



Cardinia

MINUTES OF TOWN PLANNING COMMITTEE

MONDAY, 1 FEBRUARY 2016

MINUTES OF TOWN PLANNING COMMITTEE

held in the Cardinia Shire Offices, 20 Siding Avenue, Officer
on Monday, 1 February 2016
The meeting commenced at 7.00pm

PRESENT:

Mayor, Jodie Owen, Chairman

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

Messrs Garry McQuillan (CEO), Mike Ellis (GMAS), Derek Madden, (GMCS), Phil Walton (GMPD), Jenny Scicluna (GMCWB), Doug Evans (MG).

APOLOGIES:

Cr Graeme Moore.

DECLARATION OF PECUNIARY AND OTHER INTERESTS

Nil.

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1 AMENDED PERMIT APPLICATION TO INCREASE HOURS OF OPERATION AT 1 ALBER ROAD, BEACONSFIELD UPPER

FILE REFERENCE INT163559

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Katherine Gilpin

RECOMMENDATION

That a Notice of Decision to Grant Amended Permit T970503-2 be issued to amend Condition 4 in association with the use and development of the land as a Rural Industry (Winery) in respect of the land known and described as Lot 2 PS400704, 1 Alber Road, Beaconsfield Upper subject to the conditions attached to this report.

Attachments

1	Locality plan	1 Page
2	Application plans	1 Page
3	Confidential objection letters circulated to councillors only	16 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T970503
APPLICANT:	Rebecca Carlei
LAND:	Lot 2 PS400704, 1 Alber Road, Beaconsfield Upper
PROPOSAL:	Amendment to Condition 4 of T970503-1 to increase patron hours
PLANNING CONTROLS:	Green Wedge A Zone – Schedule 1 (GWAZ1) Bushfire Management Overlay (BMO), Environmental Significance Overlay – Schedule 1 (ES01)
NOTIFICATION & OBJECTIONS:	The application was advertised pursuant to Section 52 of the <i>Planning and Environment Act 1987</i> , by sending notices to adjoining and surrounding land owners and occupiers and by placing one (1) sign on the site. The advertising was undertaken correctly and the Statutory Declaration was received 9 December, 2015. Six (6) objections were received.
KEY PLANNING CONSIDERATIONS:	Hours of operation, objections received
RECOMMENDATION:	It is recommended that the application be supported to amend Condition 4 of the permit, to allow increased hours at the property

BACKGROUND:

Planning permit T970503 was issued 19 November, 1997 which allowed for the use and development of the land as a Rural Industry (Winery) generally in accordance with the approved plan.

Planning Permit T970503 was amended 26 November, 1998 to become T970503A. Condition 4 was amended and an additional condition included.

Planning Permit T000931 was issued 6 December, 2000 which allowed for the use and development of the land for the purpose of extending the existing winery building generally in accordance with the approved plans.

Planning Permit T020544 was issued 19 December, 2002 which allowed for the use of the land for the purpose of viticulture and a winery and for the construction of buildings and works associated with the land for use of a bed and breakfast accommodation for a winery, in accordance with the endorsed plan/s.

Planning Permit T020544 was amended 9 September, 2010 at the direction of VCAT. VCAT ordered that the permit be amended by the deletion of Condition 1 (f), change the wording of Condition 1 (e) and renumber conditions accordingly.

Planning Permit T060798 was issued 4 June, 2007 which allowed for the development of the land for the purpose of buildings and works that include a concrete pavement area.

SUBJECT SITE

Lot 2 PS400704 is located on the southern side of Alber Road. A crossover is located across the front of the site (northern boundary) and there are no known easements located on the property. The site currently contains a large shed (store), several small buildings and the main winery building. The topography of the land slopes down from the north to the south-west of the site. Vines exist to the south and the east of the site.

The main characteristics of the surrounding area are:

- **North:** Alber Road forms the northern property boundary. To the north of Alber Road, two rural/residential lots exist. Both contain residential dwellings and ancillary development.
- **South:** Residential properties exist to the south of the site. The allotments front Grant Court, which is located further to the south.
- **East:** Residential properties and the Pine Grove Hotel exist to the east of the site. The allotments front Stoney Creek Road, which is located further to the east.
- **West:** A property also owned by the applicant exists to the west, which is run in-conjunction with the subject site. Further to the west a rural /residential property exists. The property contains a residential dwelling and ancillary development, vegetation exists along the shared boundary.

PROPOSAL

The applicant has applied under Section 72 of the Planning and Environment Act 1987 to amend planning permit T970503-A by extending the operating hours.

Currently Condition 4 of Planning Permit T970503-A reads as follows:

The sale of wine from the premises associated with the use may only occur between the hours of:

Monday – Friday	9.00am to 6.00pm
Saturday & Public Holidays	9.00am to 8.00pm
Sunday	10.00am to 6.00pm

Notwithstanding the above, the premises may also be open to the public until 11.00pm for promotional events or the like on twelve (12) occasions only per annum.

The application requests an increase in opening hours to:

Monday to Sunday 10.00am to 11.00pm

The application states that the reason behind the proposed extension to trading hours is due to an increasing number of both domestic and international clients seeking to visit the winery outside of normal business hours which is restricting trade. Business opportunities for the winery are increasing with China and the proposed extension of hours is requested to enable Chinese delegates to visit the site and undertake business discussions. The applicant has stated that the request is only for a change to operational hours and not for any buildings and works; and that they expect there to be no changes to noise, traffic or environmental impacts.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 17.01-1 Business
- Clause 19.02-3 Cultural Activities

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01-4 Strategic vision
- Clause 21.04-5 Tourism
- Clause 21.07-5 Upper Beaconsfield

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.27 Licence premises
- Clause 52.43 Live music and entertainment noise

Zone

The land is subject to the Green Wedge A Zone – Schedule 1 (GWAZ1)

Overlays

The land is subject to the following overlays:

- Bushfire Management Overlay (BMO)

- Environmental Significance Overlay – Schedule 1 (ES01)

PLANNING PERMIT TRIGGERS

The proposal for an amended permit to increase the hours of operation to sell wine requires a planning permit under the following clauses of the Cardinia Planning Scheme and sections of the *Planning and Environment Act 1987*:

- Pursuant to Section 72 of the *Planning and Environment Act 1987* person who is entitled to use or develop land in accordance with a permit may apply to the Responsible Authority for an amendment to the permit.
- Pursuant to Clause 35.05-1 a permit is required to use the land for a Section 2 use (winery is an unspecified land use, which is not listed as prohibited).

PUBLIC NOTIFICATION

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

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

The notification has been carried out correctly, and Council has received eight (8) objections to date.

The key issues that were raised in the objections are:

- Hours of opening proposed are excessive (too late, unnecessary)
- Loss of amenity for surrounding residents (late hours, increased noise and production, yard lights shining into properties)
- Concern that extending opening hours will allow increase of production/processing on site (which leads to increased noise, increased vehicles, loss of amenity)
- Existing noise concerns and late night processing/operations (processing machinery, forklifts, moving pallets are loud already and potential to increase at night if hours are extended)
- Lack of consideration for property owners with common boundaries and lack of communication between neighbours (fireworks being set off, residents not given warning about spraying, noise from spraying)
- Existing issues associated with smell, maintenance of the site (lack of mowing, fire hazards, spraying of crops)
- Was originally meant to be a boutique winery not a production facility (most grapes are brought into the site, no harvesting from the site)
- Commercial winery operation boarding close to residential properties, should have required a buffer zone.
- Pine Grove Pub opening hours are limited – why is winery different?
- Winery ignores permit conditions and directives of VCAT
- There will be no increased local employment opportunities.

REFERRALS

Emerald Police

Emerald Police have advised they have no objection to the proposal.

There were no other external or internal referrals.

DISCUSSION

State and Local Planning Policy Frameworks, and Green Wedge A Zone

It is considered that the proposal is consistent with most of the relevant policies of the State and Local Planning Policies including the Municipal Strategic Statement and the Cardinia Shire Vision, and with the purposes of the Green Wedge A Zone.

The winery is contributing to the tourism industry within the hills area of the Shire and is a permit issued rural land use within the Green Wedge A Zone. The Planning Permits issued for the winery included conditions to regulate the hours during which processing and manufacturing can occur to provide a reasonable level of amenity for existing residents. The proposal is to extend the opening hours during which wine can be sold, which can be regulated through an appropriate condition to ensure this aspect of the winery does not cause material detriment.

Overall the proposed extension to opening hours for the sale of wine is considered to be in keeping with the requirements and purposes of the relevant State and Local Planning Policy objectives and the purposes of the Green Wedge A Zone.

Extension to operating hours:

The applicant has applied under Section 72 of the Planning and Environment Act 1987 to amend planning permit T970503-A by extending the hours during which wine can be sold.

Currently Condition 4 of Planning Permit T970503-A reads as follows:

The sale of wine from the premises associated with the use may only occur between the hours of:

<i>Monday – Friday</i>	<i>9.00am to 6.00pm</i>
<i>Saturday & Public Holidays</i>	<i>9.00am to 8.00pm</i>
<i>Sunday</i>	<i>10.00am to 6.00pm</i>

Notwithstanding the above, the premises may also be open to the public until 11.00pm for promotional events or the like on twelve (12) occasions only per annum.

The application requests an increase in opening hours to:

Monday to Sunday 10.00am to 11.00pm

Council Officers discussed the application with the applicant to ascertain the reasoning behind the request for extension of the hours and to determine what hours might be appropriate for the site. The applicant advised that they are currently experiencing an increase in business opportunities in China and that the way business is conducted in China varies significantly to the way business is conducted both domestically and in other international countries. The applicant advised that generally business delegates from China wish to see the operations of the business from the origins

of the grapes, through the manufacturing process and then finally to the production and sale of the wine.

From the applicant's perspective, it is preferable to have these meetings outside of normal trading hours to reduce the impact on the day-to-day experiences of the general public at the winery, by providing a separation between larger and smaller scale business discussions/opportunities.

Council Officers are of the view that the part of Condition 4 which allows the winery to be open to the public until 11.00pm for promotional events or the like on twelve (12) occasions per annum, could be extended to allow twenty four (24) events per annum with a restriction that there only be 50 patrons, no alcohol to be consumed in outdoor areas beyond 9.00pm and that no machinery may be used during these times. This would allow the winery to expand business opportunities, whilst restricting the number of patrons and the potential for external noise. Excluding alcohol consumption beyond 9.00pm in outdoor areas, reduces the potential for excessive patron noise associated with people standing around talking and drinking alcohol. Placing a restriction on the number of patrons allowed on these occasions, provides a level of expectation that these events will not turn into loud and excessive "parties" or functions, and allowing appropriate enforcement action to be undertaken if required.

In order to allay concerns regarding an increase in noise associated with the production, manufacturing and processing of grapes on the land, it is considered relevant to include a condition requiring no machinery to be used during these events (this is to include manufacturing machinery, forklifts etc.).

Objections:

As a result of the advertising, eight (8) objections were received to the application. The issues raised in the objections are considered below:

Hours of opening proposed are excessive (too late, unnecessary)

The application proposed extending the opening hours until 11pm, seven (7) nights per week which was considered by Council officers to be excessive. The applicant was advised that it was unlikely such hours would be supported and it was discussed as to what would be a better alternative to allow some flexibility for the business to operate and conduct business, whilst maintaining and not negatively impacting on the amenity of surrounding land owners and occupiers. It was put forward that Council officers would consider increasing the number of times per annum that wine sales could be undertaken until 11pm from twelve (12) times to twenty four (24) times per year, with restrictions during these times on the number of patrons, restrictions on alcohol being consumed in outdoor areas after 9.00 pm and that no machinery be used during these times, except in accordance with the conditions set out in Planning Permit T020544.

Loss of amenity for surrounding residents (late hours, increased noise and production, yard lights shining into properties, smell, lack of maintenance of the site (mowing), spraying of crops)

The loss of amenity mentioned in the objections appears to relate directly to a concern that the winery is proposing to expand their operations on the site, which may lead to more processing/manufacturing activity on the site. The applicant has applied to amend the condition relating to the sale of wine (contained in Condition 4 of T970503-A) only.

All other conditions of Planning Permits T970503-A and T020544 which relate to manufacturing and processing on the site remain current and are not the subject to this application. Planning Permit T020544 at condition 15 states that crushing of grapes must not occur after 9.00pm and before 8.00am on any day. Condition 16 states that noise levels from the site must not exceed the permissible levels specified in the relevant SEPP or EPA Guideline and noise levels other than grape

harvesting operations must not exceed 40 dB(A) at the southern boundary of the property during the daytime or evening period and 32 dB(A) during the night-time period (10.00pm to 7.00am).

It is considered that a reasonable level of amenity for surrounding residents would be able to be maintained by restricting the number of times per annum the winery can be open until 11pm and by restricting patron numbers, alcohol consumption in outdoor areas and the use of machinery during these times.

With relation to concerns regarding smell, bright yard lights and noise, Condition 14 of Planning Permit T970503-A is relevant and states that:

The amenity of the area must not be detrimentally affected by the use or development, through the:

- The transport of materials, goods or commodities to or from the land;
- Appearance of any buildings, works or materials;
- Emission of noise, artificial light, vibration, small, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or
- Presence of vermin

It is considered that this condition allows for potential enforcement by relevant Council Officers, particularly in relation to smell, lights and noise emissions.

Also in relation to noise associated with manufacturing/processing of grapes, Planning Permit T020544 at condition 15 states that crushing of grapes must not occur after 9.00pm and before 8.00am on any day. Condition 16 states that noise levels from the site must not exceed the permissible levels specified in the relevant SEPP or EPA Guideline and noise levels other than grape harvesting operations must not exceed 40 dB(A) at the southern boundary of the property during the daytime or evening period and 32 dB(A) during the night-time period (10.00pm to 7.00am). It is considered that this condition has been included to provide a level of amenity for surrounding residents, particularly during night-time hours, and allows for potential enforcement by relevant Council Officers.

The maintenance of the site is not directly linked with this proposal to increase the proposed opening hours. It is the permit holder and property owner's responsibility to maintain the site in a manner which reduces fire hazards and risk. However Condition 14 of Planning Permit T970503-A specifically addresses the amenity of the area not being detrimentally affected by the use or development and as such this can also be addressed through appropriate enforcement action.

Winery ignores permit conditions and directives of VCAT

The conditions on Planning Permit T970503-A and on the VCAT issued Planning Permit T020544 provide a valid tool for enforcement to ensure the winery is operating within the confines of both planning permits.

Existing noise concerns and late night processing/operations (processing machinery, forklifts, moving pallets are loud already and potential to increase at night if hours are extended)

With regards to late night processing and operations allegedly occurring on the site, both planning permits T970503-A and T020544 contain conditions to control the manufacturing, processing and operations associated with the winery and the times during which produce may be processed. These conditions are enforceable under planning controls and were included on the permits to allow the operation of the winery whilst still maintaining a reasonable level of amenity of the surrounding residents.

In this situation, the applicant is not seeking to amend any conditions relating to processing, manufacturing or operations on the site, rather they have applied to amend the condition relating to the sale of wine (contained in Condition 4 of T970503-A) only and as such this is what must be considered. Council Officers are of the view that the proposed amendment to Condition 4 of

Planning Permit T970503-A will ensure that a reasonable level of amenity is afforded to surrounding residents by way of minimising the number of times the venue can be open until 11pm, by restricting consumption of alcohol in outdoor areas (to keep associated noise inside the venue) and by restricting the use of machinery/processing equipment during these times. The proposed amendment to the condition will allow means to undertaken appropriate enforcement action, if required.

Lack of consideration for property owners with common boundaries and lack of communication between neighbours (fireworks being set off, residents not given warning about spraying, noise from spraying)

These are civil matters between property owners and the relevant guidelines of the Environmental Protection Authority (EPA) are applicable.

Commercial winery operation boarding close to residential properties should have required a buffer zone.

There are no listed recommended separation distances for wineries near sensitive land uses. The land is located within a Green Wedge A Zone and rural land uses are encouraged in these areas. There must also be a balance between rural land uses and residential land uses, as everyone is entitled to a reasonable level of amenity. It is considered that when the winery was established it complied with the relevant guidelines of the time, and that all associated practices must be in accordance with the relevant EPA guidelines, particularly with regards to noise, smell and spraying of crops.

Was originally meant to be a boutique winery not a production facility (most grapes are brought into the site, no harvesting from the site)

While the original intent of the application may have been to operate as a “boutique winery”, the planning permits issued to the land detail the operations which may occur on the site. The conditions of the permit do not specify where the grapes must be sought from.

Planning Permit T970503-A detailed at Condition 6 that no more than thirty (30) tons of produce may be processed on the land and no more than twenty thousand (20, 000) bottles may be sold either through the cellar door outlet or sold wholesale from the property without further permission of the Responsible Authority. While Planning Permit T020544, at Condition 6 allows no more than 200 tonnes per annum to be produced from the winery without the further written consent of the responsible authority.

It is Council officers view that this is not relevant in the consideration of this proposal to change the hours during which wine can be sold.

Pine Grove Pub opening hours are limited – why is winery different?

The current liquor license for the Pine Grove Hotel, which is located to the east of the site, allows on-site liquor consumption on Sundays until 11:30pm and on other days (excluding public holidays and special events) up until midnight. If the Hotel chooses to close at an earlier time, that is at their discretion.

Council officers recommend that Condition 4 of the permit be amended to allow twenty four (24) occasions per annum where trading can extend to 11.00pm, but that this be restricted to only allow 50 patrons, no alcohol to be consumed in outdoor areas after 9.00pm and to restrict the use of machinery (including but not limited to forklifts, trucks and manufacturing/processing machinery).

It is Council officer’s view that the impacts of later opening hours for the sale of wine at a winery would not have the same impact as that of a Hotel which is a more concentrated land use and that the above amendment would allow for the protection of the amenity of the area.

There will be no increased local employment opportunities.

The proposed amendment is in relation to amending Condition 4 of the permit by extending the opening hours for the sale of wine and or promotional events at the site. Whether the permit holder chooses to employ local employees or not is at their discretion, provided they comply with the conditions of the existing permit. Planning controls do not cover employment of workers and as such, while the applicant may have mentioned a desire to employ locals, this is not a relevant planning consideration of this proposal.

CONCLUSION

It is considered that the application to amend Planning Permit T970503-A is consistent with the requirements of the Cardinia Planning Scheme and should be approved subject to the amendment to conditions outlined below.

CONDITIONS

It is recommended that Condition 4 of Planning Permit T970503-A be amended to read:

Condition 4:

The sale of wine from the premises associated with the use may only occur between the hours of:

Monday – Friday	9.00am to 6.00pm
Saturday & Public Holidays	9.00am to 8.00pm
Sunday	10.00am to 6.00pm

Notwithstanding the above, the premises may also be open to the public until 11.00pm for promotional events or the like on twenty four (24) occasions only per annum. During these times:

- No more than fifty (50) patrons may be in attendance;
- No alcohol may be consumed in outdoor areas after 9.00pm; and
- The use of machinery (including, but not limited to, forklifts & manufacturing machinery/equipment) is prohibited, except in accordance with the conditions of Planning Permit T020544.

FULL CONDITIONS WITH AMENDMENTS TO BE PLACED ON THE AMENDED PERMIT:

1. The use and development must not be commenced until three (3) copies of amended plans have been submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions. The plans must be submitted within two (2) years of the date of the permit. When approved the plans will form part of the permit. The plans must be generally in accordance with the submitted plans but modified to show car parking facilities which can accommodate four (4) visitor car spaces to the satisfaction of the Responsible Authority.
2. The layout of the site and the size of the proposed buildings and works, as shown on the approved plan, shall not be altered or modified without the consent in writing of the Responsible Authority.
3. The buildings must not be occupied and the uses must not be commenced until the areas set aside for car parking and access lanes as shown on the approved plan/s have been:

- (i) paved with crushed rock or gravel or adequate thickness as necessary to prevent the formation of potholes and depressions according to the nature of sub grade and vehicles which will use the areas;
- (ii) drained;
- (iii) treated to prevent dust emissions;

to the satisfaction of the responsible authority. The car parking area shall be maintained in accordance with these requirements once constructed.

4. The sale of wine from the premises associated with the use may only occur between the hours of:

Monday – Friday	9.00am to 6.00pm
Saturday & Public Holidays	9.00am to 8.00pm
Sunday	10.00am to 6.00pm

Notwithstanding the above, the premises may also be open to the public until 11.00pm for promotional events or the like on twenty four (24) occasions only per annum. During these times:

- No more than fifty (50) patrons may be in attendance;
 - No alcohol may be consumed in outdoor areas after 9.00pm; and
 - The use of machinery (including, but not limited to, forklifts & manufacturing machinery/equipment) is prohibited, except in accordance with the conditions of Planning Permit T020544.
5. No more than three (3) persons shall be occupied or employed in the operation of the industry without the further written permission of the responsible authority.
 6. In every year no more than thirty (30) tons of produce may be processed on the land and no more than twenty thousand (20,000) bottles may be sold either through the cellar door outlet or sold wholesale from the property without the further written permission of the Responsible Authority.
 7. Prior to the commencement of works plans which provide details of the processing and bottling area must be provided to the satisfaction of the responsible authority.
 8. The premises are to be constructed so as to comply with the Food Act and the requirements of the responsible authority.
 9. The premises must be registered with responsible authority as a food premises.
 10. Any wastewater produced is to be disposed of in a manner approved by the Responsible Authority.
 11. All stormwater discharged from the site must be conveyed by means of drains to satisfactory points or areas of discharge approved by the responsible authority so that it will not detrimentally effect the health and welfare of the community or prejudicially affect the amenity of the locality.
 12. Within three (3) months of the completion of the building, the area between the barn and the western boundary must be planted with trees and shrubs indigenous to the area. Once planted the trees and shrubs must be maintained in a healthy condition to the satisfaction of the Responsible Authority.

13. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be carried on entirely within the site and be so conducted as to cause minimum interference with other traffic.
14. 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, waste water, waste products, grit or oil; or
 - (d) Presence of vermin
15. No advertising sign shall be erected, painted or displayed on the land or any nearby road without the permission of the responsible authority.
16. Only wine which is processed on the land may be sold from the premises.
17. This permit will expire if.
 - (a) the use and development is not commenced within two (2) years of the date of this permit; or
 - (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 before the permit expires or within three (3) months afterwards.

1 AMENDED PERMIT APPLICATION TO INCREASE HOURS OF OPERATION AT 1 ALBER ROAD, BEACONSFIELD UPPER

Moved Cr T Baxter Seconded Cr B Owen

That a Notice of Decision to Grant Amended Permit T970503-2 be issued to amend Condition 4 in association with the use and development of the land as a Rural Industry (Winery) in respect of the land known and described as Lot 2 PS400704, 1 Alber Road, Beaconsfield Upper subject to the following conditions:

- 4 a) The sale of wine from the premises associated with the use may only occur between the hours of:

Monday – Friday	9:00am to 6:00pm
Saturday & Public Holidays	9:00am to 8:00pm
Sunday	10:00am to 6:00pm

- b) Notwithstanding the above, the premises may also be open to the public until 11:00pm for promotional events or the like on, no more than twenty four (24) occasions per annum.
- c) During the times referred to in 4b):
- No more than fifty (50) patrons may be in attendance;
 - No alcohol may be consumed in outdoor areas after 9:00pm; and
 - The use of machinery (including, but not limited to, forklifts & manufacturing machinery/equipment) is prohibited, except in accordance with the conditions of Planning Permit T020544; and
 - The permit holder must maintain a log of the dates, nature of events and the hours of being open to the public, and must provide the log to the Responsible Authority upon request, and within 15 days of the end of each quarter, namely Quarter 1 – January – March, Quarter 2 – April – June, Quarter 3 – July – September, Quarter 4 – October to December, of each calendar year.

and that an additional condition be inserted, (and for existing conditions 14 – 17 to be renumbered accordingly), to read:

14. All external floodlighting should be effectively hooded to eliminate light spillage onto neighbouring properties.

FULL CONDITIONS WITH AMENDMENTS TO BE PLACED ON THE AMENDED PERMIT:

1. The use and development must not be commenced until three (3) copies of amended plans have been submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions. The plans must be submitted within two (2) years of the date of the permit. When approved the plans will form part of the permit. The plans must be generally in accordance with the submitted plans but modified to show car parking facilities which can accommodate four (4) visitor car spaces to the satisfaction of the Responsible Authority.
2. The layout of the site and the size of the proposed buildings and works, as shown on the approved plan, shall not be altered or modified without the consent in writing of the Responsible Authority.
3. The buildings must not be occupied and the uses must not be commenced until the areas set

aside for car parking and access lanes as shown on the approved plan/s have been:

- (i) paved with crushed rock or gravel or adequate thickness as necessary to prevent the formation of potholes and depressions according to the nature of sub grade and vehicles which will use the areas;
- (ii) drained;
- (iii) treated to prevent dust emissions;

to the satisfaction of the responsible authority. The car parking area shall be maintained in accordance with these requirements once constructed.

- 4 a) The sale of wine from the premises associated with the use may only occur between the hours of:

Monday – Friday	9:00am to 6:00pm
Saturday & Public Holidays	9:00am to 8:00pm
Sunday	10:00am to 6:00pm

- b) Notwithstanding the above, the premises may also be open to the public until 11:00pm for promotional events or the like on, no more than twenty four (24) occasions per annum.
- c) During the times referred to in 4b):
 - No more than fifty (50) patrons may be in attendance;
 - No alcohol may be consumed in outdoor areas after 9:00pm; and
 - The use of machinery (including, but not limited to, forklifts & manufacturing machinery/equipment) is prohibited, except in accordance with the conditions of Planning Permit T020544; and
 - The permit holder must maintain a log of the dates, nature of events and the hours of being open to the public, and must provide the log to the Responsible Authority upon request, and within 15 days of the end of each quarter, namely Quarter 1 – January – March, Quarter 2 – April – June, Quarter 3 – July – September, Quarter 4 – October to December, of each calendar year.4.
5. No more than three (3) persons shall be occupied or employed in the operation of the industry without the further written permission of the responsible authority.
6. In every year no more than thirty (30) tons of produce may be processed on the land and no more than twenty thousand (20,000) bottles may be sold either through the cellar door outlet or sold wholesale from the property without the further written permission of the Responsible Authority.
7. Prior to the commencement of works plans which provide details of the processing and bottling area must be provided to the satisfaction of the responsible authority.
8. The premises are to be constructed so as to comply with the Food Act and the requirements of the responsible authority.
9. The premises must be registered with responsible authority as a food premises.
10. Any wastewater produced is to be disposed of in a manner approved by the Responsible Authority.
11. All stormwater discharged from the site must be conveyed by means of drains to satisfactory points or areas of discharge approved by the responsible authority so that it will not detrimentally effect the health and welfare of the community or prejudicially affect the amenity

of the locality.

12. Within three (3) months of the completion of the building, the area between the barn and the western boundary must be planted with trees and shrubs indigenous to the area. Once planted the trees and shrubs must be maintained in a healthy condition to the satisfaction of the Responsible Authority.
13. The loading and unloading of vehicles and the delivery of goods to and from the premises must at all times be carried on entirely within the site and be so conducted as to cause minimum interference with other traffic.
14. All external floodlighting should be effectively hooded to eliminate light spillage onto neighbouring properties.
15. 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, waste water, waste products, grit or oil; or
 - (d) Presence of vermin
16. No advertising sign shall be erected, painted or displayed on the land or any nearby road without the permission of the responsible authority.
17. Only wine which is processed on the land may be sold from the premises.
18. This permit will expire if.
 - (a) the use and development is not commenced within two (2) years of the date of this permit; or
 - (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 before the permit expires or within three (3) months afterwards.

Cd.

2 SUBDIVISION OF LAND INTO TWO (2) LOTS AT 2 ROBIN COURT PAKENHAM

FILE REFERENCE INT163554

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Vageesha Wellalage

RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T150548 be issued for subdivision of the land into two (2) lot at L112 LP122845 2 Robin Court, Pakenham subject to the conditions attached to this report.

Attachments

1	Locality plan	1 Page
2	Development plans	3 Pages
3	Confidential letters of objection circulated to councillors only	5 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:

APPLICATION NO.: T150548

APPLICANT: Chad Shooter

LAND: L112 LP122845 ; 2 Robin Court Pakenham

PROPOSAL: Subdivision of land into two (2) lots

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

NOTIFICATION & OBJECTIONS: The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by sending notices to the owners and occupiers of adjoining land. Council has received five (5) objections to date.

KEY PLANNING CONSIDERATIONS: Consistency with the neighbourhood character

RECOMMENDATION: approval subject to conditions

BACKGROUND:

There is no relevant planning permit history for the site.

SUBJECT SITE

The site is located on the north side of 2 Robin Court Pakenham.

A crossover is located on the southern alignment of the site and the site is not affected by any easements.

The site currently contains an existing dwelling and an outbuilding.

The topography of the land slopes gently from north to south

The main characteristics of the surrounding area are:

North/East/West The adjacent sites to the northern, eastern and western side have been developed for residential purposes and each of the properties contain a dwelling and associated outbuildings

South Access Road (Robin Court)

PROPOSAL

The application proposes to subdivide the subject site into two (2) allotments.

The subject site is approximately 981 square metres in size and will be subdivided into two allotments that are 438 square metres and 551 square metres in size. The proposed Lot 1 will contain the existing dwelling and the proposed Lot 2 will be created as a battle axe block.

Access to the proposed Lot 2 will be provided via extended existing driveway from Robin Court. An easement along the northern boundary and a small portion of the eastern boundary of the proposed Lot 2 has been created (E-1) for drainage and sewerage purposes in favour of both Lot 1 and Lot 2.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 16.01-2 Location of residential development
- Clause 16.01-4 Housing diversity
- Clause 16.01-5 Housing affordability

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.03-1 Housing

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 56 Residential Subdivision
- Clause 65 Decision Guidelines

Zone

The land is subject to the General Residential Zone

Overlays

The land is subject to the following overlays:

- Development Contributions Plan Overlay Schedule 1

PLANNING PERMIT TRIGGERS

The proposal for subdivision of land into two (2) lots requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.08-2 a planning permit is required to subdivide land.

PUBLIC NOTIFICATION

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

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

The notification has been carried out correctly, and Council has received five (5) objections to date.

The key issues that were raised in the objections are:

- The proposed subdivision is not consistent with the existing development pattern in Robin Court
- Increased traffic and its effects on young children playing on the street.

REFERRALS

There were no external referrals required for the application.

DISCUSSION

The application has been assessed against all relevant Clauses of the Cardinia Planning Scheme and determined to be appropriate for the site.

The subject site is located within an established residential area. Robin Court has approximately 11 properties which have been developed for residential purposes and contains a single dwelling on each allotment. The subdivision creates an opportunity for an infill development. The proposed Lot 1 has an existing single storey brick dwelling. The proposed Lot 2 is capable of containing a building envelope with a minimum width of 10 metres by 15 metres. Any future dwelling that will be built on the proposed lot will be required to be in compliance with the relevant building regulations in terms of setbacks, building heights and overlooking.

An easement has been created as part of this subdivision along the northern and small part of the eastern alignment of the site. The easement is created in favour of both the proposed lots for drainage and sewerage purposes. It has a width of 3 metres.

While it is acknowledged that no other lots in Robin Court have been further subdivided in the manner proposed, there are a number of examples of similar subdivisions occurring in the

surrounding area. As such, the proposal is considered to be consistent with neighbourhood character. Furthermore, the General Residential Zone seeks to encourage development that respects the neighbourhood character, and provide opportunities for housing diversity, which this proposal creates.

Clause 56 Assessment

The proposal is consistent with the requirements of the Clause 56 of the Cardinia Planning Scheme. A detailed assessment against the clause 56 is attached with the report.

Public Open Space

A person who proposes to subdivide land must make a contribution to the Responsible Authority for public open space if the subdivision involves three or more lots. Clause 52.01 sets out exemptions for a public open space contribution which apply in this instance. Council officers are satisfied that the proposed lots are unlikely to be further subdivided and as such a public open space contribution is not required.

Objector's concerns

- Potential for the area to be converted to high density area

The objectors are concerned that the re-subdivisions of the existing allotments into smaller size blocks would change the existing development pattern of single dwelling per lot with larger block sizes. The General Residential Zone does not specify a minimum subdivision lot. The proposed subdivision only creates two lots and they are between 400-500 square metres in size. These block sizes are similar to the lot sizes that are being created within the new estates across the shire. Therefore, it is Council officer's view that the proposed lot sizes are consistent with requirements of the zone. In addition to that, the proposed subdivision is consistent with the urban consolidation policies within the Cardinia Planning Scheme which encourage infill developments within the established residential areas.

- Increase of traffic, noise and street parking

The proposal is for a subdivision and does not contain a development component. However, it is not expected that an increase in one dwelling would increase traffic within Robin Court to unacceptable levels.

Any future dwelling within the proposed Lot 2 will have to provide onsite car parking depending on the number of bedrooms in accordance with the building regulations. Therefore, it is not expected that the future dwelling will attract any significant on street parking.

- Loss of privacy and overlooking

As mentioned above, this application does not contain a development component however, it is considered that the any future dwelling that will be built on the proposed Lot 2 will have to meet the relevant building regulations including the building height, setback from the boundaries in comparison to the building height and any overlooking issues. Therefore, it is unlikely that the subdivision would create the above mentioned issues.

- Devaluation of property

It has been established in VCAT that devaluation of properties is not a planning consideration.

CONCLUSION

As discussed above, the proposed subdivision is considered to be consistent with the requirements of the Cardinia Planning Scheme and therefore should be approved with conditions listed below.

CONDITIONS

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

Expiry of permit:

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

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.

Footnotes:

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

Clause 56 Assessment – 2 lot subdivision

Application No: T150361

Address: 3/38 Lakeside Boulevard Pakenham

Standards of Clause 56 of the Cardinia Planning Scheme Subdivisions.	Comments
<p>CLAUSE 56.03-5 - STANDARD C6: Neighbourhood character objective To design subdivisions that respond to neighbourhood character. Standard C6 Subdivision should:</p> <ul style="list-style-type: none"> • Respect the existing neighbourhood character or achieve a preferred neighbourhood character consistent with any relevant neighbourhood character objective, policy or statement set out in this scheme. • Respond to and integrate with the surrounding urban environment. • Protect significant vegetation and site features. 	<p><i>Complies</i></p> <p><i>The subject land is within a residential area which has a diverse range of lot sizes. Therefore, the proposed two lots are considered consistent with the various lot sizes and the neighbourhood character of the area.</i></p>
<p>CLAUSE 56.04-2 - STANDARD C8: Lot area and building envelopes objective To provide lots with areas and dimensions that enable the appropriate siting and construction of a dwelling, solar access, private open space, vehicle access and parking, water management, easements and the retention of significant vegetation and site features. Standard C8 An application to subdivide land that creates lots of less than 300 square metres should be accompanied by information that shows:</p> <ul style="list-style-type: none"> • That the lots are consistent or contain building envelope that is consistent with a development approved under this scheme, or • That a dwelling may be constructed on each lot in accordance with the requirements of this scheme. <p>Lots of between 300 square metres and 500 square metres should:</p> <ul style="list-style-type: none"> • Contain a building envelope that is consistent with a development of the lot approved under this scheme, or • If no development of the lot has been approved under this scheme, contain a building envelope and be able to contain a rectangle measuring 10 metres by 15 metres, or 9 metres by 15 metres if a boundary wall is nominated as part of the building envelope. <p>If lots of between 300 square metres and 500 square metres are proposed to contain dwellings that are built to the boundary, the long axis of the lots should be within 30 degrees east and 20 degrees west of north unless there are significant physical constraints that make this difficult to achieve.</p> <p>Lots greater than 500 square metres should be able to contain a rectangle measuring 10 metres by 15 metres, and may contain a building envelope. A building envelope may specify or incorporate</p>	<p><i>Complies</i></p> <p><i>The proposed Lot 1 contains an existing dwelling and the proposed Lot 2 is capable of accommodating a building envelope of at least 15*10 metres.</i></p>

<p>any relevant siting and design requirement. Any requirement should meet the relevant standards of Clause 54, unless:</p> <ul style="list-style-type: none"> • The objectives of the relevant standards are met, and • The building envelope is shown as a restriction on a plan of subdivision registered under the Subdivision Act 1988, or is specified as a covenant in an agreement under Section 173 of the Act. <p>Where a lot with a building envelope adjoins a lot that is not on the same plan of subdivision or is not subject to the same agreement relating to the relevant building envelope:</p> <ul style="list-style-type: none"> • The building envelope must meet Standards A10 and A11 of Clause 54 in relation to the adjoining lot, and • The building envelope must not regulate siting matters covered by Standards A12 to A15 (inclusive) of Clause 54 in relation to the adjoining lot. This should be specified in the relevant plan of subdivision or agreement. <p>Lot dimensions and building envelopes should protect:</p> <ul style="list-style-type: none"> • Solar access for future dwellings and support the siting and design of dwellings that achieve the energy rating requirements of the Building Regulations. • Existing or proposed easements on lots. • Significant vegetation and site features. 	
<p>CLAUSE 56.04-3 - STANDARD C9: Solar orientation of lots objective</p> <p>To provide good solar orientation of lots and solar access for future dwellings.</p> <p>Standard C9</p> <p>Unless the site is constrained by topography or other site conditions, at least 70 percent of lots should have appropriate solar orientation. Lots have appropriate solar orientation when:</p> <ul style="list-style-type: none"> • The long axis of lots are within the range north 20 degrees west to north 30 degrees east, or east 20 degrees north to east 30 degrees south. • Lots between 300 square metres and 500 square metres are proposed to contain dwellings that are built to the boundary, the long axis of the lots should be within 30 degrees east and 20 degrees west of north. • Dimensions of lots are adequate to protect solar access to the lot, taking into account likely dwelling size and the relationship of each lot to the street. 	<p><i>Complies</i></p> <p><i>Both the lots have sufficient solar orientation.</i></p>
<p>CLAUSE 56.04-5 - STANDARD C11: Common area objectives</p> <p>To identify common areas and the purpose for which the area is commonly held.</p> <p>To ensure the provision of common area is appropriate and that necessary management arrangements are in place.</p> <p>To maintain direct public access throughout the neighbourhood street network.</p> <p>Standard C11</p> <p>An application to subdivide land that creates common land must be accompanied by a plan and a report identifying:</p> <ul style="list-style-type: none"> • The common area to be owned by the body corporate, 	<p><i>Complies</i></p> <p><i>No common areas proposed.</i></p>

<p>including any streets and open space.</p> <ul style="list-style-type: none"> • The reasons why the area should be commonly held. • Lots participating in the body corporate. • The proposed management arrangements including maintenance standards for streets and open spaces to be commonly held. 	
<p>CLAUSE 56.06-8 - STANDARD C21: Lot access objective To provide for safe vehicle access between roads and lots.</p> <p>Standard C21 Vehicle access to lots abutting arterial roads should be provided from service roads, side or rear access lanes, access places or access streets where appropriate and in accordance with the access management requirements of the relevant roads authority. Vehicle access to lots of 300 square metres or less in area and lots with a frontage of 7.5 metres or less should be provided via rear or side access lanes, places or streets. The design and construction of a crossover should meet the requirements of the relevant road authority.</p> <p>Table C1 Design of roads and neighbourhood streets</p> <p>Access Lane A side or rear lane principally providing access to parking on lots with another street frontage.</p> <ul style="list-style-type: none"> ○ Traffic volume: 300vpd ○ Target speed: 10kph ○ Carriageway width³ & parking provision within street reservation: 5.5m wide with no parking spaces to be provided; Appropriately signed. ○ Verge width: No verge required. ○ Kerbing ○ Footpath provision: None, Carriageway designed as a shared zone and appropriately signed. ○ Cycle path provision: None <p>Access Place A minor street providing local residential access with shared traffic, pedestrian and recreation use, but with pedestrian priority.</p> <ul style="list-style-type: none"> ○ Traffic volume: 300vpd to 1000vpd ○ Target speed: 15kph ○ Carriageway width³ & parking provision within street reservation: 5.5m wide with 1 hard standing verge parking space per 2 lots or 5.5m wide with parking on carriageway - one side; Appropriately signed. ○ Verge width: 7.5m minimum total width. For services provide a minimum of 3.5m on one side and a minimum of 2.5m on the other. ○ Kerbing: Semi-mountable rollover or flush and swale or other water sensitive urban design treatment area. ○ Footpath provision: Not required if serving 5 dwellings or less and the carriageway is designed as a shared zone and appropriately signed or 1.5m wide footpath offset a minimum distance of 1m from the kerb. ○ Cycle path provision: None <p>Access Street - Level 1 A street providing local residential access where traffic is</p>	<p>Complies</p> <p>None of the lots abuts an arterial road</p>

subservient, speed and volume are low and pedestrian and bicycle movements are facilitated.

- **Traffic volume:** 1000vpd to 2000vpd
- **Target speed:** 30kph
- **Carriageway width³ & parking provision within street reservation:** 5.5m wide with¹ hard standing verge parking space per 2 lots.
- **Verge width:** 4m minimum each side
- **Kerbing⁵** Semi-mountable rollover or flush and swale or other water sensitive urban design treatment area.
- **Footpath provision:** 1.5m wide footpaths on both sides. Footpaths should be widened to 2.0m in vicinity of a school, shop or other activity centre. Be offset a minimum distance of 1m from the kerb.
- **Cycle path provision:** Carriageway designed as a shared zone and appropriately signed.

Access Street - Level 2

A street providing local residential access where traffic is subservient, speed and volume are low and pedestrian and bicycle movements are facilitated.

- **Traffic volume:** 2000vpd to 3000vpd
- **Target speed:** 40kph
- **Carriageway width³ & parking provision within street reservation:** 7m-7.5m⁷ wide with parking on both sides of carriageway
- **Verge width:** 4.5m minimum each side
- **Kerbing⁵** Semi-mountable rollover or flush and swale or other water sensitive urban design treatment area.
- **Footpath provision:** 1.5m wide footpaths on both sides. Footpaths should be widened to 2.0m in vicinity of a school, shop or other activity centre. Be offset a minimum distance of 1m from the kerb.
- **Cycle path provision:** Carriageway designed as a shared zone and appropriately signed.

Connector Street - Level 1

A street that carries higher volumes of traffic. It connects access places and access streets through and between neighbourhoods.

- **Traffic volume:** 3000vpd
- **Target speed:** 50kph⁸ reduced to 40kph at schools and 20kph at pedestrian and cycle crossing points.
- **Carriageway width³ & parking provision within street reservation:** 6m-6.5m wide with indented parking on both sides on a bus route, or 7m-7.5m wide with indented parking on one side and kerbside parking opposite on a bus route, or 7.2m-7.5m wide with parking on both sides of carriageway.
- **Verge width:** 4.5m minimum each side with adequate road reserve width for widening for future bus route if required.
- **Kerbing:** Layback or flush and swale or other water sensitive urban design treatment area.
- **Footpath & cycle path provision:** 2.5m wide shared path on each side or 1.5m wide footpath on each side and 1-1.5m cycle lane marked on carriageway on each side.

<p>Connector Street - Level 2 A street that carries higher volumes of traffic. It connects access places and access streets through and between neighbourhoods.</p> <ul style="list-style-type: none"> ○ Traffic volume: 3000vpd to 7000vpd ○ Target speed: 60kph⁹ ○ Carriageway width³ & parking provision within street reservation: 2 x 5.5m wide carriageways with central median. Parallel parking should be provided in locations that allow cars to exit in a forward direction or 7.2m-7.5m wide carriageway with indented parking on both sides and turning lanes at intersections with other Level 2 connector Streets and Arterial Roads. Bus bays to be indented. ○ Verge width⁴ 6m minimum each side (plus central median). ○ Kerbing⁵ Layback or flush and swale or other water sensitive urban design treatment area. ○ Footpath & cycle path provision: 2.5m wide shared path on each side Or 1.5m wide footpath on each side and 1-1.5m cycle lane marked on carriageway on each side appropriately signed. <p>Arterial Road</p> <ul style="list-style-type: none"> ○ Traffic volume: Greater than 7000vpd ○ Target speed: Arterial road design as required by the relevant roads authority. ○ Carriageway width³ & parking provision within street reservation: Arterial road design as required by the relevant roads authority. ○ Verge width⁴ Arterial road design as required by the relevant roads authority. ○ Kerbing⁵ Arterial road design as required by the relevant roads authority. ○ Footpath & cycle path provision: 2.5m wide shared path on each side or as otherwise required by the relevant roads authority. 	
<p>CLAUSE 56.07-1 - STANDARD C22: Drinking water supply objectives To reduce the use of drinking water. To provide an adequate, cost-effective supply of drinking water. Standard C22 The supply of drinking water must be:</p> <ul style="list-style-type: none"> • Designed and constructed in accordance with the requirements and to the satisfaction of the relevant water authority. • Provided to the boundary of all lots in the subdivision to the satisfaction of the relevant water authority. 	<p>Complies</p> <p>Both lots will be connected to reticulated water supply to the satisfaction of the relevant authority.</p>
<p>CLAUSE 56.07-2 - STANDARD C23: Reused and recycled water objective To provide for the substitution of drinking water for non-drinking purposes with reused and recycled water. Standard C23 Reused and recycled water supply systems must be:</p> <ul style="list-style-type: none"> • Designed, constructed and managed in accordance with 	<p>Complies</p> <p>No methods are proposed at this stage.</p>

<p>the requirements and to the satisfaction of the relevant water authority, Environment Protection Authority and Department of Human Services.</p> <ul style="list-style-type: none"> • Provided to the boundary of all lots in the subdivision where required by the relevant water authority. 	
<p>CLAUSE 56.07-3 - STANDARD C24: Waste water management objective</p> <p>To provide a waste water system that is adequate for the maintenance of public health and the management of effluent in an environmentally friendly manner.</p> <p>Standard C24</p> <p>Waste water systems must be:</p> <ul style="list-style-type: none"> • Designed, constructed and managed in accordance with the requirements and to the satisfaction of the relevant water authority and the Environment Protection Authority. • Consistent with any relevant approved domestic waste water management plan. <p>Reticulated waste water systems must be provided to the boundary of all lots in the subdivision where required by the relevant water authority.</p>	<p>Complies</p> <p>The subject site is connected to reticulated sewerage system and the proposed Lot 2 will also be connected to the satisfaction of the relevant authority. Conditions are placed on the permit with regards to this clause.</p>
<p>CLAUSE 56.07-4 - STANDARD C25: Urban run-off management objectives</p> <p>To minimise damage to properties and inconvenience to residents from urban run-off.</p> <p>To ensure that the street operates adequately during major storm events and provides for public safety.</p> <p>To minimise increases in stormwater run-off and protect the environmental values and physical characteristics of receiving waters from degradation by urban run-off.</p> <p>Standard C25</p> <p>The urban stormwater management system must be:</p> <ul style="list-style-type: none"> • Designed and managed in accordance with the requirements and to the satisfaction of the relevant drainage authority. • Designed and managed in accordance with the requirements and to the satisfaction of the water authority where reuse of urban run-off is proposed. • Designed to meet the current best practice performance objectives for stormwater quality as contained in the Urban Stormwater – Best Practice Environmental Management Guidelines (Victorian Stormwater Committee 1999) as amended. • Designed to ensure that flows downstream of the subdivision site are restricted to predevelopment levels unless increased flows are approved by the relevant drainage authority and there are no detrimental downstream impacts. <p>The stormwater management system should be integrated with the overall development plan including the street and public open space networks and landscape design. For all storm events up to and including the 20% Average Exceedence Probability (AEP) standard:</p> <ul style="list-style-type: none"> • Stormwater flows should be contained within the drainage 	<p>Complies</p> <p>Stormwater will be managed to the satisfaction of the responsible authority. Conditions are placed on the permit with regards to this clause.</p>

<p>system to the requirements of the relevant authority.</p> <ul style="list-style-type: none"> • Ponding on roads should not occur for longer than 1 hour after the cessation of rainfall. <p>For storm events greater than 20% AEP and up to and including 1% AEP standard:</p> <ul style="list-style-type: none"> • Provision must be made for the safe and effective passage of stormwater flows. • All new lots should be free from inundation or to a lesser standard of flood protection where agreed by the relevant floodplain management authority. • Ensure that streets, footpaths and cycle paths that are subject to flooding meet the safety criteria $da Vave < 0.35$ m²/s (where, da = average depth in metres and Vave = average velocity in metres per second). <p>The design of the local drainage network should:</p> <ul style="list-style-type: none"> • Ensure run-off is retarded to a standard required by the responsible drainage authority. • Ensure every lot is provided with drainage to a standard acceptable to the relevant drainage authority. Wherever possible, run-off should be directed to the front of the lot and discharged into the street drainage system or legal point of discharge. • Ensure that inlet and outlet structures take into account the effects of obstructions and debris build up. Any surcharge drainage pit should discharge into an overland flow in a safe and predetermined manner. • Include water sensitive urban design features to manage run-off in streets and public open space. Where such features are provided, an application must describe maintenance responsibilities, requirements and costs. <p>Any flood mitigation works must be designed and constructed in accordance with the requirements of the relevant floodplain management authority.</p>	
<p>CLAUSE 56.08-1 - STANDARD C26: Site management objectives</p> <p>To protect drainage infrastructure and receiving waters from sedimentation and contamination.</p> <p>To protect the site and surrounding area from environmental degradation or nuisance prior to and during construction of subdivision works.</p> <p>To encourage the re-use of materials from the site and recycled materials in the construction of subdivisions where practicable.</p> <p>Standard C26</p> <p>A subdivision application must describe how the site will be managed prior to and during the construction period and may set out requirements for managing:</p> <ul style="list-style-type: none"> • Erosion and sediment. • Dust. • Run-off. • Litter, concrete and other construction wastes. • Chemical contamination. 	<p>Complies</p> <p>There will be no major construction works involved with the subdivision.</p>

<ul style="list-style-type: none"> Vegetation and natural features planned for retention. <p>Recycled material should be used for the construction of streets, shared paths and other infrastructure where practicable.</p>	
<p>CLAUSE 56.09-1 - STANDARD C27: Shared trenching objectives To maximise the opportunities for shared trenching. To minimise constraints on landscaping within street reserves. Standard C27 Reticulated services for water, gas, electricity and telecommunications should be provided in shared trenching to minimise construction costs and land allocation for underground services.</p>	<p>Complies</p> <p>No shared trenching is proposed.</p>
<p>CLAUSE 56.09-2 - STANDARD C28: Electricity, telecommunications and gas objectives To provide public utilities to each lot in a timely, efficient and cost effective manner. To reduce greenhouse gas emissions by supporting generation and use of electricity from renewable sources. Standard C28 The electricity supply system must be designed in accordance with the requirements of the relevant electricity supply agency and be provided to the boundary of all lots in the subdivision to the satisfaction of the relevant electricity authority. Arrangements that support the generation or use of renewable energy at a lot or neighbourhood level are encouraged. The telecommunication system must be designed in accordance with the requirements of the relevant telecommunications servicing agency and should be consistent with any approved strategy, policy or plan for the provision of advanced telecommunications infrastructure, including fibre optic technology. The telecommunications system must be provided to the boundary of all lots in the subdivision to the satisfaction of the relevant telecommunications servicing authority.</p> <p>Where available, the reticulated gas supply system must be designed in accordance with the requirements of the relevant gas supply agency and be provided to the boundary of all lots in the subdivision to the satisfaction of the relevant gas supply agency.</p>	<p>Complies</p> <p>These services will be provided to the satisfaction of the relevant authority. Conditions will also be placed on the permit with regards to this clause.</p>

**2 SUBDIVISION OF LAND INTO TWO (2) LOTS AT 2 ROBIN COURT
PAKENHAM**

Moved Cr L Wilmot Seconded Cr G Blenkhorn

That a Notice of Decision to Grant Planning Permit T150548 be issued for subdivision of the land into two (2) lot at L112 LP122845 2 Robin Court, Pakenham subject to the conditions attached to this report.

Cd.

3 RESTAURANT AT 3/38 LAKESIDE BOULEVARD PAKENHAM

FILE REFERENCE INT163549

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Vageesha Wellalage

RECOMMENDATION

That Planning Permit T150361 be issued for use of the land for sale and consumption of liquor and reduction in car parking in association with a restaurant under Clause 52.06 at 3/38 Lakeside Boulevard, Pakenham subject to the conditions attached to this report.

Attachments

- 1 Locality plan 1 Page
- 2 Development plans 1 Page

EXECUTIVE SUMMARY:

APPLICATION NO.:	T150361
APPLICANT:	Iyli Fachkha
LAND:	L35 PS624301; 3/38 Lakeside Boulevard Pakenham
PROPOSAL:	Use of the land for sale and consumption of liquor and reduction in car parking in association with a restaurant under Clause 52.06
PLANNING CONTROLS:	Comprehensive Development Zone Schedule 1 Development Contributions Plan Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by sending notices to the owners and occupiers of adjoining land. Council has not received any objections to date.
KEY PLANNING CONSIDERATIONS:	Sale and Consumption of liquor Hours of operation Reduction in car parking
RECOMMENDATION:	Approval subject to conditions

BACKGROUND:

- Planning permit T060430 was issued on the 15 January 2007 for the development of the land for six buildings for commercial and residential purposes. This permit has been amended twice, firstly on 2 December 2008 to change the use of one of the speciality shops in building A to a dentist. The second amendment was on 27 August 2010 and involved changes to the preamble including the adjustment of the uses and number of practitioners and the changes to condition 5 and 6 to reflect the changes to patron and practitioner

numbers. In terms of the subject building the change of use was from a restaurant and speciality retail to a café and, day spa, hair salon and speciality retail.

- Five of the six buildings associated with this development were constructed with the subject building known as Building B not constructed and the permit lapsed. Planning permit T120700 was issued for buildings and works to construct a commercial building (restaurant and four shops) on 17/06/2013.

SUBJECT SITE

The site is located on the western side of Lakeside Boulevard Pakenham.

The site is located within the shopping precinct therefore does not have a separate crossover or not affected by any easements.

The site is currently used as a pizza and pasta shop which is defined as a shop in the planning scheme. The site is located in the Comprehensive Development Zone Schedule 1 and the use of the land for a shop does not require a planning permit.

The topography of the land is relatively flat.

The main characteristics of the surrounding area are:

North	Retail/commercial
South	Retail/commercial
East	Access Road (Lakeside)
West	Retail/commercial

PROPOSAL

Approval is sought for the sale and consumption of liquor and a reduction in car parking in association with a restaurant.

The restaurant will have a maximum of 40 patrons and will be operated during the following hours:

Monday – Sunday 5pm-10pm

As a result of the proposed change of use, 16 car parking spaces are required to be provided. The site is allocated 4 parking spaces, based on the percentage of floor space this premises contains. This results in a waiver of 12 car parking spaces being sought with this application.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11.02 – Urban Growth
- Clause 17.01-1 Business
- Clause 18.02-5 Car parking

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.04-1 Employment
- Clause 21.04-3 Activity Centres
- 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 52.27 Licensed Premises
- Clause 65 Decision Guidelines

Zone

The land is subject to the Comprehensive Development Zone (Schedule 1)

Overlays

The land is subject to the following overlays:

- Development Contributions Plan Overlay (Schedule 1)

PLANNING PERMIT TRIGGERS

The proposal for use of the land for the sale and consumption of liquor and reduction in car parking in association with a restaurant under Clause 52.06 requires a planning permit under the following clauses of the Cardinia Planning Scheme:

Pursuant to Clause 52.06 Car Parking a planning permit is required for a reduction in car parking

Pursuant to Clause 52.27 Licensed Premises, a permit is required for the sale and consumption of liquor.

The use of the land for a restaurant does not require a planning permit in this location.

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.

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

REFERRALS

Victoria Police

The application was referred to Victoria Police for comment. Victoria Police had no objection to the proposal and no conditions have been provided.

DISCUSSION

DISCUSSION

Sale and Consumption of Liquor and extension of hours of operation

The permit application includes a request for the sale and consumption of liquor in association with the restaurant use. It is noted that a 'red line' plan indicating where the sale and consumption of the liquor has been provided. The proposed area will contain the internal and external dining areas. These areas are considered suitable.

The sale and consumption of liquor is consistent with the restaurant use and is reasonable given the location of the premises within an established commercial area. The sale and consumption of liquor will be subject to suitable restrictions to the hours of operation and appropriate amenity conditions to ensure minimal impact on the surrounding development. As such the proposal is consistent with the established commercial area and is consistent with both the State and Local Planning Policy framework.

The proposed hours of operation are from 5pm to 10pm Monday to Sunday, which are considered reasonable for the location. The application was referred to Victoria Police who had no objection to the overall proposal. Furthermore, the hours are consistent with other similar businesses in the surrounding area, as per the following table:

Restaurant	Operating hours (Monday - Sunday)
Lime Leaf Thai restaurant (previously pizza shop)	9am-11pm (Thai restaurant is only open from 5pm-11pm)
Indian restaurant	11am-11pm
Cheeke Chooks	11am -8pm

As such, the proposed sale and consumption of liquor, and associated hours of operation are considered appropriate, and unlikely to have an adverse impact on the surrounding area.

Car Parking

Pursuant to Clause 52.06-5 of the Cardinia Planning Scheme the use of a restaurant requires the provision of 0.4 spaces to each patron permitted. As 40 patrons are proposed, 16 spaces are required.

The car parking spaces associated with the wider development have not been specifically allocated to individual premises, however for previous applications within this development, parking spaces have been allocated based on the percentage of the floor space of the overall development that

each premises contains. This results in the subject premises having an allocation of four parking spaces. As such, a waiver of 12 spaces is proposed.

According to the parking assessment provided with the application, there have been approximately 130 car parking spaces available during the peak time and approximately 150 spaces during the proposed operating hours of the proposed use.

In considering a parking reduction Council must consider the availability of alternative parking in the locality, availability of public transport, impact on adjoining uses, and impact on the local traffic management of the area. The applicant has submitted a car parking assessment for the proposed use including a review of parking occupancy rates within the site and in close proximity of the site. This report indicates that a high number of spaces were available at all times with lower levels of car park occupancy during the proposed hours of operation in the evenings where the peak demand is likely for the proposed use.

In addition to the available car parking spaces in the shopping precinct it is also noted that as a result of the shop being located within the Lakeside shopping centre, the visits to the site are likely to be combined with the trips to the other shops within the shopping centre. Therefore, multipurpose trips will aid in reducing the car parking demand for the proposed use.

Lakeside Boulevard has access to public transport (bus) and located within close proximity to the Cardinia Railway Station. There are also bicycle and pedestrian links available along Lakeside Boulevard which will also help to reduce the car parking demand.

These factors have also been considered by Councils Traffic Engineer who has no objection to the proposed reduction in car parking. It was recognised that there is adequate onsite and on street parking that can accommodate for the proposed increase in the use. It is acknowledged that the likely peak times for the restaurant will be outside business hours and will minimise the likely impact on street parking for the area.

CONCLUSION

It is considered that the application is consistent with the requirements of the Cardinia Planning Scheme and should be approved subject to the amendment to conditions outlined below.

CONDITIONS

1. The licenced premises as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. Except with the written consent of the Responsible Authority, the use may operate only between the hours of:
 - a) Monday – Sunday: 5pm – 1000pm
3. Not more than forty (40) seats may be made available for the restaurant at any one time to patrons on the premises, without the written consent of the Responsible Authority.
4. Without further consent of the Responsible Authority, the sale and consumption of liquor shall occur only within the confines of the premises and the designated licensed area, as specified on the endorsed plan.
5. At all times during the operation of the use, there must be present on the premises a person over the age of 18 years who is responsible for ensuring that the activities on the premises and the conduct of persons attending the premises do not have a detrimental impact on the amenity of the area (referred to in this permit as "the manager").

6. The manager must be authorised by the operator under this permit to make statements at any time on his/her behalf to any officer of the Responsible Authority and of the Victoria Police and/or of Liquor Licensing Victoria authorised under Section 129 of the Liquor Control Reform Act 1998; and/or to take action on his/her behalf in accordance with a direction by such officer.
7. A copy of this permit must be displayed in a conspicuous position on the premises and, where applicable, adjacent to any statutory notices required to be exhibited.
8. Cigarette disposal facilities must be placed in appropriate external locations to ensure any customer smoking litter is contained.
9. External lighting must be designed, baffled and located so as to not detrimentally effect on adjoining land whilst providing appropriate measures to ensure adequate lighting and security while the premises is in operation to the satisfaction of the Responsible Authority.
10. All amplified music offered must be kept to background levels only. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes.
11. Noise levels emanating from the premises must not exceed those permissible levels determined under:
 - a) State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1.
 - b) State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.

Expiry of permit:

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 (2) years** from 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

- a) Should the development be used for a commercial enterprise involving handling of food or drink, hairdressing, beauty therapy, myotherapy, colonic irrigation, skin penetration or tattooing or be providing accommodation to more than four (4) persons then the applicant must contact the Environmental Health Department for further advice concerning legislative requirements.
- b) Permission given under planning legislation cannot be construed as permission relating to any other legislation under Council jurisdiction, such as Health, Food or Tobacco Acts.

3 RESTAURANT AT 3/38 LAKESIDE BOULEVARD PAKENHAM

Moved Cr L Wilmot Seconded Cr G Blenkhorn

That Planning Permit T150361 be issued for use of the land for sale and consumption of liquor and reduction in car parking in association with a restaurant under Clause 52.06 at 3/38 Lakeside Boulevard, Pakenham subject to the conditions attached to this report.

Cd.

4 RESTRICTED RETAIL PREMISE AT 7/99 BALD HILL ROAD PAKENHAM

FILE REFERENCE INT163533

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Vageesha Wellalage

RECOMMENDATION

That a Refusal to Grant Planning Permit T150158 be issued for use of the land for a restricted retail premise, business identification signage and reduction in car parking requirements of Clause 52.06 at Lot:7 PS728258; 7/99 Bald Hill Road Pakenham on the following grounds:

- Insufficient parking available within the development, contrary to Clause 52.06 of the Cardinia Planning Scheme

Attachments

1	Locality plan	1 Page
2	Development plans	4 Pages
3	Confidential letters of objection circulated to councillors only	1 Page

EXECUTIVE SUMMARY:

APPLICATION NO.:	T150158
APPLICANT:	Mr Adam Minchineton
LAND:	Lot:7 PS728258; 7/99 Bald Hill Road Pakenham
PROPOSAL:	use of the land for a restricted retail premise, business identification signage and reduction in car parking requirements of Clause 52.06
PLANNING CONTROLS:	Industrial 1 Zone
NOTIFICATION & OBJECTIONS: the site.	The application has been advertised pursuant to Section 52 of Planning and Environment Act 1987, by sending notices to the owners and occupiers of adjoining land and posting a sign on Council has received one (1) objection to date.
KEY PLANNING CONSIDERATIONS:	Availability of onsite parking Appropriateness of the use
RECOMMENDATION:	Refusal

BACKGROUND:

There is no relevant planning history for this particular property. This property has been created within the warehouse development approved under planning permit T120591. The permit was approved 33 industrial buildings for various uses with 793 car parking spaces provided for the 33

buildings. The permit was subsequently amended which added 24 additional car parking spaces to the development.

SUBJECT SITE

The site is located on the southern side of Bald Hill Road Pakenham.

A crossover is located on the northern alignment of the site and the site is not affected by any easements.

The site currently contains a warehouse with nine car parking spaces allocated to the site.

The topography of the land is relatively flat.

The main characteristics of the surrounding area are:

North	Access Road (Bald Hill Road)
South	Industrial
East	Industrial
West	Industrial

PROPOSAL

Approval is sought for the use of the land for a restricted retail premises (the sale of outdoor sporting goods including firearms and ammunition), business identification signage and reduction in car parking requirement of Clause 52.06.

Use

The nature of the business will be the sale of hunting apparel and outdoor sporting goods including firearms and ammunition. The business would specialise in high quality clothing and accessories used for camping and hunting for all ages in all types of weather and environments.

The business would be started as 60% wholesale / 40% retail. The business would be named Wild Deer Outdoors and would be an extension on the already established online business.

The operating hours of the business would be as follows:

Monday to Friday	9am to 6pm
Saturdays	9am to 4pm

There will be around three to six people employed on a full time basis.

Advertising Signage

The signs are proposed to be located on the northern elevation of the building. The larger sign will have an area of approximately 18.62 square metres (6.65m by 2.8 metres) and a three small signs that are approximately 600mm by 100mm will be fixed to the canopy on the northern elevation. The signage will include the logo, company name and some suppliers.

Access and Car parking

According to the plans submitted to Council and Plan of Subdivision PS728528A, the building has been allocated 9 car parks within the original development. It is expected that 5 clients will be at

the premises at any one time. One (1) bicycle parking has been provided per warehouse with the original development.

In addition to the above, the building has a loading and unloading bay at the rear of the premises with a large roller door and specified area which is out of the way of any through traffic.

The premises would meet and where possible exceed all security and storage requirements in the guidelines set out by the Firearm Licensing Services.

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 17-01-1 Business
- Clause 17.01-2 Out of centre development for Metropolitan Melbourne
- Clause 18-02-5 Car parking

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

Zone

The land is subject to the Industrial 1 Zone

Overlays

The land is not subject to any overlays.

PLANNING PERMIT TRIGGERS

The proposal for use of the land for a restricted retail premise, business identification signage and reduction in car parking requirements of Clause 52.06 requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 33.01-1 of Industrial Zone, a planning permit is required for the use of the land for a restricted retail premises.

- Pursuant to Clause 52.06-3 of Car Parking, a planning permit is required to reduce the required car parking spaces
- Pursuant to Clause 52.05-8 of Advertising Signage, a planning permit is required for business identification signage that exceeds 8 square metres in advertising area.

PUBLIC NOTIFICATION

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

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

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

The key issue raised in the objection is:

- Locating a gun shop in this location is detrimental to the kids recreational facilities located on the surrounding properties.

REFERRALS

Victoria Police

The application was referred to Victoria Police for comment. Victoria Police had no objection to the proposal.

DISCUSSION

The key issues to be considered in relation to this application are the extent of car parking provided on site, the appropriateness of the restricted retail use in this location, and the extent of signage.

Car Parking

An application for a reduction car parking must respect the purpose of Clause 52.06 which states the following:

- To ensure that car parking is provided in accordance with the State Planning Policy Framework and Local Planning Policy Framework.
- ***To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated the activities on the land and the nature of the locality.***
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- ***To ensure that car parking does not adversely affect the amenity of the locality.***
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

The proposed restricted retail premises will be located within an industrial development which already contains a number of recreational facilities and warehouses. According to Plan of Subdivision PS728528A and the site plan with a car parking analysis, the property has been allocated with 9 car parking spaces. Pursuant to Clause 52.06, the required number of car parking

spaces for the proposed restricted retail premises is 17 spaces. Therefore, the proposed use will have a shortfall of 8 car parking spaces.

The subject site is located within an industrial development that contains a variety of uses including children's recreational facilities such as play centre and swim school. As mentioned above the site has 9 car parking spaces allocated to the site. The applicant has mentioned that there will be 3-6 full time staff working for the business. As such, a considerable number of the car parking spaces will be used by the staff, leaving inadequate spaces available for customers. In an instance where 6 staff members are working, the site will only have three car parking spaces available for customers. When the parking spaces for a particular use are insufficient, it will result in overflow traffic to park on spaces allocated for other surrounding properties. In officer's view, this will adversely affect the amenity of the locality and surrounding properties.

The Pakenham Railway Station is located approximately 1.7Km away from the subject site, therefore there will be limited alternative transport methods available to access the subject site other than a motor vehicle. In addition to that, the proposed business hours are consistent with the operating hours of the surrounding businesses, with the high demand times being similar to those of surrounding activities. This will create significant parking pressures.

This industrial precinct has a number of shared car parking spaces available to all properties within the precinct. However, due to the recreational facilities such as swimming school and play centre, the majority of these spaces are expected to be used by those who attend these sites. Therefore, it is unlikely that share parking area would be able to accommodate additional overflow traffic.

Use

It is acknowledged that the planning application identifies that firearms and ammunition are among the products proposed to be sold from this restricted retail premises, and that this premise is part of a wider development that contains a number of recreational facilities primarily aimed at families and children. However, from a planning perspective Council can only consider the appropriateness of the planning land use, being a restricted retail premises, and not the specific products it may sell. For example, a restricted retail premises that sells household furniture or party supplies etc. cannot be considered differently one that sells firearms or other products that some may find inappropriate.

The definition of a restricted retail premises is as follows:

Land used to sell or hire:

- a) automotive parts and accessories;*
- b) camping, outdoor and recreation goods;*
- c) electric light fittings;*
- d) animal supplies including equestrian and pet goods;*
- e) floor and window coverings;*
- f) furniture, bedding, furnishings, fabric and manchester and home wares;*
- g) household appliances, household electrical goods and home entertainment goods;*
- h) party supplies;*
- i) swimming pools;*
- j) office equipment and supplies;*
- k) baby and children's goods, children's play equipment and accessories;*
- l) sporting, cycling, leisure, fitness goods and accessories; or*
- m) goods and accessories which:*
 - Require a large area for handling, display and storage of goods; or*

- Require direct vehicle access to the building by customers for the purpose of loading or unloading goods into or from their vehicles after purchase or hire.

It does not include the sale of food, clothing and footwear unless ancillary to the primary use.

Restricted retail premises are often found in industrial areas such as this, and in this location a restricted retail premises is considered appropriate (bearing in mind the above). As such, officers are supportive of the use of this premise for a restricted retail premises.

Signage

The size and location of the signage is considered to be consistent with the signage on a number of the surrounding premises, and is not considered to be excessive or have a detrimental impact on the surrounding area. As such, officers are supportive of the proposed signage.

Objector's Concerns

- Insecurity created by the gun shop on the surrounding play centre and kids activity areas

As above, Council is unable to consider the products that the business may sell, and rather can only consider the planning land use that is proposed.

CONCLUSION

Considering all the above matters discussed throughout the report, the proposal is considered inappropriate for the site and should be refused on the grounds listed in the officers recommendation.

4 RESTRICTED RETAIL PREMISE AT 7/99 BALD HILL ROAD PAKENHAM

Moved Cr G Blenkhorn Seconded Cr D Young

That a notice of decision be issued to grant a permit for restricted retail premises and advertising signage at 7/99 Bald Hill Road, Pakenham generally in accordance with the approved plans and subject to the following conditions:

Use:

1. The use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. A minimum of 9 car spaces must be provided on the subject land for the use of the restricted retail premises at all times.
3. Number of staff must not exceed six (6) at any given time without further consent of the Responsible Authority.
4. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
5. The use and development must not detrimentally affect the amenity of the area, 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.
 - (d) Presence of vermin

Advertising Signage:

6. The signs or any parts thereof must not be animated or reflective and no flashing, intermittent lights or moving parts may be displayed.
7. The signs must be constructed, displayed and maintained to the satisfaction of the Responsible Authority.
8. The signs must be wholly located within the subject property. That is, no part of the sign may encroach into the declared road reserve.
9. No signs other than those allowed by this permit or the planning scheme may be displayed on the land without the written consent of the Responsible Authority.
10. The existing temporary sign must be removed from the site within 30 days of the issue of this planning permit. If the removal of the sign cannot be achieved within 30 days, the permit holder can seek an extension of time that details why the sign cannot be removed.

Expiry:

This permit for the use of land expires if—

- a) The use does not start within two (2) years after the issue of the permit; or

- b) The use is discontinued for a period of two (2) years.-
- c) This signage permit expires 15 years from the date of issue of this permit.

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

Notes:

The premises must meet all security and storage requirements in the guidelines set out by the Firearm Licensing Services at all times.

Upon being put to the meeting, the motion was declared lost.

Cr Ross called for a Division.

For the Motion were Crs G Blenkhorn, B Owen and D Young Total (3).

Against the Motion were Crs T Baxter, K Lempriere, J Owen, C Ross and L Wilmot Total (5).

Lost.

Moved Cr C Ross Seconded Cr K Lempriere

That a Refusal to Grant Planning Permit T150158 be issued for use of the land for a restricted retail premise, business identification signage and reduction in car parking requirements of Clause 52.06 at Lot:7 PS728258; 7/99 Bald Hill Road Pakenham on the following grounds:

- Insufficient parking available within the development, contrary to Clause 52.06 of the Cardinia Planning Scheme

Upon being put to the meeting, the motion was declared carried.

Cr Ross called for a Division.

For the Motion were Crs T Baxter, K Lempriere, J Owen, C Ross and L Wilmot Total (5).

Against the Motion were Crs G Blenkhorn, B Owen and D Young Total (3).

Cd.

5 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

FILE REFERENCE INT163500

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	
C161	Cardinia Shire Council	Various properties	Authorisation No. A02138: The amendment proposes to: (1) Introduce permanent heritage overlays for the places and precincts listed in the study. (2) Insert the Cardinia Local Heritage Study Review May 2011 as a reference document at Clause 21.09-7. (3) Insert incorporated plans for residential, commercial, Great Southern Railway, the Maryknoll township and Bayles Hall precincts identified in the study at Clause 43.01-2. (4) Amend Planning Scheme Maps 10HO and 18HO to fix a mapping anomaly affecting H055 as it relates to the Maryknoll Township. (5) Correct a number of mapping anomalies associated with existing precincts and places.	25/01/2012	27/02/2012	12/02/2015: Queries received from Department of Environment, Land, Water and Planning following submission of amendment for approval. Further minor changes have been made to facilitate approval of the amendment.

CARDINIA PLANNING SCHEME AMENDMENT ACTIVITY REPORT						
A/No.	Proponent	Address	Purpose	Exhibition		Status
				Start	End	
			(6) Correct a number of anomalies associated with the existing Schedule to the Heritage Overlay. (7) Introduce a new schedule (SL07) to the Significant Landscape Overlay and apply it to land at 4 Edemont Road, Emerald.			
C162	Cardinia Shire Council	Various properties	To protect significant trees in Cardinia Shire with a Heritage Overlay.	30/01/2014	28/02/2014	Adopted by Council on 17/11/2014. Awaiting approval by Minister for Planning.
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	3/12/15: Panel Report received
C189	Cardinia Shire Council	Koo Wee Rup township	Amends the Municipal Strategic Statement to incorporate the Koo Wee Rup Township Strategy (November 2014).	05/03/2015	06/04/2015	Adopted by Council on 19/10/2015. Awaiting Minister's approval.
C198	Cardinia Shire Council	Beaconsfield	Amends the Municipal Strategic Statement to incorporate the Beaconsfield Structure Plan into the Local Planning Policy Framework.	07/08/2014	08/09/2014	Adopted by Council on 20/04/2015. Awaiting Minister's approval.
C204	Cardinia Shire Council	Various sites	Corrects a number of zoning anomalies.	28/05/2015	29/06/2015	12/01/2016: Approved by Minister, awaiting gazettal

CARDINIA PLANNING SCHEME AMENDMENT ACTIVITY REPORT						
A/No.	Proponent	Address	Purpose	Exhibition		Status
				Start	End	
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	Currently on exhibition.
C207	Cardinia Shire Council	Cardinia Shire	Implements the Cardinia Shire Gaming Policy Review December 2015 by introducing a Gaming Local Planning Policy and amending the Schedules to prohibit gaming machines in all strip shopping centres and a number of shopping complexes.	22/10/2015	23/11/2015	16/12/2015 Sent to the Minister for Planning for approval.
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 .	22/10/2015	23/11/2015	Report went to Council on 21/09/2015 recommending that Council seek authorisation from the Minister for Planning under Section 9(2) of the Planning and Environment Act 1987 to prepare Amendment C209.

5 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

Moved Cr L Wilmot Seconded Cr G Blenkhorn

That the report be noted.

Cd.

6 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)

FILE REFERENCE INT163503

RESPONSIBLE GENERAL MANAGER Phil Walton

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 and the Magistrates' Court is submitted for Councillors information.

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

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

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

1). Multi-purpose Hearing

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

2). Admin Mention

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

3). Adjournment

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

4). Offset plan

An Offset Plan goes by a few different names, including a Property Management Plan or a Property Remediation Plan. These plans are used when a Respondent has removed vegetation or otherwise damaged vegetation on the Land and Council is seeking a remedy for this removal, normally requiring replanting to occur on the Land. This plan is what Council will seek in the shape of an Enforcement Order, and the contents of the Plan will be decided by Council's Environment Team.

5). Full hearing

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

6). Consent Orders

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

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

Property Address	Nature of Contravention	Status
41 Burton Rd, Beaconsfield Upper	Vegetation removal and use of land as contractor's depot without a permit	VCAT enforcement proceedings filed. Practice day hearing 20 Nov 2015. Possible contested hearing deferred to June 2016, to enable planning applications to be considered. Respondents have filed applications for planning permission regarding non-conforming uses. Currently with Planning department.
70 Whiteside Rd, Officer (Timbertop West)	Vegetation removal without permit, contrary to Officer Native Vegetation Precinct Plan.	Magistrates' Court proceedings listed for plea hearing 9 th December 2015. Developer (Parklea Developments P/L) and contractor (Accurate Group) pleaded guilty to wrongful removal of vegetation without Planning Permits, across 3 sites. One property owner was also prosecuted. Parklea were ordered to donate \$15,000 to Council Vegetation Offset Program, and ordered to pay Council costs. Accurate Group were ordered to donate \$4,000 to the CFA and ordered to pay Council costs. The land owner (of Whiteside Rd, Officer) agreed to land management plan and participated in the Criminal Justice Diversion Program.
Whiteside Rd, Officer		
43 Wattletree Rd, Bunyip	Vegetation removal without permit, contrary to cl 52.17	Magistrates' Court prosecution for failure to comply with VCAT order commenced. Listed for next mention 11 February 2016.
205 Obriens Rd, Bayles	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. Listed for next mention 11 February 2016.

Property Address	Nature of Contravention	Status
715 Gembrook Rd, Pakenham Upper	Alleged land use (burning off) and building breaches, that relates to extensive and complex planning history of the site.	<p>Council commenced Building and Local Law prosecution of the owner, arising from construction and commercial-scale burn offs on the site.</p> <p>The owner asserts that burning off activities are protected by the planning scheme, and the prosecution will have to litigate this issue in some form.</p> <p>The property has a 17 yr history of litigated planning disputes between 1997 and 2015.</p>
168 Brown Rd, Pakenham	Native vegetation removal, contrary to Environmental Significance Overlay, Green Wedge Zone and cl 52.17.	<p>Magistrates' Court prosecution for alleged vegetation removal contrary to the scheme.</p> <p>Listed for further mention 25/02/2016</p>

CONCLUSION

The list of current enforcement activities is presented for information.

6 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)

Moved Cr L Wilmot Seconded Cr G Blenkhorn

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

Cd.

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

FILE REFERENCE INT163502

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Brett Jackson

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.	Proposal	Address	Council Decision	Appeal By	Status/ VCAT Decision
12 Jan 2016	T150096	Two lot subdivision	2 Connassidy Close, Beaconsfield	Refusal	Appeal by applicant	Hearing held, permit refused
2 Feb 2016	T080447-1	Removal of condition regarding age limit	Vista Ct, Gembrook	Refusal	Appeal by applicant	Withdrawn by applicant
26 Oct 2015	T150130	Rural store	Holm Park Rd, Beaconsfield	Approval	Appeal by objector	Hearing held, permit approved
Mediation – 30 Nov 2015, Hearing – 23 Mar 2016	T140675	Subdivision	325 Princes Hwy, Officer	Failure to determine	Appeal by applicant	Awaiting hearing
17 May 2016	T150371	Major promotion sign	20 Racecourse Rd, Pakenham	Refusal	Appeal by applicant	Awaiting hearing
29 Feb 2016	T150230	Retail premises	795 Princes Hwy, Pakenham	Refusal	Appeal by applicant	Awaiting hearing

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

Moved Cr B Owen Seconded Cr T Baxter

That the report be noted.

Cd.

Meeting closed at 7.52pm

Minutes Confirmed
Chairman