

Ordinary Council Meeting

Minutes

Monday 15 June 2020

Commenced at 7:02 pm

Council Chambers
20 Siding Avenue, Officer
Victoria

Members: Cr Jeff Springfield Mayor
 Cr Graeme Moore Deputy Mayor
 Cr Collin Ross
 Cr Brett Owen
 Cr Michael Schilling
 Cr Carol Ryan
 Cr Leticia Wilmot

Officers: Carol Jeffs Chief Executive Officer
 Doug Evans Manager Governance
 Jack Coogan Governance Officer

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1 Opening And Prayer

Almighty God we humbly request that you bestow your blessings upon this Council, direct and prosper our deliberations to the advancement of your glory and to the betterment of the peoples of Cardinia Shire. Amen.

Meeting opened at 07:02 pm.

The Mayor called for a motion to close the meeting to the public due to the COVID-19 pandemic.

Moved Cr Leticia Wilmot, seconded Cr Michael Schilling.

Carried

2 Acknowledgements

Cardinia Shire Council acknowledges that we are on the traditional land of the Bunurong and Wurundjeri people and pay our respects to their elders past, present and emerging.

3 Apologies

Crs Jodie Owen, Ray Brown

Queen's Birthday Honours

The Mayor took the opportunity to recognise several local residents who were acknowledge in the recent Queen's Birthday Honours by receiving an Order of Australia Medal. These resident being former Cr George Blenkhorn for services to Cardinia Shire, Joyce Mills for her service to the Koo Wee Rup Community and Dr Peter Crawford for his service to the Anglican Church and the Emerald and wider Dandenong Ranges community.

4 Adoption And Confirmation Of Minutes

Moved Cr Graeme Moore, seconded Cr Leticia Wilmot

That minutes of the following meetings be confirmed:

- General Council meeting 18 May 2020

Carried

5 Declaration Of Interests

Nil.

6 Ordinary Business
6.1 Town Planning Reports

6.1.1 Amendment To Planning Permit T130057 - To Amend Conditions to Allow Low Level Live Music in Outdoor Areas of the Hotel At L1, L2 And L3 LP6442, 200 Beaconsfield-Emerald Road, Beaconsfield

File Reference: T130057-1
Responsible GM: Peter Benazic
Author: Evangeline McGauley-Kennedy

Recommendation(s)

That Council issue a Notice of Decision to Grant Amended Planning Permit for the amendment to conditions of the planning permit T130057 to allow low level live music in the outdoor areas of the hotel at L1, L2 and L3 TP873363C, 200 Beaconsfield-Emerald Road, Beaconsfield Victoria 3807 subject to the conditions attached to this report.

Attachments

1. Locality Map [6.1.1.1 - 1 page]
2. Copy of Existing Permit [6.1.1.2 - 6 pages]
3. Copy of Patron Management Plan [6.1.1.3 - 9 pages]
4. CONFIDENTIAL - Copy of Objections - Circulated to Councillors only [6.1.1.4 - 15 pages]

Executive Summary

APPLICATION NO.:	T130057-1
APPLICANT:	BSP Lawyers
LAND:	L1, L2 and L3 TP873363C, 200 Beaconsfield-Emerald Road, Beaconsfield.
PROPOSAL:	Amendment to planning permit T130057 to allow low level live music in the outdoor areas of the hotel.
PLANNING CONTROLS:	Green Wedge Zone - Schedule 1 Land adjacent to a Road Zone Category 1 Environmental Significance Overlay – Schedule 1 Bushfire Management Overlay (partial) Floodway Overlay (partial)
NOTIFICATION & OBJECTIONS:	Pursuant to Section 55 of the Planning and Environment Act 1987, the application was advertised by the placing of two (2) signs on site and notices in the mail to 19 property owners including those shown beyond the areas in the Acoustic report provided as being potentially affected by the proposal.

	Six (6) objections were received.
KEY PLANNING CONSIDERATIONS:	Green Wedges – Metropolitan Melbourne Noise Amenity Patron behaviour
TITLE RESTRICTIONS	Section 173 Agreement – AL371213S This relates to an agreement between Cardinia Shire Council and Bridele Pty Ltd which refers to the payment of the Annual Community Contribution to Community Groups for as long as the 40 EGMs permitted by the planning permit are installed on the land. The Agreement includes obligations on how the annual contribution is to be indexed and the distribution and reporting of the annual contribution. This Agreement is therefore, not applicable to the proposal.
RECOMMENDATION:	Notice of Decision to Grant a Permit

Background

The site is located on the east corner of Beaconsfield-Emerald Road and Payne Road Beaconsfield.

The site is made up of three (3) parcels (L1, L2 and L3 TP873363C) and is sometimes referred to as L3 LP6442. The site totals approximately 4.8 hectares, with the Hotel use being located adjacent to Beaconsfield-Emerald Road in the south-western corner of the site.

The site currently contains the Cardinia Park Hotel, a historic hotel which has been located on the site for many years. Originally called The Bush Inn, then the Cardinia Creek Hotel and sometimes referred to as the Kardinia Creek Hotel, this pub was built prior to 1883 with the hotel signage stating it was established in 1926. Interestingly, although given its age and remnants of Victorian architecture, the building is not covered by a Heritage Overlay.

The Hotel enjoys existing use rights. Under the provisions of GWAZ1 a hotel is a Section 3, prohibited use. However the Hotel benefits from existing use rights and the existing use rights provisions allow for uses to continue into the future.

Throughout the years, the hotel has been subject of a number of applications, the most notable being T130057 which allowed for the buildings and works to an existing hotel, use and installation of 40 electronic gaming machines (EGMs), increase in the area and number of patrons permitted externally for the sale and consumption of liquor, and the alteration of access to a road zone category 1 on 7 October 2013.

The Hotel is single storey and orientated to Beaconsfield-Emerald Road. The Hotel currently incorporates a bistro and lounge, saloon bar, sports bar, gaming lounge with 40 EGM's and smoking area, two (2) alfresco dining areas (located to the south of the bistro and east of the entrance)

The Hotel currently operates pursuant to general liquor license number 31902043. The Liquor Licence currently allows an overall maximum patron capacity of 735 patrons, with 200 of those

patrons allowed in the external areas, during the following trading hours for consumption on the premises:

- Internal areas:
 - Sunday between 10am and 11pm
 - Good Friday and ANZAC Day between 12 noon and 11pm
 - On any other day between 7am and 1am

- External areas:
 - Sunday between 10am and 11pm
 - Good Friday and ANZAC Day between 12noon and 11pm
 - On any other day between 7am and 12 midnight

The endorsed plans show three (3) proposed outdoor areas, with two being located on the Beaconsfield-emerald Road side of the building and a third which was never constructed on the eastern side of the building adjacent to the car parking area to the rear.

The current permit allows for up to 200 persons to be in the outdoor areas at any one time, which is broken into each individual area as follows:

- Eastern outdoor dining area: 80 people
- Southern outdoor lounge area: 50 people
- Northern outdoor sports bar area: 50 people
- North-western outdoor smoking courtyard area: 20 people

Currently the permit does not allow any music (apart from background music) to be played in the external areas of the site. The total number of patrons allowed on the premises or in the outdoor areas at any one time is not proposed to be altered.

There have been a number of requests recorded by Council in relation to alleged breaches of the Cardinia Planning Scheme and/or planning permits. Some of these requests have resulted in action being taken to remedy a breach and others have resulted in no breach being detected.

This enforcement history mostly pertains to vegetation removal, earthworks and the display of an advertising sign without planning permits. A planning permit for the sign was issued following this breach.

Council is unaware of any previous complaints regarding noise arising from the operations of the premises apart from those now made known to Council through the objections received for this application.

Planning Permit History

- There is a planning permit T010702 listed as being issued for an Art & Craft Centre on 20 June 2012 for the site, however, an inspection of the file this permit could not be located as being for this address.
-
- Planning Permit T070344 was issued for a proposed outdoor smoking area, designated by portable barriers and minor works 24 July 2007.
-

- Planning Permit T130057 was issued for buildings and works to an existing hotel, use and installation of 40 electronic gaming machines (EGMs), increase in the area and number of patrons permitted externally for the sale and consumption of liquor, and the alteration of access to a road zone category 1 on 7 October 2013.
-
- Planning Permit T170311 was issued for an internally illuminated business identification sign on 11 September 2017.

Subject Site



The site is located on the north-east corner of the intersection of Beaconsfield-Emerald Road and Payne Road, Beaconsfield. The existing hotel is located in the south-western corner of the site. The site is transversed by Brisbane Creek towards the eastern title boundary. The site is relatively flat at the bottom of a valley with approximately 1 metre of fall across the site. The site contains existing Hotel and its infrastructure including a car parking area to the east and south of the building.

Surrounding land is generally used for rural-residential and smaller rural lifestyle and agricultural allotments being located in the vicinity. Beaconsfield Town Centre is located approximately 1.8 kilometres to the south of the site.

Relevance to Council Plan

Nil.

Proposal

The Hotel is seeking permission to delete conditions 15 and 16 of the Permit and amend the relevant provision in the patron management plan currently endorsed under condition 7 of the Permit so as to allow low level amplified live entertainment in the external areas of the Hotel.

It is proposed that as the external areas are used for alfresco dining, entertainment would be ancillary to food service with music noise emissions commensurate with certain types of performances, generally being 'acoustic duo' acts and/or background DJs.

It is proposed that low level amplified background music should be allowed during the hours outlined in the Liquor License for the consumption of liquor in the external areas of the site being:

- Sunday between 10am and 11pm

- Good Friday and ANZAC Day between 12noon and 11pm
- On any other day between 7am and 12 midnight.

However on consultation with the applicant and the objectors this has been reduced to the hours of:

- Monday to Sunday from 10am to 9pm

Planning Scheme Provisions

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.01-1R – Green Wedges – Metropolitan Melbourne
- Clause 13.05-1S – Noise abatement
- Clause 13.07-1S - Land use compatibility
- Clause 17.01-1S – Diversified economy

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 - Cardinia Shire Key issues and strategic vision
- Clause 21.03-3 – Rural Townships

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 52.27 - Licensed premises
- Clause 53.06 - Live music and entertainment noise
-
- Clause 63.05 - Existing use rights
- Clause 65 – Decision guidelines
- Clause 66 – Referral and Notice provisions

Cardinia Shire's Liveability Plan 2017-2029

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

- Reduce financial vulnerability by facilitating investment in the local economy that facilitates new job opportunities.

Zone

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

Overlays

The land is subject to the following overlays:

- Environmental Significance Overlay – Schedule 1
- Bushfire Management Overlay (partial)
- Floodway Overlay (partial)

Planning Permit Triggers

The proposal relates to the amendment of Planning Permit T13057 originally issued for buildings and works to an existing hotel, use and installation of 40 electronic gaming machines (EGMs), increase in the area and number of patrons permitted externally for the sale and consumption of liquor, and the alteration of access to a road zone category 1 to amend conditions relating to the prohibition of live music in the outdoor areas of the hotel as discussed above. Therefore, there are no new permit triggers as a result of the proposal.

The original application required a planning permit under the following clauses of the Cardinia Planning Scheme:

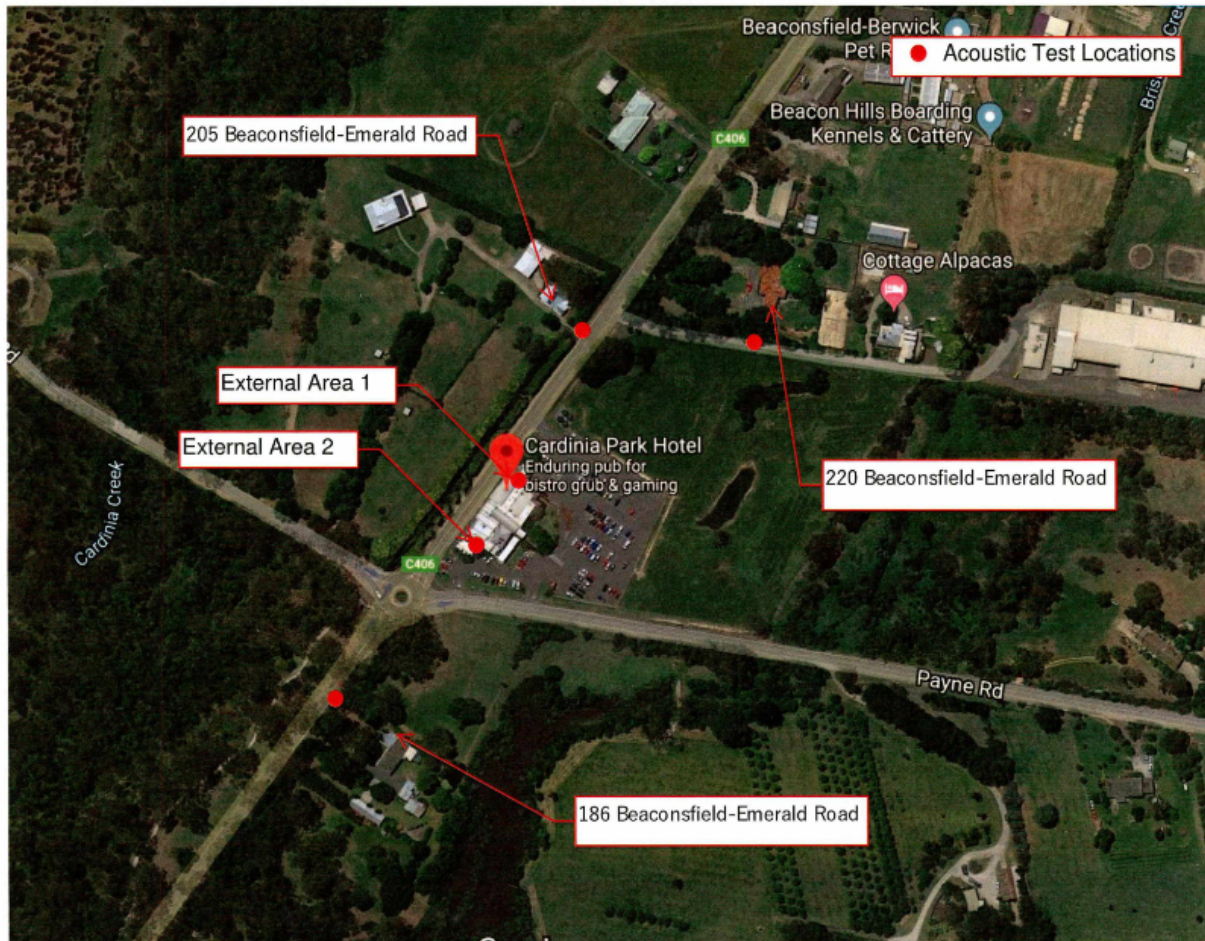
- Pursuant to Clause 63.05 (Existing Uses) outline a use that is in section 3 (prohibited uses) may continue as long no building and works are constructed or carried out without a permit.
- Pursuant to Clause 35.05-5 of the Green Wedge Zone A, a planning permit is required for required to construct or carry out works within 30m of a Road Zone 1.
- Pursuant to Clause 35.05-1 of the Green Wedge Zone A , a hotel would be a prohibited use however the site has existing use rights under Clause 63 of the Cardinia Planning Scheme.
- Pursuant to Clause 52.27 a permit is required to use land to sell or consume liquor if the number of patrons allowed under a licence is to be increased.
- Pursuant to Clause 52.28-2 a permit is required to install or use gaming machines
- Pursuant to Clause 52.29 a permit is required to alter access to a road in a Road Zone Category

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 and those properties beyond the shown as being potentially affected on the Noise Testing Locations Map prepared by Enfield Acoustics Pty Ltd dated 15 November 2019 (see Figure 1 below); and*

- *Placing two (2) signs on site.*
- *A total of 19 residences within an 800m radius of the site received notice of the application by mail.*



■ Figure 1: Acoustic mapping used to determine advertising notices for adjoining residences.

The notification has been carried out correctly, with the Statutory Declaration being received on 2 March 2020.

Council has received six (6) objections to date.

The key issues that were raised in the objections are:

- Noise (arising from patrons and music)
- Previous issues with patron behaviour
- Increased alcohol consumption

Referrals

Victoria Police

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

Council's Health Department

The application was referred to Council's Health Department who had no objection to the proposal subject to conditions regarding noise monitoring and complaints being placed on the permit.

Council's Compliance Department

The application was referred to Council's Compliance Department to confirm any complaints arising from compliance with the existing permit. They confirmed no complaints regarding compliance with the existing permit in terms of noise or amenity complaints. Council's record shows only breaches as discussed previously in this report.

Discussion

The application to amend the permit has been assessed against the decision guidelines of all relevant clauses of the Cardinia Planning Scheme and the proposed changes on balance are determined to be consistent with these requirements, subject to some changes to be discussed below.

The Planning Scheme recognises that live music is an important part of the State's culture and economy. Policy seeks to facilitate and protect live music and entertainment venues from the encroachment of noise sensitive residential uses, as well as ensuring that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise.

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 that industries such as extractive industries are protected (where located in appropriate locations), as well as ensuring that potential conflicts with sensitive land uses can be appropriately managed and mitigated.

Clause 11.01-1R (Green Wedges – Metropolitan Melbourne) seeks to protect green wedges from inappropriate development as well as support development in green wedges that provides environmental, economic and social benefits including tourism and recreation opportunities. This policy directs the Responsible Authority to consider other policy documents as relevant to support decision making such as the *Upper Yarra Valley and Dandenong Ranges Region – Region Strategy Plan (1996)*. This policy document seeks to support tourist and visitor related facilities such as accommodation, hotels and restaurants, to encourage visitors to visit and stay in the region for longer periods of time in order to strengthen the local economy.

Clause 13.05-1S (Noise abatement) seeks to assist the control of noise effects on sensitive land uses by ensuring that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Clause 13.07-1S (Land use compatibility) seeks to safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.

Clause 17.01-1S (Diversified economy) seeks to strengthen and diversify the economy and support rural economies to grow and diversify.

The proposal with appropriate conditions (as mentioned below) is considered to be compatible with the rural character from the area. The Hotel has been in operation since at least 1926, and is currently operating under various planning permits discussed above, and the changes to allow for low-level live music to be played in the external areas of the Hotel within certain

hours is considered reasonable as to not cause any major disruption to the surrounding residences.

It is noted that the Green Wedge is primarily an agricultural zone which should facilitate, above all else the right to farm. Other compatible uses can be considered when appropriate in the Green Wedge, and in this instance where existing use rights are applicable. However, in any case the Planning Scheme requires the appropriate amenity protection measures to be put in place to minimise these effects. Local policies also all seek to facilitate appropriate commercial uses, while protecting the rural-lifestyle amenity of Cardinia's hills townships when appropriately located the Green Wedge.

It is considered that the proposal adequately responds to the above and therefore, it is considered that the proposal is consistent with the PPF and MPS as it appropriately balances the objectives of the policy that will not result in a detrimental impact on the amenity of the surrounding area.

Green Wedge Zone:

Some of the key purposes of the Green Wedge Zone is to implement the MPS and PPF, along with providing for and protecting the use of the land for agriculture. It is also in place to recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities and mineral and stone resources. The decision guidelines of the Zone require the Responsible Authority to consider the following when assessing an application, in particular:

- The capability of the land to accommodate the proposed use or development.
- How the use or development relates to rural land use, rural diversification, natural resource management, natural or cultural heritage management, recreation or tourism.
- Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses.
- Whether the use or development is essential to the health, safety or well-being of the State or area but is not appropriate to locate in an urban area because of the effect it may have on existing or proposed urban areas or the effect that existing or proposed urban areas may have on the proposed use or development.

Before deciding on an application to amend a plan or permit, the Responsible Authority must also consider:

- The relevant planning scheme or any changes to the scheme;
- All objections and other submissions which it has received and which have not been withdrawn;
- Any decision and comments of a referral authority which it has received;
- Any significant effects which the Responsible Authority considers the changes may have on the locality / environment / etc; and
- Will not cause an increase in detriment to any person.

Changes in policy

There have been some changes to the Cardinia Planning Scheme since the permit was issued in 2013, including namely the following Planning Scheme Amendments.

The most notable amendment that is relevant to this proposal is VC120 implemented on 4 April 2014 which saw the introduction of a new particular provision for live music and entertainment noise at what was formally Clause 52.43, now known as Clause 53.06 (Live music and entertainment noise).

One of the objectives of the policy is to recognise the importance of live music and entertainment for both the municipality and metropolitan Melbourne and ensuring that these activities are not detrimental to the environment or amenity of the surrounding area.

It seeks to do this by implementing strategies to:

- provide for the fair, orderly, economic and sustainable use, and development of land.
- secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.
- balance the present and future interests of all Victorians.

The Amendment implemented the 'agent of change principle' for live music entertainment venues and noise sensitive residential use in their vicinity. It requires an applicant for a live music entertainment venue or a noise sensitive residential use near a venue to include appropriate noise attenuation measures as part of an application for use or buildings and works that requires a planning permit under any zone of a planning scheme.

Formally Clause 52.43 (now Clause 53.06) sets out obligations for information to be submitted with an application together with requirements and guidance for decision makers. A schedule to Clause 52.43 (now Clause 53.06) also provides for a responsible authority to tailor the provision to provide for specified exclusions from and expansions of the scope of the Clause. The schedule ensures that suitable venues can be properly protected and that areas with special acoustic controls can be excluded if needed. Cardinia's Planning Scheme did not include any schedule to this Clause, therefore only the controls of the head Clause apply to applications in the Shire.

The Amendment properly considered and responded to environmental effects (as set out in section 12(2)(b) of the Act). It was implemented to positively impact on urban environments as it requires decision makers to take into account noise effects that the environment might have on a new use or buildings and works for a Live music entertainment venue or Noise sensitive residential use in the vicinity of a venue. The Amendment addressed the relevant social and economic effects (section 12(2)(c) of the Act) as it will generate a net community benefit by helping to facilitate more liveable dwellings located near live music entertainment venues, while also supporting the music industry.

The Amendment ensured via policy that a properly attenuated venue that employs operating practices that also ease noise emissions will reduce potential for disturbance to the surrounding area and protect the business from any potential future sensitive use or development establishing nearby.

The Amendment specifically brought in the State Environment Protection Policy - Control of Music Noise from Public Premises N2 (SEPP N2) measure to help control noise from inside a habitable room of a nearby dwelling.

By specifying a noise measurement location from inside a closed habitable room, the requirement does not demand a SEPP N2 noise standard for a balcony, private open space or habitable room with open windows and doors. Despite the noise limits specified in Clause 53.06 (formally 52.43), the general amenity benefited from openable rooms and unencumbered private open spaces can continue to be provided for noise sensitive residential uses. The current standards set out in SEPP N2 must still be met by venues.

In practical terms this means that if a new or an existing live music venue seeks to establish or expand, they will be responsible for attenuating any noise effects that are caused by that change on nearby residential properties

Although Planning Scheme VC120 was one of the most notable change directly relating to this land use, there have also been some other significant changes to the Planning Scheme since the permit issued.

These changes include changes to the Bushfire Management Overlay mapping which saw part of the subject site included into the overlay via the implementation of Amendment GC13 on 3 October 2017.

There were also some minor 'fix-up' amendments between 2017 and 2020, the most recent being VC160 which amends the Victoria Planning Provisions (VPP) and all planning schemes to correct errors and omissions, clarify the operation of certain provisions, and implement planning reforms for certain industries and the table of uses for certain zones. The most notable of the changes to the Green Wedge Zone is the clarification of certain Animal industry uses to make them clearer.

The above changes to the Scheme over time have been implemented to ensure the greater protection of this industry, given its importance to the fabric of Victorian culture and the hospitality and tourism industry's contribution to the Victorian economy. The changes to the Scheme over time demonstrate the Planning Scheme's support for these industries.

Given the above, it is considered that the changes in the Planning Scheme since the permits issue further facilitate this land use in the correct locations, and therefore, do not mitigate against the approval of this amendment or render it unsupportable due to changes in Planning Policy over the years.

Advertising and response to objections

Council considered that the proposal as it was submitted would likely result in unreasonable off-site amenity impacts due to the operating hours that the Hotel currently enjoys in accordance with their liquor license. What was originally proposed would have allowed low-level amplified music to be played in the external areas until 12am (on any other day) and 11pm (on Sundays, ANZAC Day and Good Friday), which is not considered reasonable given the locality.

Proponents offered a concession to their proposal suggesting they would be amenable to the following condition:

"Any live entertainment and amplification (excluding background music) in the external areas must cease:

(a) On Mondays to Saturdays at 11pm

(b) On Sundays at 9pm"

Council considered this unreasonable as for the reasons stated in the proponents application that the reason for the application is to allow low-level live music (such as an acoustic duo or background DJ) during diner service, to create an ambiance for the patrons experience. For this reason, Council considers that if this application were to be supported that the low-level live music proposed should end when dinner service has ended at around 9pm.

It is however important to note that currently Condition 16 of the permit already allows for 'background music' to be played in the external areas of the site.

Condition 13 of the permit also requires that the noise levels emanating from the premises must comply at all times with SEPP-N2 noise of Music Noise from Public Premises, which the low-level live music proposes to also comply with the same requirement.

The amendment will allow for the strengthening of conditions around the volume allowed from the premises (through the installation of a noise limiter) which currently is not a requirement of the permit. This noise limiter will ensure that the noise emanating from the premises does not exceed SEPP-N2 which is currently a requirement of the existing permit. This means that the noise from external areas should be no different from what is already allowed.

Further to this, additional conditions giving the Responsible Authority the ability to measure the noise emanating from the premises from a neighbouring residence for future complaints will be placed on the permit. This will allow Council more control and ability to enforce conditions than the existing permit affords.

The key issues that were raised in the objections are generally amenity-based concerns and can be summarised into the following categories:

- Noise (arising from patrons and music)
- Previous issues with patron behaviour
- Alcohol consumption

In response to these concerns the following can be said:

Noise (arising from patrons and music)

As discussed in further detail below, the application was accompanied by an Acoustics Report which demonstrates that the proposed low level music in the external areas of the Hotel (with the installation of a noise limiter) will not exceed the SEPP N-2 requirements that the hotel is already subject to as a requirement of Condition 13.

It is also noted that Clause 53.06 only requires that a live music entertainment venue must be designed, constructed and managed to minimise noise emissions from the premises and provide acoustic attenuation measures that would protect a noise sensitive residential use within 50 metres of the venue. As there are no dwellings within 50 metres of the hotel, it is considered that the distance from the hotel of the nearest dwelling should be able to comfortably comply with these requirements if only allowed low-level live music in the external areas of the hotel.

The decision guidelines of Clause 56.03 state that in addition to the decision guidelines of Clause 65, the Responsible Authority must consider, as appropriate:

- The extent to which the siting, layout, design and construction minimise the potential for noise impacts;
- Whether existing or proposed noise sensitive residential uses will be satisfactorily protected. from unreasonable live music and entertainment noise.
- Whether the proposal adversely affects any existing uses.

Acoustic assessment

In addition to the responses above, it is also noted that the application was accompanied by an Acoustic Report prepared by Enfield Acoustics Pty Ltd dated 15 November 2019 which monitored three (3) noise sensitive receptors. The receptors were located between 110 and 180 metres away from the Hotel boundaries, near the following addresses (see Figure 1):

1. 205 Beaconsfield-Emerald Road, approximately 110m to the north of External Area 1;
2. 220 Beaconsfield-Emerald Road, approximately 180m to the northeast of External Area 1; and
3. 186 Beaconsfield-Emerald Road, approximately 160m to the south of External Area 2.

The above properties being the closest to the Hotel ultimately determine the noise thresholds required to be managed. It is considered that if compliance is met at the above properties, it would result in compliance at all other sensitive properties.

The testing involved simulated noise testing, by placing a loudspeaker within the designated external areas of the Hotel and measuring the noise level reduction at residential properties.

The purpose of this testing was to establish the Noise Reduction (NR) values between the Hotel and proximate sensitive uses. This test empirically determines the maximum music noise levels that can be emitted from the Hotel before noncompliance with SEPP N-2, and whether specific controls would be required.

SEPP N-2 aims to protect adjoining properties sleep in the 'night time'. Stringent night period noise limits are set for indoor and outdoor venues to ensure sleep is not disturbed. According to the policy outdoor venues are not allowed to operate beyond 11pm after which people's sleep

should not be disturbed by loud music. According to SEPP N-2 night time is regarded as the time between:

- Any other day: 11pm-9am
- Saturday: 11pm-10am
- Sunday: 10pm-10am

The SEPP N-2 policy sets a single noise limit of 65dB(A) (or 55 dB(A) when the measurement point is located inside a residence). The limit for outdoor venues is higher than that set for indoor venues because of the different sensitive uses to be protected.

From the testing at the three (3) receptors the following threshold music noise levels could be generated by the Hotel and is summarised in Section 4 of the Acoustic assessment:

Frequency Band	63Hz	125Hz	250Hz	500Hz	1000Hz	2000Hz	4000Hz
From External Area 1							
Approximate noise level within external area allowable during 'Night' period, L ₁₀	86	85	86	87	82	85*	85*
From External Area 2							
Approximate noise level within external area allowable during 'Night' period, L ₁₀	83	81	89	91	90	93*	93*

The test results showed the following Noise Reduction (NR) levels being experienced by the three (3) residences closest by, and further reduced at residences further away:

Frequency Band	63Hz	125Hz	250Hz	500Hz	1000Hz	2000Hz	4000Hz
From External Area 1							
205 Beaconsfield- Emerald Road	30	32	36	39	36	40	42
220 Beaconsfield- Emerald Road	34	36	49	55	48	43	48
186 Beaconsfield- Emerald Road	38	39	52	55	52	54	60
From External Area 2							
205 Beaconsfield- Emerald Road	33	36	47	48	-*	-*	-*
220 Beaconsfield- Emerald Road	Inaudible or not measureable. Indicates this property is not material to the assessment.						
186 Beaconsfield- Emerald Road	27	28	40	43	43	42	44
Notes:	*Noise emission levels were equivalent to, less than ambient noise or inaudible. Noise which is not measureable infers compliance with policy and that there would be no material noise impacts.						

According to the results at each of these locations, the Acoustic report concludes that the proposal would likely comply with SEPP N-2 without any specific noise management generally between the hours of 10am and 10pm as the noise limits are recorded as below the 65dB(A) standard.

The report states that live entertainment in the form of acoustic music which does not include low frequencies (i.e. no bass or drums) operating at reasonable levels in the external areas of the Hotel would likely be on the threshold of SEPP N-2 compliance during the defined night period (11pm-9am any other day, 11pm-10am Saturday and 10pm-10am Sunday).

For this reason, Council believes it suitable to limit the hours of low level music in the external areas of the site, rather than grant the allowable noise until 11pm.

The report details that other forms of live entertainment which include low frequencies (for example: DJs) would require specific noise management controls such as a noise limiter to ensure that noise limits are not exceeded.

The Acoustics report concluded that the proposed use of the external areas for low level live music will not result in adverse noise impacts and the proposed permit amendment can be approved, where the risk of non-compliance from music noise emissions in the external areas can be managed by the following conditions:

- A frequency controlled noise limiting system is installed in each outdoor area proposed to be used. The system shall be calibrated by an acoustic consultant to ensure that the limits correspond with SEPP N-2 compliance limits at surrounding sensitive properties for the relevant times of operation.

- All music and amplification is played through a permanent PA/loudspeaker system installed at the Hotel, which is connected to the above limiter system.

Consistent with the recommendations in the Acoustic Report, the permit applicant has submitted that they would be amenable to the following conditions being placed on the Permit:

- Any low level live entertainment and amplification (excluding background music) in the external areas must cease:
 - On Mondays to Saturdays at 9pm
 - On Sundays at 8pm

To the satisfaction of the Responsible Authority.

- Background music is permissible in the external areas during any period of the trading hours in compliance with SEPP N-2 and to the satisfaction of the Responsible Authority (although this is already allowed by Condition 16).
- Low level live entertainment and amplification is permissible in the external areas, where a noise limiter is installed and calibrated by a suitably qualified acoustic consultant to in compliance with SEPP N-2 and to the satisfaction of the Responsible Authority.
-
- All music and amplification is played through a permanent PA/loudspeaker system installed at the Hotel, which is connected to the above limiter system to the satisfaction of the Responsible Authority.

Noise attenuation techniques for live music venues:

Planning Practice Note 81 details that one or more of the following measures may be considered to help achieve the requirements of Clause 52.43, as appropriate:

- Implementing a venue management plan focussed on minimising noise
- Positioning entertainment rooms, the stage and loudspeakers to increase the distance between the noise source and any noise sensitive residential use
- Orienting the stage or loudspeakers of external entertainment spaces to direct noise away from any noise sensitive residential use
- Incorporating measures such as acoustic glazing, wall, ceiling and roof construction
- Sealing gaps, joints and service penetrations and using acoustic insulation
- Using setbacks and acoustic fencing
- Limiting noise leakage through the use of vestibule / sound-lock entry arrangements
- Installing a sound limiter to cap the volume of any amplified sound to an appropriate level.

It is noted that some of these measures are already in place at the Hotel, including a Patron Management Plan, acoustic glass barriers surrounding the outdoor areas, with others (including noise limiting devices) being able to be implemented via the conditions of the amended permit.

These measures, in conjunction with the hours proposed are considered appropriate given the scale, context and locality of the site and are considered to reasonably ensure that potential off-site amenity impacts can be appropriately managed and enforced.

The Subject Site is somewhat isolated from any residential dwellings. The closest of which is approximately 110 metres away. This is well outside the 50 metres where clause 53.06 directs a specific need to consider the impact of music noise between an live music venue and a sensitive residential use.

In the context of the Subject Site's location from the nearest dwellings, the agent of change provisions at clause 53.06 and the need for compliance with State Environment Protection Policies, the proposal can be acceptably managed subject to suitable permit conditions.

Existing and proposed permit conditions to control noise

It should be noted that there are a number of existing permit conditions in addition to those proposed to be altered or deleted that require the Hotel to control the noise levels emanating from both the internal and external areas of their site.

These conditions include:

Condition 7:

- *The endorsed Patron Management Plan dated July 2013, or any subsequently endorsed amended Patron Management Plan, must be complied with at all times to the satisfaction of the Responsible Authority and Victoria Police. Any amended Patron Management Plan must be approved by the Responsible Authority, in conjunction with Victoria Police prior to coming into operation.*

Condition 13:

- *Noise levels emanating from the subject land must comply with the State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.*

Condition 17:

- *Before the outdoor alfresco areas are occupied the acoustic fence must be put in place along the north, south and west side boundaries of the outdoor alfresco areas. The design of the fence must be prepared in consultation with/by a suitably qualified acoustic engineer. The details of the design and acoustic qualities of the fence must be to the satisfaction of the Responsible Authority.*

Condition 18:

- *All mechanical services noise must comply with the limits established by using the methodology set under State Environmental Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.*

Condition 19:

- *The use and development must not detrimentally affect the amenity of the area through the:*
 - (c) *Emission of noise...vibration...*
 - (d) *Patron noise and vehicle movements**Or in any other way, to the satisfaction of the Responsible Authority.*

Condition 27:

- *Within two (2) months of the completion of the buildings and works the measures identified in the Marshall Day Acoustics report dated 25 July 2013 must be implemented and a further report submitted by Marshall Day Acoustics (or other suitably qualified practitioner) to the Responsible Authority confirming all the measures have been satisfactorily implemented. All measures must then be maintained to the satisfaction of the Responsible Authority.*

Additional conditions will require compliance with the following:

- *Live entertainment and amplification is permissible in the external areas, where a noise limiter is installed and calibrated by a suitably qualified acoustic consultant to ensure compliance with SEPP N-2.*

- *Any low level live entertain and amplification (excluding background music) in the external areas must cease:*
 - *On Mondays to Sundays at 9pm*
To the satisfaction of the Responsible Authority.
- *The premises must not cause a noise or knowingly allow or suffer a noise to emanate from any land owned or occupied that person which in the opinion of an Authorised Officer is unreasonable or which would cause discomfort to other persons.*

Patron behaviour and alcohol consumption

Although not considered a planning consideration, this aspect of the objections has been taken into account, as there is a fear that allowing music (even low level acoustic music) in the outdoor areas of the site will contribute to additional alcohol consumption and therefore, more rowdy or noisy patron behaviour. This is considered a matter for the Hotel to manage in accordance with their Patron Management Plan, security, their Responsible Service of Alcohol obligations and other obligations of the Liquor License and for the Police and VCGLR to enforce.

The application was referred to Victoria Police in accordance with the requirement of Condition 7 which required that any changes to the patron management plan obtain both Council's and Victoria Police's approval. Victoria Police responded with no objection to the proposed changes to the Patron Management Plan and did not raise any concerns about the proposal to have low level music in the outdoor areas of the Hotel and its potential to increase antisocial behaviours (such as more alcohol consumption and loud behaviour). The changes to the Patron Management Plan mainly relate to the following sections:

- Part 5 - Amenity of the neighbourhood:
 - Point 12 – to update the relevant acoustic report the report prepared by Enfield Acoustics dated 15 November 2019.
- Part 6 – Noise
 - Point 17 – to update the relevant conditions relating to live music.
 - Point 20 – to delete the requirement that no live or amplified music is to be played in the external areas.

It is also important to note that due to the limitations of SEPP N-2 it does not prescribe noise limits for noise associated with the arrival and departure of people attending the premises, therefore the application should identify how they propose to manage the behaviour of patrons coming and going from the venue so that nuisance impacts on neighbours are minimised. The Scheme specifies that this information can be explained in a venue management plan (or patron management plan), one of which has already been prepared and will continue to have force and effect. The existing patron management plan provides for these requirements including details on how the following will be managed:

- Trading hours
- Liquor licensing
- Neighbourhood amenity
- Noise
- Patron behaviour
- Responsible service of Alcohol
- Security and surveillance
- Police
- Residents

Therefore, it is considered that if the Hotel operate within their requirements to responsibly serve alcohol to their patrons and manage their patrons accordingly through security measures and requirements of their liquor license, there should be no further detrimental effect caused by the changes to adjoining residences.

Advice from referral authorities

The amended permit application was required to be referred to Victoria Police pursuant to the requirements of Condition 7 and previously under the existing permit pursuant to Clause 66 (Referral and notice provisions).

Victoria Police provided a response that they were supportive of the amendment and offered no new conditions.

Increase in detriment to any persons

Based on the agreement of reduced hours, supporting documents and above assessment and discussion, if the measures are followed in the Acoustic report, hours music can be played undertaken in accordance with the amended permit, and patrons managed in accordance with the obligations of the establishments liquor license, there should be no further detriment in the form of noise, patron behaviour, traffic or any other adverse effect arising from the operations to any person living within close proximity to the Hotel and its surrounds.

Before deciding on an application to amend a plan or permit, the Responsible Authority, if the circumstances appear to so require, may consider:

- Any significant social and economic effects of the amendment;
- Any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council;
- Any amendment to the planning scheme which has been adopted by a planning authority but not, as at the date on which the application is considered, approved by the Minister or a planning authority;
- Any agreement made pursuant to section 173 affecting the land the subject of the application; and
- Any other relevant matter.

Social and economic impacts

It is considered that there will not be any significant detrimental social or economic effects of the proposed amendment. The amendment to allow low level live music is expected to have a positive economic effect by providing more opportunities for the Hotel, whilst balancing the expectations of surrounding land owners and the character of the Hotels Green Wedge setting.

Live music is an important part of the state's rich culture. Melbourne has a long established and highly regarded live music scene, making it the leading music city in Australia. Live music makes a significant contribution to the state's economy, drawing visitors from near and far and provides vital opportunities for emerging and established local musicians.

As previously discussed the acoustic report provided with this application demonstrates that if the conditions of the permit are followed, along with the reduced hours as proposed and management of the hotel continues to comply with all other requirements, it is considered that the proposed amendment will not cause any accumulative or material detriment to the surrounding area.

Other strategic plans or works

There are no strategic plans, policy statements, codes or guidelines which have been adopted by a Minister, Government Department, Public Authority or Municipal Council which would impact on the approval of the proposed amendment, other than those discussed above.

There has also been no amendment to the Planning Scheme, which has been adopted by a Planning Authority but not approved by the Minister or a Planning Authority, which would affect the approval of the proposed amendment, other than those already discussed above.

Section 173 Agreement – AL371213S

This relates to an agreement between Cardinia Shire Council and Bridele Pty Ltd which refers to the payment of the Annual Community Contribution to Community Groups for as long as the 40 EGMs permitted by the planning permit are installed on the land. The Agreement includes obligations on how the annual contribution is to be indexed and the distribution and reporting of the annual contribution. This Agreement is therefore, not applicable to the proposal.

Other relevant matters

It is considered that there are no other relevant matters, other than what has already been discussed which should be considered in the application to amend the permit.

Are the changes to the Planning Permit considered appropriate?

These measures, in conjunction with the hours proposed are considered appropriate given the scale, context and locality of the site and are considered to reasonably ensure that potential off-site amenity impacts can be appropriately managed and enforced.

Neighbours and live music entertainment venues should be encouraged to cooperatively solve noise issues by communicating directly to achieve a balanced solution. A collaborative approach is often the most effective and quickest means of solving noise conflict.

Based on the above assessment, it has been demonstrated that the concerns arising from the proposed low level live music have been appropriately discussed and addressed by this assessment.

The proposal is considered reasonable given their scope and scale. The proposed amended hours and other noise mitigation conditions will ensure that land use conflicts from sensitive uses can be minimised. The hotel has been operating lawfully at various stages since approximately 1926, with no records of noise complaints about amenity being located on Council's file.

Given that there are a number of policies in the Victorian Planning Scheme in place to facilitate and protect live music venues and their nearby sensitive residential uses (and visa versa), it is considered appropriate to consider this request based on the justification and evidence provided in the application that it is unlikely that any further detriment will be caused by the amendment.

As demonstrated by the accompanying technical reports and site visit, Council is satisfied that allowing low level live music such as an acoustic duo in the external areas of the Hotel until 9pm each night, will not unreasonably disrupt the amenity currently enjoyed by the surrounding residences. The noise levels have been shown to comply with the relevant requirements of SEPP N-2 which is considered acceptable for this locality.

Given the support of Victoria Police, and Council's Health Department who both deal with noise nuisance, it is considered that the application can be supported.

Planning Practice Note 81 details that one or more of the following measures may be considered to help achieve the requirements of Clause 52.43, as appropriate:

- Implementing a venue management plan focussed on minimising noise
- Positioning entertainment rooms, the stage and loudspeakers to increase the distance between the noise source and any noise sensitive residential use
- Orienting the stage or loudspeakers of external entertainment spaces to direct noise away from any noise sensitive residential use
- Incorporating measures such as acoustic glazing, wall, ceiling and roof construction
- Sealing gaps, joints and service penetrations and using acoustic insulation
- Using setbacks and acoustic fencing
- Limiting noise leakage through the use of vestibule / sound-lock entry arrangements
- Installing a sound limiter to cap the volume of any amplified sound to an appropriate level.

It is noted that some of these measures are already in place at the Hotel, including a Patron Management Plan, acoustic glass barriers surrounding the outdoor areas, with others (including noise limiting devices) being able to be implemented via the conditions of the amended permit.

A decision under Clause 53.06 of the planning scheme is based on the requirements set out in Clause 53.06-5. Enforcement will therefore generally be to ensure compliance with conditions specified in the planning permit.

Despite Clause 53.06, venues must still meet specified noise limits in SEPP N-2. Regardless of the establishment of a new noise sensitive residential development, a venue that is in breach of SEPP N-2 is still capable of being separately enforced under the policy.

Enforcement action against noise complaints can be taken by a number of agencies which should ensure piece of mind for surrounding residences. These include:

- Local government planning enforcement officers, who can enforce against planning permit conditions pursuant to the Planning and Environment Act 1987.
- EPA officers, who can issue a remedial notice under section 31A of the Environment Protection Act 1970 for breach of SEPP N-2.
- Liquor licence compliance inspectors, who can enforce liquor licence conditions under the Liquor Control Reform Act 1998.
- Police officers, who can enforce liquor licence conditions, as well as direct a venue to take action to abate noise under section 48AB of the Environment Protection Act 1970.
- Local government environmental health officers, who can take action under the nuisance provisions of the Public Health and Wellbeing Act 2008.

By amending the permit, Council is able to strengthen conditions to ensure piece of mind for the surrounding residences, while allowing the Hotel to extend its operations and appeal to customers, which is considered an appropriate outcome.

Clause 65 Decision Guidelines

The Application has been assessed against the Clause 65 Decision Guidelines, which requires Council to consider additional factors such as:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The effect on the amenity of the area.
- The effect the proposal may have on the orderly planning of the area;
- The amenity of the area, proximity to public land;
- The suitability of the land for subdivision; and
- The existing use and possible future development of the land.
- Traffic and road safety impacts

As discussed the application to amend the operation hours aligns with Planning Policy Frameworks and the purpose of the Zone to provide for and protect both live music venues and their surrounding sensitive residential uses.

The Hotel has been in existence for quite some time under existing use rights. The application has demonstrated compliance with noise levels and is not expected to further reduce the amenity of the surrounding sensitive uses. The potential perceived patron behaviour issues have

also been assessed and considered appropriate, subject to conditions being implemented and followed.

Therefore, it is considered that the application is consistent with the decision guidelines of all applicable planning controls.

Conclusion

The proposed amendment is consistent with the requirements of the Cardinia Planning Scheme and based on the assessment above it is not considered that allowing low level live music in the outdoor areas of the Hotel until 9pm each night will cause any unreasonable detriment to adjoining properties. It is therefore recommended that a Notice of Decision for amended planning permit **T130057-1** be issued for the amendment to Planning Permit T130057 to amend conditions to allow low level live music in the outdoor areas of the hotel at L1, L2 and L3 TP873363C, 200 Beaconsfield-Emerald Road, Beaconsfield Victoria 3807 subject to the following amended conditions:

Conditions

AMENDED PLANNING PERMIT

Planning Scheme: Cardinia Planning Scheme

Responsible Authority: Cardinia Shire Council

PLANNING PERMIT NUMBER: T130057-1

ADDRESS OF THE LAND: L1, L2 and L3 TP873363C, 200 Beaconsfield-Emerald Road

THIS PERMIT ALLOWS: Buildings and works to an existing hotel, use and installation of 40 electronic gaming machines (EGMs), increase in the area and number of patrons permitted externally for the sale and consumption of liquor, low level live music in the external areas and the alteration of access to a road zone category 1, generally in accordance with the endorsed plans.

Date amended:	Pursuant to Section 72-76B of the <i>Planning and Environment Act 1987</i> the permit has been amended to:
28 May, 2020	<p>Permit preamble</p> <p>Permit preamble amended to allow low level music in external areas</p> <p>Conditions</p> <p>Inclusion of new Conditions (1 and 18).</p> <p>Condition 16 (previously condition 15) deleted.</p> <p>Conditions 17 (previously condition 16) amended to allow for low level live music in outdoor areas.</p> <p>Condition 21 amended (previously condition 19) to include 21(f).</p> <p>Conditions subsequently renumbered.</p> <p>Endorsed plans</p> <p>Patron Management Plan amended.</p>

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Before the use commences, an amended Patron Management Plan must be prepared and submitted to the Responsible Authority. The plan must be generally in accordance with the plan prepared by Bridele Pty Ltd dated November 2019 (submitted with this application) but updated as follows:
 - (a) Include measures that ensure stages or loudspeakers of external entertainment spaces are orientated to direct noise away from any noise sensitive residential use;
 - (b) Include measures for ongoing noise monitoring, maintenance and calibration of the noise limiters required in the external areas; and
 - (c) Point 17(b) amended to state:
 - i. Live entertainment and amplification is permissible in the external areas until 9pm (Monday to Sunday), where a noise limiter is installed and calibrated by a suitably qualified acoustic consultant to ensure compliance with SEPP N-2.
2. The use and development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
3. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
4. Stormwater from the proposed car parking area should be collected and connected to the property internal stormwater drainage system and be discharged to the Council nominated Legal Point of Discharge, in an appropriate manner and to the satisfaction of the Responsible Authority.
5. The car parking spaces should be line marked and delineated to the satisfaction of the Responsible Authority.
6. Before the development is occupied a commercial standard concrete vehicle crossing as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
7. 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.
8. The endorsed Patron Management Plan dated July 2013, or any subsequently endorsed amended Patron Management Plan, must be complied with at all times to the satisfaction of the Responsible Authority and Victoria Police. Any amended Patron Management Plan must be approved by the Responsible Authority, in conjunction with Victoria Police prior to coming into operation.
9. Except with the written consent of the Responsible Authority, the electronic gaming machines may only operate between the following hours:
 - (a) Monday to Saturday: 7am to 1am the following day
 - (b) Sunday: 10am to 11 pm
 - (c) Good Friday and Anzac Day: 12 noon to 11 pm
10. Except with the written consent of the Responsible Authority, alcohol may only be served and/or consumed in all outdoor areas between the following hours:
 - (a) Monday to Saturday: 7am to 12am (midnight)

- (b) Sunday: 10am to 11 pm
 - (c) Good Friday and Anzac Day: 12 noon to 11 pm
11. Except with the written consent of the Responsible Authority, no more than 735 patrons may be present on the premises at any one time. Of these patrons, not more than 200 patrons may be located in the outdoor areas at any one time.
 12. At all times during the operation of the use, there must be present on the premises a person over the age of 21 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").
 13. 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.
 14. Noise levels emanating from the subject land must comply with the State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.
 15. All security alarms or similar devices installed on the subject land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service.
 16. Deleted.
 17. Low level live music and entertainment is permissible in the external areas of the Hotel to the satisfaction of the Responsible Authority as follows:
 - (a) Background music permissible in the external areas of the Hotel during any period of the trading hours; and
 - (b) Live entertainment and amplification is permissible in the external areas of the Hotel until 9pm (Monday to Sunday), where a noise limiter is installed and calibrated by a suitably qualified acoustic consultant to ensure compliance with SEPP N-2 at all times.
 18. Without the further written consent of the Responsible Authority any low level live entertainment and amplification (excluding background music) in the external areas must cease to the satisfaction of the Responsible Authority:
 - (a) On Mondays to Sundays at 9pm.

If the Responsible Authority's consent is sought to extend these hours, the applicant must also notify all adjoining and opposite property owners a minimum of ten (10) days prior to the event.
 19. Before the outdoor alfresco areas are occupied the acoustic fence must be put in place along the north south and west side boundaries of the outdoor alfresco areas. The design of the fence must be prepared in consultation with/by a suitably qualified acoustic engineer. The details of the design and acoustic qualities of the fence must be to the satisfaction of the Responsible Authority.

20. All mechanical services noise must comply with the limits established by using the methodology set under State Environmental Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.
21. The premises must not detrimentally affect the amenity of the area to the satisfaction of the Responsible Authority, 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;
 - (d) Patron noise and vehicle movements;
 - (e) Presence of vermin; or
 - (f) In any other way, including causing a noise or knowingly allow or suffer a noise to emanate from any land owned or occupied that person which in the opinion of an Authorised Officer is unreasonable or which would cause discomfort to other persons.
22. External lighting must be designed, baffled and located so as not to detrimentally affect the amenity of adjoining land to the satisfaction of the Responsible Authority.
23. Provision must be made on the site for the storage and collection of garbage and other solid waste. This area must be graded, drained and screened from public view to the satisfaction of the Responsible Authority.
24. No plant, equipment, services or architectural features other than those shown on the endorsed plan/s are permitted above the roof level of the building/s without the written consent of the Responsible Authority.
25. The dimensions and layout of the proposed access, parking areas and loading bays must be in accordance with the requirements of Clauses 52.06 and 52.07 of the Cardinia Planning Scheme.
26. All stormwater must be conveyed by means of drains to satisfactory points or areas of discharge approved by the Responsible Authority, so that it will have no detrimental effect on the environment or adjoining property owners.
27. Before the use commences, direction signs and direction pavement markings must be installed as shown on the approved plans. Once works are completed, the area must be maintained to the satisfaction of the Responsible Authority.
28. The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building, including the roof, must be of a non-reflective nature.
29. Within two (2) months of the completion of the buildings and works the measures identified in the Marshall Day Acoustics report dated 25 July 2013 must be implemented and a further report submitted by Marshall Day Acoustics (or other suitably qualified practitioner) to the Responsible Authority confirming all the measures have been satisfactorily implemented. All measures must then be maintained to the satisfaction of the Responsible Authority.
30. Prior to any works commencing, Tree Protection Fencing (TPF) must be erected around all vegetation proposed to be retained to form an appropriate Tree Protection Zone (TPZ) to the satisfaction of the Responsible Authority

31. Exclusion zones are to be accurately plotted on construction plans and contractors and sub-contractors, suppliers and service providers are to be made aware these protective measures apply to the site.
32. Within three (3) months of the completion of the buildings and works, landscaping (including an appropriate extent of mature planting) along the Payne Road boundary to adequately screen the car parking area, and around the rear alfresco dining area must be completed to the satisfaction of the Responsible Authority. All landscaping must be maintained in a healthy condition thereafter.

VicRoads Conditions

33. The existing, bottle-shop entrance and exit, access crossovers made redundant must be removed and the area reinstated with footpath, nature strip, and kerb and channel at no cost and to the satisfaction of VicRoads and the responsible authority.
34. No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.

Expiry of Permit

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

- a) The development and use is not started within two years of the date of this permit .
- b) The development is not completed within four years of the date of this permit.

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

Notes:

- A Building Permit may be required for this development. To obtain a building permit you will need to contact a registered building surveyor.
- Prior to any alteration works commencing on the septic tank system, a Permit to Alter must be obtained from Council. An application for a permit must include a report from a licensed plumber which details:
 - - the position, type and condition of the present septic tank system including wastewater dispersal details;
 - whether the existing septic tank system has been desludged within the last three years; and
 - that the septic tank system, once altered, is capable of containing all wastewater from the proposed, and existing buildings, on the subject land in accordance with the EPA Septic Tank Code of Practice and Council requirements.

Please note that additional drainage, or other works, may still be required to ensure that all wastewater is treated and contained on-site.

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

Resolution

Moved Cr Brett Owen, seconded Cr Leticia Wilmot.

That the report be deferred to the July Council meeting to allow further consideration of the application.

Carried

6.1.2 Use and Development of the Land for a Dwelling and Removal of Vegetation at 369 Paternoster Road, Cockatoo

File Reference: 2672303400TP/1
Responsible GM: Peter Benazic
Author: Mary Rush

Recommendation(s)

That Council issue a Refusal to Grant Planning Permit T180651 be issued for Use and development of the land for a dwelling and removal of vegetation at 369 Paternoster Road, Cockatoo VIC 3781 on the following grounds:

- Failure to meet application requirements of Clause 35.06-Rural Conservation Zone-Schedule, Clause 42.01-Environmental Significance Overlay and Clause 52.17-Native vegetation;
- Failure to protect biodiversity as required by Clause 12.01-1S Protection of biodiversity and Clause 13.02-1S Bushfire planning;
- Failure to prioritise the protection of human life as required by Clause 13.02-1S Bushfire planning;
- Failure to protect metropolitan green wedge land from uses and development that will diminish its environmental values.

Attachments

1. Development Plans [6.1.2.1 - 9 pages]
2. Appendix A [6.1.2.2 - 4 pages]

Executive Summary

APPLICATION NO.:	T180651
APPLICANT:	Mr Carmine Bucci Tessa Ambrose Central Vic Planning Consultants
LAND:	369 Paternoster Road, Cockatoo VIC 3781
PROPOSAL:	Use and development of the land for a dwelling and removal of vegetation
PLANNING CONTROLS:	Clause 35.06-Rural Conservation Zone Schedule 1 Clause 44.06-2 Bushfire Management Overlay, Clause 42.01-2 Environmental Significance Overlay Schedule 1 Site of Zoological Significance (B17) Clause 44.06-Bushfire Management Overlay Clause 52.17-Native vegetation
NOTIFICATION & OBJECTIONS:	N/A

KEY PLANNING CONSIDERATIONS:	Failure to provide key application requirements Impacts on vegetation and biodiversity
RECOMMENDATION:	Refusal

Background

There is no previous planning history however, the current owner was provided with significant pre application advice in May 2018 advising of the extent of the application requirements.

Subject Site

The site is located on the east side of Paternoster Road.



A crossover is located close to the northern boundary and there are no easements

The site is currently vacant.

The topography of the land is gently undulating and is heavily covered in remnant vegetation.

The main characteristics of the surrounding area are:

- *North- partially cleared site containing a dwelling and remnant vegetation;*
- *South- partially cleared site containing a dwelling and remnant vegetation;*
- *East- cleared site containing a dwelling and remnant vegetation;*
- *West- partially cleared site containing a dwelling and remnant vegetation;*
- The site is covered by a Zoological Significance Overlay under the Department of Environment Land Water and Planning mapping

Relevance to Council Plan

Nil.

Proposal

The proposed single storey brick dwelling measures 24.8 metres by 12.35 metres and is proposed to be located 20 metres from the front or western boundary, 39 metres from the

northern boundary, 60 metres from the southern boundary and 139 metres from the eastern boundary.

The dwelling is proposed to have a gable 'Colourbond' roof with a maximum height of 5.3 metres above natural ground level.

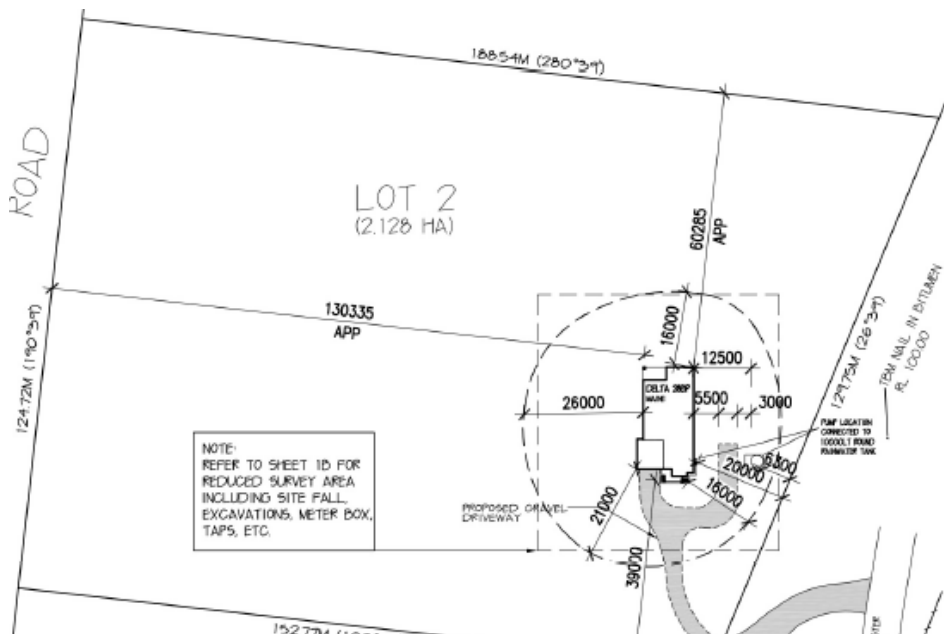
The dwelling consists of four (4) bedrooms, kitchen and living areas and a small alfresco area as well as a double garage and has a total floor area of 288m² (12m x 24m).

The development site is gently undulating and only minor earthworks are required.

The application has identified that a total of fifty-one (51) trees and understorey are proposed for removal consisting of a range of native vegetation.

It is noted at this point that the applicant has advised Council that they will not provide the further information that Council has requested in relation to the application.

Proposed site plan



Planning Scheme Provisions

Zone

The land is subject to the **Rural Conservation Zone Schedule 2**

Overlays

The land is subject to the following overlays:

- **Environmental Significance Overlay - Schedule 1**
- **Bushfire Management Overlay**

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.01-1S Settlement
 - Clause 11.01-1R2 Green Wedges – Metropolitan Melbourne

- Clause 12.01-1S Protection of biodiversity
- Clause 13.02 Bushfire
 - Clause 13.02-1S Bushfire planning

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01-Cardinia Shire Key Issues and Strategic Issues
- Clause 21.02-Environment
 - Clause 21.02-2 Landscapes
 - Clause 21.02-3 Biodiversity
 - Clause 21.02-4 Wildfire Management

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.17 Native vegetation
- Clause 53.02 Bushfire Planning
- Clause 51.02 Metropolitan Green Wedge Land
- Clause 65 Decision Guidelines
- Clause 66 Referral and Notice Provisions
- Clause 71.02 Operation of the Planning Policy Framework
 - Clause 71.02-3 Integrated Decision Making

Planning Permit Triggers

The proposal for the **Use and development of the land for a dwelling and removal of vegetation** requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.06-1of the **Rural Conservation Zone Schedule 1 (RCZ1)** a planning permit is required to use land for a dwelling;
- Pursuant to Clause 35.06-5 **of the Rural Conservation Zone Schedule 1 (RCZ1)** a planning permit is required to construct a building or construct or carry out works associated with a dwelling;
- Pursuant to Clause 42.01-2 of the Environmental Significance Overlay (ESO1) a planning permit is required to construct a building or construct or carry out works for a dwelling;
- Pursuant to Clause 42.01-2 of the Environmental Significance Overlay (ESO1) a planning Permit to remove, destroy or lop vegetation;
- Pursuant to Clause 44.06-2 of the Bushfire Management Overlay a planning permit is required to construct a building associated with accommodation (dwelling);
- Pursuant to Clause 52.17 –Native Vegetation a planning permit is required to remove a native vegetation.

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 advertising was carried out correctly and no objections have been received. It should be noted here that Council advertised the application without having full application information.

Referrals

Referrals/ Notice	Referral Authority	Brief summary of response
Section 55 Referrals	<i>CFA Recommending</i>	No objection (<i>subject to conditions</i>)

Discussion

The relevant objectives of the PPF, LPPF, zone, overlays and particular provisions applicable to the subject site, require that Council consider the impact of the proposal on the natural environment and the ongoing preservation and enhancement of biodiversity.

Planning Policy Framework

Clause 12.01-1S Protection of biodiversity

The primary objective of this Clause is:

“To assist the protection and conservation of Victoria’s biodiversity”

The relevant strategies to achieve this objective are:

- Use biodiversity information to identify important areas of biodiversity, including key habitat for rare or threatened species and communities, and strategically valuable biodiversity sites.
- Strategically plan for the protection and conservation of Victoria’s important areas of biodiversity.
- Ensure that decision making takes into account the impacts of land use and development on Victoria’s biodiversity, including consideration of:
 - Cumulative impacts.
 - Fragmentation of habitat.
 - The spread of pest plants, animals and pathogens into natural ecosystems.
- Avoid impacts of land use and development on important areas of biodiversity.

Clause 13.02 Bushfire Planning

The primary objective of this Clause is to:

“To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life”.

The relevant strategies are:

Protection of human life

Give priority to the protection of human life by:

- Prioritising the protection of human life over all other policy considerations.
- Directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.
- Reducing the vulnerability of communities to bushfire through the consideration of bushfire risk in decision making at all stages of the planning process

Areas of biodiversity conservation value

- Ensure settlement growth and development approvals can implement bushfire protection measures without unacceptable biodiversity impacts by discouraging settlement growth and development in bushfire affected areas that are important areas of biodiversity.

Use and development in a Bushfire Prone Area

When assessing a planning permit application for the above uses and development (accommodation):

- Ensure new development can implement bushfire protection measures without unacceptable biodiversity impacts.

The planning scheme prioritises both the protection biodiversity and human life. Where a new dwelling is to be constructed within a Bushfire Management Overlay, the dwelling must have an area known as defensible space, which is an area modified by the removal of vegetation (both trees and understorey). As outlined in the strategy above, where the development of a site requires unacceptable impacts to biodiversity to create the required area for defensible space, the development of that site is not appropriate.

As this property is a dense bush block, the defensible space cannot be provided without significant impact on the vegetation. The extent of vegetation removal required to create defensible space will cover an area of 4,500 square metres (0.45 hectares) and result in the loss of trees and understorey vegetation to comply with CFA's defensible space requirements. This is an unacceptable level of biodiversity loss in a fragmented landscape that has Zoological Significance and important landscape connectivity values for biodiversity.

35.06 Rural Conservation Zone

Purpose

- To conserve the values specified in a schedule to this zone.
- To protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.
- To protect and enhance natural resources and the biodiversity of the area.
- To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.

Decision Guidelines

The Responsible Authority must consider, as appropriate:

General issues

- How the use or development conserves the values identified for the land in a schedule.
- Whether use or development protects and enhances the environmental, agricultural and landscape qualities of the site and its surrounds.

Environmental issues

- An assessment of the likely environmental impact on the biodiversity and in particular the flora and fauna of the area.
- The protection and enhancement of the natural environment of the area, including the retention of vegetation and faunal habitats and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge areas.
- How the use and development relates to sustainable land management and the need to prepare an integrated land management plan which addresses the protection and enhancement of native vegetation and waterways, stabilisation of soil and pest plant and animal control.
- The location of on site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.

Design and siting issues

- The need to minimise any adverse impacts of siting, design, height, bulk, and colours and materials to be used, on landscape features, major roads and vistas.
- The need to minimise adverse impacts on the character and appearance of the area or features of archaeological, historic or scientific significance or of natural scenic beauty or importance.

Schedule 2 to clause 35.06 Rural Conservation Zone**Conservation values**

Protection and conservation of the environmental values and landscape qualities of the land, including habitat of botanical and zoological significance, and the conservation of natural resources, including native vegetation, waterways and soils.

42.01 Environmental Significance Overlay**Purpose**

- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

Decision Guidelines

The Responsible Authority must consider, as appropriate:

- The statement of environmental significance and the environmental objective contained in a schedule to this overlay.
- The need to remove, destroy or lop vegetation to create a defensible space to reduce the risk of bushfire to life and property.

Schedule 1 to clause 42.01 Environmental Significance Overlay**Statement of Environmental Significance**

The vegetation supports the ecological processes and biodiversity of this area by forming core habitat areas within a complex network of biolink wildlife corridors. Sites containing threatened flora and fauna are defined as being of botanical and zoological significance. Development within and around these sites need to be appropriately managed to ensure the

long term protection, enhancement and sustainability of these ecological processes and the maintenance of biodiversity.

Environmental objective to be achieved

- To protect and enhance the significant environmental and landscape values in the northern hills area including the retention and enhancement of indigenous vegetation.
- To ensure that the siting and design of buildings and works does not adversely impact on environmental values including the diverse and interesting landscape, areas of remnant vegetation, hollow bearing trees, habitat of botanical and zoological significance and water quality and quantity.
- To ensure that the siting and design of buildings and works addresses environmental hazards including slope, erosion and fire risk, the protection of view lines and maintenance of vegetation as the predominant feature of the landscape.
- To protect and enhance biolinks across the landscape and ensure that vegetation is suitable for maintaining the health of species, communities and ecological processes, including the prevention of the incremental loss of vegetation.

Decision Guidelines

- Whether the removal of any vegetation has been avoided and/or minimised.
- The protection and enhancement of the natural environment and character of the area.
- The retention, protection and enhancement of remnant vegetation and habitat, and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.
- The impact of any buildings and works on areas of remnant vegetation, and habitat of botanical and zoological significance and threatened species.
- The availability of other alternative sites, alternative building designs or alternative

Application requirements of the Rural Conservation Zone (RCZ) and the Environmental Significance Overlay (ESO)

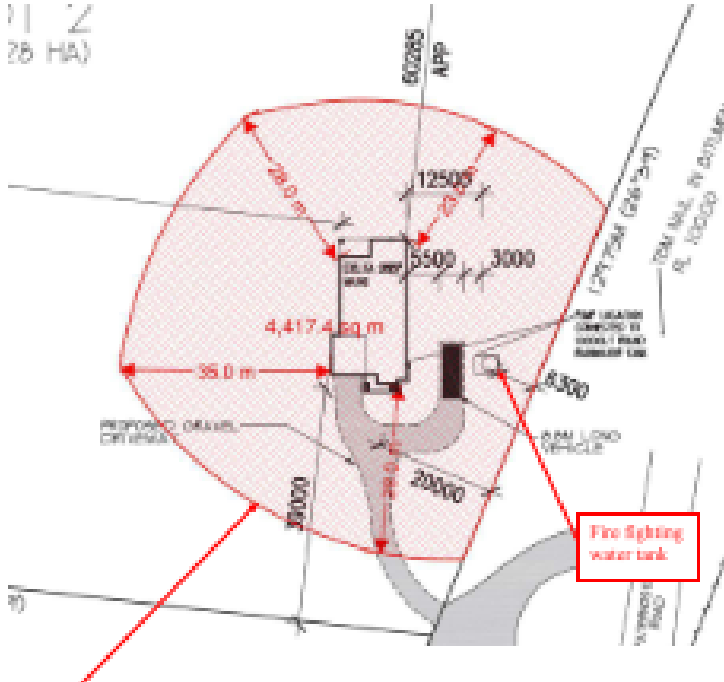
The above planning controls require Council to assess the loss of vegetation and the resultant impact on the biodiversity of the site, and whether the impact is acceptable.

The application requirements of Clause 52.17-Native vegetation, in particular the requirements of the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning (DELWP) 2017) encompass all of the information required by the RCZ and the ESO1 and will be discussed in detail under this particular provision.

Clause 44.06-Bushfire Management Overlay

A standard part of an assessment under this Overlay is the preparation of a Bushfire Management Statement by a consultant. Part of this statement is the Bushfire Management Plan (BMP) which includes a scaled plan showing the area within which vegetation must be managed.

The current BMP is:



The standard defendable space requirements are:

Defendable space management standards:

- Grass must be short cropped and maintained during the declared fire danger period.
- All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
- Plants greater than 10 centimetres in height must not be placed within 3 metres of a window or glass feature of the building.
- Shrubs must not be located under the canopy of trees.
- Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
- Trees must not overhang or touch any elements of the building.
- The canopy of trees must be separated by at least 5 metres (unless trees are located on public land).
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level

Any future dwelling would need to manage the vegetation on site in accordance with above requirements. As previously mentioned, the total area of the defendable space is 0.45 hectares or around 25% of the total site area of 2.1ha. This significant impact needs to be assessed at the planning stage.

Clause 52.17-Native Vegetation

As discussed above, the construction of any future dwelling requires the management of the vegetation to reduce the intensity of fire, so that the owner would be protected within the dwelling. An application to remove native vegetation on a site greater than 4000m² must meet the application requirements of the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning (DELWP) 2017 (*the Guidelines*)). The primary aim of the Guidelines is to ensure that any development proposal must avoid, minimise and offset the removal of native vegetation.

A general observation regarding the complexity of these types of applications is that there are very few applicants that understand the interplay between the Bushfire Management Overlay and the requirement to avoid the removal of vegetation within the defensible space. The current application is no exception.

The following discussion provides a review of the documents submitted in relation to the application requirements of the Guidelines:

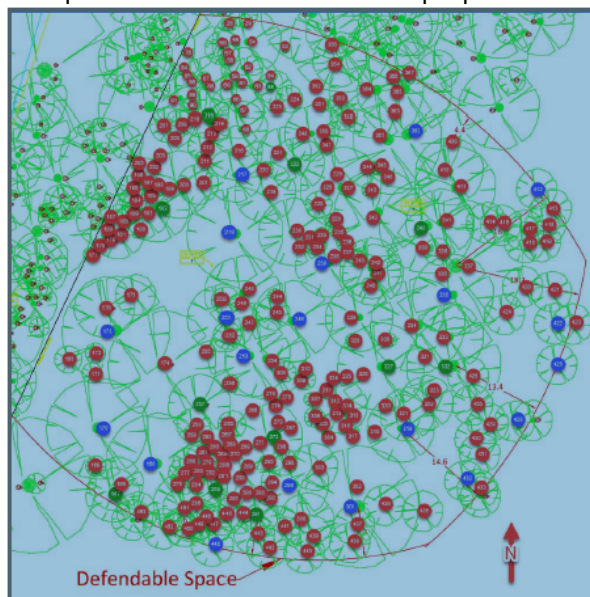
1. Dwelling design

The Guidelines require that any proposal provide written evidence as to how the proposed development avoids the removal of vegetation. Whilst siting of the dwelling in a previously disturbed area, has made some attempt to reduce impact on vegetation, the current design of the dwelling has a significant impact and does not avoid vegetation removal. The length of the dwelling is 24.8 metres and includes a double garage. Reducing the length of the footprint of the dwelling will reduce how far the defensible space extends into the property and therefore avoids removal of vegetation. This could be achieved by changing the design to a double story, reduce number of rooms, or reduce size of rooms. The garage can be located separate to the dwelling and if less than 100m² does not require defensible space which would further reduce the loss of vegetation.

It is noted that Council raised this concern with the applicant in a request for further information sent to the applicant on the 2 April, 2020 following a review of the information submitted to Council on the 4 March, 2020. The applicant considers this request unreasonable given the amount of time elapsed since the lodgement of the application. However, it was not until the submission of the information in March albeit incomplete, that the impact of the design of the dwelling on the scale of vegetation loss could reasonably be assessed.

2. Bushfire Management Overlay Compliance Assessment by Greenwood Consulting (20/12/2019)

This report and plan identifies the vegetation that is required to be removed within the dwelling footprint and the defensible space of the dwelling. The proposed vegetation removal plan shown below with trees proposed for removal shown in red:



The applicant was requested to provide some additional information which is critical to assessing the full impact on the vegetation. The current plan only includes trees up to five (5) metres in height, whereas there are many trees over three (3) metres in height which are required to be managed as part of the defensible space, and these have not been shown. There are other details required by the Guidelines that Council have requested that the applicant provide, so that the full impacts of the proposal will have on vegetation loss and biodiversity can be assessed. For example the plan must show hollow bearing trees that provide nesting hollows so that Council can ensure that these trees are retained.

In order to meet the CFA's vegetation management requirements, the (five) 5 metre canopy separation must be provided. A review of the proposed vegetation removal plan on site by Council's Environment Officer, has determined that the 5 metre distance has not been provided in several instances. The plan must demonstrate that the 5-metre separation between tree canopies will be met. Where pruning of the canopy is recommended to meet this requirement, the applicant needs to demonstrate that the canopy pruning required will not impact the ongoing viability of the tree. Failure to adequately provide the canopy separation will increase the intensity of fire and the occupant of any dwelling will be at risk as the Bushfire Attack Level (BAL) that the dwelling is constructed to, may not withstand the intensity of the fire.

A full list of outstanding requirements are included in appendix A to this report.

3. Ecology report, *The Vegetation Quality Assessment of 369 Paternoster Road Cockatoo, August/September 2018, Bill Richdale*

This report was reviewed by Council's Environment Officer and was found to be deficient in its methodology. The primary problem is that the owner of the site met with the ecologist and advised them to assess the vegetation within the footprint of the dwelling and 10 metres around the dwelling. Herein lies a major problem. The dwelling has been proposed in a previously disturbed area and the quality of this vegetation has been significantly reduced. The defensible space of the dwelling however, extends a further 10-20 metres in all directions beyond this 10 metre line. This vegetation is relatively undisturbed and of much higher quality than the vegetation assessed by the ecologist. The resultant Habitat Score allocated to this disturbed vegetation by the ecologist does not accurately reflect the Habitat score of the remainder of the vegetation which constitutes the majority of the impact of the proposal.

Comments were provided to the applicant and the ecologist (Bill Richdale) on 28/6/19 that Council would not be relying on the ecology report as it did not provide sufficient detail and Council did not agree with some of its methodology. To date neither the applicant or Bill Richdale has addressed these concerns. A full list of outstanding requirements are included in appendix A to this report.

4. The Native Vegetation Offset Management Strategy by Ecocentric (Peter Gannon)

This strategy assesses the scale of offsets required to replace the vegetation required to be removed for the development. This offset strategy includes an incorrect offset score as the consultant used the incorrect habitat score from Bill Richdale's report. The score arrived at does not reflect the full scale of the loss and does not meet the requirements of the Guidelines.

There are other deficiencies within this report which also do not result in accurate assessment of the full loss of vegetation expected as a result of the development and the vegetation management requirements.

The current vegetation report submitted indicates that the proposal falls within the intermediate pathway and does not require a referral to DELWP. However, as the submitted information does not use the correct Habitat Score, there is a reasonable doubt as to whether the current assessment of the proposal falling within the intermediate pathway is accurate. If the vegetation is correctly mapped, it is likely that that the application would fall within a detailed pathway and require a referral to DELWP.

A full list of outstanding requirements are included in appendix A to this report.

Clause 44.06-Bushfire Management Overlay

The key purpose of the Bushfire Management Overlay is to ensure that the development of the land prioritises the protection of human life and strengthens community resilience to bushfire. It also identifies areas where the bushfire hazard warrants bushfire protection measures to be implemented and ensures that development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level. Pursuant to Clause 44.06-2 a Planning Permit is required to construct a building or construct or carry out works associated with Accommodation.

The CFA are satisfied with the bushfire protection measures proposed, including the defensible space and did not object to the proposal, subject to conditions being placed on the permit and endorsement of the BMP.

The CFA's support is based on the provision of the defensible space and appropriate vegetation management. At this point the as previously advised, the vegetation removal plans submitted do not provide adequate vegetation management with several instances identified on ground where the required 5m canopy separation has not been provided.

This would place the occupant of any future dwelling at risk as the construction standard is based on appropriate vegetation management. If vegetation is not reduced in accordance with the requirements, radiant heat and direct flame impacts could be greater than that which the construction standard can withstand which could result in the loss of the dwelling and potentially the life of any occupants.

The potential risk to life and property has not been mitigated appropriately by the current application.

Clause 51.02 Metropolitan Green Wedge Land

The proposal has been assessed against the relevant purposes of Clause 51.02. The proposal does not satisfy one of the primary purposes of the Clause:

“To protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values”

The proposed dwelling and vegetation removal will have a significant impact on the environmental qualities of the site and biodiversity of the locality. As the site is one of a handful of relatively undisturbed sites in the area it plays an important role in the preservation of flora and fauna. Whilst the full impacts of the development are not known, the information available to date indicates that this proposal will have a significant and ongoing impact on biodiversity which is unacceptable.

Clause 53.02 Bushfire Planning

The application is not considered to meet the relevant requirements of 53.02-4 Bushfire protection objectives as the vegetation management proposed within the defendable space is inadequate in relation to the construction standard proposed. As previously stated, if the vegetation management proposed is inadequate this could the dwelling failing to provide adequate protection to the occupants.

General Discussion

Whilst the full impact of this proposal on the environment and biodiversity of the site cannot be fully assessed without the full application requirements being met, it is reasonable to state that the right of a land owner to use land with a Rural Conservation zoning for the purpose of a dwelling, is of lesser importance than the conservation of the environmental qualities of the land. It is therefore paramount to a correct assessment of this proposal on the vegetation impacts by both Council and possibly DELWP that the requested information be provided.

In a recent VCAT decision, Department of Environment, Land, Water and Planning v Yarra Ranges SC (Red Dot) [2019] VCAT 323, VCAT overturned the Shire's decision to grant a permit for a dwelling and vegetation removal and noted that:

"We consider the RCZ is a zone that does not support the use of land for a dwelling unless the impacts from an environmental perspective are minimal and the use is subservient to the zone's purpose, which is to protect and enhance environmental values"

The currently proposal to remove 1/4 of the vegetation from the property is in no way minimal. Over time incremental degradation of surrounding vegetation will occur, further impacting the habitat values.

Council's environment officer has identified that the site currently provides a vital east-west corridor for a range of native fauna species and is within an area of regionally significant ecological values. The property has nearby records of threatened forest owls such as the Powerful Owl and larger animals such as Lace Monitors. These forest owls require large tracts of undisturbed forest with connected tree canopy to move within the landscape and obtain prey. The vegetation on this property provides a crucial faunal link east west through the region and the removal of 4000 square metres of high quality remnant bushland breaks that link.

Council's Environment officer further argues that the application will create too large a gap between canopy to facilitate the continued movement of arboreal mammals such as the Sugar Glider and Feather-tail Glider Studies typically glide 5 metres between trees. Increasing the gap between tree canopies causes the species to reduce its movement and they will over time cease using the vegetation.

Further, advice indicates that Superb Lyrebirds have been found in Pakenham Upper-Cockatoo. These large ground dwelling birds also require a dense understorey and need a home range of about 10 km in diameter. They require these large areas of connected understorey vegetation and will also be unable to use the site if the clearing occurs.

Given the failure of the proposal to avoid vegetation removal in accordance with the requirements of the Guidelines, the current impact that the proposal will have on vegetation and the biodiversity is unreasonable. In addition, the current proposed offsetting of this vegetation at a both a state level would also not accurately reflect the loss incurred.

There is a clear need for the requested information to be provided to enable a full and proper assessment of the immediate and ongoing impacts of vegetation removal on the flora and fauna and overall biodiversity of the area.

Clause 65 Decision Guidelines

The application has been assessed against the Clause 65 – Decision Guidelines. It is considered that the application, as discussed above, does not provide appropriate application documents to enable Council to fully assess compliance with the relevant state and local policies and the purpose of the zone overlays and particular provisions that apply to the site. The information submitted thus far has allowed Council to determine that the proposal does not avoid vegetation removal and has avoidable and therefore unacceptable biodiversity impacts.

Conclusion

Given the above facts, it is recommended that a refusal to grant a permit be issued.

Resolution

Moved Cr Graeme Moore, seconded Cr Carol Ryan.

That Council issue a Refusal to Grant Planning Permit T180651 be issued for Use and development of the land for a dwelling and removal of vegetation at 369 Paternoster Road, Cockatoo VIC 3781 on the following grounds:

- Failure to meet application requirements of Clause 35.06-Rural Conservation Zone-Schedule, Clause 42.01-Environmental Significance Overlay and Clause 52.17-Native vegetation;
- Failure to protect biodiversity as required by Clause 12.01-1S Protection of biodiversity and Clause 13.02-1S Bushfire planning;
- Failure to prioritise the protection of human life as required by Clause 13.02-1S Bushfire planning;
- Failure to protect metropolitan green wedge land from uses and development that will diminish its environmental values.

Carried

6.1.3 Use and Development of a Dwelling at Lot 4 Ropers Lane, Cora Lynn

File Reference: INT2033919
Responsible GM: Peter Benazic
Author: Emma Brennan

Recommendation(s)

That Council issue a Refusal to Grant Planning Permit T190162 be issued for Use and development of the land for a dwelling at Ropers Lane, Cora Lynn VIC 3814 on the following grounds:

- The proposed use and development of a dwelling is inconsistent with the purpose of Schedule 1 to Clause 37.01 Special Use Zone (Schedule 1 – Horticultural Preservation) as it is considered that the lot is not appropriate for rural residential living having regard to the proximity to the existing neighbouring broiler farm.
- The proposal is incompatible with the surrounding land uses, having regard to the separation distance benchmark under the Victorian Broiler Code 2009 (as amended 2018) and will likely create substantial future compatibility problems between the operation of the adjoining free range chicken farm and the amenity of the future occupants of the dwelling.

Attachments

1. Locality Map [6.1.3.1 - 1 page]

Executive Summary

APPLICATION NO.:	INT190162
APPLICANT:	Michael Tyler C/- John McCaffrey - Consultant Town Planner
LAND:	Ropers Lane, Cora Lynn VIC 3814 Lot 4 on LP222475 Vol 10094 Fol 145
PROPOSAL:	Use and development of the land for a dwelling
PLANNING CONTROLS:	Special Use Zone - Schedule 1 (Horticulture Preservation) Land Subject to Inundation Overlay
NOTIFICATION & OBJECTIONS:	Advertised with no objections received
KEY PLANNING CONSIDERATIONS:	Compatibility of the proposed dwelling with the Special Use Zone and the other nearby existing farming activities

RECOMMENDATION:

Refusal to Grant a Planning Permit

Background

A similar planning application T110045 was submitted to Council and refused in 2012 on the following grounds:

- The location of the proposed dwelling results in inappropriate separation distances between conflicting uses to the detriment of the amenity of the residents of the proposed dwelling and the potential future expansion of the existing neighbouring broiler farm.

The applicant appealed this decision at Victorian Civil and Administrative Tribunal (VCAT) and on 13 November 2012, Council's decision was upheld.

Planning Permit T100343 was refused by Council on 27 October 2010 for the use of the land for a caretakers dwelling.

Planning Permit T080621 was issued by Council on 1 December 2008 for the development of the land for the purpose of a farm shed.

Subject Site

The land is located on the north-east side of Ropers Lane, approximately 300m north-west of the Tynong- Bayles Road, Cora Lynn. Ropers Lane is an unmade road and the Tynong - Bayles Road is sealed. The subject land is flat with a number of trees along the southern part of the street frontage. It is approximately rectangular in shape with a total area of about 15.4 hectares. There are a number of outbuildings and farm buildings on the property.



The site is currently used for agricultural activities including racehorse agistment, horse-breaking, beef cattle grazing, cropping (hay), feeding hay and silage to cows and farm contracting services.

The surrounding area is also generally flat, with relevant features being:

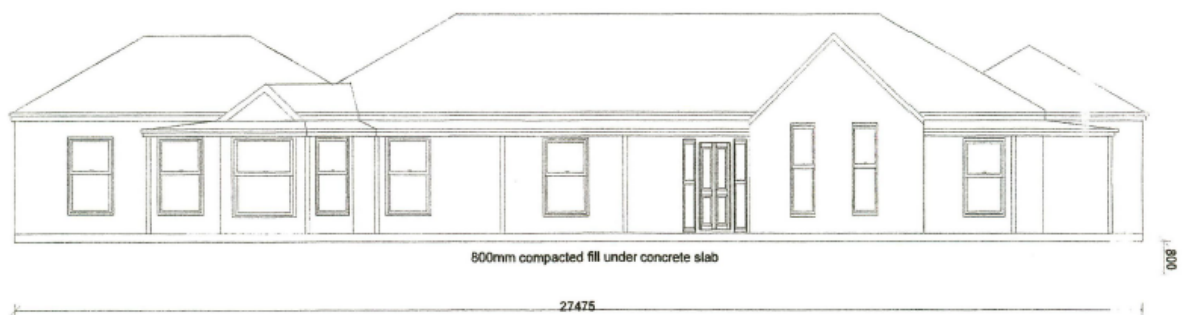
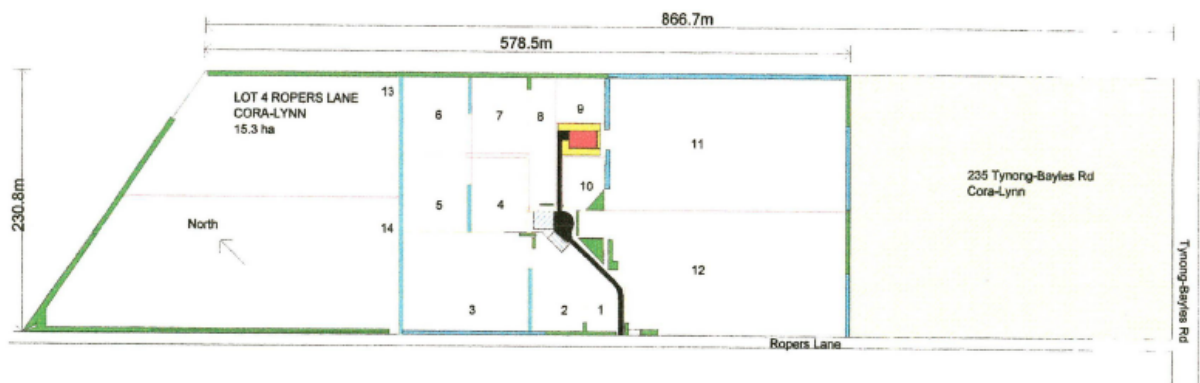
- A free range chicken broiler farm adjoining the subject site to the west, known as Schembri farm.
- An asparagus farm on the south-east corner of Ropers Lane and Tynong Bayles Road, abutting the Schembri farm.

Relevance to Council Plan

Nil.

Proposal

It is proposed to construct a dwelling on the subject land. It is to be single storey, located 165 metres from the Ropers Lane frontage, 51.85 metres from the north-eastern boundary, approximately 335 metres from the northern boundary and 225 metres from the south-eastern boundary. The dwelling is proposed to comprise three bedrooms, a study, kitchen, living rooms and garage.



Proposed South Elevation
Lot 4 Ropers Lane Cora-Lynn

1:100

Planning Scheme Provisions

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11 Settlement
 - Clause 11.01-1R Green wedges -
- Clause 14 Natural Resource Management
 - Clause 14.01-1S Protection of agricultural land
 - Clause 14.01-2 Sustainable agricultural land use
- Clause 21.04 Economic Development
 - Clause 21.04-2 Agriculture

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 53.09 Poultry Farm
- Clause 65 Decision Guidelines
- Cardinia Shire's Liveability Plan 2017-2029.

Zone

The land is subject to the Special Use Zone - Schedule 1 (Horticultural Preservation)

Overlays

The land is subject to the Land Subject to Inundation Overlay

Planning Permit Triggers

The proposal for the use and development of a dwelling requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 37.01-1, a planning permit is required for the use of a dwelling.
- Pursuant to Clause 37.01-1-4, a planning permit is required for buildings and works.
- Pursuant to Clause 44.04-1, a planning permit is required for buildings and works.

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 no objections to date.

It is noted that, pursuant Option 2 to Clause 44.04 (LSIO), the proposal is exempt from third party notice and review rights.

Referrals

The application was referred to Melbourne Water as a statutory referral. No objection to the proposal subject to conditions.

Discussion

Approval is sought for the use and development of the land for a dwelling. Firstly, it is important to note that the proposal is essentially a repeat application, with a previous decision to refuse the application being upheld at the Tribunal on 23 November 2012, being application T110045 (VCAT reference P3350/2011). The key differences between the previously refused application and the current application of T190162 are outlined as follows:

T110045	T190162
Application for the use and development of a dwelling and use of an existing building as a temporary dwelling (to be decommissioned once dwelling is constructed).	Application for the use and development of a dwelling. The temporary dwelling has been removed from the application.
Broiler farm located to the west with 300,000 birds on site.	Broiler farm is now in the form of a free range chicken farm (assessed as a broiler farm under the Victorian Broiler Code as amended in 2018), reducing the number of birds on site to 270,000.
A Farm Management Plan had not been prepared.	A 'property plan' and a 'farm business plan' have been provided (note: not a Farm Management Plan).
n/a	A soil test report has been provided. This report does not provide a significant argument against a non-soil agricultural activity from being carried out on site.
The proposed dwelling was sited in the north eastern portion of the site, 93 metres from the Ropers Lane frontage.	The proposed dwelling is sited in the north eastern portion of the site, 165 metres from the Ropers Lane boundary.

Special Use Zone (Schedule 1 – Horticultural Preservation)

The land is zoned Special Use Zone – Schedule. 1. This is a unique zoning to Cardinia Shire and differs from other Green Wedge farming zones in relation to permit triggers and the purpose of the zone. In essence, the SUZ1 is specifically designed to preserve land of high agricultural quality for soil-based agricultural pursuits.

The purposes of the SUZ1 are:

- *To preserve land of high agricultural quality for horticulture and other farming activities.*
- *To discourage non-agricultural and non-soil-based uses establishing on soil of high agricultural value.*
- *To protect the area from the encroachment of urban and rural residential type development.*
- *To minimise the potential for conflict between residents and normal farming practices that are related to the conduct of agricultural activities.*
- *To encourage sustainable farming activities based on whole farm and catchment planning principles on an individual and community basis.*

Setting aside the concerns raised regarding the proposed dwelling's proximity to the broiler farm, an assessment against the SUZ1 as to whether it is appropriate to locate a dwelling on this site is required.

At the same of the November 2012 hearing, the land was being used for agricultural activities including racehorse agistment, horse-breaking, beef cattle grazing, cropping (hay), feeding hay and silage to cows and farm contracting services. The following assessment was made by the Tribunal with respect to the uses on site requiring a 'living on site' presence on the farm, as part of a viable and genuine agricultural purpose:

[para 18] ... In particular we note that in the course of the cross-examination of Mr Tyler and Ms Goodall during the hearing, they indicated that their total gross income in recent years was approximately \$50 - \$90,000 p.a. from the various activities undertaken. However it was not clear to us how much of this figure related to actual farming of the review site, as opposed to Mr Tyler as a contractor working on other properties.

Since this time, the applicant has submitted that, should a dwelling be approved on the land, the agricultural activities would alter as follows:

- A mixed thoroughbred enterprise, comprising racehorse agistment and foaling down/boarding of brood mares. Beef cattle would also run primarily for pasture management purposes.
- Foaling of mares occurs almost exclusively at night, with the applicant submitting that a dwelling on the property being essential.
- The applicant has submitted that the total gross annual income from the above agricultural activities would range from approximately a \$120,000 to \$133,000pa.

It would appear that these figures directly relate to actual farming activities carried out on the subject site, addressing the Tribunal's concern that the operation results in 'sustainable farming activities.' However, Council officers remain unconvinced that a dwelling on this property is essential to the operation of the farming activities. It is considered that the applicant's decision to live on-site remains a 'rural-residential lifestyle' decision, which directly contravenes the purpose of the SUZ1, 'to protect the area from the encroachment of urban and rural residential type development.' Council officer's remain unconvinced that the revised farming activities would alter the Tribunal's view, being that these activities could readily be undertaken by someone living in an established residential area who commutes to the subject site.

Land Subject to Inundation Overlay

Melbourne Water did not object to the proposal, subject to conditions which primarily related to the LSIO http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2012/1726.html?context=1;query=T110045;mask_path=au/cases/vic/VCAT-fn2. It is noted that there are no third party notice or appeal rights under the LSIO as it applies here.

Proximity to Broiler Farm

Clause 53.09 Poultry Farm is a relevant particular provision given the adjoining broiler (free range chicken) farm located immediately west of the subject site. The purpose of this provision is:

To facilitate the establishment and expansion of poultry farms, including broiler farms, in a manner that is consistent with orderly and proper planning and the protection of the environment.

The Victorian Code for Broiler Farms 2009 ('Code') was amended in 2018 to include free range chicken farms. The Code sets out the appropriate separation distances for new broiler farms, which is calculated using the following formula:

$$D = 27 \times N^{0.54}$$

D = Separation distance

N = number of chickens/1000

The calculation is therefore as follows:

$$27 \times ((270,000/1000)^{0.54}) = 554.85 \text{ metres separation distance.}$$

The Code advises that although separation distance requirements apply to only the development or expansion of broiler farms, they can also be used as a guide to identify locations where a future sensitive use (including a dwelling) may be adversely affected by the broiler farm emissions. This proposal to locate a dwelling within the broiler farm's 554 metre separation distance is indicative of adverse impacts upon its future occupants.

Further to this, the use and development of a dwelling (sensitive use) being located within the separation distance of the broiler farm could potentially limit the ability of this existing agricultural land use (broiler farm) from being able to expand. It was acknowledged in VCAT P3350/2011 that the SUZ1 prohibits Animal Husbandry where the gross floor area of all buildings associated with the use exceeds 500m, however a portion of the Schembri property is zoned Green Wedge Zone (Schedule 1) which allows for expansion of the facility (albeit in the opposite direction to the subject site). Whether a not a planning permit would be issued for an expansion of the broiler farm would be based upon its merits at the time, however it is noted that existing use rights could be considered at the time of any future application.

It is acknowledged that there are other dwellings in closer proximity to the existing broiler farm than the proposed dwelling, however as the Tribunal determined, '*we do not accept that this in itself justifies the proposal. The proposal needs to be worthy on its own merits*'.

Given the above assessment, it therefore considered that the use and development of a dwelling is inconsistent with the purpose of the Special Use Zone (Schedule 1 - Horticultural Preservation) and is incompatible with the surrounding land uses, having regard to the separation distance benchmark under the Victorian Broiler Code 2009 (as amended 2018) and will likely create substantial future compatibility problems between the operation of the adjoining free range chicken farm and the amenity of the future occupants of the dwelling.

Conclusion

Having regard to the above zoning, overlays and provisions of the Cardinia Planning Scheme, it is recommended that the proposal for the use and development of the land for a dwelling is refused.

Grounds of Refusal:

- The proposed use and development of a dwelling is inconsistent with the purpose of Schedule 1 to Clause 37.01 Special Use Zone (Schedule 1 - Horticultural Preservation) as it is considered that the lot is not appropriate for rural residential living having regard to the proximity to the existing neighbouring broiler farm.

- The proposal is incompatible with the surrounding land uses, having regard to the separation distance benchmark under the Victorian Broiler Code 2009 (as amended 2018) and will likely create substantial future compatibility problems between the operation of the adjoining free range chicken farm and the amenity of the future occupants of the dwelling.

Resolution

Moved Cr Graeme Moore, seconded Cr Collin Ross.

That the report be deferred to the July Council meeting to allow consideration of additional information lodged by the applicant.

Carried

6.1.4 Report in Respect of Planning Permit Amendment T120062-1 400 Mountain Rd, Gembrook

File Reference: T120662-1
Responsible GM: Peter Benazic
Author: Owen Hardidge

Recommendation(s)

It is recommended that Council:

1. Note the contents of this report, and
2. that Council endorse the below Compliance Plan for Mountain Harvest Foods as 400 Mountain Road, Gembrook:
 - a. Until 31 December 2021 any enforcement decisions made in respect of the property (including any arising from new complaints made after the date of this resolution) will be reviewed by the Manager, Development and Compliance Services to ensure appropriate enforcement is undertaken of the land.
 - b. Within 3 months of full operations resuming on the site, Council engage an independent expert to report on noise levels from the site to assess compliance with Condition 6 of the permit (the applicable EPA noise standard).
 - c. Residents and the business will be provided with the results of noise testing.
 - d. Within 3 months Mountain Harvest Foods resuming full operation, Council undertake and audit of the facility against the permit conditions of T120662-1, including the land use permissions.
 - e. Within 3 months of the completion of building works, the Municipal Building Surveyor will review building and occupancy permits filed with the Council in respect of works.

Attachments

1. T120662 PA - Signed Planning Permit and Endorsed Plans (2013) [6.1.4.1 - 7 pages]
2. T120662-1 APP - Amended Planning Permit and Plans (2020) [6.1.4.2 - 10 pages]

Executive Summary

Nil.

Background

Council resolution 18 May 2020

At the general Council meeting held 18 May 2020, Council resolved as follows:

That a report be prepared for the Council meeting to be held on 15 June relating to the planning permit issued for the conduct of a rural industry at 400 Mountain Road in Gembrook.

This report is prepared in response to that resolution.

Part A – Planning permit issued for the conduct of rural industry at 400 Mountain Rd, Gembrook

The land

400 Mountain Rd, Gembrook is a 24.77 hectare parcel of land. A dammed watercourse runs from the centre of the parcel to the western boundary. In the north eastern corner of the property are a house and buildings used in connection with the Mountain Harvest Foods, including two sheds that are used for packing and processing of products, and for storage of machinery and goods.

The land is zoned “Green Wedge Zone 2” and is subject to the Environmental Significance Overlay, Bushfire Management Overlay, and Significant Landscape Overlays.

In the Green Wedge Zone, rural industry is a Section 2 use, meaning that rural industrial uses may be permitted.

Permit issued 2013 – T120662

On 16 April 2013, Cardinia Shire Council granted a permit pursuant to section 61 of the *Planning and Environment Act* in respect of the 400 Mountain Rd, Gembrook. This permit was ref. T120662 (Attachment 1). The permit authorised the use of the land for “Rural Industry (manufacturing of potato products)”. The permit included 7 conditions, footnotes and 3 pages of documents which are annotated as “approved” plans.

Page 1 of 3 and marked “approved plan” is a letter (referred to as the “2012 letter” which sets out the intentions of the business as at the date of the letter, including “proposed days and hours of operation”, “number of people likely to be present on the site” and “what is involved in manufacturing of the potatoes”.

Resident complaints 2015 - 2020

Commencing in 2015, Council began receiving reports from members of the community regarding the business operated on the land. The reports were investigated by Council and other agencies. In some instances, non-compliances were detected. In general terms, the residents complained that the operation of the business was impacting their amenity in a variety of ways. (The nature of these reports is discussed in more detail below)

What conditions could be enforced?

During the course of investigating complaints, Council planning enforcement officers reviewed the existing permits. During 2015 to 2017, Council officers advised the residents that the permit *did not* prohibit hours of operation, and advised the residents that the only enforceable aspects of the permit were the 7 conditions in the body of the permit. It appears that the “2012 letter” was present in the physical file held in Council archives, but not on the digital versions.

In approx. 2017, the “2012 letter” came to the attention of Council enforcement officers and planning staff. From 2017 to early 2020, Council officers took the view that the “2012 letter” could be relied upon to regulate hours of operation, and formed part of the conditions of permit T120662. During this period, Council officers advised Councillors and the residents of the hours of operation and indicated a willingness to enforce those hours of operations, as though they formed, for all intents and purposes, conditions on permit T120662.

Late in 2019, Council received reports that the business was operating outside of the hours referred to in the “2012 letter”. Prior to commencing enforcement proceedings, Council officers sought advice on the enforceability of hours of operations referred to in the “2012 letter”. In Feb 2020, based on the advice, Council officers formed the view that the permit could not be interpreted as including hours of operation, and that the permit effectively authorised the use of the land for “rural industry” without restriction on the hours in which the use could occur. This remains the view of Council officers.

This change of position, reached in Feb 2020, was not communicated to the residents who had complained since 2015. This was because, in the same month, a fire destroyed one of the sheds used by Mountain Harvest Food. This substantially halted the operation of the business, and (by extension) the investigation into any open resident complaints. At that point it was not clear what or how the business would seek to re-establish itself, and whether or not this would be subject to further planning approvals.

Application to amend T120662, and correct T080382 and T100189

In the course of preparing to rebuild the shed and recommence operations, the business reviewed the existing planning permits that apply to the land. In doing so, they rightly identified various inconsistencies with the existing permits, and applied to amend permit T120662, by:

- a) Removing a document previously stamped as endorsed (the “2012 letter”), and
- b) Inserting hours of operation clauses directly into the permit conditions, and

- c) Replacing the endorsed plans with more accurate plans, that generally accord with the plans previously endorsed.

Council officers were required to assess whether the application to amend T120062 was required to be “advertised” – that is, whether adjoining neighbours or affected parties were to be given “notice” of the application, as defined by Section 52 of the *Planning and Environment Act 1987*. The circumstances in which applications are required to give notice are set out in Section 52 of *the Act* and require an assessment of whether affected persons may suffer “material detriment” by the amendment.

In making this assessment, officers started from the position that the current permit contained no limitation in hours of operation. From that starting point, the application to *insert hours of operation* conditions could not be seen as a “material detriment” to affected residents. Council officers remain of the view that this assessment of the Section 52 test is correct, but recognise that for the residents who had previously been advised that there were hours of operation that were enforceable, this assessment seems incongruous.

There is no general proposition that “public interest” or “past non-compliance” would require an application to be advertised.

The application was considered by a delegate in accordance with the delegation made by Council. (This is a delegation of power directed to specified officers, and not a delegation to the CEO, which is then sub-delegated). The delegate making the decision was the Team Leader of Statutory Planning, Ms Frances Stipkovic, who sought peer review of the decision. It can be observed that approx. 97.5% of decisions in respect of permits are made under delegation.

The applicant considered the amendments that were sought and considered that the granting of the amendment was consistent with the applicable planning principles, including the objectives of the Green Wedge Zone. (A more detailed discussion of the planning considerations is contained below.)

On 8 May 2020, Council amended T120662 (the amended permit is referred to as T120662-1) in accordance with Section 72 of *the Act*. (Attachment 2)

During April 2020, the same officer also corrected two planning permits issued in respect of the development of each shed (T080382 and T100189). These corrections were desirable as the permits contained inappropriate “use” conditions (both T080382 and T100189 are both

“development” permits). The corrections were also desirable, as T120662 supersedes both permits, and created inconsistency.

Residents have commented that the corrections to T080382 and T100189 have changed the way that the business may use both sheds. While the changes have removed text about shed use, there has been no change in the lawful right of the business to use both sheds as they choose, or the activities that can lawfully occur in the sheds, in light of Planning Permit T120662. The business has not increased the building footprint from which their business can occur.

The application to amend T120662 was included in the public permit applications register for the period between the complete application was received, and the amended permit being issued. During this period, residents observed the application on the register, and were understandably surprised to learn that Council has issued the permit without advertising the permit. This is particularly so, because the change of opinion about the enforcement of hours of operations had not been communicated to them, and it was therefore difficult to understand the decision of the Council officers that the amendment application would not require advertising.

The affected residents complained that the process taken in issuing the amendment to T120662 had denied them the possibility of objecting to the amendment, or to otherwise “have their voice heard” before the permit was amended.

The residents expressed suspicion regarding the speed at which the application was decided. It can be observed that during the month of May 2020, 7 applications were decided under delegation within 15 days, and the time taken to consider this application is not uncommon.

It must be observed that the business did not require the amendment be made. The business could have re-constructed their buildings in accordance with the plans, and recommenced operation without any express limitation on their hours of operation.

Conclusion regarding the amendment and communication with the residents

It is considered that the process followed, and the decision reached in respect of T120662-1 was lawful, consistent, and represents an appropriate planning outcome for this site.

However, Council officers recognise that the failure to advise the residents (in Feb 2020) that Council officers no longer viewed the hours of operation clause as enforceable, after several

years of advising them that they were, was a failure that has disappointed the residents who have been interested in the affairs of the business for several years. The failure to advise the residents has also meant that the amendment to T120662 has come as a complete shock and appears to provide Mountain Harvest Foods with a permission that they did not previously have. This is further exacerbated because the amendment was not advertised.

In the future, when Mountain Harvest Foods is operational again, it is possible that residents will have no further cause to complain. It is hoped that the business operations will strictly comply with the conditions of T120662-1, including the “general amenity” condition (condition 2). The residents who have raised issues are not optimistic regarding future compliance.

Part B of this report includes a Compliance Plan, which outlines measures that Council enforcement staff may take to monitor compliance with specific concerns regarding this site.

Below is more detailed discussion of some of the matters referred to in this summary.

Detailed discussion

Planning considerations in respect of the proposed amendment

The delegate's decision on the amendment application had, as its starting point, a permit that authorised a land use without any limitation on the hours of operation.

The delegate considered that it was appropriate to limit hours of operation for the Rural Industry component, noting that the refurbished buildings will enable the business to operate more efficiently, thereby reducing the total of hours of processing per day.

This amendment is a significant enhancement from an amenity perspective as there were no enforceable hours of operation under T120662, prior to the amendment. Clear hours of operation have now been put in place, but without compromising the capacity of the agricultural business to process produce grown on the site (which directly aligns with the purpose of the Green Wedge Zone).

The inclusion of the interim hours of operation condition up to 10:00pm will allow the business to continue operating whilst refurbishments are being carried out in Shed 2. This is vital from a local employment as well as a food production perspective. As detailed above, as there are currently no hours of operation forming part of this Permit, a temporary limit to 10:00pm is considered reasonable in this context. All processing is to occur indoors in Shed 1 during this period with this building being located a substantial distance from dwellings on adjoining land, and the shed immediately adjoins the primary shed to be used for processing once construction is complete.

A limit of 6 months has been set for the interim hours of operation which is an adequate time frame to re-establish the damaged building. With respect to the on-going hours of operation, which now includes Sundays (up to 7:00pm), all required EPA legislation relating to noise and odour must be complied with, as well as the requirements of Condition 2 (the "general amenity" clause).

Although there is a history of non-compliance with some regulations, when carrying out a planning assessment, it cannot be assumed that conditions or other related legislation outside the Planning Permit will automatically be breached.

Having regard to this, the site context and planning controls affecting the land, the hours of operation were considered appropriate. The decision is consistent with analogous decisions in respect of Rural Industry uses and/or complimentary uses in Green Wedge Zones.

Why have some dimensions on the plans changed?

The residents have expressed concern that some dimensions appear different on the various sets of plans, and that the proposed colour of the shed has changed. While endorsed plans form part of the permit, it is common to provide for minor variations “with the written consent of the Responsible Authority”. This process is known as obtaining “secondary consent”, and it allows minor changes to the plan designs to be approved.

The changes noted by residents (such as an increase in roof height, and increase in staff room size, and use of a less conspicuous colour) are sufficiently minor that they do not impact the assessment of the land use, and would readily have been approved under secondary consent.

Why application was not referred to other agencies?

Applications for planning permits are referred to external agencies when it is required by law (for example, if a planning scheme overlay provision requires it).

There is no general power for Council to refer an application to external agencies (for example Melbourne Water or the EPA), and this is not changed if there is a history of non-compliance.

In short, the fact that there has been non-compliance in the past involving the EPA, does not automatically mean that the EPA are referred applications to consider. The same is true for other agencies.

Resident complaints regarding the operations at Mountain Harvest

Commencing in 2015, Council has received numerous reports from several members of the community regarding the business operating on the land.

The complaints related to the amenity impacts of the business and general regulatory compliance. The subject matter of the complaints included:

- Odour
- Operating noise from machinery
- Impact on visual amenity caused by storage of materials outside and around the factory
- Operating outside the advised hours of operation

- Trucks leaving the premise after the stipulated time
- Exposed water pipes in nature strip
- Skip bins being placed on roadside
- Amount of cars parking at the factory
- Burning of agricultural products outside the requirements of the Local Law
- Placement of signs indicating direct-to-public sales
- Non-compliance with endorsed plans in relation to car parking, screen planting and factory layout.

It is understood that various complaints had also been referred to the EPA, including

- contamination of watercourses by processing by-products, and
- dumping of waste food product along roadways and in paddocks, attracting vermin and flies.

Those reports have been investigated by Council and other agencies. In some instances, non-compliances were detected. In some instances, infringements and warnings have been issued. In some instances, non-compliance was detected but officers exercised their discretion to take no action, as the non-compliances were considered minor or trivial. Residents have generally been reluctant to make statements of their observations to enforcement officers, and in many cases the lack of evidence has effectively meant that investigations have been taken no further. Council officers have declined to investigate repeated complaints by some individuals.

The residents have become increasingly frustrated with the approach adopted by the Council.

Residents have said that they believe others in the community share their concerns, but that the others are unwilling to express their concerns publicly. It is, by definition, impossible to confirm or refute that assertion.

Request for environmental impact report as precondition of resuming operations

Residents have requested that the business be required to obtain an Environmental Impact report, and that they be prevented from resuming operations until that occurs.

Council has no legal mechanism to require an environmental impact report. Environmental impacts will need to be addressed going forward, in accordance with existing laws.

Part B - Proposed compliance plan

Residents have expressed concerns about the business returning to operation in the terms allowed in the amended Permit T120662-1.

In particular, they have expressed concerns that:

- a) The business operations will create **unreasonable noise**, interfering with the enjoyment of their land
- b) Business operations will cause **odour** to unreasonably interfere with the enjoyment of land by residents and others (including tourists and visitors)
- c) Buildings may not be built or occupied without strict compliance with the requirements of the Building Act and Regulations
- d) That large trucks (eg B-doubles) may continue to use unmade dirt roads in the vicinity of the land.
- e) That the business may engage process seafood products, beyond the scope of “potato products” referred to in the Permit preamble.
- f) That waste products may be disposed of by dumping on other properties
- g) That business operations may result in pollution of waterways.

These concerns are derived from the residents’ belief that the business has not complied with regulations in the past.

It should be noted that the Council does not have any capacity to create additional enforcement options in respect of this business. If the business breaches relevant laws, it (like any person or company) may be subject to criminal prosecution, or enforcement action under the *Planning and Environment Act*.

It is not possible to anticipate all possible allegations, and all possible scenarios. It is therefore impossible to say exactly what steps Council should take in every hypothetical scenario. It is also not possible to know what, if any, evidence of non-compliance will be available to officers.

Any enforcement decisions relating to the land will be made based on the information available at the time, and this Compliance Plan is not intended to restrict the discretion of officers as and when complaints are investigated.

However, the following approaches are recommended, if residents allege non-compliance by the business in the future.

Pollution of waterways

Any further concerns of this nature should continue to be reported to the EPA for investigation.

The *Environment Protection Act* 2018 will commence on 1 July 2021. The Act creates a **general environmental duty (GED)** that applies to all Victorians. Any entity that conducts activities that pose a risk to human health and the environment must understand those risks. They must also take reasonably practicable steps to eliminate or minimise them. Failures to meet the general environmental duty are criminally enforceable.

Dumping of waste in roads or land

Any further concerns of this nature should be reported to the EPA and to Council for investigation.

Council *may* have jurisdiction to investigate if the dumping:

- a) Occurs without the consent of the landowner, or
- b) Creates a risk to public health, or
- c) Creates a haven for vermin and pests.

The EPA *may* have jurisdiction to investigate that overlaps, or complements, the Council role.

Given the nature of this allegation, it is unlikely that Council officers will directly witness the conduct. It is likely that it will be necessary for witnesses to provide statements to support the investigation, in most cases.

Building permit and Occupancy permit

The re-built structures on the land will require Building Permits and Occupancy Permits, issued by private building surveyor, in accordance with the *Building Act*. These permits are filed with Council.

The Municipal Building Surveyor should audit Building and Occupancy Permits issued in respect of the buildings on the site, to ensure that they are complete, and accurately reflect the use and design proposed. Any concerns noted by the Municipal Building Surveyor will be addressed through the relevant private building surveyor.

Unreasonable noise

Condition 2 of permit T120662-1 requires that the use and development of the land must not “detrimentally affect the amenity of the area, though the... emission of noise...” as well as other common causes of amenity impact.

Condition 6 of permit T120662-1 also expressly prohibits noise emanating from the subject land in excess of the noise restrictions outlined in the Environment Protection Authority’s *Information Bulletin No. 3/89 Interim Guidelines for Control of Noise from Industry (sic.) in Country Victoria*. Despite the age of this standard, it continues to provide all parties with clear guidance as to acceptable levels of noise from the business.

It is not certain what level of noise will emit from the land once the business resumes. It is understood that the buildings and machinery will reflect current standards in noise suppressing technology. The following approach is recommended:

1. Within 3 months of full operations resuming on the site, Council engage an independent expert to report on noise levels from the site to assess compliance with Condition 6 of the permit (the applicable EPA noise standard).
2. Residents and the business should be provided with the results of noise testing.
3. The business and residents should decide for themselves whether they wish to obtain their own expert assessments.

If the report reveals noise emissions in breach of Condition 6, Council and residents will both have to consider what enforcement steps they wish to take.

The findings of the report will also inform Council and residents whether they believe noise emissions are “detrimental to the amenity of the area”.

It must be recognised that residents are not entitled to hear “no noise” coming from their neighbours’ properties (including nearby businesses). Residents are entitled to not have to endure “unreasonable” levels of noise, or to endure noise that breaches the relevant EPA standard.

This is inherently ambiguous to assess. The assessment of “reasonableness” of the noise will have to consider the prevailing amenity of the area, and (in a planning enforcement hearing) would take into account the applicable planning controls, including a general support for rural industry occurring in Green Wedge Zones.

Odour complaints

Condition 2 of permit T120662-1 requires that the use and development of the land must not detrimentally affect the amenity of the area, though the... emission of... smell...”.

Residents have complained of odour that was believed to relate to cooking in oil. The EPA have advised that they are currently involved with the business in selecting appropriate technology to limit odour emissions, as they rebuild.

If odour complaints persist, the Council and EPA *may* have concurrent roles, and it is therefore recommended that:

- a) Residents provide Council and the EPA with statutory declarations that describe the dates, times and descriptions of the odours they are observing, and
- b) Council and the EPA co-operate to review the emissions from the business, which may include testing against objective standards, or other measures.

The EPA will make its own determinations in respect of any findings.

The Council would be required to assess the results of any investigation and determine whether there is sufficient evidence to allege a breach of Condition 2 of the permit.

Proactive planning permit audit

It is recommended that Council officers proactively audit T120662-1 within 3 months of both sheds becoming operational.

Other land uses

The Residents have expressed concern that the processing facilities have also been used to process seafood.

The processing of seafood products may be subject to any number of regulatory controls, which is not within the power of the Council.

However, the use of the land is controlled by the planning scheme, and Council may enforce that.

The concept of a “land use” is well known to planning law. The planning scheme allows and prohibits “land uses” and allows other “land uses” when a permit is issued.

A “land use” is defined as “the real and substantial purpose of the use”. (*Shire of Perth v O’Keefe*, [1964] HCA 37). Other “uses” of the land may be “ancillary” to the predominant land use, if they are subservient to, or less than, the “real and substantial purpose” for which the land is used.

While T120662-1 permits the use of the land for “rural industry (processing potato products)”, it does not automatically follow that processing other agricultural produce would be a “land use” that can be regulated by the planning scheme.

In order to access this, it will be necessary to observe the scale and volume of seafood production, in the context of the rest of the activities occurring on the land.

In any event, whatever produce is being processed, this must be subject to the noted controls regarding noise, odour and general amenity.

It is recommended that Council officers make enquiries within 3 months of the business returning to full operation as to the scale and intensity of the seafood production. It is not desirable to be more prescriptive about Council activities in this regard, due to the complexity of the issue, and what (if any) evidence is available to Council officers at the time.

Enforcement decisions

Until the end of 2021, it is recommended that enforcement decisions made in respect of the property should be reviewed by the Manager, Development and Compliance Services.

“Enforcement decisions” includes:

- Deciding what steps to take to investigate and allegation
- Deciding whether to progress or close an investigation
- Deciding whether to issue a notice, infringement or any other compliance document
- Deciding whether to commence any enforcement proceeding.

If residents are dissatisfied with the enforcement decisions that Council officers make, complaints will be dealt with in accordance with the Compliance and Enforcement Policy 2019.

Use of roads by B-Double trucks

Due to the short time frame to prepare this report, it is not possible to address this issue in this report. Council officers undertake to review this matter and advise the residents:

- What, if any, controls apply to the use of roads by large vehicles, and
- What, if any, steps are proposed to be taken in respect of the use of roads by large trucks

Summary of recommendations in enforcement plan

It is recommended that Council endorse the below Compliance Plan for Mountain Harvest Foods as 400 Mountain Road, Gembrook:

- a) Until the date of 31 December 2021 any enforcement decisions made in respect of the property will be reviewed by the Manager, Development and Compliance Services to ensure appropriate enforcement is undertaken of the site.
- b) Within 3 months of full operations resuming on the site, Council engage an independent expert to report on noise levels from the site to assess compliance with Condition 6 of the permit (the applicable EPA noise standard).
- c) Residents and the business will be provided with the results of noise testing.
- d) Within 3 months Mountain Harvest Foods resuming full operation, Council undertake and audit of the facility against the permit conditions of T120662-1, including the land use permissions.
- e) Within 3 months of the completion of building works, the Municipal Building Surveyor will review building and occupancy permits filed with the Council in respect of works.

Relevance to Council Plan

Nil.

Resolution

Moved Cr Leticia Wilmot, seconded Cr Collin Ross.

That the report be deferred to the July Council meeting to allow further consultation with the parties involved.

Carried

6.1.5 Planning Matters Dealt with by Officers Under Delegated Authority

File Reference: Nil.
Responsible GM: Peter Benazic
Author: Owen Hardidge

Recommendation(s)

That Council note the report.

Executive Summary

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

Relevance to Council Plan

Nil.

Planning Matters Report

Central Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
24/04/2020	T180415 - PC2	77-79 & 81 Henry Street, Pakenham VIC 3810	Amended plans to comply with Condition 1 and 3 of Planning Permit T180415-1	Issued	10 March 2020
24/04/2020	T200125	10-12 Purton Road, Pakenham VIC 3810	Use of an Education Centre (Music Studio)	Issued	11 March 2020
28/04/2020	T200061	45-47 Bald Hill Road, Pakenham VIC 3810	Advertising sign (internally illuminated pole sign)	Issued	11 February 2020
1/05/2020	T200179	9 Jamieson Court, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued	07 April 2020
5/05/2020	T190519	125 Mulcahy Road, PAKENHAM VIC 3810	Subdivision of land into forty three (43) lots, generally in accordance with the approved plans	Issued	02 September 2019
5/05/2020	T190619	22 Thwaites Road, Pakenham VIC 3810	Development of Four Dwellings	NOD	07 November 2019
7/05/2020	T200133	Princes Highway, Pakenham VIC 3810	Use and Development of the site for a Supermarket with ancillary retail uses (including sale of packaged liquor), associated signage and access from a Road Zone Category 1	Withdrawn	12 March 2020
12/05/2020	T160672 - PC1	71 Racecourse Road & 77 Racecourse Road, Pakenham VIC 3810	Use and development of the land as a Motel, erection of advertising signage and creation of a carriageway easement	Issued	04 December 2019
15/05/2020	T190441 - PC1	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)	Issued	02 April 2020

15/05/2020	T200001	6 Heath Place, Pakenham VIC 3810	Development of the land for three (3) dwellings	Issued	04 January 2020
19/05/2020	T180620	148 Princes Highway, Pakenham VIC 3810	Development of the land for six (6) dwellings, reduction of one (1) car space (visitor space) and alteration of an access to a Road in a Road Zone Category 1.	Issued	19 September 2018
21/05/2020	T200263	58 Titan Lodge Walk, Pakenham VIC 3810	Construction of one (1) dwelling and associated buildings and works	Issued	11 May 2020
21/05/2020	T200264	56 Titan Lodge Walk, Pakenham VIC 3810	Construction of one (1) dwelling on a lot, a reduction in car parking (1 space) and associated buildings and works	Issued	11 May 2020
21/05/2020	T200265	54 Titan Lodge Walk, Pakenham VIC 3810	Construction of one (1) dwelling on a lot, a reduction in car parking (1 space) and associated buildings and works	Issued	11 May 2020
21/05/2020	T200266	52 Titan Lodge Walk, Pakenham VIC 3810	Construction of one (1) dwelling and associated buildings and works; Reduction to the number of car spaces required	Issued	11 May 2020
21/05/2020	T200267	50 Titan Lodge Walk, Pakenham VIC 3810	Construction of one (1) dwelling and associated buildings and works; Reduction to the number of car spaces required	Issued	11 May 2020
21/05/2020	T200268	48 Titan Lodge Walk, Pakenham VIC 3810	Construction of one (1) dwelling and associated buildings and works; Reduction to the number of car spaces required	Issued	11 May 2020
21/05/2020	T200269	46 Titan Lodge Walk, Pakenham VIC 3810	Construction of one (1) dwelling and associated buildings and works	Issued	11 May 2020
22/05/2020	T200226	9 Jamieson Court, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Withdrawn	27 April 2020
26/05/2020	T200197	U 1/6 McGregor Road, Pakenham VIC 3810	Proposed veranda to the existing dwelling	Withdrawn	19 April 2020

Port Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
24/04/2020	T190262	9 Sybella Avenue, Koo Wee Rup VIC 3981	Staged Multi-Lot Subdivision	Issued	08 May 2019
24/04/2020	T190759 - PC1	25 Water Lily Road, Bunyip VIC 3815	Development of the land for a dwelling	Issued	16 April 2020
24/04/2020	T190760 - PC1	11 Water Lily Road, Bunyip VIC 3815	Development of the land for a dwelling	Issued	16 April 2020
24/04/2020	T200163	417 Fogarty Road, Maryknoll VIC 3812	Development of the land for a verandah	Issued	01 April 2020
28/04/2020	T190211 - PC1	25 Silver Way, Koo Wee Rup VIC 3981	The development of the land for the purpose of a dwelling in the land subject to inundation overlay	Issued	10 December 2019
28/04/2020	T190486 - PC1	1 Bridle Place, Pakenham VIC 3810	Development of the land for two (2) additional dwellings	Issued	07 April 2020
28/04/2020	T190702	Charles Street, Koo Wee Rup VIC 3981	Creation of easement	Issued	18 November 2019
28/04/2020	T200015	41 Shinnars Close, Bunyip VIC 3815	Development of the land for a two (2) storey dwelling	Issued	10 January 2020

28/04/2020	T200076	5 Link Road, Pakenham VIC 3810	Development of the land for one (1) warehouse and associated works	Issued	17 February 2020
28/04/2020	T200114	770 McDonalds Drain Road East, Pakenham South VIC 3810	Earthworks associated with the filling of the land (to fill internal drains and construct farm access track) and the construction of a dam.	Issued	03 March 2020
28/04/2020	T200139	510 Ellis Road, Tonimbuk VIC 3815	Development of the land for a shed associated with agriculture	Issued	19 March 2020
29/04/2020	T190630	5 Corporate Terrace, Pakenham VIC 3810	Subdivision of land into two (2) lots and creation of common property	Issued	16 October 2019
30/04/2020	T190194 - PC1	8 Mary Street, Bunyip VIC 3815	1A, B, C & D	Issued	20 April 2020
1/05/2020	T200152	18 Agnoletto Court, Bunyip VIC 3815	To build a shed outside the building envelope.	Issued	26 March 2020
5/05/2020	T140337 - PC1	65 Pioneer Road, Lang Lang Victoria 3984	Use and development of the land for extractive industry (sand quarry) removal of vegetation and alter access to a road in a Road Zone, Category 1	Issued	05 March 2020
5/05/2020	T200208	31 Tarmac Way, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued	22 April 2020
6/05/2020	T200212	5 Tarmac Way, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued	23 April 2020
7/05/2020	T180027 - PC4	42-48 Wattletree Road, Bunyip VIC 3815	Condition 19	Issued	04 February 2020
7/05/2020	T190569	3 Tarmac Way, Pakenham VIC 3810	Development of the land for three (3) warehouses and a reduction to the car parking requirements	Issued	25 September 2019
8/05/2020	T200062	21 Mirrabooka Road, Maryknoll VIC 3812	Development of the land for an outbuilding	Issued	11 February 2020
10/05/2020	T190774	3 Princess Street, Bunyip VIC 3815	Subdivision of the land into 2 lots	Lapsed	18 December 2019
10/05/2020	T200174	17 Henry Road, Bunyip VIC 3815	Development of the land for an outbuilding (outside of the building envelope)	Issued	30 March 2020
11/05/2020	T190641	325 Seymour Road, Nar Nar Goon North VIC 3812	Extension and alterations to an existing dwelling	Issued	19 October 2019
11/05/2020	T200210	7 Silky Oak Court, Garfield VIC 3814	Development of the land for an outbuilding	Issued	21 April 2020
12/05/2020	T190063 - 1	44 Exchange Drive, Pakenham VIC 3810	Staged subdivision of land into two (2) lots and creation of common property.	Issued	10 March 2020
12/05/2020	T200134	82 Hope Street, Bunyip VIC 3815	Subdivision of the land into three (3) lots and creation of carriageway easement	Withdrawn	12 March 2020
13/05/2020	T200003	84 Martin Road, Longwarry VIC 3816	Replacement dwelling	Lapsed	09 January 2020
13/05/2020	T190501	450 Seven Mile Road, Nar Nar Goon VIC 3812	Two (2) lot boundary re-alignment.	Withdrawn	21 August 2019
13/05/2020	T200182	80 Fincks Road, Bayles VIC 3981	Alterations and additions to an existing dwelling	Issued	04 April 2020
15/05/2020	T190610	70-80 Bald Hill Road, Pakenham VIC 3810	Development of the land for a building (shelter)	Issued	07 October 2019

20/05/2020	T190598	2 Water Lily Road, Bunyip VIC 3815	Development of two (2) dwellings	Issued	24 October 2019
21/05/2020	T200157	70 Mortlake Drive, Officer South VIC 3809	Construction of a dwelling on a lot less than 350sqm	Issued	26 March 2020
22/05/2020	T200194	20 Southeast Boulevard, Pakenham VIC 3810	Development of the land for fencing	Withdrawn	19 April 2020
22/05/2020	T200232	4 Mega Rise, Pakenham VIC 3810	Fencing to perimeter of property.	Withdrawn	28 April 2020
26/05/2020	T190736	23 Kingston Avenue, Pakenham VIC 3810	Development of the land for a second dwelling and additions and alterations to the existing dwelling	NOD	09 December 2019
28/05/2020	T190665	24 Main Street, Bunyip VIC 3815	Extension to existing building within a heritage overlay and waiver of carparking requirements	Issued	29 October 2019
28/05/2020	T200276	11 Corporate Terrace, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued	12 May 2020
29/05/2020	T170132 - 1	24 Hope Street, Bunyip VIC 3815	Proposed subdivision boundary amended to be in accordance with the fence line as requested by the owner.	Withdrawn	29 May 2020
29/05/2020	T190692	497 Garfield North Road, Garfield North VIC 3814	Use and development of the land for a dwelling (replacement dwelling), associated native vegetation removal and associated works	Issued	13 November 2019
29/05/2020	T200129	75 Hall Road, Pakenham South VIC 3810	Buildings and works for an outbuilding (shed)	Issued	16 March 2020
29/05/2020	T200171	417 Fogarty Road, Maryknoll VIC 3812	CONSTRUCTION OF A NEW VERANDAH	Withdrawn	01 April 2020
1/06/2020	T190411	225 Bunyip-Modella Road, Bunyip VIC 3815	Development of the land for a dwelling extension	Issued	09 July 2019
1/06/2020	T190721	2 Greenhill Court, Bunyip VIC 3815	Retrospective development of the land for an outbuilding	Issued	06 December 2019
1/06/2020	T200127	105 O` Briens Road, Bayles VIC 3981	Buildings and works associated with agriculture	Issued	10 March 2020
1/06/2020	T200258	67 Garfield Road, Garfield VIC 3814	Development of the land for an outbuilding (shed) and associated works	Issued	09 May 2020

Ranges Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
24/04/2020	T190163 - PC2	124 McMullen Road & 427 Brown Road, Officer VIC 3809	PC2 - (Con. 17 PIP)	Issued	23 April 2020
28/04/2020	T190308	18 Margaret Road, Avonsleigh VIC 3782	Two (2) lot subdivision	Issued	28 May 2019
28/04/2020	T200043	4 Coalport Rise, Officer VIC 3809	Construction of a Dwelling on a lot less than 300sqm	Issued	04 February 2020

28/04/2020	T200160	20 Brunt Road, Beaconsfield VIC 3807	Building and works associated with an existing residential village	Issued	27 March 2020
30/04/2020	T190381	Siding Avenue, Officer VIC 3809	Subdivision in two stages	Issued	28 June 2019
30/04/2020	T200119	1 Alber Road, Beaconsfield Upper VIC 3808	Amendment to Liquor Licence Red Line and increase to the number of events	Withdrawn	30 April 2020
1/05/2020	T190679	215 Princes Highway, Beaconsfield VIC 3807	Use and development of the land for a Service Station, Food and Drink Premises, Food and Drink Premises (Convenience Restaurants), associated signage and, create and alter access to a road in a Road Zone, Category 1	Issued	08 November 2019
1/05/2020	T200042	6 Coalport Rise, Officer VIC 3809	Construction of a Dwelling on a lot less than 300sqm	Issued	04 February 2020
4/05/2020	T170839 - PC2	270 Brown Road, PAKENHAM VIC 3810	Offset credits to comply with Condition 3 of Planning Permit T170839	Issued	28 April 2020
4/05/2020	T200159	20 Brunt Road, Beaconsfield VIC 3807	Building and works associated with an existing residential village	Issued	27 March 2020
5/05/2020	T190769	55 Mullane Road, Pakenham VIC 3810	Use and development of the land for short term accomodation	Withdrawn	12 December 2019
5/05/2020	T200199	64 Norbury Road, Beaconsfield Upper VIC 3808	Buildings and works associated with a carport	Issued	20 April 2020
6/05/2020	T200004	1 Memorial Avenue, Emerald VIC 3782	Installation of a portable building / amenities block adjacent to Emerald Station Carriage Workshops	Issued	06 January 2020
6/05/2020	T200059	225 Split Rock Road, Beaconsfield Upper VIC 3808	Development of the land for an extension to an existing shed (horse arena) to be used to stable horses	Issued	11 February 2020
7/05/2020	T200066	34 Nobelius Street, Emerald VIC 3782	Buildings and works for additions to an existing dwelling (verandah, and deck) and construction of a carport	Issued	12 February 2020
8/05/2020	T120662 - 1	400 Mountain Road, Gembrook Victoria 3783	Use of the land for Rural Industry (Manufacturing of Potato Products) generally in accordance with the approved plans.	Issued	29 April 2020
12/05/2020	T170671 - PC11	Rix Road, Officer VIC 3809	PC11 - (Con. 11 MCP, Stage 30)	Issued	11 February 2020
12/05/2020	T190279	3 Cross Street, Emerald VIC 3782	Use and development of the land for a dwelling and vegetation removal	Issued	29 May 2019
12/05/2020	T190700	1355 Pakenham Road, Mount Burnett VIC 3781	Development of the land for an outbuilding	Issued	16 November 2019
13/05/2020	T190564	7 Gembrook-Launching Place Road, Gembrook VIC 3783	Development of the land for a dwelling, earthworks and alteration to a Road Zone 1	Issued	20 September 2019
14/05/2020	T190540	5 Lakeview Court, Emerald VIC 3782	Development of the land for an outbuilding and removal of vegetation	Issued	10 September 2019
14/05/2020	T200098	428 Princes Highway, Officer VIC 3809	Native vegetation removal	Issued	25 February 2020
15/05/2020	T190146 - PC1	35 Orchard Road, Gembrook VIC 3783	Development of the land for a replacement dwelling and associated earthworks	Issued	10 February 2020

19/05/2020	T200069 - PC1	49 First Avenue, Cockatoo VIC 3781	Development of the land for an outbuilding (garage) and associated works	Issued	28 April 2020
20/05/2020	T190683	60 Tivendale Road, Officer VIC 3809	Development of the land for dwellings, associated works, subdivision of land and, creation of reserves and easements.	Issued	11 November 2019
22/05/2020	T200224	5 Flemington Rise, Officer VIC 3809	Proposed veranda to the existing dwelling	Withdrawn	27 April 2020
27/05/2020	T190357 - PC1	436 Belgrave- Gembrook Road, Emerald VIC 3782	Planting of indigenous Canopy tree, grasses and shrubs	Issued	28 April 2020
27/05/2020	T190783	7 Caroline Avenue, Cockatoo VIC 3781	Removal and lopping of vegetation	Withdrawn	20 December 2019
29/05/2020	T200254	469 Belgrave- Gembrook Road, Avonsleigh VIC 3782	Construction of an extension to a single dwelling (verandah)	Issued	07 May 2020
29/05/2020	T200305	177 Quamby Road, Guys Hill VIC 3807	Dear Sir/Madam. Cardinia Shire Planning office. I am writing to you to request a planning permit to build a proposed art studio/office at 177 Quamby Rd, Guys Hill, Lot 3. The Proposal is for a detached building 5x5.2m in area placed on the southern corner of the property. The purpose of this building comes in different forms. 1: To better equip us to be able to carry out a home schooling role in the future should we be faced with circumstances requiring us to do so again. 2: A homework hub for the kids as they grow, 3: A facility in which creative design fields can be entertained ie visual art and design. There is no requirement to remove any trees or bushes, but it will require us to pull down an existing wood shed measuring 4.5m wide, 2.5m deep and 3m high. I have attached drawings of the design of the studio. It will be built on a concrete slab and will be clad externally with clinker bricks (same as house) to a height of 1.2m, above that will be concealed interlocking sheet metal of woodland grey colour. The set back of the proposed building may need dispensation, but I note that Lot 1 on Quamby Rd has a two story garage/studio set back less than 2 meters from the same boundary and Lot 5 have two 45000 litre water tanks less than 1 meter from this same boundary	Withdrawn	29 May 2020
1/06/2020	T200262	24 Rosebank Lane, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding	Issued	11 May 2020
1/06/2020	T200292	25 Quamby Avenue, Guys Hill VIC 3807	Shed - Domestic	Issued	19 May 2020

Resolution

Moved Cr Graeme Moore, seconded Cr Carol Ryan.

That Council note the report.

Carried

6.1.6 Planning Scheme Amendment Activity Report

File Reference: Nil.
Responsible GM: Tracey Parker
Author: Luke Connell

Recommendation(s)

That Council note the report.

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 	Thu 08/08/2019	Fri 06/09/2019	Panel Report received 29 April 2020.

Cardinia Planning Scheme Amendment Activity Report						
A/No	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			Schedule 1 (ES01).			
C226	Cardinia Shire Council	Lot 5 PS321195 67 Whiteside Rd Officer, Lot 2 PS327845 130 Whiteside Rd Officer and Lot PP PS746064 325 Princes Hwy Officer	<p>Repair inconsistent policy in the Urban Growth Zone Schedule 3 (UGZ3) and the applied Schedule of the Rural Conservation Zone (RCZ) that prevents development in the 3 lots identified from occurring in line with the Officer Precinct Structure Plan (PSP) that was adopted by Council in 2011.</p> <p>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).</p>	Thu 22/06/2017	Mon 24/07/2017	On 11/05/2018 Council received advice from DELWP stating that, based on new environmental risk regulations approved via Amendment VC140 on 12/12/2017, further work is required prior to the Minister considering the amendment. A draft Bushfire Development Report (June 2019) was received from Terramatrix. Council officers have provided a response to the draft.
C228	Cardinia Shire Council	Pakenham Activity Centre	The Activity Centre Zone Schedule 1 (ACZ1) has been prepared in	Thu 24/10/2019	Fri 06/12/2019	On 17/02/2020 Council resolved to refer all

Cardinia Planning Scheme Amendment Activity Report						
A/No	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
.			<p>response to conditions of approval to Cardinia Planning Scheme Amendment C211 to ensure that the Pakenham Structure Plan 2018 has been implemented via the appropriate planning tool into the Cardinia Planning Scheme.</p> <p>The ACZ1 is a direct translation of the objectives and strategies as set out in the draft Pakenham Structure Plan 2018 and draft Urban Design Framework 2018. The amendment amends Clauses 21.03, 21.04 and 21.06, implements two new reference documents, deletes parts of two Development Plan overlays Schedule 1 and 2 of 43.04, and deletes the Pakenham Activity Centre Incorporated Provisions, 20 March 2017 from Clause 72.04.</p>			<p>submissions to an independent Planning Panel.</p> <p>A Panel Hearing was held on 04/05/2020.</p>

Cardinia Planning Scheme Amendment Activity Report						
A/No	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C229	Cardinia Shire Council	Tynong, Garfield and Bunyip	Apply Environmental Significance Overlay Schedule 7 (ESO7) to all land within the Urban Growth Boundary (UGB) of Garfield and Bunyip and all land zoned for urban purposes within Tynong to facilitate the provision of habitat corridors for the Southern Brown Bandicoot.	Thu 21/11/2019	Fri 20/12/2019	Re-exhibition completed. A bushfire risk assessment is in progress.
C234	Victorian Planning Authority and Cardinia Shire Council	Pakenham East Precinct	Incorporate the Pakenham East Precinct Structure Plan (PSP) and rezone the majority of land to Urban Growth Zone Schedule 5 (UGZ5) to facilitate the development of the land generally in accordance with the PSP, and make a number of other consequential changes to the Cardinia Planning Scheme to support the implementation of the PSP. Planning Scheme to support the implementation of the PSP.	Thu 18/01/2018	Fri 23/02/2018	<p>Adopted by VPA on 10/10/2018.</p> <p>A subsequent feedback process was initiated by VPA in mid-October for consideration of land north of power line easement.</p> <p>The Minister for Planning decided to send submissions received on the additional notice to a Planning Panel.</p> <p>A Planning Panel Hearing was held for 3 days between 23/03/2020</p>

Cardinia Planning Scheme Amendment Activity Report						
A/No	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
						to 26/03/2020.
C235	Planning Central	145 Rossiter Road, Koo Wee Rup	<p>Amendment C235 proposes to:</p> <ul style="list-style-type: none"> - rezone the land from Farming Zone (FZ) to Neighbourhood Residential Zone Schedule 1 (NRZ1) - apply Development Plan Overlay Schedule 22 (DPO22) - amend Clause 21.07-7 and - correct the mapping of the Heritage Overlay (HO198) for adjacent heritage property 'Shepton Mallet'. <p>The Koo Wee Rup Township Strategy (October 2015) supports the rezoning and development of the subject site for residential. DPO22 provides a framework for the development of the site and has considered the sites opportunities and constraints.</p>	Thu 27/06/2019	Fri 02/08/2019	<p>Council adopted the amendment on 16/03/2020.</p> <p>Currently with the Minister for Planning for approval.</p>

Cardinia Planning Scheme Amendment Activity Report						
A/No	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C238	Cardinia Shire Council	Beaconsfield Precinct - Glismann Road and Old Princes Highway.	<p>Amendment C238 proposes to:</p> <ul style="list-style-type: none"> - rezone land to General Residential Zone Schedule 2 (GRZ2) and - introduce a Development Plan Overlay (DPO), - a site specific Environmental Audit Overlay (EAO) and - remove the Environment Significance Overlay Schedule 1 (ESO1). <p>An ICP will be implemented at a later stage.</p>			Preparation documents were submitted to DELWP in December 2019. Further advice was provided on 13/02/2020. Awaiting a response from DELWP.
C240	Cardinia Shire Council	Koo Wee Rup Township	Implement the objectives of the Koo Wee Rup Township Strategy by applying Development Plan Overlays 23 and 24 and Design and Development Overlays 8 and 9 over various precincts within Koo Wee Rup.	Thu 13/02/2020	Mon 16/03/2020	Exhibition completed. Continuing to assess the amendment.
C250	Cardinia Shire Council	Cardinia Shire	Implement the findings of the Cardinia Planning Scheme Review 2018 and update the Local Planning Policy Framework by introducing a new Municipal	Thu 14/11/2019	Mon 16/12/2019	On 03/02/2020 Council resolved to refer all submissions to an independent Planning Panel.

Cardinia Planning Scheme Amendment Activity Report						
A/No	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
.			Strategic State (MSS) at Clause 21 of the Cardinia Planning Scheme. The MSS has been revised to reflect the Council's strategic direction for the Cardinia Shire, strategic work that has been completed, and relevant State policy and legislation.			A Directions Hearing was held on 18/03/2020. A Panel Hearing was held on 28/04/2020.
C257	Minister for Planning	53-65 Woods Street, Beaconsfield	Replace the Design and Development Overlay Schedule 7 (DD07) with a Development Plan Overlay (DPO) for the Woodland Grove Precinct as shown in the Beaconsfield Structure Plan.			Landowner is preparing plans and consulting with Melbourne Water.
C263	Minister for Planning	Beaconsfield Activity Centre	Section 20(4) amendment to extend the June 2020 expiry date of the Beaconsfield Structure Plan to ensure the controls remain in place while Amendment C257 progresses.			19/11/2019: Awaiting approval by the Minister for Planning. DELWP has advised approval will be given prior to the June 2020 expiry date of the PSP.
C264	Cardinia Shire Council	Cardinia Shire municipality	Implement the Advertising Signage Design Guidelines into the Cardinia Planning Scheme.			On 17/02/2020 Council resolved to adopt the Advertising Signage

Cardinia Planning Scheme Amendment Activity Report						
A/No	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
						Design Guidelines and to request the preparation of Amendment C264.
C265	Cardinia Shire Council	Pakenham South Employment Precinct	Incorporate the Pakenham South Employment Precinct Structure Plan.			Council resolved to seek authorisation to prepare an amendment on 16/03/2020.

Resolution

Moved Cr Graeme Moore, seconded Cr Carol Ryan.

That Council note the report.

Carried

6.2 General Reports

6.2.1 Adoption of Budget 2020-21

File Reference: INT1940869
Responsible GM: Tom McQualter
Author: Scott Moore

Recommendation(s)

That Council, having advertised the Budget for the financial year 2020-21 and considered the submissions received, resolves as follows:

1. The Budget as presented for the financial year 2020-21 be adopted, with the following amendments:
 - Increase of \$30k in Casey Cardinia Library Corporation contribution.
 - Due to a six month freeze to the landfill levy, a reduction in the residential garbage charge of \$4.95 from \$294.70 to \$289.75, and consequently, reductions in garbage charge income and expenditure of \$224k.
2. Increase in capital grants and expenditure of \$1.691m. This represents Local Roads and Community Infrastructure (LRCI) stimulus funding recently announced by the Federal Government. This funding has been allocated to the following projects:
 - Pedestrian and Bicycle Strategy – Shared path linkages \$516k
 - Worrell Recreation Reserve car park \$375k
 - Deep Creek Reserve – boardwalk \$120k
 - Upper Beaconsfield Recreation Reserve redevelopment (changerooms) \$300k
 - Playground renewals (per Council Plan) \$50k
 - Toomuc Reserve (North oval pavilion works) \$250k
 - Disability Access Works \$80k
3. Upper Beaconsfield Community Buildings Masterplan - \$52k brought forward from 2021/22.
4. Upper Beaconsfield Recreation Reserve redevelopment (changerooms) deferral of \$52k to 2021/22.
5. Koo Wee Rup Community Centre Works Design - \$50k included for design.
6. Netball pavilion upgrades - \$50k reduction.
7. The amount which Council intends to raise by general rates and the annual service charges be amended to be declared as \$100,249,167.16 and calculated as follows:

General Rates	\$83,956,507.48
Garbage Charge	\$13,201,590.00
Green Waste Charge	\$3,091,069.68
or such further amount as is lawfully levied as a consequence of this resolution;	

8. The Chief Executive Officer be authorised to give public notice of the adoption of such budget;
9. All persons that lodged submissions be thanked for their interest and a written response be forwarded to all submitters advising that the budget has been adopted with amendments and responding to the matters raised in their individual submissions;
10. A general rate be declared in respect of the 2020-21 financial year and that the general rate be raised by the application of differential rates;
11. Each differential rate will be determined by multiplying the capital improved value of each rateable land (categorised by the characteristics described in the Budget document) by the relevant cents in the dollar of the Capital Improved Value of each property indicated in the following table:

Type	\$/CIV
Base Rate	0.002812
Agricultural Land	0.002108
Urban Rate	0.002982
Urban Vacant Land	0.006441
Urban Commercial and Industrial	0.004079
Urban Agricultural Land	0.002390
Lakeside Residential	0.003039
Lakeside Vacant Land	0.006563

12. In accordance with section 4(4) of the Recreational Lands Act 1963, the amount of rates payable in respect of each of the rateable land to which that Act applies be determined by multiplying the capital improved value of that rateable land by 0.2108% (or 0.2108 cents in the dollar of capital improved value);
13. That council adopt the fees and charges for 2020-21 included within the budget
14. An annual service charge be declared in respect of 2020-21 financial year for the collection and disposal of refuse and that this charge be set at of \$289.75 for land (or part) in respect of which any annual service charge may be levied, and be based on the criterion of location within council's municipal district
15. An annual service charge be declared in respect of 2020-21 financial year for the collection of green waste and that this charge be in the sum of \$123.20 for land (or part) supplied with a green waste collection service
16. All rates and charges be paid in four instalments, in accordance with section 167(1) of the Local Government Act 1989;
17. If any rates and charges are not paid by the date on which they are due, interest be paid by the person liable to pay them in accordance with section 172 of the Local Government Act 1989;
18. The Executive Manager Office of the CEO be authorised to levy and recover the general rates, annual service charges and interest in accordance with the Local Government Act 1989.
19. That the Cardinia Shire Council Hardship Policy be amended to ensure that those residents eligible for the hardship provisions and who have otherwise met the conditions

of their payment plans will not be required to pay the final 2% of their rates debt pertaining to the 20/21 financial year.

20. That council confirms the three phase package of financial assistance, grants and rebates to support community and business through the COVID-19 pandemic to the value of \$1.6 million.

Attachments

1. Summary of Submissions [6.2.1.1 - 4 pages]
2. Draft Budget 2020-21 [6.2.1.2 - 84 pages]

Executive Summary

To formally consider the Budget for the 2020-21 financial year and to resolve on the submissions received. It is proposed to amend the budget for several changes to the capital works program, including new grant funded projects, plus changes to the library contribution and changes resulting from a six month freeze to the landfill levy.

The budget also provides a \$1.6m stimulus package for the community and local businesses to assist them with the financial implications of the COVID-19 pandemic.

Background

At the Council Meeting held on Tuesday 14 April 2020, Council resolved to give public notice of the preparation of the budget for the forthcoming financial year and the advertising undertaken indicated that the Council would consider a recommendation to adopt the Budget at this meeting.

Any persons that lodged a submission regarding the Draft Budget or Council Plan were given the opportunity to speak to their submission at a Special Council Meeting, which was to be held on Monday 25 May 2020. No submitter indicated that they wished to speak to their submission, so this Meeting did not proceed.

Council is therefore now in a position to formally resolve on the budget.

Policy Implications

Nil.

Relevance to Council Plan

5.3 Our Governance - Long-term financial sustainability

5.3.1 Make financial decisions that achieve the objectives of Council and long-term financial sustainability.

5.3.2 Make financial decisions that are fair and ethical and balance costs and benefits between present and future generations.

5.3.3 Manage the municipality's finances and assets in a responsible way.

5.3.4 Identify and implement programs to achieve Council's debt reduction policy.

5.3.5 Identify ways to contain Council's cost base by a focus on innovation and efficiency.

Climate Emergency Consideration

Nil.

Consultation/Communication

The appropriate public notice has appeared advising that the draft budget was available for inspection on the Council's website seeking comment and submissions.

Eight submissions on the Proposed Budget 2020-21 were received. Summaries of the submissions received are included below, with more detail included in the attachment.

In addition to the normal channels for submitting a budget submission (email, post and hand delivery), an eForm was created and was available on Council's website to allow online submissions.

Written submissions were received from:

Name	Summary Details
Alliance for Gambling Reform	The Alliance is seeking \$15,000 from Cardinia Shire Council. In requesting these funds, they invite Council to commence a partnership with them as part of the group of strong Leadership Councils.
Cockatoo Senior Cottages - Dot Griffin	Was very happy to see Cockatoo Cottages included in the 2020-21 draft budget and would like to thank all Councillors involved. They would like to know what is being planned for the cottages and ask that insulation be included in the renewal program. They are also interested in setting up a committee or trust to help ensure the cottages don't revert to the condition they are in now.
Victorian Farmers Federation - David Jochinke	Fees for use of public spaces. Community groups should not be charged these fees. Potentially increase fees for commercial for-profit organisations.
Karen Neil	Thinks it is appalling to increase rates. Ratepayers are already paying such a high rate, it is ridiculous. The council is just mean, greedy and should STRONGLY RECONSIDER.
SM (No name provided)	Cardinia already overcharges on rates compared to other Councils. With people losing their jobs due to COVID-19, how are ratepayers expected to pay the current rates, let alone higher ones. People won't pay their rates at all if they are increased. Put a hold on additional parks, etc and stop bleeding ratepayers dry.
Jason Yates	With lots of people losing their jobs or are receiving a pay cut due to COVID-19, there should be a cut in rates and projects put on hold. We are all in this together, not Council in it for themselves. Look after the ratepayers - without their rates Council has no money.
Kathleen Brown	Covers a number of issues, including Council needs to have more awareness about the dangers of antidepressants and the links to violence, should be a top priority that the 4Cs relief centre in Pakenham be reopened to the community, and many ratepayers are unsure on how to recycle items - there needs to be clearer advertising about this.
Kooweerup Community Centre – Lisa van Dord	Request that funds be allocated to design and cost the extension of the current building by at least a bay, including change rooms, an inbuilt stage, curtains and lighting.

All persons who lodged submissions will be thanked for their interest and a written response will be forwarded advising that the Budget has been adopted with amendments and responding to the matters raised in their individual submissions.

Financial and Resource Implications

Council must prepare and adopt a budget for the forthcoming financial year to be able to fund the various services and programs required. Any reduction in revenue or increase in expenditure would require corrections to be made to the 2020-21 Budget document.

Conclusion

Having complied with the Local Government Act provisions and considered the submissions received Council is in a position to formally resolve on the Budget for the 2020-21 financial year and resolve on the submissions received.

Cr Ross called for a motion to extend Cr Ryan's speaking time as the Mayor advised she had gone over the allocated 3 minutes.

Moved Cr Ross, seconded Cr Owen.

Carried

Resolution

Moved Cr Leticia Wilmot, seconded Cr Michael Schilling.

That Council, having advertised the Budget for the financial year 2020-21 and considered the submissions received, resolves as follows:

1. The Budget as presented for the financial year 2020-21 be adopted, with the following amendments:
 - Increase of \$30k in Casey Cardinia Library Corporation contribution.
 - Due to a six month freeze to the landfill levy, a reduction in the residential garbage charge of \$4.95 from \$294.70 to \$289.75, and consequently, reductions in garbage charge income and expenditure of \$224k.
2. Increase in capital grants and expenditure of \$1.691m. This represents Local Roads and Community Infrastructure (LRCI) stimulus funding recently announced by the Federal Government. This funding has been allocated to the following projects:
 - Pedestrian and Bicycle Strategy – Shared path linkages \$516k
 - Worrell Recreation Reserve car park \$375k
 - Deep Creek Reserve – boardwalk \$120k
 - Upper Beaconsfield Recreation Reserve redevelopment (changerooms) \$300k
 - Playground renewals (per Council Plan) \$50k
 - Toomuc Reserve (North oval pavilion works) \$250k
 - Disability Access Works \$80k
3. Upper Beaconsfield Community Buildings Masterplan - \$52k brought forward from 2021/22.
- 4.
5. Upper Beaconsfield Recreation Reserve redevelopment (changerooms) deferral of \$52k to 2021/22.

5. Koo Wee Rup Community Centre Works Design - \$50k included for design.
6. Netball pavilion upgrades - \$50k reduction.
7. The amount which Council intends to raise by general rates and the annual service charges be amended to be declared as \$100,249,167.16 and calculated as follows:

General Rates	\$83,956,507.48
Garbage Charge	\$13,201,590.00
Green Waste Charge	\$3,091,069.68

or such further amount as is lawfully levied as a consequence of this resolution;

8. The Chief Executive Officer be authorised to give public notice of the adoption of such budget;
9. All persons that lodged submissions be thanked for their interest and a written response be forwarded to all submitters advising that the budget has been adopted with amendments and responding to the matters raised in their individual submissions;
10. A general rate be declared in respect of the 2020-21 financial year and that the general rate be raised by the application of differential rates;
11. Each differential rate will be determined by multiplying the capital improved value of each rateable land (categorised by the characteristics described in the Budget document) by the relevant cents in the dollar of the Capital Improved Value of each property indicated in the following table:

Type	12. \$/CIV
Base Rate	13. 0.002812
Agricultural Land	14. 0.002108
Urban Rate	15. 0.002982
Urban Vacant Land	16. 0.006441
Urban Commercial and Industrial	17. 0.004079
Urban Agricultural Land	18. 0.002390
Lakeside Residential	19. 0.003039
Lakeside Vacant Land	20. 0.006563

12. In accordance with section 4(4) of the Recreational Lands Act 1963, the amount of rates payable in respect of each of the rateable land to which that Act applies be determined by multiplying the capital improved value of that rateable land by 0.2108% (or 0.2108 cents in the dollar of capital improved value);
13. That council adopt the fees and charges for 2020-21 included within the budget
14. An annual service charge be declared in respect of 2020-21 financial year for the collection and disposal of refuse and that this charge be set at of \$289.75 for land (or part) in respect of which any annual service charge may be levied, and be based on the criterion of location within council's municipal district
15. An annual service charge be declared in respect of 2020-21 financial year for the collection of green waste and that this charge be in the sum of \$123.20 for land (or part) supplied with a green waste collection service

16. All rates and charges be paid in four instalments, in accordance with section 167(1) of the Local Government Act 1989;
17. If any rates and charges are not paid by the date on which they are due, interest be paid by the person liable to pay them in accordance with section 172 of the Local Government Act 1989;
18. The Executive Manager Office of the CEO be authorised to levy and recover the general rates, annual service charges and interest in accordance with the Local Government Act 1989.
19. That the Cardinia Shire Council Hardship Policy be amended to ensure that those residents eligible for the hardship provisions and who have otherwise met the conditions of their payment plans will not be required to pay the final 2% of their rates debt pertaining to the 20/21 financial year.
20. That council confirms the three phase package of financial assistance, grants and rebates to support community and business through the COVID-19 pandemic to the value of \$1.6 million.

Cr Collin Ross called for a division:

For: Cr Brett Owen, Cr Graeme Moore, Cr Michael Schilling, Cr Leticia Wilmot, Cr Jeff Springfield

Against: Cr Collin Ross, Cr Carol Ryan

Carried

6.2.2 Adoption of Council Plan and Council Actions

File Reference: REC-0002172409

Responsible GM: Jenny Scicluna

Author: Peter Philp

Recommendation(s)

That Council:

- Adopts the draft updated Council Plan, incorporating the updated Strategic Resource Plan (SRP), subject to the following amendments:

- Proposed sentence removal:

Relevant location/page number	Proposed sentence recommended for removal	Reason for proposed removal
Top of 'Contents' page.	Please Note This Council Plan and all associated Council Plan Actions were developed prior to the COVID-19 pandemic, and are therefore not reflective of any potential restrictions imposed by the pandemic or any of the consequences of it.	Note is no longer required given further review completed.

- Proposed sentence addition:

Relevant location/page number	Proposed sentence recommended for addition	Reason for proposed addition
'Message from your Council' paragraph, page 4.	This year our Council Plan has been considerate of the additional pressures and experiences of our community during the global COVID-19 pandemic and the bushfires last year.	Added sentence accurately reflects the events surrounding the Council Plan review.

- Adopts the draft Council Plan Actions for the period 2020-2021, subject to the following amendments:

Proposed action wording changes:

<i>Activity</i> to which the action is related	Proposed action published in public exhibition version	Proposed action recommended for adoption	Reason for proposed amendment
1.5.1 Provide active and passive recreation facilities to meet the	Finalise the construction and fit out for opening of the Koo Wee Rup football/cricket pavilion.	Finalise the construction and fit out for opening of the Koo Wee Rup football/cricket pavilion and the	Proposed wording better reflects the scope of development on the site.

needs of residents.		Koo Wee Rup netball pavilion.	
1.2.2 Advocate for an increase in locally based health and wellbeing services to support young people.	Implement priorities within the Playground Strategy and playground renewal program. Projects nominated include: Keith Ewenson Park, Upper Beaconsfield, Kath Roberts Reserve, Beaconsfield, Redwood Rd Reserve, Gembrook and Jim Parks Reserve, Beaconsfield.	Implement priorities within the Playground Strategy and playground renewal program. Projects nominated include: Keith Ewenson Park, Upper Beaconsfield, Kath Roberts Reserve, Beaconsfield and Redwood Rd Reserve, Gembrook.	Proposed wording better reflects the planned works for 2020-21 financial year.

Proposed action additions:

Activity to which the action is related	Proposed action recommended for addition	Reason for proposed addition
1.1.1 Continually review services to ensure those provided by Council meet community needs.	Complete the design of the Integrated Children's Centre at Timbertop.	Proposed for inclusion to address an omission identified by Council Officers.
4.1.1 Plan for and support local employment opportunities.	Finalise the Pakenham South Precinct Structure Plan.	Proposed for inclusion to address an omission identified by Council Officers.
3.2.5 Advocate for and facilitate improved public transport options and major arterial roads to help link employment, educational, recreational and retail activities between the Shire's rural and growth areas.	Facilitate action to advocate for an improvement to the current bus service timetable (new commuter timetable) between Koo Wee Rup and Pakenham to connect with the peak services suburban rail network. Advocate for the linking of Lang Lang and surrounding areas with the commuter service from Koo Wee Rup to Pakenham.	Proposed for inclusion in response to Councillor request.
1.4.4 Support children, young people, families, older adults and people of all abilities by providing a range of accessible services and facilities.	Finalise the design and start construction of MyPlace.	Proposed for inclusion to address an omission identified by Council Officers.
2.1.4 Plan for the provision of facilities to service and support the changing community.	Complete Multicultural Hub feasibility study.	Proposed for inclusion to address an omission identified by Council Officers.

1.1.1 Continually review services to ensure those provided by Council meet community needs.	Design and cost the extension of the Koo Wee Rup Community Centre by at least another bay to accommodate larger gatherings including an inbuilt stage with change rooms, curtains, lighting and improved sound.	Proposed for inclusion in response to Community and Councillor request.
1.1.1 Continually review services to ensure those provided by Council meet community needs.	Design and cost the reconfiguration of some internal rooms/walls of the Koo Wee Rup Community Centre to facilitate a broader range of activities.	Proposed for inclusion in response to Community and Councillor request.
1.5.1 Provide active and passive recreation facilities to meet the needs of residents.	Develop a buildings masterplan and start construction of new change rooms at Upper Beaconsfield Recreation Reserve.	Proposed for inclusion in response to Councillor request.
1.5.2 Increase opportunities for residents to participate in a range of sport, recreation and leisure activities.	Progress the securing of a permanent location for the Koo Wee Rup & District Motorcycle Club.	Proposed for inclusion in response to Councillor request.

Proposed action removals:

Activity to which the action is related	Proposed action recommended for removal	Reason for proposed removal
3.1.3 Provide accessible facilities to meet identified community needs.	Depot Master Plan (Pakenham) - stage 5 and 6 - construction of plant and light fleet sheds, consolidation of handyman crew, sign crew, workshop functions and compliance issues.	Proposed to align Council Plan Actions with budget.
3.1.3 Provide accessible facilities to meet identified community needs.	Conduct a program of resurfacing of playing surfaces at recreation reserves in accordance with program.	Proposed to align Council Plan Actions with budget.
3.1.2 Develop new and maintain existing parks, gardens and reserves in a sustainable way.	Progressively implement the recommended actions from the adopted Shade Structures strategy.	Proposed to align Council Plan Actions with budget.
1.1.1 Continually review services to ensure those provided by Council meet community needs.	Commence the design of the Children's Centre at Brunt Road.	Proposed to align Council Plan Actions with budget

Attachments

1. Council Plan - Creating the Future - Council Plan 2020 [6.2.2.1 - 25 pages]
2. Council Plan Actions [6.2.2.2 - 9 pages]

Executive Summary

To consider adoption of the draft Council Plan (including the updated SRP) and Council Plan Actions, with the amendments noted in the recommendations above, following the public notification process undertaken in accordance with the relevant provisions of the Local Government Act 1989.

Background

Council, at a General Meeting held on Monday 14th April 2020, resolved to release the draft updated Council Plan, and the draft Council Plan Actions 2020-2021, for public comment.

Public comments relevant to the draft Council Plan Actions were received. Those comments, in conjunction with Councillor input and internal review of the draft Council Plan and Council Plan Actions, resulted in the recommendation to make the amendments noted above.

Updates to the draft budget have resulted in changes to the Strategic Resource Plan, and the updated SRP is included in the Council Plan attached to this report.

Policy Implications

The Council Plan plays a high-level role to guide the organisation. It is a key document in a suite of strategic documents, and articulates the implementation of strategy and policy that has been determined by Council.

Relevance to Council Plan

The adoption of the Council Plan provides guidance to the organisational direction for the forthcoming financial year.

Climate Emergency Consideration

Nil.

Consultation/Communication

The appropriate public notices have appeared in local newspapers advising that Council sought public comment on the draft updated Council Plan and the Council Plan Actions, and the Plan and supporting information was placed on Council's website.

Financial and Resource Implications

The priorities and actions identified in the Council Plan are funded through the Council Budget, as detailed in the Strategic Resource Plan.

Conclusion

Having complied with the Local Government Act provisions, Council is now in a position to adopt the draft updated Council Plan and the draft Council Plan Actions 2020-2021, subject to the abovementioned amendments.

Resolution

Moved Cr Leticia Wilmot, seconded Cr Michael Schilling.

That Council:

1. Adopts the draft updated Council Plan, incorporating the updated Strategic Resource Plan (SRP), subject to the following amendments:

2. Proposed sentence removal:

Relevant location/page number	Proposed sentence recommended for removal	Reason for proposed removal
Top of 'Contents' page.	Please Note This Council Plan and all associated Council Plan Actions were developed prior to the COVID-19 pandemic, and are therefore not reflective of any potential restrictions imposed by the pandemic or any of the consequences of it.	Note is no longer required given further review completed.

3. Proposed sentence addition:

Relevant location/page number	Proposed sentence recommended for addition	Reason for proposed addition
'Message from your Council' paragraph, page 4.	This year our Council Plan has been considerate of the additional pressures and experiences of our community during the global COVID-19 pandemic and the bushfires last year.	Added sentence accurately reflects the events surrounding the Council Plan review.

2. Adopts the draft Council Plan Actions for the period 2020-2021, subject to the following amendments:

Proposed action wording changes:

<i>Activity</i> to which the action is related	Proposed action published in public exhibition version	Proposed action recommended for adoption	Reason for proposed amendment
1.5.1 Provide active and passive recreation facilities to meet the needs of residents.	Finalise the construction and fit out for opening of the Koo Wee Rup football/cricket pavilion.	Finalise the construction and fit out for opening of the Koo Wee Rup football/cricket pavilion and the Koo Wee Rup netball pavilion.	Proposed wording better reflects the scope of development on the site.
1.2.2 Advocate for an increase	Implement priorities within the Playground Strategy and	Implement priorities within the Playground Strategy and	Proposed wording

in locally based health and wellbeing services to support young people.	playground renewal program. Projects nominated include: Keith Ewenson Park, Upper Beaconsfield, Kath Roberts Reserve, Beaconsfield, Redwood Rd Reserve, Gembrook and Jim Parks Reserve, Beaconsfield.	playground renewal program. Projects nominated include: Keith Ewenson Park, Upper Beaconsfield, Kath Roberts Reserve, Beaconsfield and Redwood Rd Reserve, Gembrook.	better reflects the planned works for 2020-21 financial year.
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Proposed action additions:

Activity to which the action is related	Proposed action recommended for addition	Reason for proposed addition
1.1.1 Continually review services to ensure those provided by Council meet community needs.	Complete the design of the Integrated Children's Centre at Timbertop.	Proposed for inclusion to address an omission identified by Council Officers.
4.1.1 Plan for and support local employment opportunities.	Finalise the Pakenham South Precinct Structure Plan.	Proposed for inclusion to address an omission identified by Council Officers.
3.2.5 Advocate for and facilitate improved public transport options and major arterial roads to help link employment, educational, recreational and retail activities between the Shire's rural and growth areas.	Facilitate action to advocate for an improvement to the current bus service timetable (new commuter timetable) between Koo Wee Rup and Pakenham to connect with the peak services suburban rail network. Advocate for the linking of Lang Lang and surrounding areas with the commuter service from Koo Wee Rup to Pakenham.	Proposed for inclusion in response to Councillor request.
1.4.4 Support children, young people, families, older adults and people of all abilities by providing a range of accessible services and facilities.	Finalise the design and start construction of MyPlace.	Proposed for inclusion to address an omission identified by Council Officers.
2.1.4 Plan for the provision of facilities to service and support the changing community.	Complete Multicultural Hub feasibility study.	Proposed for inclusion to address an omission identified by Council Officers.
1.1.1 Continually review services to ensure those provided by Council meet community needs.	Design and cost the extension of the Koo Wee Rup Community Centre by at least another bay to accommodate larger gatherings including an inbuilt stage with change rooms, curtains, lighting and improved sound.	Proposed for inclusion in response to Community and Councillor request.
1.1.1 Continually review services to ensure those provided by Council meet community needs.	Design and cost the reconfiguration of some internal rooms/walls of the Koo Wee Rup Community Centre to facilitate a broader range of activities.	Proposed for inclusion in response to Community and Councillor request.

1.5.1 Provide active and passive recreation facilities to meet the needs of residents.	Develop a buildings masterplan and start construction of new change rooms at Upper Beaconsfield Recreation Reserve.	Proposed for inclusion in response to Councillor request.
1.5.2 Increase opportunities for residents to participate in a range of sport, recreation and leisure activities.	Progress the securing of a permanent location for the Koo Wee Rup & District Motorcycle Club.	Proposed for inclusion in response to Councillor request.

Proposed action removals:

Activity to which the action is related	Proposed action recommended for removal	Reason for proposed removal
3.1.3 Provide accessible facilities to meet identified community needs.	Depot Master Plan (Pakenham) - stage 5 and 6 - construction of plant and light fleet sheds, consolidation of handyman crew, sign crew, workshop functions and compliance issues.	Proposed to align Council Plan Actions with budget.
3.1.3 Provide accessible facilities to meet identified community needs.	Conduct a program of resurfacing of playing surfaces at recreation reserves in accordance with program.	Proposed to align Council Plan Actions with budget.
3.1.2 Develop new and maintain existing parks, gardens and reserves in a sustainable way.	Progressively implement the recommended actions from the adopted Shade Structures strategy.	Proposed to align Council Plan Actions with budget.
1.1.1 Continually review services to ensure those provided by Council meet community needs.	Commence the design of the Children's Centre at Brunt Road.	Proposed to align Council Plan Actions with budget

Cr Collin Ross called for a division.

For: Cr Brett Owen, Cr Graeme Moore, Cr Michael Schilling, Cr Leticia Wilmot, Cr Jeff Springfield

Against: Cr Collin Ross, Cr Carol Ryan

Carried

6.2.3 2020-2021 Community Capital Works & Major Equipment Program Recommendations

File Reference: Nil.
Responsible GM: Tracey Parker
Author: Kimberly Rennie & Marie Parker

Recommendation(s)

That Council:

- Allocate the amount of \$213,857.59 to 22 clubs within Cardinia Shire Council, being for 18 Community Capital Works Grant and 4 Major Equipment Grant applications; and
- That applicants be advised of their success or unsuccess accordingly.

Attachments

Nil

Executive Summary

Applications for Community Capital Works Grants and Major Equipment Grants 2020/2021 opened on 28th January 2020 and closed on 2nd March 2020. A total of 39 applications were received, 32 Community Capital works Grants and 7 Major Equipment Grants.

Council Officers from the following Business Units were involved in the assessment of the applications:

- Governance
- Community and Family Services
- Environment & Heritage
- Buildings and Facilities
- Active Communities
- Engineering
- Municipal Building Surveyors, and
- Community Strengthening

All applications were considered in line with the community Capital Works Grant and the Major Equipment Grants Policies, and are summarised as follows:

Application Status	CCWG	MEG	Total
Fully Supported (Meets requirements)	16	4	20
Partially Supported (Round Table discussion)	4	2	6
Not Supported (Requirements not met)	12	1	13
TOTAL	32	7	39

(Table 1. Summary of 2020/21 CCWGs and MEG applications)

Twelve (12) CCWGs applications did not meet the requirements of the Grants policy and were, therefore, not put forward for discussion at the Round Table Panel Assessment. The reason(s) are listed below:

Ward	No of applications	Total Funds	Reason(s)
Port	6	\$119,931.26	Insufficient funds identified in application as per the policy
Central	6	\$70,022.47	\$5700.00 DET policy requirements not met and \$64,322.47 insufficient funds identified in application as per the policy, in addition not supported by Council Officers

(Table 2. Summary of CCWG applications that did not meet the Grants policy)

Councillors from the Central, Ranges and Port Wards attended the round Table Assessment Panel and contributed to the decision making. Officers from the respected teams were also present to add to the discussions. Following the Round Table Assessment Panel discussion the Applications can be summarised as follows: -

Application Status	CCWG	MEG	Total
Fully Supported (Recommended)	18	4	22
Not Supported (Requirements not met, not recommended)	14	3	17
TOTAL	32	7	39

(Table 3. Summary of 2020/21 CCWGs & MEGs following Round Table Assessment Panel discussion)

Supported applications can be further summarised as follows:-

Ward	Number of Grants	Total Grant funds requested	Percentage of grant funds allocated 2020/21
Ranges	7	\$81,934.27	49%
Port	5	\$28,171.60	17%
Central	6	\$57,676.72	34%
TOTAL	18	\$167,782.59	100%

(Table 4. 2019/20 Community Capital Works Grant applications supported by Council by Ward)

Activity	Number of applications	Supported Applications
Sports Clubs and recreation/passive reserves	19	9
Community Neighbourhood Houses and Halls/ Senior Citizens	4	2
Kindergartens/ preschool/ community childcare	8	6
Heritage Building	1	1
TOTAL	32	18

Background

Council staff from a broad range of departments, as listed previously in this report, contributed to an assessment process prior to participating in the Round Table Assessment Panel discussion.

Projects that did not meet the grant application requirements and/or the adopted policy were not taken forward for discussion at the Round Table Panel for Assessment.

At the conclusion of the assessment process, 18 Community Capital Works Grants projects are recommended to receive grants at a total grant allocation of \$167,782.59.

Four (4) Major Equipment Grant applications are recommended to receive grants at a total of \$46,075.

Policy Implications

Projects funded under the Community Capital Works and Major Equipment Grants are subject to arrangements under the following Council and Government Policies:

- Community Capital Works Grants Policy
- Major Equipment Grants Guidelines
- Access and Inclusion Policy
- Recreation Reserve Facility Standards Policy
- Recreation Reserve Management and Usage Policy
- Buildings and Facilities Maintenance Policy
- Asset Management Policy
- Children's Services Regulations
- Playground safe standards
- Department of Education and Training Early Years Policy Guidelines
- OHS Policy
- Risk Management Policy

Relevance to Council Plan

1.1 Our People - Access to a variety of services for all.

Climate Emergency Consideration

Nil.

Consultation/Communication

An extensive internal and external communication process has occurred in relation to the Community Capital Works Grants program including:

- Promotion of the grants to the community in accordance with a well-developed Community Grants Communication Plan - both during, and in the lead-up to the grant rounds opening, promotion of the grants was undertaken through social media and targeted emails to eligible groups sent by Child and Family Services, Community Strengthening and Active Communities as well as Council's website;
- Workshops designed to support prospective applicants to appropriately plan for and scope their projects were undertaken prior to the grants round opening;
- Provision of support with the application process by relevant Council staff (i.e. staff from Governance, Community and Family Services, Environment & Heritage, Buildings and Facilities, Active Communities, Engineering, Municipal Building Surveyors and Community Strengthening). This involved staff encouraging and supporting eligible groups to apply in their usual interaction with organisations and groups;
- Extensive internal dialogue between relevant Council staff as part of the assessment process; and
- Liaison with applicants to confirm application details during the assessment process.

Financial and Resource Implications

All projects will be funded under the Community Capital Works Program budget allocation.

Conclusion

This year we have seen a consistent number of applicants as per previous years, however overall the applications continue to be incomplete or of poor quality with a large number not meeting the key requirements or having the match funding available as required.

It has been acknowledged that the current Community Capital Works Program is challenging for our community organisations to fulfil some of the requirements, a review of this program is underway, with a report to be submitted to Councillors within the next two month proposing significant changes to the current program.

It is also recognised that an underspend to the 20/21 grants budget of approximately \$185k exists. Council is committed to support our community groups/clubs and organisation, with Officers currently working on a strategy on how best this underspend can be distributed to the broader community into the future.

The grants supported under the 20/21 program have undergone a rigorous assessment process involving Council staff and Councillors. The below grants meet the adopted policy; have submitted the required information as per the guidelines and meet Councils strategic direction and risk profile.

It is recommended that Council approve the attached applications for the Community Capital Works Grants and Major Equipment Grants 2020/2021.

Resolution

Moved Cr Graeme Moore, seconded Cr Carol Ryan.

That Council:

- Allocate the amount of \$213,857.59 to 22 clubs within Cardinia Shire Council, being for 18 Community Capital Works Grant and 4 Major Equipment Grant applications; and
- That applicants be advised of their success or unsuccess accordingly.

Carried

6.2.4 Casey Cardinia Libraries Library Plan and Draft Budget

File Reference: Nil.
Responsible GM: Tracey Parker
Author: Tracey Parker

Recommendation(s)

That Council approves the proposed Casey Cardinia Libraries Library Plan and Strategic Resource Plan 2020-2024

That Council approve the Draft Casey Cardinia Libraries Budget 2020-2021 subject to any reduction in funding by Council in accordance with the Council approved budget 2020-2021.

Attachments

1. Budget 2020-21 [6.2.4.1 - 17 pages]
2. Strategic Resource Plan 2020-24 [6.2.4.2 - 17 pages]
3. Library Plan 2020-2024 [6.2.4.3 - 20 pages]

Executive Summary

The Casey Cardinia Libraries Library Plan 2020-2024 including the Draft Strategic Resource Plan 2020-2024 and the Draft Library Budget 2020-2021 have been prepared by the Library Corporation and forwarded to both councils to be considered for adoption. The Library Corporation is required under section 125 of the Local Government Act to submit planning documents for the delivery of library services.

Background

The Library Plan establishes the direction for the development and improvement of the Casey Cardinia Libraries' services over a four-year period. It is a requirement Under Section 125 of the Local Government Act and forms the primary planning document for the delivery of library services.

The Library Plan includes a Draft Strategic Resource Plan in the form of standard statement describing required financial resources and non-financial resources, including human resources in respect of the coming financial years.

Five strategic directions over the next 4 years reflect the ongoing priorities of the Casey Cardinia Libraries:

1. The Knowledge Well - create safe and welcoming places where everyone can gather, learn, share and grow.
2. Leadership and Innovation - Lead positive change through partnerships and teamwork.
3. Resilience - Strength capacity in our growing community.
4. Literacies - Encourage reading and lifelong learning
5. Organisational Performance - Build an outstanding and innovative organisation.

The Library Plan is amended annually regarding performance targets, dates, budget figures and any changes to service provision that occur from one year to the next.

Highlight of the Draft Library Plan 2020 - 2024 include:

- Invest in ICT that enhances library user experience and enables greater staff productivity
- Lead the delivery of publicly available information technology and encourage people to use it effectively
- Positively advocate for public libraries and be an active member of Public Libraries Victoria (PLV) and the Libraries Victoria Consortium
- Increased investment in new infrastructure and services that support our community
- Facilitate programs and activities that promote Science Technology Engineering Arts and Mathematics (STEAM) learning
- Create a people focused organisation that is quick to embrace new ways of doing things

Policy Implications

Nil.

Relevance to Council Plan

1.3 Our People - Learning opportunities for all ages and abilities

1.3.3 Support the provision of learning opportunities for all ages and abilities.

Climate Emergency Consideration

Nil.

Consultation/Communication

Casey Cardinia Library Corporation (CCLCC) prepares an annual Draft Library Plan and Budget that are forwarded to both Councils. The Draft Budget is subsequently amended as necessary following receipt by the Library Corporation of population and library usage data to the end of March and the final draft is then forwarded to both councils for formal adoption.

Financial and Resource Implications

Cardinia Shire Council has a financial obligation outlined in the Casey Cardinia Regional Library Agreement to provide funding from its Operating Budget Annually towards the costs of the Casey Cardinia Library Corporation. It should be noted that this Agreement is an ongoing Agreement.

The Draft Casey Cardinia Library Budget 2020-2021 contains forecasts including the operating costs of the libraries over the next 12 months. It incorporates the estimated income from the Victorian Government as well as the two-member council, determined by a formula for calculation.

The proposed Casey Cardinia Library Corporation Draft Budget 2020-2021 includes a contribution by Cardinia Shire Council of \$2,227,264.

Cardinia Shire Councils draft budget has a contribution of \$2,196,000 which is \$32,264 less than they requested.

If Council adopts the Cardinia Shire Council operation budget for 2020-2021, the finalised contribution to the CCLC can be confirmed and the annual budget by the CCLC be amended as required.

Conclusion

The proposed Casey Cardinia Libraries Draft Library Strategic Resource Plan 2020-2024 and Casey Cardinia Libraries Library Plan 2020-2024 serve the purpose of achieving compliance with the Local Government Act whilst also providing strategic tool for the Library Corporation and council in planning and delivery of library services to the community.

Resolution

Moved Cr Graeme Moore, seconded Cr Carol Ryan.

That Council approves the proposed Casey Cardinia Libraries Library Plan and Strategic Resource Plan 2020-2024

That Council approve the Draft Casey Cardinia Libraries Budget 2020-2021 subject to any reduction in funding by Council in accordance with the Council approved budget 2020-2021.

Carried

6.3 Financial Reports

6.3.1 Contract 12/51 - Proposed Extension of Environmental Health

File Reference: Nil.
Responsible GM: Peter Benazic
Author: Owen Hardidge

Recommendation(s)

That Council resolve to extend the current contract with Kernow Environmental Health Services P/L (Contract 12/51) for a further 2 years, from 1 July 2020.

Attachments

Nil

Executive Summary

On the 2 November 2013, Kernow Environmental Health Services P/L (Kernow) commence the Environmental Health Services Contract to deliver Environmental Health, Domestic Waste Water, Immunisation and Other Services throughout the municipality. This contract was awarded to the end of the 2018 financial year and included an addition 2 x 2-year extension period option. In 2018, Council honoured the first extension of 2 years, resulting in the contract ending June 30th 2020.

Background

The contract for Environmental Health, which is currently provided by Kernow Environmental Services P/L (Kernow) expires 30 June 2020. Kernow has provided an excellent service to the community and has worked with Council Officers to improve the level of service for our municipality. Over the past two years, the Kernow team have provided significant community engagement, assisting the residents and businesses of Cardinia.

The key activities undertaken as part of the contract include:

- Maintaining all Food Act and Public Health premises registrations, and completing all inspections and compliance and complaints
- Regulation of prescribed accommodation and caravan parks
- Delivery of all aspects of the national Immunisation program
- Domestic Wastewater Management advocacy, audits and approvals
- Responding to nuisance, noise and other public health complaints
- Tobacco test purchasing

Kernow staff are well integrated into the organisation, and provide a high level of support and cross-functional collaboration. Council benefits from the expertise of Kernow staff, which derives from their exposure across the industry.

Benefits arising for the Council (and by extension rate-payers) include:

- Capacity of Kernow to access additional staff to attend Relief and Recovery Centres and participate in public health inspections following the 2019 Bunyip Complex Bushfires
- Swift mobilisation for increased public immunisation sessions during the COVID-19 pandemic, including the use of online booking systems modelled on other Kernow Council clients
- the incentive program within schools resulting in increased uptake of immunisations, and
- the continued advocacy and support to Guys Hill residents to address wastewater management issues.

There have been no recent customer surveys conducted in respect of the environmental health service, however dissatisfaction or complaints with the service are very low.

Policy Implications

This contract will meet the requirements of the Liveability Plan in relation to Health and Tobacco harm.

This contract will allow Council to meet its statutory requirements across all of the service areas.

Relevance to Council Plan

1.4 Our People - Improved health and wellbeing for all

1.4.3 Routinely investigate community health and wellbeing issues to inform Council's planning and activities.

Climate Emergency Consideration

The provision of Environmental Health Services is in line with Council Plan Action 1.4 – Improve Health and Wellbeing for All.

Consultation/Communication

The Environmental Health Services contract was advertised for public tender 30 March 2013 and closed for submissions 6 May 2013. There were a number of enquiries regarding the contract; however, Kernow Environmental Health Services were the only provider to submit a tender. The extension to this contract does not require further consultation.

Councils Procurement team has reviewed the original contract and the proposed extension, commenting that despite Kernow's pricing of first few years being increased significantly (Year 2 = 49%, Year 3 = 10%, Year 4 = 11%) this trend stopped from Year 2016 onwards (limited to less than 2%). The Procurement team has supported extending this contract for another two years.

Financial and Resource Implications

Provided below is a table outlining the annual lump sum price. The breakdown of the total price is based on each service provided, represented as a percentage of the total workload. This breakdown was used during the initial contract period and continues to reflect the current workload balance.

The price for services will increase marginally over the extension period (2.0% p.a. in line with the CPI increase for Melbourne Dec Qtr 2018 to Dec Qtr 2019).

Key Performance Areas	Year One 2020/21	Year Two 2021/22
Food & Health (65%)	\$1,071,055	\$1,092,476
Other Services (5%)	\$82,389	\$84,037
Domestic Wastewater Management (18%)	\$296,600	\$302,532
Immunisation (12%)	\$197,733	\$201,688
Total Price (ex GST)	\$1,647,777	\$1,680,733

Conclusion

The Environmental Health Service contract expires 30 June 2020. Kernow has provided excellent environmental health services to Cardinia over many years, meeting the needs of our community and providing a high level of service. Kernow always searches for opportunities to improve their services to the Cardinia community and have initiated improvement processes to deliver great customer service.

Through the implementation of new technology, changes to workload management and improved processes, the price for services will increase marginally over the extension period (2.0% p.a. in line with the CPI increase for Melbourne Dec Qtr 2018 to Dec Qtr 2019).

It is recommended that Council support the two year extension, in line with Contract 12/51 dated 4/10/2013, to bring the current contract to June 30th 2022.

Resolution

Moved Cr Graeme Moore, seconded Cr Carol Ryan.

That Council resolve to extend the current contract with Kernow Environmental Health Services P/L (Contract 12/51) for a further 2 years, from 1 July 2020.

Carried

6.4 Activity Reports

6.4.1 Major Projects Report

File Reference: Nil.
Responsible GM: Peter Benazic
 Tracey Parker
Author: Andrew Barr, Cathal O'Loughlin, Ben Wood, Desiree Lovell, Andrew Pomeroy and Walter Carmignani

Recommendation(s)

That Council note the report.

Attachments

Nil

Executive Summary

As part of the reporting process to Council, this monthly report provides an update of the status of major projects in progress. It includes an update on major projects, capital works, special charge schemes and asset management current at the time of this report.

Conclusion

This regular activity report is provided for Councillors' information.

Recreation Reserves

Beaconsfield Recreation Reserve (Perc Allison pavilion)

Project description	<ul style="list-style-type: none"> Upgrade of the existing change room pavilion to provide unisex change room facilities, umpires change rooms, first aid and strapping room, gym, time-keepers room and a spectator viewing area.
Funding	Council and the Victorian Government's Community Sports Infrastructure Fund jointly fund this project
Timelines	This project is due for completion November 2020.
Update	Tender is currently being advertised and due by end of June. An evaluation of responses will be carried out, with relevant approval to proceed sought thereafter.

Upper Beaconsfield Recreation Reserve Redevelopment of Change Room Facilities

Project description	<ul style="list-style-type: none"> Redevelopment of new accessible change room facilities including amenities, umpires' room, store and associated earthworks.
Funding	Council and the Australian Government Department of Health jointly fund this project.
Timelines	This project is expected to be completed by June 2021.

Update Site plan completed and expect to have relevant stakeholders approve the Concept stage of the proposed redevelopment of the pavilion.

Bunyip Recreation Reserve soccer pitches

Project description Detailed design for two new soccer pitches with a cricket wicket and roadway access. The design will take into consideration the new pavilion and existing infrastructure.

Funding This project is fully funded by Council

Timelines This design is due end of October 2020.

Update Council has awarded the design to the successful consultant. Concept designs are currently under review with detailed designs to be finalised by the end of June.

Comely Banks Recreation Reserve pavilion

Project description Construction of a new pavilion providing rugby, football, cricket, and bowls activities, social multi-purpose spaces, kitchen/kiosk and toilet facilities.

Funding Council and the Victorian Government Growing Suburbs Fund jointly fund this project

Timelines Pavilion construction is due to be completed in November 2020.

Update Works are progressing well and are on schedule due to good site management through the COVID19 situation. The pavilion is at secure lock up stage. Internal services installation works are ongoing and external works commenced.

Comely Banks Recreation Reserve civil construction

Project description Construction of four new rugby league fields incorporating two cricket wickets and provision for AFL, lighting, spectator seating, playground, car park and open spaces.

Funding Council and the Victorian Government Growing Suburbs Fund jointly fund this project

Timelines Construction to commence January 2021 with completion expected by the middle of 2022.

Update This project has recently been tendered, with submissions currently being assessed. A recommended contractor will be taken to a future Council meeting for endorsement.

Cora Lynn change room pavilion upgrade

Project description Construction of new change rooms at Cora Lynn Recreation Reserve.

Funding Council and the Victorian Government through Community Sports Infrastructure Loan Funding jointly fund this project.

Timelines Project is currently awaiting approval of the revised scope and loan amount before an appropriate timeline can be confirmed.

Update Awaiting response from Victorian Government regarding the revised scope/loan to proceed with timeline confirmation.

Emerald Netball Facility (Pepi's Land) – pavilion

Project description	<ul style="list-style-type: none"> • Pavilion change room facility for the new netball courts providing home and away change/shower facilities, kitchen kiosk, and external amenities.
Funding	Council is fully funding this project.
Timelines	This project is due for completion in December 2020. Please note that the use of the pavilion will be subject to the intersection of Beaconsfield/Emerald Road being finished.
Update	Services conduits installed ready for concrete slab pour. Main Sewer extension works commenced by Water Authority. Wall construction in progress with stormwater drainage and timber framing completed. Installation of roof underway and progressing towards lock up stage.

Pepi's Land dam

Project description	<p>A leak in the lower dam was discovered on 2 August 2019. The leak was slowly flowing out around the old irrigation pipe, located on the outside of the bottom of the dam. Expert dam and hydraulic engineers advised to lower the depth of water in the dam by approximately 2m as an interim measure to reduce the risk of any further damage occurring. This was done and stopped any further deterioration.</p> <p>Reconstruction works are required, the design was informed by dam break analysis and flora and fauna assessment.</p>
Funding	This project is fully funded by Council
Timelines	Works on the dam are due to be completed at the end of May, with some additional site works to be completed after this date. (weather dependent).
Update	Works to repair the dam wall have been completed. Temporary fence will remain until September-October to allow the planting to establish.

Gembrook Recreation Reserve – football/cricket pavilion redevelopment

Project description	<ul style="list-style-type: none"> • Redevelopment and extension of the existing football/cricket pavilion, providing unisex change rooms, umpire change rooms, accessible amenities, first aid, gym, additional social room and provide accessible servery areas. There is a minor upgrade to the existing kitchen and social room areas, reconfiguring of the kiosk servery counter, updating the spectator viewing lounge and time-keeper room at first floor level, providing lift access to first floor level.
Funding	Council and the Australian Government jointly fund this project.
Timelines	Works are due for completion February 2021.
Update	Demolition works have commenced and stage two building permit to be received this month to commence construction works. Demolition works have been completed. Service risers and concrete slab works are in progress. Drainage and sewer works are underway. Scheduled to receive Stage 2 building permit.

Gembrook Recreation Reserve – netball courts

Project description	Construction of two new netball courts at Gembrook Recreation Reserve. The project includes two new acrylic courts on a concrete foundation. New lighting, shelters, fencing and a path network are included in the scope of works.
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Funding This project is fully funded by Council

Timelines Works are complete.

Update This project is now complete

IYU Recreation Reserve athletic facility (design)

Project description Detailed design of new 400-metre athletics track, including triple / long jump, high jump, pole vault, discus, shot put. A new car park is to be included in the design.

Funding This project is fully funded by Council.

Timelines Update of the detailed design to be complete by December 2020.

Update A consultant has been awarded the design works, with concept designs anticipated in August. It is expected that the detailed design will be ready for tender by November.

Koo Wee Rup Recreation Reserve football/cricket pavilion upgrade

Project description Removal of existing change room facilities and construct new football/cricket change room facilities, gym, meeting and community rooms, male /female/assessable public toilets.

Funding Council, the Victorian Government and the Australian Government (Building Better Regions Fund Program) are providing funding for this project.

Timelines The project is due for completion by June 2021.

Update This project is currently out to tender

Koo Wee Rup Recreation Reserve netball pavilion upgrade

Project description Removal of existing netball change room facilities and construct new netball pavilion, providing home and away change, canteen, social room and office, public assessable toilets and unisex toilets.

Funding Council and the Victorian Government are funding this project.

Timelines The project is due for completion by June 2021.

Update

- This project is currently out to tender.

Koo Wee Rup Secondary School pavilion

Project description

- New pavilion for the upgraded football oval, providing unisex change room facilities, umpire change rooms, unisex amenities, canteen /kiosk, storage, cleaners' room and covered spectator area.

Funding The project is funded by the Victorian Government (Victorian School Building Authority).

Timelines This project is due for completion in late November 2020.

Update This project is currently out to tender.

Koo Wee Rup Primary and Secondary School oval upgrades

Project description	<p>Reconstruction of the Koo Wee Rup Primary School oval and the adjacent Koo Wee Rup Secondary School oval.</p> <p>The primary school oval upgrade includes new sub surface drainage, two new cricket nets and some portable barrier netting to protect school infrastructure.</p> <p>The secondary school oval upgrade includes new sub surface drainage, irrigation, and flood lighting, installation of a bore, power upgrade, and construction of a new pavilion and extension of the synthetic hockey pitch to meet Australian standards.</p>
Funding	<p>The primary school upgrade is funded by Sport and Recreation Victoria and Council.</p> <p>The secondary college is funded by the Victorian Government's Department of Education of which a portion is allocated for the oval upgrade works.</p>
Timelines	Oval works now complete and are in the establishment phase
Update	<p>The ovals are now in the establishment phase. Expected handover to the schools will be late 2020, weather dependant</p> <p>Electrical works are underway to bring power to the site. Negotiations are underway with the energy provider on the best location for the power to enter the site</p>

Officer Recreation Reserve oval works stage 2

Project description	<ul style="list-style-type: none"> • Installation of lighting, coaches' boxes and high ball net.
Funding	This project is jointly funded by Council and the Committee of Management
Timelines	Works to be completed by June 2020
Update	The coaches' boxes and lighting have been installed. The highball net is currently in manufacture with installation expected in late June 2020.

Officer Recreation Reserve (Western) oval pavilion

Project description	<ul style="list-style-type: none"> • Upgrade works to the existing pavilion providing female friendly amenities and provisions.
Funding	Council and the Victorian Government (Sports and Recreation Victoria) jointly fund this project.
Timelines	This project is due for completion in August 2020.
Update	The contract has been awarded and works have commenced on site. Demolition works completed and construction of new internal walls in progress. Service installation works have commenced.

Toomuc Reserve Northern pavilion

Project description	Redevelopment of the ground floor area of the existing pavilion to provide netball change facilities with operable walls, umpire change rooms, and unisex amenities. Retrofit existing football/cricket change room amenities/umpire room amenities and modification of First Aid room.
Funding	Council, Sport Australia Community Sport Infrastructure Program and the Australian Government jointly fund this project.

Timelines This project is due for completion May 2021 (to be assessed in line with user group approval of revised proposals)

Update Further discussions have taken place with user groups in order to progress to detail design. Schematic design complete and now moving into detail design documentation.

Toomuc Reserve Southern pavilion and little athletics/baseball facility

Project description Redevelopment of the junior football and cricket pavilion to include:

- two sets of change rooms with unisex amenities, unisex accessible change room, accessible unisex public toilet, male and female public toilets, unisex umpires change room with operable wall
- canteen/kiosk (servicing both ovals) and cool room
- meeting space/office
- internal and external storage
- first aid room
- social space and associated storage
- external spectator viewing, and timekeepers' room

Improvements to the existing little athletics and baseball facilities to upgrade of canteen, storage space, change rooms and amenities, first aid room, accessible public toilets and external covered viewing area.

Funding Council, the Australian Government and the Victorian Government's Sport & Recreation Victoria Fund jointly fund this project.

Timelines This project is due for completion May 2021 (to be assessed in line with user group approval of revised proposals)

Update Further discussions have taken place with user groups in order to progress to detail design. Schematic design complete and moving into detail design documentation.

Worrell Recreation Reserve car park sealing

Project description Pavement construction and sealing of the carpark between the Hills Hub and the new Emerald oval works.

Funding This project is funded by Council

Timelines Works to commence in September 2020

Update Refinements to the draft design have been prepared. It is intended to circulate this among the key stakeholders for review and comments with detailed designs currently underway. Detailed designs are expected to be completed in the coming months.

Roads

Blackspot project: Main Drain Road South, Bunyip

Project description	A 2.3 km section of Main Drain Road South, Bunyip, from Bunyip Modella Road to 13 Mile Road, has been identified for blackspot works. The work includes installing guardrail along both sides of the road.
Funding	The Australian Government fully funds this project through their Black Spot Program.
Timelines	This project is complete
Update	The works have been completed and within budget, with 4kms of guardrail installed.

Blackspot project: Paternoster Road, Emerald

Project description	The installation of safety barriers and audio tactile edge line marking along Paternoster Road, Emerald between Emerald-Beaconsfield Road and Bailey Road
Funding	This project is fully funded by the Australian Government's Blackspot Program.
Timelines	The project is due for completion August 2020.
Update	The contract has been awarded and works are due to commence in early June and anticipated to be completed by August. Service relocations and tree removal scope is currently being reviewed, in consultation with Council's internal traffic and environment teams

Blackspot project: Avon Road, Cockatoo/Avonsleigh

Project description	The installation of safety barriers, sealed shoulders and tree removal along Avon Road, Cockatoo/Avonsleigh between Woori Yallock Road and Kennedy Road.
Funding	This project is fully funded by the Australian Government's Blackspot Program.
Timelines	The project is due for completion September 2020.
Update	Further refinements to the design have been made to reduce the environmental impacts of these works. The contract will be awarded with works to commence in July and with a completion date in September.

Blackspot project: Bessie Creek Road, Nar Nar Goon North

Project description	The installation of safety barriers, sealed shoulders, tree removals and edge line marking along Bessie Creek Road, Nar Nar Goon North between Seymour Road and Moore Road
Funding	This project is fully funded by the Australian Government's Blackspot Program.
Timelines	The project is due for completion by October 2020.
Update	Further refinements to the design have been made to reduce the environmental impacts of these works. The contract has been advertised and is expected to be awarded with works to start in early July and completion expected in late September due to the need to primer seal 2km of shoulder widening.

Connect Cardinia Stage 2

Project description	<p>Council is investing funds to upgrade a number of strategic roads across the shire to improve transport connections. Approximately 25km of roads across the shire have been identified including:</p> <ul style="list-style-type: none"> • McGregor Road, Soldiers Road and Hobsons Road, Pakenham/Rythdale • Thewlis Road, Pakenham • Armytage Road and LL Road, Officer • Huxtable Road, Pakenham Upper • Dore Road, Pakenham • Bessie Creek Road, Nar Nar Goon North • Evans Road, Bunyip • Main Drain Road, Koo Wee Rup • Boundary Drain Road, Koo Wee Rup • Mount Lyall Road, Lang Lang East
Funding	These projects are fully funded by Council
Timelines	It is anticipated that the program will be complete early 2022.
Update	<p>Boundary Drain Road, Main Drain Road and Evans Road are currently having the detailed designs finalised with tenders to be called shortly.</p> <p>Detailed design for Bessie Creek Road and Huxtable Road are well underway.</p> <p>Consultants have been engaged for the detailed design of Thewlis Road, Mt Lyall Road, McGregor/Soldiers/Hobsons Rd, LL and Armytage Roads.</p>

Kenilworth Avenue, Beaconsfield

Project description	<p>Construction of the unsealed Kenilworth Avenue in accordance with the Officer Structure Plan. The project is being delivered in two stages:</p> <p>Stage 1 is from Brunt Road to the Freeway overpass and is being delivered by the adjacent developer.</p> <p>Stage 2 is from the Freeway overpass to Coach House Lane and is being delivered by Council.</p>
Funding	This project is being funded through the Officer PSP Development Contribution Funds
Timelines	Stage 1 works are substantially complete and Stage 2 is to be completed by August 2020. At which stage the final wearing course asphalt will be applied for the full length of the road.
Update	<p>Stage 1 works have been substantially completed by the developer.</p> <p>Works on Stage 2 are underway there have been delays due to weather and delays of approval from external agencies. The revised completion is now expected to be August.</p>

Princes Highway intersection upgrades

Project description	<p>Eight intersections along the Princess Highway between Beaconsfield and Pakenham have been identified for upgrading through the associated planning schemes. Upgrades identified include amendments to two existing signalised intersections as well as signalising six previously un-signalised intersections. All</p>
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intersections have been highlighted for additional or extended turn lanes, additional through lanes, bus priority lanes, and shared cycle/pedestrian lanes.

Initial progress will include the detailed design and approvals of these projects to inform the decision making process for subsequent construction and timing.

Identified intersections include:

3. Glismann Road
4. O'Neil Road
5. Brunt Road
6. Bayview Road
7. Tivendale Road
8. McMullen Road
9. Arena Parade
10. Thewlis Road

Funding These projects are jointly funded by Developer Contributions and the Australian Government

Timelines Works are schedule to be delivered over several stages beginning with works commencing on site in late 2020-early 2021 and completed by June 2024.

Update Design works are currently underway with functional layout plans for all the intersections currently with the Department of Transport for approval.

Detailed designs for O'Neil Road and Glismann Road are well advanced and nearing completion. Tenders for the construction of O'Neil Road have been called with Glisman expected to be called later in the year. The remaining six design packages have been awarded. Preliminary works are underway on the designs and are expected to be completed ready for tender in early 2021.

Unsealed road and re-sheeting 2019-20 program

Project description The unsealed roads re-sheeting program is aimed to refurbish approximately 90 kilometres of unsealed roads throughout the shire. This project involves refurbishment of the road pavement and surface drainage, utilising in-situ materials as well as new crushed rock where required. These works are aimed at improving the road surface to enable greater longevity and an improved experience for road users.

Funding This project is fully funded by Council

Timelines It is anticipated that the program will be completed by June 2020.

Update This project has commenced, with 86 kilometres of roads refurbished to date.

Reseal and rehabilitation 2019-20 program

Project description The significant proactive maintenance and upgrade of Council's road network as per Council's asset management system.

Funding Council and the Australian Government's Roads To Recovery Program jointly fund the program.

Timelines It is anticipated that the program will be complete in May.

Update Reseal and rehabilitation works are now complete

Paths, drains and bridges

2019–20 Bridge renewal program

Project description	Replacement of identified bridges and major culverts.
Funding	The program is fully funded by Council
Timelines	The works is due for completion mid-2020.
Update	<p>Works on the major culverts in Crosby Road (Deep Creek), Upper Pakenham and Tonimbuk Road (Dingo Creek), have been awarded and permits from Melbourne Water are currently being obtained.</p> <p>The following bridge replacement is currently being tendered:</p> <ul style="list-style-type: none"> pedestrian bridge in Brisbane Road (over Cockatoo Creek)

2019–20 Drainage program

Project description	The maintenance and upgrading of Council's drainage network.
Funding	The program is fully funded by Council.
Timelines	This program is due to be completed by end of June 2020.
Update	<p>Input is still being sought from the Department of Transport regarding potential works at the Rossiter Road/Station Street intersection in Koo Wee Rup. Funding has been sought to modify the drainage layout of the intersection to enable it to drain more effectively in larger rainfall events.</p> <p>Designs have been developed for stormwater works in Suffolk Avenue, Cockatoo and 19 Glenvista Avenue, Emerald and these are currently being reviewed by Council and quotes being requested. Works at 19 Glenvista are expected to be completed this financial year, whilst works at Suffolk Avenue will likely commence early in the 2020-21 financial year.</p> <p>Drainage investigation of Main Street, Garfield including the surrounding streets has been awarded to a consultant and they are progressing with the works.</p> <p>Minor drainage works in Second Avenue, Cockatoo have been completed.</p> <p>A new outfall has been constructed for the roadside drainage in Telopea Road, this outfall has been upgraded to direct water away from the Telopea Steps.</p>

2019-20 Footpath maintenance program

Project description	The maintenance of Council's existing footpath network, as set out in Council's Road Management Plan (RMP).
Funding	The program is fully funded by Council.
Update	Works are progressing on addressing defects on the highest priority issues, along with the next round of inspections being conducted.

2019-20 New footpath program

Project description	Council's footpath program looks to extend the footpath network in and around townships. The footpaths to be constructed in 2019-20 are listed below:
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Funding	The \$800,000 program is fully funded by Council through the footpath and pedestrian and bicycle strategy programs.
Update	Following construction of a 400 metre new footpath in Salisbury Rd, Upper Beaconsfield, the footpath program is now complete and total budget expended.

Toomuc Creek pedestrian bridges north and south

Project description	Toomuc Creek pedestrian bridges are a design and construct project, which involves removal and replacement of the existing pedestrian bridge near Toomuc Reserve and design and installation of a new pedestrian bridges over Toomuc Creek south of the train line.
Funding	Council funds the northern bridge and the new pedestrian bridge south of the rail line is funded through the DCP.
Timelines	The south bridge is expected to be completed by the end of July
Update	<p>The north bridge reconstruction is complete and the bridge is now open.</p> <p>The southern bridge which is being fabricated off site has been completed along with galvanizing and painting of the steelwork.</p> <p>Site works have been unable to commence due to operational constraints on key contractors due to Covid-19 protocols. The site induction has been scheduled to start mid-June, weather permitting. Additional resources will be brought in by the contractor to speed up delivery of the bridge foundation works.</p>

Other capital projects

Officer District Park

Project description	Detailed design including a skate park, walking tracks, downhill mountain board track, parkour, fitness, café and car park.
Funding	The detailed design is funded by Council. The construction of the project is jointly funded by Council and the Victorian Government's Growing Suburbs Fund.
Timelines	Detailed design is due to be completed by November 2020. Construction to commence at the start of the 2021-22 financial year.
Update	The design of works are underway, concepts designs should be ready in early July.

Playground renewal works

Project description	Playgrounds to be renewed include: <ul style="list-style-type: none"> • Dick Jones Park, Lang Lang • Devine Drive, Pakenham • Tantallon Park, Officer • Nar Nar Goon Recreation Reserve. • Each playground design received feedback and were chosen by the local community, schools, children's centres and kindergartens in the area. The final designs have been approved and awarded to various playground manufacturers.
Funding	These projects are fully funded by Council
Timelines	Works are scheduled to be completed by June.
Update	Tantallon Drive, Devine Drive and Nar Nar Goon Reserve are all complete. Dick Jones is under construction and will be complete late-June.

Rix Road Integrated Children's Centre

Project description	Proposed new Children's Learning Centre.
Funding	The project is funded by Developer Contribution and the Victorian Government.
Timelines	The project is due for completion by December 2021.
Update	This project is currently out to tender.

Timbertop Integrated Children's Centre

Project description	New children's learning centre.
Funding	The project is jointly funded by Developer Contributions and the Victorian Government.
Timelines	The project is due for completion by January 2022.
Update	Currently awaiting the acquisition of land to enable submission of planning application. Detail design documentation nearing completion. Planning permit ready to submit following completion of land transfer from developer.

My Place Youth Facility

Project description	Relocation and expansion of the My Place Youth Facility to a parcel of Council owned land at James Street, Pakenham. The new facility will accommodate approximately 1000m ² of building structure, together with landscaping and associated car parking, which will be designed to engage and support young people 12–25 years of age.
Funding	This project is jointly funded by Council, the Victorian Government's Growing Suburbs Fund and the Australian Government.
Timelines	This project is planned to open by January 2022.
Update	Concept design has been drafted, currently awaiting approval of the concept design. Ongoing consultation with key stakeholders reviewing schematic design /3D model. Communications plan prepared and seeking community feedback.

Multicultural hub feasibility study

Project description	Undertake a feasibility study, including community and key stakeholder consultation that will outline: <ul style="list-style-type: none"> • Purpose for the hub • Range of community activities and services to be offered at the hub • Potential locations/sites • Service model • Design features that should be included • Case studies on similar hubs (including learnings) • Concept design including cost estimates
Funding	The study is jointly funded by Council and the Australian Government
Timelines	The preliminary study is planned to be completed by May 2020.
Update	Consultations with Communities and Community Leaders via video link is well under way in preparation to commence round two of consultation mid-late May. Stage 1 consultation finalised and preliminary feasibility study received. Briefing report ready to be presented to SLT. Communications plan has been prepared for Stage 2 consultation

Resolution

Moved Cr Graeme Moore, seconded Cr Carol Ryan.

That Council note the report.

Carried

7 Reports Or Minutes Of Committees

The Mayor advised that minutes had recently been received from Committees and Briefing sessions and they were available for any interested Councillors.

8 Reports By Delegates

Nil.

9 Presentation Of Petitions

Nil.

10 Notices Of Motion

10.1 Notice of Motion 1053 - Cr Ross

Motion

That Council brings back to the July General Council Meeting a report that has the attendance records of all Cardinia Shire Councillors for the current term 2016 to present. This report will not to be confidential and needs to be included in the council meeting papers. These attendance records for complete transparency will include attendance record for General Council meetings, Town Planning meetings, Special Council meetings and attendance at councillor briefings. It will have attend, apologies or no response included. This will have each individual councillor records year by year and totals within.

Resolution

Moved Cr Collin Ross, seconded Cr Carol Ryan.

That Council brings back to the July General Council Meeting a report that has the attendance records of all Cardinia Shire Councillors for the current term 2016 to present. This report will not to be confidential and needs to be included in the council meeting papers. These attendance records for complete transparency will include attendance record for General Council meetings, Town Planning meetings, Special Council meetings and attendance at Councillor briefings. It will have attend, apologies or no response included. This will have each individual Councillor records year by year and totals within.

Cr Graeme Moore, Cr Collin Ross called for a division

For: Cr Brett Owen, Cr Collin Ross, Cr Carol Ryan

Against: Cr Graeme Moore, Cr Michael Schilling, Cr Leticia Wilmot, Cr Jeff Springfield

Lost

11 Meeting Closure

The Mayor called for a motion to open the meeting to the public.

Moved Cr Graeme Moore, seconded Cr Collin Ross.
Carried

Meeting closed at 08:16 pm.

Minutes confirmed
Chairman