120482 - PC1	360 Princes Highway, Officer Victoria 3809	Multi lot residential subdivision and subdivision adjacent to land within a Road Zone Category 1	Withdrawn
20/06/2016	T130036 - PC2	Bridge Road, Officer Victoria 3809	Use and development of the land for a restricted place of assembly, installation and use of 60 electronic gaming machines and sale and consumption of liquor (full club licence)	Issued
20/06/2016	T130212 - PC1	73 Main Street, Gembrook Victoria 3783	Use of the land for a motel, sale and consumption of liquor and a reduction in car parking	Issued
20/06/2016	T140724 - PC2	20 Kitchen Road, Beaconsfield Upper Victoria 3808	Use and development of the land for a replacement dwelling and a dependent persons unit, development of the land for an outbuilding (retrospective) and earthworks in a RCZ2, ES01 and BMO	Issued
20/06/2016	T160074 - PC1	431 Princes Highway, Officer Victoria 3809	Use and development of the land for an office and a reduction in the car parking requirement of Clause 52.06 generally in accordance with the approved plans	Issued
20/06/2016	T160137	2 Ferres Road, Emerald VIC 3782	Use of the land for home occupation (gross floor area exceeds 50m ²), and the development of the land for an outbuilding.	Issued
20/06/2016	T160233	Stoney Creek Road, Beaconsfield Upper VIC 3808	Additions and alterations to existing dwelling	Issued
21/06/2016	T150308	310 Princes Highway, Officer Victoria 3809	Subdivision of the land in stages adjacent to a Road Zone Category 1 in accordance with the endorsed plans	Issued
21/06/2016	T160119	2 Brennan Avenue, Beaconsfield Upper VIC 3808	Development of an outbuilding and removal of native vegetation	Issued

21/06/2016	T160195	47 Macclesfield Road, Emerald VIC 3782	The development of the land for an outbuilding within five (5) metres of a property boundary	Issued
21/06/2016	T160204	70 Army Settlement Road, Pakenham VIC 3810	Development of the land for a dwelling extension	Issued
22/06/2016	T130036 - 1	Bridge Road, Officer VIC 3809	Use and development of the land for a restricted place of assembly, installation and use of 60 electronic gaming machines and sale and consumption of liquor (full club licence)	Refused
22/06/2016	T140101 - PC1	2 Lakeview Court, Emerald Victoria 3782	Buildings and works associated with an existing group accommodation camp (to provide accommodation for an additional forty persons) with reduced setbacks to the road, waterway, dwellings not in the same ownership within a Significant Landscape Overlay and Bushfire Management Overlay	Issued
22/06/2016	T160251	3 Kookaburra Court, Gembrook VIC 3783	Building and works for a dwelling exceeding 7 metres in height above natural ground level.	Issued
23/06/2016	T130340 - PC2	70 Brunt Road, Beaconsfield Victoria 3807	Subdivision of the land	Issued
23/06/2016	T140251 - PC2	24 Whiteside Road and 265 Princes Highway, Officer Victoria 3809	Subdivision of the land, subdivision adjacent to a road in a Road Zone Category 1 and subdivision, buildings and works and removal of vegetation within the Heritage Overlay	Issued
23/06/2016	T160166	110 Old Soldier Road, Cockatoo VIC 3781	Removal of vegetation	Issued
23/06/2016	T160180	13 Goff Street, Beaconsfield VIC 3807	Subdivision of the land into two (2) lots	Issued
23/06/2016	T160209	238 Beaconsfield-Emerald Road, Beaconsfield VIC 3807	Development of the land for an outbuilding extension	Issued
23/06/2016	T160239	225 Payne Road, Beaconsfield VIC 3807	Development of the land for a dwelling extension	Issued
23/06/2016	T160241	35-53 Ferres Road, Emerald VIC 3782	Development of the land for a deck	Lapsed
24/06/2016	T150786	325 Princes Highway, Officer Victoria 3809	Two (2) lot subdivision	Withdrawn
24/06/2016	T110185 - PC1	90 Blue Ridge Road, Dewhurst Victoria 3808	Use and development of the land for a dwelling	Issued
24/06/2016	T150290 - PC1	Arcadia Estate, Bridge Road, Officer VIC 3809	Subdivision in stages and associated works, including road-works within a Floodway Overlay and Land Subject to Inundation Overlay, construction of single dwellings on lots less than 300sqm and creation of restriction.	Issued
24/06/2016	T150670 - PC1	96 Brunt Road, Beaconsfield Victoria 3807	Development of the land for thirty-five (35) dwellings, subdivision of land and removal of an easement in accordance with the endorsed plans.	Issued
27/06/2016	T150827	96 Mary Street, Officer Victoria 3809	Development of the land for fourteen (14) dwellings and associated works in accordance with the endorse plans	Issued
27/06/2016	T150269 - PC2	Brunt Road, Officer Victoria 3809	Subdivision of the land, remove an easement (electricity), create a reserve and removal of native vegetation	Issued
28/06/2016	T160169	7 Connassidy Close, Beaconsfield VIC 3807	Variation of Restrictive Covenant	Issued

28/06/2016	T160207	11 Lakeside Drive, Emerald VIC 3782	The development of the land for an outbuilding (carport) and deck in the Heritage Overlay	Issued
28/06/2016	T160272	110 Old Soldier Road, Cockatoo VIC 3781	Development of the land for an outbuilding	Issued
29/06/2016	T160149	17 Knight Road, Gembrook VIC 3783	The development of the land for a dwelling, outbuilding and associated earthworks	Issued
29/06/2016	T160352	77 Beaconsfield-Emerald Road, Beaconsfield Upper VIC 3808	The development of the land for an extension to an existing outbuilding	Issued
30/06/2016	T160278	45 Eastbourne Crescent, Officer VIC 3809	Development of the land for a dwelling	Issued
30/06/2016	T150351	392 Belgrave-Gembrook Road, Emerald Victoria 3782	Use and development of the land for accommodation and place of assembly, buildings and works associated with a restaurant, sale and consumption of liquor as required under clause 52.27, a reduction the rate of car parking of clause 52.06, alteration of access to a Category 1 road zone, removal of vegetation.	Withdrawn
30/06/2016	T160260	17 Old Gembrook Road, Emerald VIC 3782	Development of the land for an outbuilding and associated earthworks	Issued
1/07/2016	T160340	265 Split Rock Road, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding	Issued
5/07/2016	T150800	12 Bayview Road, Officer Victoria 3809	Subdivision of the land into twelve (12) lots in accordance with the endorsed plans	Issued
5/07/2016	T160234	140 Red Road, Gembrook VIC 3783	Development of the land for a dwelling exceeding 7 metres in height, outbuilding exceeding 4 metres in height and associated earthworks	Issued
5/07/2016	T160264	80 Grey Road, Gembrook VIC 3783	Use of the land for camping and associated earthworks; Use and development of the land for a store	Refused
6/07/2016	T150705 - PC2	7 Walnut Avenue, Emerald Victoria 3782	Building and works for the construction of a dwelling and removal of vegetation in the DDO, BMO and SLO1	Issued
8/07/2016	T160048	Bottomley Drive, Emerald Victoria 3782	Development of the land for a dwelling and horse training facility	Refused
11/07/2016	T160219	26 Whiteside Road, Officer VIC 3809	Subdivision of the land into two (2) lots	Issued
11/07/2016	T160318	311 Ure Road, Gembrook VIC 3783	Extension to an existing outbuilding	Issued
11/07/2016	T160301	10 Messmate Court, Emerald VIC 3782	Earthworks	Lapsed
14/07/2016	T140766 - PC3	85 Mary Street, Officer Victoria 3809	Subdivision of land in stages	Issued

3 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATED AUTHORITY

Moved Cr B Owen Seconded Cr K Lempriere

That the report be noted

Cd.

4 PLANNING ENFORCEMENT MATTERS

FILE REFERENCE INT1652903

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Owen Hardidge

RECOMMENDATION

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

Attachments

Nil.

EXECUTIVE SUMMARY

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

BACKGROUND

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

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

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

1). Multi-purpose Hearing

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

2). Admin Mention

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

3). Adjournment

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

4). Offset plan

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

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

5). Full hearing

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

6). Consent Orders

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

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

Property Address	Nature of Contravention	Status
205 Obriens Rd, Bayles (ref: OH:AK:15260)	Ongoing materials recycling issue on Green Wedge Land. Continuing failure to comply with VCAT enforcement order.	Magistrates' Court prosecution for failure to comply with VCAT order commenced. Plea of guilty entered. Further adjourned at request of accused who was ill. Listed for next mention 28 July 2016 .
715 Gembrook Rd, Pakenham Upper (ref: OH:AB:14130, OH:SMAY:15227 OH:OH:16295)	Alleged land use (burning off) and building breaches, that relates to extensive and complex planning history of the site.	Magistrates' Court proceeding adjourned to 4th October 2016 , as accused has filed application in VCAT for declaration as to existing use rights. VCAT application is listed for 12 August 2016 , for practice day. Magistrates' Court proceeding may be delayed pending determination of this issue. Council commenced Building and Local Law prosecution of the owner, arising from construction and commercial-scale burn offs on the site. The owner asserts that burning off activities are protected by the planning scheme. The property has a 17 yr history of litigated planning disputes between 1997 and 2015.
168 Brown Rd, Pakenham	Native vegetation removal, contrary to Environmental	Magistrates' Court prosecution for alleged vegetation removal contrary

(ref: OH:LK:15225)	Significance Overlay, Green Wedge Zone and cl 52.17.	to the scheme, concluded with Diversion, on 19 May 2016 . VCAT application for enforcement order filed, and owner will consent to the making of the order requiring land management plan to be implemented. Listed at VCAT 29 July 2016 .
555 Back Creek Rd, Gembrook EH:LK:16272)	Native vegetation removal, and earthworks creating a dam, in breach of Section 173 agreement and the scheme. Rural Conservation Zone – Sch 1, Environmental Significance Overlay – Sch 1, Bushfire Management Overlay, and Clause 52.17	Magistrates' Court prosecution arising from the creation of a large dam (by earthworks and vegetation removal), contrary to strict environmental controls and Section 173 agreement protecting vegetation on the land. Magistrates' Court case listed for 1 st mention on 18th August 2016 .

CONCLUSION

The list of current enforcement activities is presented for information.

4 PLANNING ENFORCEMENT MATTERS

Moved Cr G Blenkhorn Seconded Cr K Lempriere

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

Cd.

5 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

FILE REFERENCE INT1652927

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Tracey Parker

RECOMMENDATION

That the report be noted

Attachments

Nil.

EXECUTIVE SUMMARY

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

Status of active amendments

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

CARDINIA PLANNING SCHEME AMENDMENT ACTIVITY REPORT						
A/No.	Proponent	Address	Purpose	Exhibition		Status
				Start	End	
C188	Cardinia Shire Council	Cardinia Shire	The amendment proposes to introduce Schedules 2 and 3 to the Low Density Residential Zone and numbers the existing unnumbered schedule to the Low Density Residential Zone to Schedule 1. It also rezones all of the land within the Urban Growth Boundary of Gembrook and Upper Beaconsfield that is currently zoned Rural Living Zone to the Low Density Residential Zone and apply a number of overlays to the land.	14/05/2015	15/06/2015	Adopted by Council on 15/02/2016. Awaiting Minister's approval.
C206	Cardinia Shire Council	16 Beaconsfield-Emerald Road Emerald	Rezone 16 Beaconsfield-Emerald Road Emerald from Rural Conservation Zone 2 to Public Park and Recreation Zone.	07/01/2016	08/02/2016	Panel hearing held on 02/05/2016. Panel report received and currently being considered.

C209	Cardinia Shire Council	Pakenham Golf Course	Rezone of part of the golf course from Public Park and Recreation Zone to Low Density Residential Zone and apply a schedule to allow a minimum lot size of 2000m ² .	30/06/2016	01/08/2016	On exhibition.
C211	Cardinia Shire Council	Pakenham Structure Plan area	Amends the Municipal Strategic Statement to incorporate the Pakenham Structure Plan into the Local Planning Policy Framework. Adds the Pakenham Structure Plan as an incorporated document in the Planning Scheme.	12/05/2016	14/06/2016	On exhibition.
C212	Cardinia Shire Council	Various sites	Correction of minor zoning and overlay anomalies, and correction of errors in the description of heritage places in the Schedule to Clause 43.01.	12/05/2016	14/06/2016	On exhibition.

5 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

Moved Cr B Owen Seconded Cr C Ross

That the report be noted

Cd.

Meeting closed at 7.36pm

Minutes Confirmed
Chairman