



Cardinia

MINUTES OF TOWN PLANNING COMMITTEE

MONDAY, 2 MARCH 2020

MINUTES OF TOWN PLANNING COMMITTEE

held in the Council Chambers, 20 Siding Avenue, Officer
on Monday, 2 March 2020

The meeting commenced at 7:00pm

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

DECLARATION OF PECUNIARY AND OTHER INTERESTS

Nil.

TABLE OF CONTENTS

1.	TELECOMMUNICATIONS FACILITY AT 946 MCDONALDS DRAIN ROAD, PAKENHAM.....	3
2.	SUBDIVISION OF LAND IN TO TWO (2) LOTS AT 39-41 RAILWAY AVENUE, BEACONSFIELD	13
3.	PLANNING SCHEME AMENDMENT ACTIVITY REPORT	23
4.	PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)	29
5.	PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY	33
6.	PLANNING MATTERS CURRENTLY THE SUBJECT OF APPEAL AT THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL & THEIR OUTCOME.....	39

1 TELECOMMUNICATIONS FACILITY AT 946 MCDONALDS DRAIN ROAD, PAKENHAM

FILE REFERENCE INT2014442

RESPONSIBLE GENERAL MANAGER Peter Benazic

AUTHOR Mary Rush

RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T190588 be issued for the Use and development of the land for a Telecommunications Facility at 946 McDonalds Drain Road, Pakenham VIC 3810 subject to the conditions attached to this report.

Attachments

- 1 Development Plans 4 Pages
- 2 Copy of Objections - Circulated to Councillors only 6 Pages

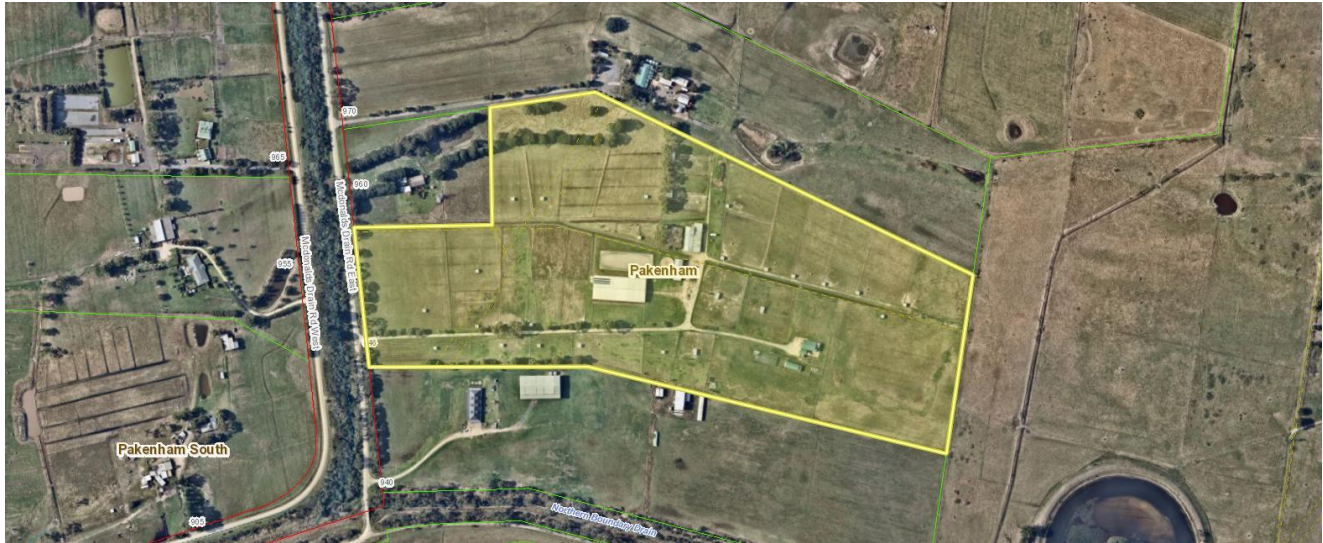
EXECUTIVE SUMMARY:

APPLICATION NO.:	T190588
APPLICANT:	Mr Matt Wood
LAND:	946 McDonalds Drain Road, Pakenham VIC 3810
PROPOSAL:	Use and development of the land for a Telecommunications Facility
PLANNING CONTROLS:	Green Wedge Zone Schedule 1 Land Subject to Inundation Overlay Clause 52.19 Telecommunications Facility
NOTIFICATION & OBJECTIONS:	The application has been advertised by sending notices to the owners and occupiers of adjoining land, placing a sign on site and notice in the Pakenham Gazette Six (6) objections were received to date.
KEY PLANNING CONSIDERATIONS:	Telecommunication facilities, visual impact, rural and landscape character, site location, proximity to dwellings.
RECOMMENDATION:	Approval

BACKGROUND:

Planning permit T140155 was issued for the development of the land for an outbuilding in May 2014.

SUBJECT SITE



The site is located on the east side of McDonalds Drain Road.

A crossover is located toward the southern boundary and there are several easements located on the land. E1, E2, E3 and E4 are power line easements and E5 and E6 are State Rivers and Water Supply commission easements (now Southern Rural Water).

The site currently contains a dwelling and outbuilding.

The topography of the land is flat

The main characteristics of the surrounding area are:

- North: Primarily cleared rural land containing single dwellings
- South: Cleared agricultural land containing a single dwelling and shedding
- East: Cleared agricultural land
- West: Across McDonalds Drain Road are cleared agricultural lots containing single dwellings and shedding

PROPOSAL

The application is for the use and development of a Telecommunications Facility to provide improved mobile and data service coverage for Pakenham South and the surrounding area. The applicant states that after investigating a number of sites, the proposed property was the preferred site in order to meet their needs in regards to coverage and availability, as there are no viable co-location opportunities.

The facility will be located centrally within the site with a setback of 250 metres from the frontage of the site from McDonalds Drain Road, approximately 55 metres from the northern boundary, 77 metres from the southern boundary and 430 metres to the rear of the site.

The infrastructure will be located in a compound area of 8 metres by 10 metres.

The specific components of the proposed installation are described below:

- The installation of a 35m monopole with a triangular headframe;
- The installation of nine (9) panel antennas mounted on the aforementioned triangular headframe at a centreline elevation of 35.7m;
- The installation of nine (9) Tower Mounted Amplifiers (TMAs) mounted on the aforementioned triangular headframe at an elevation of 35.7m;

- The installation of six (6) Radio Remote Units (RRUs) mounted on the aforementioned triangular headframe at a centreline elevation of 34.5m and 35.7m;
- The installation of a 3m (L) x 2.38m (W) x 3m (H) equipment shelter on elevated platform
 - (300mm) within the proposed lease area (10m x 8m);
- The installation of a 2.4m high security fence surrounding the proposed lease area (10m x 8m) with 3m wide double access gates;
- The excavation for underground power (p50 conduit) to nearby existing power pole and new fibre connection (p63 conduit) to existing street network;
- The installation of associated ancillary equipment including transceivers, amplifiers, antenna mounts, cable trays, feeders, cabling, combiners, diplexers, splitters, couplers, jumpers, filters, electrical equipment, signage, bollards and other associated equipment; and;
- Colour-matching the proposed telecommunication equipment to match surrounding background and façade, being Eucalypt green.

PLANNING SCHEME PROVISIONS

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.01-1S Settlement
 - Clause 11.01-1R Green Wedges – Metropolitan Melbourne
- Clause 19.03-4S Telecommunications
 - Clause 19.03-4R Telecommunications – Metropolitan Melbourne

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.02-2 Landscape
- Clause 21.05-1 Infrastructure provision.

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 51.02 Metropolitan Green Wedge Land: core planning provisions
- Clause 52.19 Telecommunications Facility;
- Clause 65 Decision Guidelines
- Clause 66 Referral and Notice Provisions
- Clause 71.02-3 Integrated Decision Making
- Cardinia Shire's Liveability Plan 2017-2029.

Zone

The land is subject to the Green Wedge Zone Schedule 1.

Overlays

The land is subject to the following overlays:

Land Subject to Inundation Overlay

PLANNING PERMIT TRIGGERS

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

- Pursuant to Clause 35.04-1 of the Green Wedge Zone (GWZ) a permit is required to use the land for a Telecommunications Facility.
- Pursuant to Clause 35.04-5 of the Green Wedge Zone (GWZ) a permit is required construct a building or carry out works associated with a Section 2 use (Telecommunications Facility).
- Pursuant to Clause 44.04-2, a permit is required to construct a building or carry out works
- Pursuant to Clause 52.19 Telecommunications Facility a planning permit is required.

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 one (1) sign on site facing High Street
- Publishing a notice in the Pakenham Gazette

Council have received six (6) objections to date.

The key issues that were raised in the objections are:

- Loss of property value
- Potential alternative locations with less amenity impact.
- Visual impact
- Health risks

REFERRALS

The application was referred to Melbourne Water who raised no objection to the proposal subject to conditions

DISCUSSION

The proposal is generally consistent with the relevant Planning Policy Framework including Local Planning Policy Framework, the **Green Wedge Zone Schedule 1, Land Subject to Inundation Overlay** and Clause 65.

Planning Policy Framework

A number of state and local policies are relevant to this application, including clauses 12.05-2S (Landscape) and 21.02-2 (Landscape), which aim to protect landscapes and significant open spaces that contribute to the character, identity and sustainable environments and ensure the sensitive siting of buildings and other structures having regard to the protection of prominent ridgelines, significant views and areas of remnant vegetation.

Clause 11.01-1R (Green wedges) aims to protect the green wedges of metropolitan Melbourne from inappropriate development, with specific strategies including the protection of areas of environmental, landscape and scenic value and support for development that provides for environmental, economic and social benefits.

Clause 19.03-4S (Telecommunications) aims to facilitate the orderly development, extension and maintenance of telecommunication infrastructure. The clause aims encourage the continued deployment of broadband telecommunications services and ensure that modern telecommunications facilities are widely accessible to business, industry and the community.

The provision of infrastructure to meet the needs of the existing and future community is also highlighted as a key issue in Clause 21.01, and reinforced by Clause 21.05-1 (Infrastructure provision), which encourages the provision of high capacity telecommunications infrastructure.

Although the proposal will be visible within a generally rural landscape, this infrastructure is not uncommon within the wider site context. The simple design of the facility together with a requirement for screen planting will minimise the impact on the rural landscape and provides an appropriate balance between the policy directions of the provision of appropriate telecommunications for the immediate and wider area and the impacts on the surrounding landscape.

Green Wedge Zone Schedule 1

A planning permit is required under the Green Wedge Zone for the use and development of a Telecommunications Facility

- **General issues**

The land is 17 Ha in area and the is able accommodate the proposal, as it only utilises 80 square metres of the site

- **Rural Issues:** The proposal will have no impact on full-scale rural activities, as the proposed development has a small site coverage.
- **Environmental Issues:** The proposed development requires minor earthworks. Any negative environmental impacts of the earthworks will be controlled by permit conditions.
- **Design and Siting Issues:** The proposed Telecommunications Facility complies with the minimum setbacks of 20 metres from the front boundary, five metres from the side boundaries and more than 100 metres of a dwelling not in the same ownership. There are no environmental issues and it is considered that the proposal satisfies the objectives of the Zone. It is not possible to locate the facility such that it is not visible to the surrounding landscape as the height of the structure is required to meet transmission requirements.

As highlighted in the VCAT case P1101/2013, the simple visibility of the tower from surrounding land does not mean that there is an unacceptable planning or visual impact. VCAT also states that minimising an adverse impact on visual amenity does not mean that the telecommunication pole must be sited so that most or many people cannot see it. Visibility cannot be equated to adverse visual impact. It is the extent to which a development is compatible with the particular location and how policies seek to guide change that is most relevant.

The site's location within a rural area means it is separated from any large concentration of residential dwellings and generally limits the level of visual impact to users of the road and scattered dwellings to the north. The requirement of improved telecommunications services as a result of the facility is considered to against any general loss of visual amenity.

Clause 52.19 Telecommunications Facility

Pursuant to Clause 52.19, an application for a telecommunications facility must be assessed against the Telecommunications Code of Practice.

Principle 1: A telecommunications facility should be sited to minimise visual impact

The facility is generally well setback from the site frontage, common boundaries and neighbouring dwellings, with a minimum of 55 metres from common boundary, and approximately 150 metres from the nearest

dwelling. Whilst it is acknowledged that the facility will be visible from adjoining land given the overall 35 metre height, the visual impact is not unreasonable in this rural context given its slimline design and appropriate setbacks and siting. Expansive views will still be maintained from adjoining and opposite land. Established vegetation along McDonalds Drain Road and conditions requiring proposed screen planting on the subject site will also help to minimise the impact of the facility.

The site is not located within the vicinity of a Heritage Place nor will it be mounted on an existing building. Equipment associated with the facility will generally be screened at ground level subject to landscaping requirements and associated feeder cables will be located underground.

The applicant has stated that the proposed monopole is the smallest structure capable of meeting coverage and operational objectives. Having regard to the above, it is considered that the siting of the facility is appropriate.

The rural characteristics of the site will not be compromised given the total area allocated for the facility relative to the land size. While the use and development does not directly relate to the rural land use of the area, it supports the surrounding community through the provision of improved telecommunications infrastructure.

As previously stated and highlighted in the VCAT case P1101/2013, the simple visibility of the tower from surrounding land does not mean that there is an unacceptable planning or visual impact. VCAT also states that minimising an adverse impact on visual amenity does not mean that the telecommunication pole must be sited so that it cannot be seen by most or many people. Visibility cannot be equated to adverse visual impact. It is the extent to which a development is compatible with the particular location and how policies seek to guide change that is most relevant.

The site's location within a rural area means it is separated from any large concentration of residential dwellings and generally limits the level of visual impact to users of the road and scattered dwellings. The advantages of improved telecommunications services as a result of the facility is considered to outweigh any general loss of visual amenity.

Principle 2: Telecommunications facilities should be co-located wherever practical

To minimise the distribution of such facilities, this site has been selected as there is no existing infrastructure within the immediate area and co-location opportunities are limited as shown by the applicant.

Principle 3: Health standards for exposure to radio emissions will be met

In support of the proposal, the applicant has submitted an Environmental Electromagnetic Energy Report. The report concludes that the maximum EME level calculated for the proposed system is 9.32 V/m; equivalent to 230.42 mW/m² or 2.48 % of the public exposure limit, which is considerably lower than the Australian Standard.

Principle 4: Disturbance and risk relating to siting and construction should be minimised

In addition to the EPA requirements, the facility must comply with necessary erosion and sediment control measures. The operation of the facility will not produce waste, which would require collection or disposal.

A condition of approval will require that all earthworks be undertaken in a manner to prevent soil erosion and that all works must be appropriately stabilised.

Noise and vibration emissions associated with the proposed facility are expected to be limited to the initial construction phase. Noise generated during the construction phase is anticipated to be of short duration and accord with the standards outlined in the relevant EPA guidelines. The applicant has advised that on-going noise emanating from the equipment is comparable with a domestic air conditioning unit, which is not unreasonable in this rural setting.

Response to Objections

Six objections, have been received to date. A response to the key issues and concerns is provided below:

Loss of property value

Three of the objector's submissions raised issues surrounding loss of property value, with one objection relying solely on this ground. Loss of property value is not a valid ground of objection and cannot be considered by Council.

Potential alternative locations with less amenity impact

A couple of objections raised the possibility of other more suitable sites as they would have less amenity impact. The Pakenham South Community Hall and the Canopy Growth site (30 Bourke Road) have been suggested as alternative sites with less amenity impacts. Council have investigated both alternate locations and the applicant has advised that neither site meets the coverage objectives and are not suitable.

Visual Impact

Several objectors consider that the proposal will have negative visual impacts to the landscape and rural character of the area. Whilst it is acknowledged that the facility will be visible from adjoining land, it is not considered to have an unreasonable adverse impact given the setbacks from title boundaries and nature of the surrounding rural allotments. The facility will be setback approximately 168 metres from the nearest dwelling to the south and all other dwellings are a minimum of 200 metres away. As previously stated, the findings of VCAT case P1101/2013, determined that the simple visibility of the tower from surrounding land does not mean that there is an unacceptable planning or visual impact

A condition can be placed on any permit issued requiring screen planting around the proposed development to obscure the lower form of the development. The simple form of the structure combined with partial screening by existing vegetation and a condition requiring landscaping of the compound will help to minimise impact on the immediate and wider site context.

A condition of approval will require that external materials must be non-reflective.

Health risks

Several objectors have raised concerns over health risks associated with radiation impacts on the occupants of dwellings located close to the proposed telecommunications facility;

The applicant has provided a an electromagnetic energy report (EME) which examines the requirements of the Australian Protection Standard for Maximum Exposure Levels to Radiofrequency Fields – 3kHz to 300 GHz, ARPANSA, 2002.

The EME report confirms that the proposed tower complies with the required standard.

Land Subject to Inundation Overlay

The Land Subject to Inundation Overlay (LSIO) identifies areas where a 1 in 100 Year flood or floodplain area determined by a floodplain management authority warrants protection from flood hazards. These measures ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

As the entire site is covered by the LSIO it is not possible for the proposed building to be located on flood-free land or land with a lesser hazard outside this overlay. Pursuant to Section 55 the application was referred to Melbourne Water, who had no objection to the proposal, subject to conditions regarding the finished floor level being constructed at 600mm above the surrounding natural surface levels.

Given that Melbourne Water had no objection to the proposed development, it is considered that proposed building will not increase the potential risk to life, health or safety a 1 in 100 Year flood poses, and will not affect or obstruct floodwater, stormwater or drainage over the property, subject to their conditions being met. Via condition, the objectives of this provision are met.

Cardinia Shire's Liveability Plan 2017-2029

Cardinia Shire's Liveability Plan has been developed to provide a clear framework for public health planning within the Shire, and it has a number of goals and actions relating to policy domains that include active travel, education, employment and housing. The application is considered consistent with this Plan as the provision of improved telecommunications coverage supports increased safety, improved social cohesion and economic development.

Decision Guidelines

The proposal is consistent with the PPF and LPPF, the purpose of the zone and relevant provisions. The proposal does not undermine the orderly planning of the area and the siting, design and visual impact of the facility is considered appropriate when regard is given to the social and economic benefits provided by improved and enhanced telecommunications.

CONCLUSION

The proposed facility, comprising a 35 metre high monopole with attached antennas and equipment cabinets has been located in a site which meets visual amenity issues which meets the ability to ensure adequate coverage is achieved. The proposal satisfies the requirements of the Code of Practice for Telecommunications Facilities in Victoria, whilst also addressing coverage deficiencies within the local area.

The proposal is also consistent with the stated objectives of the Cardinia Planning Scheme and, in particular, Clause 52.19 relating to telecommunications facilities. It is not considered to be detrimental to the amenity of the surrounding area, although visible, has been sited and designed to provide an appropriate balance between visual impacts and the provision of improved services for the wider site context.

It is therefore recommended that a Notice of Decision for planning permit T190588 be issued for the **Use and development of the land for a Telecommunications Facility at 946 McDonalds Drain Road, Pakenham** subject to the following conditions:

CONDITIONS

1. Before the development starts, a landscape plan prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must provide a landscape buffer immediately surrounding the fenced **Telecommunications Facility, and** must be drawn to scale with dimensions. The plan must show:
 - a) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.

4. The exterior colour and cladding of the telecommunication facility must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the equipment shelter, including the roof, must be of a non-reflective nature.
5. Electromagnetic energy emissions must comply with the Australia Radiation Protection and Nuclear Safer Agency (ARPANSA).
6. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.

Melbourne Water conditions

7. The Equipment Shelter must be constructed with finished floor levels no lower than 600mm above the natural ground level which is 300 mm above the applicable flood level.
8. Any electrical installations/ appliances must be fixed at a level no lower than 900mm above natural ground level which is 600mm above the applicable flood level.

Expiry:

A permit for the development and use of land expires if—

- a) the development does not start within **two (2) years** after the issue of the permit; or
- b) the development is not completed within **four (4) years** after the issue of the permit.
- c) the use has not been commenced within **four (4) years** after the issue of the 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

Permit notes:

Advice

The property is located within zone 1 of the Koo Wee Rup Flood Protection District and is subject to flooding. The applicable flood level for the property is approximately 300mm above the natural ground surface levels. For general development enquiries contact our Customer Service Centre on 131722.

1 TELECOMMUNICATIONS FACILITY AT 946 MCDONALDS DRAIN ROAD, PAKENHAM

Moved Cr G Moore Seconded Cr C Ryan

That a Notice of Decision to Grant Planning Permit T190588 be issued for the Use and development of the land for a Telecommunications Facility at 946 McDonalds Drain Road, Pakenham VIC 3810 subject to the following conditions:

1. Before the development starts, a landscape plan prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must provide a landscape buffer immediately surrounding the fenced Telecommunications Facility, and must be drawn to scale with dimensions. The plan must show:
 - a) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
4. The exterior colour and cladding of the telecommunication facility must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the equipment shelter, including the roof, must be of a non-reflective nature.
5. Electromagnetic energy emissions must comply with the Australia Radiation Protection and Nuclear Safer Agency (ARPANSA).
6. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.

Melbourne Water conditions

7. The Equipment Shelter must be constructed with finished floor levels no lower than 600mm above the natural ground level which is 300 mm above the applicable flood level.
8. Any electrical installations/ appliances must be fixed at a level no lower than 900mm above natural ground level which is 600mm above the applicable flood level.

Expiry:

A permit for the development and use of land expires if—

- a) the development does not start within **two (2) years** after the issue of the permit; or
- b) the development is not completed within **four (4) years** after the issue of the permit.
- c) the use has not been commenced within **four (4) years** after the issue of the 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

Cd.

2 SUBDIVISION OF LAND IN TO TWO (2) LOTS AT 39-41 RAILWAY AVENUE, BEACONSFIELD

FILE REFERENCE INT2014429

RESPONSIBLE GENERAL MANAGER Peter Benazic

AUTHOR Dimitrios Athanas

RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T190567 be issued for Subdivision of land in to two (2) lots at 39-41 Railway Avenue, Beaconsfield VIC 3807 subject to the conditions attached to this report.

Attachments

1	Locality Map	1 Page
2	Assessed Plans of Subdivision	3 Pages
3	Copy of Objections - Circulated to Councillors only	5 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T190567
APPLICANT:	Sue Chiaramonte
LAND:	39-41 Railway Avenue, Beaconsfield VIC 3807
PROPOSAL:	Subdivision of land in to two (2) lots
PLANNING CONTROLS:	General Residential Zone – Schedule 1 No Overlay
NOTIFICATION & OBJECTIONS:	The application has been advertised by sending notices to the owners and occupiers of adjoining land and placing a sign on the site. Four (4) objections were received to date.
KEY PLANNING CONSIDERATIONS:	Residential Subdivision, Subdivision Design and Planning Policy Framework (PPF) and Municipal Planning Strategy (MPS)
RECOMMENDATION:	Approval

BACKGROUND:

No Planning Permit History.

SUBJECT SITE

The subject site is located on the western side of Railway Avenue Beaconsfield. It is rectangular in shape and has an area of approximately 871 square metres. It contains some vegetation around the dwelling.

Access to the site is provide via an existing crossover from Railway Avenue. Topography of the land is relatively flat and the site is not affected by any easements.

The site is currently developed for residential purposes and contains an existing dwelling. The surrounding properties are developed as follows:

- North: The property on the northern side is developed for residential purposes and contains an existing dwelling.
- South/West: The properties on the south and western sides are developed for residential purposes and contain medium density dwellings
- East: Access Road is located on the eastern side.

PROPOSAL**Subdivision:**

The subject site is rectangular in shape and has an area of approximately 871 square metres. The application proposes to subdivide this land in to two allotments, Lot 1 and Lot 2 that are 406 square metres and 465 square metres consecutively.

The proposed Lot 2 contains the existing dwelling and access to the lot will be provided via a new crossover from Railway Avenue.

Proposed Lot 1 will be vacant and access is proposed via the existing crossover from Railway Avenue.

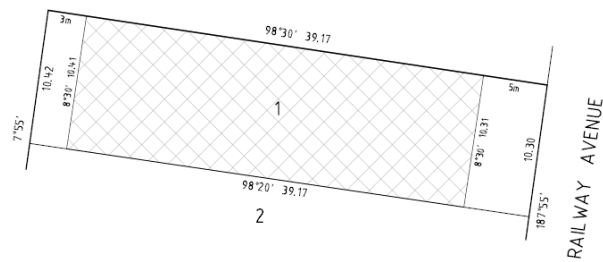
Vegetation Removal:

It is likely that the proposed subdivision will impact the existing vegetation on site. However, the site has no vegetation controls; therefore, a planning permit is not required for vegetation removal.

Earthworks:

No earthworks are proposed for the subdivision.

A building envelope is proposed on the vacant lot 1 as shown below: Conditions will be included in the planning permit issued, ensuring the building envelope complies with Clause 54 objectives and standards.



PLANNING SCHEME PROVISIONS

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- 15.01-3S Subdivision Design
- 16.01-2S Location of residential development
- 16.01-3S Housing diversity

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.03-1 Housing

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 53 Public Open Space Contribution and Subdivision
- Clause 56 Residential Subdivision
- Clause 65 Decision Guidelines.
- Clause 66 Referral and Notice Provisions
- Clause 66.01 Subdivision Referrals

Cardinia Shire's Liveability Plan 2017-2029

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

- **Improved Social Cohesion** - this application assists in bringing people together by providing increasing housing diversity and housing options close to urban centres and transport.
- **Improved safety** - the future use of the vacant lot 1 will be able to accommodate for a mix of housing types that address any safety concerns, such as safe walking to onsite car parking spaces from developments and visibility of entrances.
- **Reduce obesity** - the subdivision will create an additional lot with close proximity to POS areas and provides connectivity to established community areas.

- **Reduce financial vulnerability** – the subdivision proposal will allow for the creation of affordable housing close to transport and local jobs.

Zone

The land is subject to the **General Residential Zone –Schedule 1**

Overlays

The land is not subject to any overlays.

PLANNING PERMIT TRIGGERS

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

- Pursuant to Clause 32.08-3 of General Residential Zone, a permit is required for the subdivision of land in to two lots.

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 one (1) sign on site facing **Railway Avenue**.

Council has received four (4) objections to date from the following addresses.

The key issues that were raised in the objections are:

- **Parking congestion** – No additional parking capacity on Railway Avenue.
- **Overshadowing and solar access** – Any future development will result in additional shadowing on neighbouring properties and sunlight to existing and future development.
- **Increased traffic congestion**– Additional vehicles as a result of any future development on the additional lot.
- **Vegetation Loss** - Vegetation loss as a result of any future development.

DISCUSSION

Planning Policy Framework (PPF) and Municipal Planning Strategy (MPS)

A number of state and local policies are relevant to this application that aim to ensure subdivision design achieves attractive and diverse neighbourhoods, and to encourage a diversity in housing to meet the needs of future and existing residents.

Clause 15.01-3S (Subdivision design) has an objective to ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.

Clause 16.01-3S (Housing diversity) has an objective to provide for a range of housing types to meet diverse needs, which is met through a mix of housing types and adaptable internal dwelling design.

Clause 16.01-2S (Location of residential development) has an objective to locate new housing in designated locations that offer good access to jobs, services and transport. Strategies include increasing the proportion of new housing in designated locations within established urban areas and reduce the share of new dwellings in greenfield and dispersed development areas.

Clause 21.03-1 (Housing) provides local context to Clause 16, with an objective to encourage diversity in housing to meet the needs of existing and future residents.

The proposal is consistent with the PPF and MPS as it proposes a subdivision of a developed parcel that will result in infill development near public transport and local services. The vacant lot provides for smaller and affordable housing types, to meet with the diverse needs of the growing locality. The two (2) lots created through the subdivision have independent frontages and is consistent with the emerging subdivision pattern.

General Residential Zone – Schedule 1

The General Residential Zone seeks to encourage development that respects the neighbourhood character of the area and to provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.

Pursuant to Clause 32.08-2 of this zone, a permit is required to subdivide land. The decision guidelines of this zone cover a number of matters, such as the purpose of the zone, the pattern of subdivision and its effect on the spacing of buildings, and the objectives, standards and decision guidelines of Clause 56.

The proposal reinforces the established residential nature of the area through further urban infill. The area is well serviced by infrastructure and services to make efficient use of residential land. This proposal enables moderate housing growth with smaller allotments to facilitate affordable and various housing options in proximity to the urban centres off Old Princes Highway.

As discussed above, the lots created will be in excess of 400 metres squared each, which is acceptable proposal for the site. In addition, the Schedule 1 to this zone does not specify a minimum lot size for a two (2) lot subdivision. The garden area requirements of 25% does not apply for application for a subdivision that creates vacant land greater than 400 metres squared.

Furthermore, the tree removal required to accommodate the access and building envelope is considered acceptable as there are no overlay controls, which protect vegetation on the site. There is also no vegetation located within the road reservation.

Clause 53.01 - Public Open Space Contribution and Subdivision

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in Cardinia Planning Scheme. The schedule to the above mentioned clause requires an 8% contribution for land to be used for residential purposes. Clause 52.01 sets out a number of exemptions of when a contribution is not required to be made to the responsible authority. A two lot subdivision without the potential to be further subdivided is exempt.

Council consider that both lots created have the potential to be subdivided further in the distant future, therefore has considered it appropriate to include a permit condition that allows for the option of paying now or deferring the payment. If deferment option is chosen by the owner, they will require to enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act 1987.

Clause 56 - Residential Subdivision

The general purpose of Clause 56 – Residential Subdivisions, is to create liveable and sustainable neighbourhoods and urban places with character and identity, to achieve residential subdivision outcomes that appropriately respond to the site and its context, and to ensure residential subdivision design appropriately provides for policy implementation, liveable and sustainable communities, residential lot design, urban landscape, access and mobility management, integrated water management, site management, and utilities.

The General Residential Zone requires two lot subdivisions to meet the following objectives and standards contained within Clause 56:

- Clause 56.03-5 Neighbourhood character objective;
- Clause 56.04-2 Lot area and building envelopes objective;
- Clause 56.04-3 Solar orientation of lots objective, street orientation objective, common

area objectives;

- Clause 56.04-5 Common area objectives;
- Clause 56.06-8 Lot access objectives;
- Clause 56.09-2 Electricity, telecommunications and gas objectives;

An analysis of the objectives and standards above has been undertaken and determined that the proposed subdivision is compliant with all relevant objectives and standards.

Clause 65 Decision Guidelines

The Application has been assessed against the Clause 65 Decision Guidelines, which requires Council to consider additional factors. These include the effect the proposal may have on the orderly planning of the area, the amenity of the area, proximity to public land, factors likely to contribute to land degradation, the quality of stormwater within and exiting the site, effects on native vegetation, potential hazards, the suitability of the land for subdivision and the existing use and possible future development of the land.

The Application proposes a two-lot subdivision in a suitable location that is consistent with the orderly planning of the area because it increases density in a location close to amenities and public transportation. The proposal allows for infill development contained in an established residential area. Considering that, no overlays are placed on the subject site it is considered that any vegetation removal as a result of future development is appropriate and will not cause degradation to the land in any meaningful way. Stormwater drainage impacts will be addressed via permit conditions.

Response to the Objections

Parking Congestion – The proposal does not allow for development as part of the application, however it is acknowledged that the parcel will be able to be developed without further planning consent. Any development on Lot 1 will require a building permit and therefore need to adhere to relevant building regulations around car parking. The issue raised regarding parking across driveways is unable to be addressed by planning department within this application. The suggestion by the neighbours for 4 hour parking restriction along Railway Avenue, would need to be discussed separate from this permit application as it will require appropriate council assessment of the roads current capacity and the suitability of any traffic controls.

Overshadowing and solar access – Any future development will be required to meet objectives and standards through the building permit process which address the amenity issues such as overshadowing on neighbouring properties and the solar access to windows.

Increased traffic congestion– The application at this stage is not assessing any of the future development that would occur. Council has considered the suitability of the location and size of the two lots and has come to the result that the existing road network would be able to accommodate for the intensification of the site.

Vegetation Loss – the level of impact the subdivision would have on the vegetation on site has been assessed in the context of any possible future development. It has been considered that by including conditions that require amended plans for a building envelope for Lot 1 that complies with Standard A10 and A11 of Clause 54 of the Cardinia Planning Scheme will result with an acceptable site outcome and reduce any unnecessary future vegetation loss.

CONCLUSION

The application has been assessed against the decision guidelines of all relevant clauses of the Cardinia Planning Scheme and the proposed subdivision is determined to be consistent with these requirements. As such, it is recommended that a Notice of Decision to Grant Planning Permit **T190567** be issued for **Subdivision of land in to two (2) lots at 39-41 Railway Avenue, Beaconsfield VIC 3807** subject to the following conditions.

CONDITIONS

1. Prior to the endorsement of plans, amended plans must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a. An amended building envelope for Lot 1 to comply with Standard A10 and A11 of Clause 54 of the Cardinia Planning Scheme;
 - b. The reference made to City of Casey replaced with Cardinia Shire Council;
2. The layout of the subdivision, and access as shown on the endorsed plan/s, 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 and electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
4. The owner of the land must enter into an agreement with:
 - a. A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - b. A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
5. Reticulated water supply, drainage, sewerage facilities and underground electricity, gas and telecommunication services and fibre optic cable conduits must be provided to each lot shown on the endorsed plan.
6. Within four (4) weeks of the registration of the plans at the Land Titles Office the following must be sent to the Responsible Authority:
 - a) A Certificate of Title for all land vested in the Responsible Authority on the plan of subdivision.
 - b) A clear copy of the Title Office approved Plan of Subdivision.
7. Prior to a Statement of Compliance being issued the permit holder must submit a suitable drainage plan for the Legal Point of Discharge to the satisfaction of the Responsible Authority.
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.
9. Prior to the issue of a Statement of Compliance the following works must be completed in accordance with plans approved by and to the satisfaction of the Responsible Authority:

- a) Removal of any structure located on Lot 1.
- b) Removal of any structure constructed over a boundary line.
- c) Appropriate driveway access and drainage connection points must be provided to all lots to the satisfaction of the Responsible Authority.
- d) All services, including drainage and/or sewerage, servicing any existing dwelling or building on the lot(s), must be relocated (if required) to the satisfaction of the Responsible Authority, to ensure that they do not cross the boundaries between the proposed lots.
- e) A sum equivalent to 8 per cent of the site value of all the subject land in the subdivision must be paid to the Responsible Authority;
OR
In the event that this payment is to be deferred, the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the *Planning and Environment Act 1987*, and make the application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act, which provides for the following:
 - i. Before the issue of a Statement of Compliance for any further subdivision of the land (either Lot 1 or lot 2 Plan of Subdivision 832423 or as amended), a sum equivalent to 8 per cent of the site value of all the subject land in the subdivision must be paid to the Responsible Authority.

Expiry:

This permit will expire if:

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

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three (3) months afterwards.

Notes:

- The starting of the subdivision is regarded by Section 68(3A) of the Planning and Environment Act 1987 as the certification of a plan, and completion is regarded as the registration of the plan.
- A 'Vehicle Crossing Permit' must be obtained from the Responsible Authority prior to the commencement of any works associated with the proposed vehicle crossing.

2 SUBDIVISION OF LAND IN TO TWO (2) LOTS AT 39-41 RAILWAY AVENUE, BEACONSFIELD

Moved Cr L Wilmot Seconded Cr M Schilling

That a Notice of Decision to Grant Planning Permit T190567 be issued for Subdivision of land in to two (2) lots at 39-41 Railway Avenue, Beaconsfield VIC 3807 subject to the following conditions:

1. Prior to the endorsement of plans, amended plans must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a. An amended building envelope for Lot 1 to comply with Standard A10 and A11 of Clause 54 of the Cardinia Planning Scheme;
 - b. The reference made to City of Casey replaced with Cardinia Shire Council;
2. The layout of the subdivision, and access as shown on the endorsed plan/s, 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 and electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
4. The owner of the land must enter into an agreement with:
 - a. A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - b. A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
5. Reticulated water supply, drainage, sewerage facilities and underground electricity, gas and telecommunication services and fibre optic cable conduits must be provided to each lot shown on the endorsed plan.
6. Within four (4) weeks of the registration of the plans at the Land Titles Office the following must be sent to the Responsible Authority:
 - a) A Certificate of Title for all land vested in the Responsible Authority on the plan of subdivision.
 - b) A clear copy of the Title Office approved Plan of Subdivision.
7. Prior to a Statement of Compliance being issued the permit holder must submit a suitable drainage plan for the Legal Point of Discharge to the satisfaction of the Responsible Authority.
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.
9. Prior to the issue of a Statement of Compliance the following works must be completed in accordance with plans approved by and to the satisfaction of the Responsible Authority:
- a) Removal of any structure located on Lot 1.
 - b) Removal of any structure constructed over a boundary line.
 - c) Appropriate driveway access and drainage connection points must be provided to all lots to the satisfaction of the Responsible Authority.
 - d) All services, including drainage and/or sewerage, servicing any existing dwelling or building on the lot(s), must be relocated (if required) to the satisfaction of the Responsible Authority, to ensure that they do not cross the boundaries between the proposed lots.
 - e) A sum equivalent to 8 per cent of the site value of all the subject land in the subdivision must be paid to the Responsible Authority;
OR
In the event that this payment is to be deferred, the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of *the Planning and Environment Act 1987*, and make the application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act, which provides for the following:
 - i. Before the issue of a Statement of Compliance for any further subdivision of the land (either Lot 1 or lot 2 Plan of Subdivision 832423 or as amended), a sum equivalent to 8 per cent of the site value of all the subject land in the subdivision must be paid to the Responsible Authority.

Expiry:

This permit will expire if:

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

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three (3) months afterwards.

Cd.

3 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

FILE REFERENCE INT2012517

RESPONSIBLE GENERAL MANAGER Tracey Parker

AUTHOR Luke Connell

RECOMMENDATION

That the report be noted.

EXECUTIVE SUMMARY

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

Status of active amendments

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

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C222	XWB Consulting	85 McNamara Road, Bunyip	Amendment C222 proposes to: <ul style="list-style-type: none"> • rezone land from Farming Zone Schedule 1 (FZ1) to Low Density Residential Zone Schedule 3 (LDRZ3) (55 & 85 McNamara Road), • apply a Development Plan Overlay Schedule 21 (DPO 21) (85 McNamara Road), • apply a Design and Development Overlay Schedule 1 (DDO1), and • delete the Environmental Significance Overlay Schedule 1 (ESO1). 	Thu 08/08/2019	Fri 06/09/2019	Panel Hearing to be held on 25/02/2020.
C226	Cardinia Shire Council	Lot 5 PS321195 67 Whiteside Rd Officer, Lot 2 PS327845 130 Whiteside Rd Officer and Lot PP	Repair inconsistent policy in the Urban Growth Zone Schedule 3 (UGZ3) and the applied Schedule of the Rural Conservation Zone (RCZ) that prevents development in the 3 lots identified from occurring in line	Thu 22/06/2017	Mon 24/07/2017	On 11/05/2018 Council received advice from DELWP stating that, based on new environmental risk regulations approved via Amendment

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
		PS746064 325 Princes Hwy Officer	with the Officer Precinct Structure Plan (PSP) that was adopted by Council in 2011. The amendment proposes to add a Schedule to the RCZ removing the minimum subdivision requirements for the 3 sites identified, that would otherwise exist in the provision. This ensures there is a match between the policy intention of the PSP and the provisions in the UGZ3 and the applied zone (RCZ).			VC140 on 12/12/2017, further work is required prior to the Minister considering the amendment. A draft Bushfire Development Report (June 2019) was received from Terramatrix. Council Officers have provided a response to the draft.
C228	Cardinia Shire Council	Pakenham Activity Centre	Apply the Activity Centre Zone (ACZ) to the Pakenham Activity Centre.	Thu 24/10/2019	Fri 06/12/2019	A report to consider submissions and request a Panel is being put to Council in February.
C229	Cardinia Shire Council	Tynong, Garfield and Bunyip	Apply the Environmental Significance Overlay (ESO) to Tynong, Bunyip and Garfield to facilitate the provision of habitat corridors for the Southern Brown Bandicoot.	Thu 21/11/2019	Fri 20/12/2019	A report to consider submissions and request a Panel is being put to Council in March.
C232	Victorian Planning Authority	Officer Precinct	Implement the revised Officer Precinct Structure Plan (Amended February 2018) by making changes to the zone, overlay and ordinance provisions of the Cardinia Planning Scheme.	Thu 22/03/2018	Fri 27/04/2018	Adopted by VPA on 15/05/2019. Awaiting approval from the Minister for Planning. 05/02/2020: Council officers have written to the Minister for Planning seeking an update on the approval timeframes.
C234	Victorian Planning Authority and Cardinia	Pakenham East Precinct	Incorporate the Pakenham East Precinct Structure Plan (PSP) and rezone the majority of land to	Thu 18/01/2018	Fri 23/02/2018	Adopted by VPA on 10/10/2018. A subsequent feedback

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
	Shire Council		Urban Growth Zone Schedule 5 (UGZ5) to facilitate the development of the land generally in accordance with the PSP, and make a number of other consequential changes to the Cardinia Planning Scheme to support the implementation of the PSP.			process was initiated by VPA in mid-October for consideration of land north of power line easement. The Minister for Planning has decided to send submissions received on the additional notice to a Planning Panel. The Planning Panel is to be heard in late March.
C235	Planning Central	145 Rossiter Road, Koo Wee Rup	Rezone land from Farming Zone to Neighbourhood Residential Zone Schedule 1 (NRZ1). Apply a Development Plan Overlay Schedule 22 (DPO22), and corrects the mapping of the Heritage Overlay for the adjacent heritage property 'Shepton Mallet'.	Thu 27/06/2019	Fri 02/08/2019	A report recommending the amendment be adopted is being put to Council in March.
C238	Cardinia Shire Council	Beaconsfield Precinct - Glismann Road and Old Princes Highway.	Rezone to General Residential Zone (Schedule 2) and introduce a Development Plan Overlay (DPO), a site specific Environmental Audit Overlay (EAO) and remove the Environment Significance Overlay 1 (ESO1). An ICP will be implemented at a later stage.			Preparation documents were submitted to DELWP in December 2019. A response was received from DELWP. A reply to their questions has been prepared and project timelines are being mapped.
C240	Cardinia Shire Council	Koo Wee Rup Township	Implement the objectives of the Koo Wee Rup Township Strategy by applying Development Plan Overlays 23 & 24 and Design and Development Overlays 8 & 9 over various	Thu 13/02/2020	Mon 16/03/2020	On exhibition.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			precincts within Koo Wee Rup.			
C241	Cardinia Shire Council	Officer Precinct	Apply a Public Acquisition Overlay (PAO) for signalled intersections on land as per the Officer Precinct Structure Plan (PSP).			On 09/12/2019 Council resolved to seek authorisation from the Minister for Planning to prepare an amendment.
C249	Cardinia Shire Council	Multiple addresses	Amend various provisions of the Cardinia Planning Scheme to correct mapping anomalies, delete redundant controls and correct ordinance errors.			Context have been engaged to update the citations and mapping for 4 precincts. Due to be completed early March.
C250	Cardinia Shire Council	Cardinia Shire	Implementation of Cardinia Planning Scheme Review 2018.	Thu 14/11/2019	Mon 16/12/2019	Directions Hearing set for week of 16 March 2020 and Panel Hearing set for week of 27 April 2020.
C257	Cardinia Shire Council	53-65 Woods Street, Beaconsfield	Application of a Development Plan Overlay (DPO).			Landowner is preparing plans & consulting with Melbourne Water. Anticipated meeting with officers in early March.
C263	Minister for Planning	Beaconsfield Activity Centre	Section 20(4) amendment to extend the expiry date of the Beaconsfield Structure Plan to ensure that controls remain in place while Amendment C257 progresses.			19/11/2019: Awaiting approval by the Minister for Planning. DELWP advised this Amendment is not a priority but approval will be given prior to expiry of the document which is in June.
C264	Cardinia Shire Council	Cardinia Shire municipality	Implement the Advertising Signage Guidelines into the Cardinia Planning Scheme.			A report requesting authorisation to prepare an amendment is being put to Council in

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
						February.

3 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

Moved Cr L Wilmot Seconded Cr M Schilling

That the report be noted.

Cd.

4 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)

FILE REFERENCE INT2014558

RESPONSIBLE GENERAL MANAGER Peter Benazic

AUTHOR Owen Hardidge

RECOMMENDATION

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

EXECUTIVE SUMMARY

The following list of enforcement matters currently before VCAT 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)

Current Enforcement cases

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

Property Address	Nature of Contravention	Status
765 Gembrook Rd, Pakenham Upper (OH:LK:16299)	Native vegetation removal, and earthworks creating driveway and hardstand, in breach of Rural Conservation Zone – Schedule 2, Environmental Significance Overlay Schedule 1, and Clause 52.17	On the 18th December 2019 , Magistrates' Court found the owner guilty of 11 offences, relating to unpermitted vegetation removal and earthworks over a 2 year period. The owner was convicted and fined \$5,000 with Council costs being referred for further hearing. The accused has appealed the conviction and sentence, which will be heard in the County Court commencing 1 July 2020 .
1 Walker Street, Koo Wee Rup (OH-SM-19478)	Land that was developed without a permit, in contravention of planning scheme - Heritage Overlay (43.01)	Following a successful prosecution, VCAT enforcement order application commenced and listed hearing on 26th June 2020 .

Conclusion

The list of current enforcement activities is presented for information.

Glossary of terms

Practice day hearing

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

Mention hearing

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

Administrative Mention

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

Adjournment

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

Land Management Plan

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

Contested hearing / Full hearing

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

Consent Orders

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

4 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)

Moved Cr L Wilmot Seconded Cr M Schilling

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

Cd.

5 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY

FILE REFERENCE INT2014565

RESPONSIBLE GENERAL MANAGER Peter Benazic

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted.

EXECUTIVE SUMMARY

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

Central Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
7/02/2020	T180822 - PC1	21 King Street, Pakenham VIC 3810	Development of eight (8) dwellings	Issued	19 December 2019
7/02/2020	T190441	8 Simon Drive, Pakenham VIC 3810	Buildings and works associated with the construction of a dwelling and alterations and additions to an existing dwelling (carport)	NOD	01 August 2019
7/02/2020	T190543	FY 9/99 Bald Hill Road, Pakenham VIC 3810	Use of land as an office, display of signage and reduction in car parking	NOD	11 September 2019
9/02/2020	T190120	14 Toomuc Valley Road, Pakenham VIC 3810	Development of the land for a Residential Building (replacement motel)	Issued	06 March 2019
13/02/2020	T190672	13 Skyline Drive, Officer VIC 3809	Buildings and works (outbuilding) within the Significant Landscape Overlay – Schedule 6	Issued	05 November 2019

Port Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
20/01/2020	T160342 - PC1	105 Ropers Lane, Bayles VIC 3981	Section 173 Agreement	Issued	16 April 2019
20/01/2020	T190538	9 Tarmac Way, Pakenham VIC 3810	Building and works to construct two (2) warehouse with ancillary office for each premises.	Issued	09 September 2019
20/01/2020	T190562	270 North Yannathan Road, Catani VIC 3981	Buildings and works for five (5) agricultural buildings	Issued	20 September 2019
20/01/2020	T190582	15 Tinkham Road, Tonimbuk VIC 3815	Use and development of the land for a dwelling (replacement)	Issued	01 October 2019
20/01/2020	T190594	385 Little Road, Iona VIC 3815	Development of the land for a shed associated with agriculture	Issued	02 October 2019
21/01/2020	T190668	12 Industrial Drive, Pakenham VIC 3810	Development of the land for one (1) warehouse, with ancillary office	Issued	13 November 2019
21/01/2020	T190786	44A Garfield Road, Garfield VIC 3814	Development of the land for an outbuilding (shed)	Issued	19 December

2019

22/01/2020	T120195 - 2	170 McDonalds Track, Lang Lang Victoria 3984	Subdivision of the land into 234 lots, removal of one native tree, removal of a drainage easement and the subdivision of land adjoining a Road Zone Category 1	Issued	16 September 2019
23/01/2020	T190126	35 McDonalds Track, Lang Lang VIC 3984	Multi-lot subdivision, creation of access to a Road Zone Category 1, works within a Road Zone and the creation of a reserves	Issued	06 March 2019
24/01/2020	T190634 - PC1	495 Garfield North Road, Garfield North VIC 3814	Use and development of the land for a dwelling and associated works	Issued	22 January 2020
28/01/2020	T190586	21 Industrial Drive, Pakenham VIC 3810	Development of the land for a warehouse and associated buildings and works	Issued	02 October 2019
28/01/2020	T190781	20 Spencer Street, Nar Nar Goon VIC 3812	Building and works for an outbuilding (shed).	Issued	20 December 2019
29/01/2020	T170575 - PC2	4 & 6 Industrial Drive, Pakenham VIC 3810	Development of the land for a warehouse	Withdrawn	17 December 2019
30/01/2020	T180340 - PC1	84 Railway Avenue, Tynong VIC 3813	Section 173 Agreement - Subdivision of the Land into Two (2) Lots and the creation of an easement	Issued	20 January 2020
31/01/2020	T170783 - PC1	555 Thwaites Road, Yannathan VIC 3981	Buildings and works to redevelop existing broiler farm	Issued	24 December 2019
31/01/2020	T190398 - 1	210 Ellis Road, Tonimbuk VIC 3815	Additions to the dwelling, development of the land for an outbuilding associated with agriculture and associated earthworks.	Issued	24 January 2020
31/01/2020	T190414 - PC1	Exchange Drive (proposed Lots 26 & 27), Pakenham VIC 3810	Buildings and works associated with Industry (Machinery sales and repairs) and display of signage	Issued	07 November 2019
31/01/2020	T190414 - PC2	Exchange Drive (proposed Lots 26 & 27), Pakenham VIC 3810	Buildings and works associated with Industry (Machinery sales and repairs) and display of signage	Issued	07 November 2019
31/01/2020	T190523	115 Jolley Road, Tonimbuk VIC 3815	Use and development of the land for a dwelling	Issued	02 September 2019
31/01/2020	T190743	17 Corporate Terrace, Pakenham VIC 3810	Internal alterations to an existing warehouse and a waiver of car parking	Issued	10 December 2019
3/02/2020	T190793	21 Agnoletto Court, Bunyip VIC 3815	Development of outbuilding (Shed)	Issued	24 December 2019
4/02/2020	T190554	49 Henry Street, Koo Wee Rup VIC 3981	Subdivision of the land into two (2) lots	Issued	18 September 2019
4/02/2020	T190627	4 Bravo Loop, Pakenham VIC 3810	Use of the land for Restricted Retail (Firearm Dealership)	Issued	14 October 2019
4/02/2020	T190638	Mortlake Drive, Officer South VIC 3809	Development of seven (7) dwellings and reduction in car parking	Issued	25 October 2019
5/02/2020	T190425	510 Mynard Road, Catani VIC 3981	Use and development of the land for a Dependent Person's Unit	Issued	15 July 2019
6/02/2020	T190485	110 Caldermeade	Earthworks associated with the development of	NOD	14 August

		Road, Caldermeade VIC 3984	a dam		2019
6/02/2020	T190502	180 Main Drain Road, Koo Wee Rup VIC 3981	Buildings and works associated with an agricultural building extension	Issued	21 August 2019
6/02/2020	T190548	535 Bessie Creek Road, Nar Nar Goon North VIC 3812	Buildings and works associated with an agricultural shed (stables)	Issued	10 September 2019
7/02/2020	T180505 - PC3	254 Snell Road, Nar Nar Goon North VIC 3812	Buildings and works (new building and boardwalks) associated with an existing Accommodation facility	Issued	19 November 2019
7/02/2020	T190688	490 McGregor Road, Pakenham VIC 3810	Development of the land for a garage	Issued	21 November 2019
8/02/2020	T200051	132 Moody Street, Koo Wee Rup VIC 3981	Development of the land for an outbuilding	Withdrawn	05 February 2020
9/02/2020	T180444 - PC1	24 Main Street, Bunyip VIC 3815	Conditions 16A, B, C, D & E of Planning Permit T180444.	Issued	14 November 2019
9/02/2020	T190743 - PC1	17 Corporate Terrace, Pakenham VIC 3810	Internal alterations to an existing warehouse and a waiver of car parking	Issued	03 February 2020
9/02/2020	T190749	30 Wollondilly Road, Garfield North VIC 3814	Development of the land for two (2) outbuildings	Issued	10 December 2019
10/02/2020	T190415	10-16 Station Street, Koo Wee Rup VIC 3981	Display of business identification signage	Lapsed	17 July 2019
11/02/2020	T200022	We 1-2/3 Southeast Boulevard, Pakenham VIC 3810	Proposed internal office fit out of lot 2, new crossover in common space and waiver of car parking	Withdrawn	20 January 2020
12/02/2020	T190559	Officer South Road, Officer VIC 3809	Development of land for utility installation upgrades, vegetation removal and associated road widening-works	Issued	24 September 2019
12/02/2020	T190609	355 Ellis Road, Tonimbuk VIC 3815	Buildings and works associated with a dwelling extension and garage	Issued	09 October 2019

Ranges Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
20/01/2020	T190146	35 Orchard Road, Gembrook VIC 3783	Development of the land for a replacement dwelling and associated earthworks	Issued	18 March 2019
20/01/2020	T190201	4 Mary Street, Emerald VIC 3782	Use and development of the land for a dwelling, associated works and native vegetation removal	Issued	10 April 2019
20/01/2020	T190602	64 Second Avenue, Cockatoo VIC 3781	Development of the land for an outbuilding	Issued	03 October 2019
21/01/2020	T190294	4 Fell Road, Cockatoo VIC 3781	Development of a dwelling extension and associated works	Withdrawn	22 May 2019
21/01/2020	T190382	260 Army Road, Pakenham VIC 3810	Development of dwelling extension and associated works	Withdrawn	28 June 2019
22/01/2020	T190232	50 Phillip Road, Avonsleigh VIC 3782	Re-subdivision of two (2) lots and creation of a reserve	Issued	27 April 2019
22/01/2020	T190676	22 Oakrind Rise, Officer VIC 3809	Buildings and works associated with accommodation (dwelling) within the Bushfire Management Overlay	Issued	07 November 2019
22/01/2020	T200018	20 Golden Banksia	i am seeking a permit for pergola and deck	Withdrawn	22 January

		Drive, Officer VIC 3809			2020
24/01/2020	T180221 - PC1	27 Burton Road, Beaconsfield Upper VIC 3808	Alterations and additions to an existing dwelling, construction of an outbuilding, associated earthworks and vegetation removal	Issued	24 October 2019
28/01/2020	T190368	400 Belgrave-Gembrook Road, Emerald VIC 3782	Development of the land for a Veterinary Clinic, alteration and creation of access to a Road in a Road Zone Category 1, display business identification signage, vegetation removal and associated works.	NOD	25 June 2019
28/01/2020	T190751	33 Stoney Creek Road, Beaconsfield Upper VIC 3808	Alterations to existing dwelling	Withdrawn	06 December 2019
29/01/2020	T190508	1 Alber Road, Beaconsfield Upper VIC 3808	Buildings and works associated with an extension to an existing outbuilding.	Issued	10 September 2019
29/01/2020	T190514	3 Francis Street, Cockatoo VIC 3781	Development of the land for a dwelling extension and an outbuilding	Issued	27 August 2019
30/01/2020	T180844 - 1	17 Aura Vale Road, Menzies Creek VIC 3159	Roof Line, outdoor spa added and internal layout.	Withdrawn	09 December 2019
30/01/2020	T190286	330 Morrison Road, Pakenham Upper VIC 3810	Alterations and additions to a dwelling, development of the land for an outbuilding and associated earthworks	Issued	20 May 2019
30/01/2020	T190373	8 Cornish Road, Emerald VIC 3782	Development of the land for a dwelling and earthworks	Withdrawn	26 June 2019
30/01/2020	T190772	24 Warrawee Avenue, Beaconsfield VIC 3807	seeking permit to build a verandah	Withdrawn	18 December 2019
31/01/2020	T190364	29 Russell Road, Gembrook VIC 3783	Development of the land for a (replacement) dwelling and outbuilding	Issued	22 June 2019
31/01/2020	T200011	54 Emerald-Monbulk Road, Emerald VIC 3782	Additions to an existing dwelling (pergola and garage)	Issued	08 January 2020
3/02/2020	T190544	36 Annabel Crescent, Officer VIC 3809	Development of a dwelling and associated works	Issued	11 September 2019
3/02/2020	T190579	84 Dickie Road, Officer VIC 3809	Development of the land for an outbuilding and vegetation removal	Issued	02 October 2019
3/02/2020	T200027	51 Orchard Road, Gembrook VIC 3783	Construction of one dwelling	Withdrawn	21 January 2020
6/02/2020	T180674 - PC1	35 Kings Road, Emerald VIC 3782	Development of the land for three (3) dwellings	Issued	09 October 2019
6/02/2020	T190235	25 Billaroy Road, Beaconsfield Upper VIC 3808	Use and development of the land for a dwelling, outbuilding, earthworks and associated vegetation removal	Issued	29 April 2019
6/02/2020	T190493	Walnut Avenue, Emerald VIC 3782	Development of the land for a dwelling	Issued	19 August 2019
6/02/2020	T190696	10 Maisie Road, Emerald VIC 3782	Development of the land for an outbuilding	Issued	13 November 2019
7/02/2020	T170708 - PC1	McBride Street, Cockatoo VIC 3781	Construction of railway station buildings and earthworks in association with Puffing Billy	Issued	05 August 2019
7/02/2020	T190149 - PC1	14 Victor Road, Clematis VIC 3782	Development of the land for a Dependent Person's Unit	Issued	23 September 2019

7/02/2020	T190149 - PC2	14 Victor Road, Clematis VIC 3782	Development of the land for a Dependent Person's Unit	Issued	08 October 2019
7/02/2020	T190363	1965A Wellington Road, Menzies Creek VIC 3159	Development of an extension to an outbuilding and associated works	Issued	21 June 2019
7/02/2020	T190669	354 Beaconsfield- Emerald Road, Guys Hill VIC 3807	Buildings and works associated with an outbuilding and vegetation removal	Issued	01 November 2019
7/02/2020	T200020	104 Foott Road, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding	Issued	17 January 2020
11/02/2020	T180820 - PC4	110 Bayview Road, Officer VIC 3809	Con. 3, PIP - Public Infrastructure Plan	Issued	05 August 2019

5 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY

Moved Cr L Wilmot Seconded Cr M Schilling

That the report be noted.

Cd.

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

FILE REFERENCE INT2014570

RESPONSIBLE GENERAL MANAGER Peter Benazic

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted.

Attachments

Nil.

EXECUTIVE SUMMARY

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

Hearing Date	App No.	Address	Proposal	Council Decision	Appealed By	Outcome	Relevant Department
25/3/2020	T180618	Kardoona Park Wetlands	Appeal of conditions on Planning Permit	Approval	Applicant	Waiting on hearing	Growth Areas
9/6/2020	T190608	1550 Princes Highway, Nar Nar Goon (Pakenham East PSP)	Earthworks permit associated with park	Failure to determine	Applicant	Waiting on hearing	Growth Areas
13/5/2020	T190272	Timbertop Blvd, Officer	Stage 16 Subdivision (13 Lots)	Failure to determine	Applicant	Waiting on hearing	Growth Areas
12/6/2020	GE180835	418 Paternoster Rd, Mount Burnett	Existing Use Rights - Use of the land for a Dwelling	Refusal	Applicant	Waiting on hearing	Statutory Planning
30/3/2020	T180454	900 Princes Highway, Pakenham	Use and development of the land for in stages for a cinema, food & drink premises, medical centre, shops, signage and reduction in car parking	Refusal	Applicant	Waiting on hearing	Growth Areas
16/4/2020	T180501	5 Birch Ave & 63 Westlands Rd, Emerald	Re-subdivision of two lots	Refusal	Applicant	Waiting on hearing	Statutory Planning
24/2/2020	T190026	33 Highland Dr Pakenham	Variation of a restrictive covenant	Refusal	Applicant	Waiting on hearing	Statutory Planning
18/12/2019	T170516	Merretts Road, Avonsleigh	Use and development of the land for a dwelling, outbuilding, removal of vegetation and associated earthworks	Approved	Applicant review of conditions	Mixed result - Some conditions remained, some removed by VCAT	Statutory Planning
18/11/2019	T180406	Tivendale Road, Officer	Subdivision of Land	Failure to determine	Applicant	Permit Issued	Growth Areas
5/9/2019	T180303	61-63 Princes Highway, Pakenham	Use and development of a Medical Centre	Objector	Approved	Awaiting Decision	Statutory Planning

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

Moved Cr L Wilmot Seconded Cr M Schilling

That the report be noted.

Cd.

Meeting closed at 7:11pm

Minutes Confirmed
Chairman