

Ordinary Council Meeting

Minutes

Monday 20 July 2020

Commenced at 7:00pm

**Council Chambers
20 Siding Avenue, Officer
Victoria**

Members: Cr Jeff Springfield Mayor
Cr Graeme Moore Deputy Mayor
Cr Ray Brown
Cr Collin Ross
Cr Jodie Owen
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 07:04 pm.

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

Nil.

Notices

The Mayor advised that two prominent members of the Cardinia community have passed away.

June Wright was a passionate resident of Koo Wee Rup and provided an amazing amount of volunteer time and effort for her local community, June received the shire's senior citizen of the year award in 2019 in recognition of her tireless lifetime of achievements.

Laura Levens from Upper Beaconsfield was another pillar of our local community. Laura was a passionate environmentalist and is credited with securing the 50 hectare hill view bushland reserve from a quarry development, Laura produced several significant publications including the 'birds of Cardinia' wildflowers in the Dandenong ranges and most recently the insect field guide 'no legs or many, spineless and wild'.

The Mayor extended the Council's condolences to June and Laura's families and their multitude of friends.

4 Adoption And Confirmation Of Minutes

Moved Cr Graeme Moore, seconded Cr Ray Brown

That minutes of the following meetings be confirmed:

- General Council meeting 15 June 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 based on the locality and potential amenity impacts it is recommended that these hours be 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:

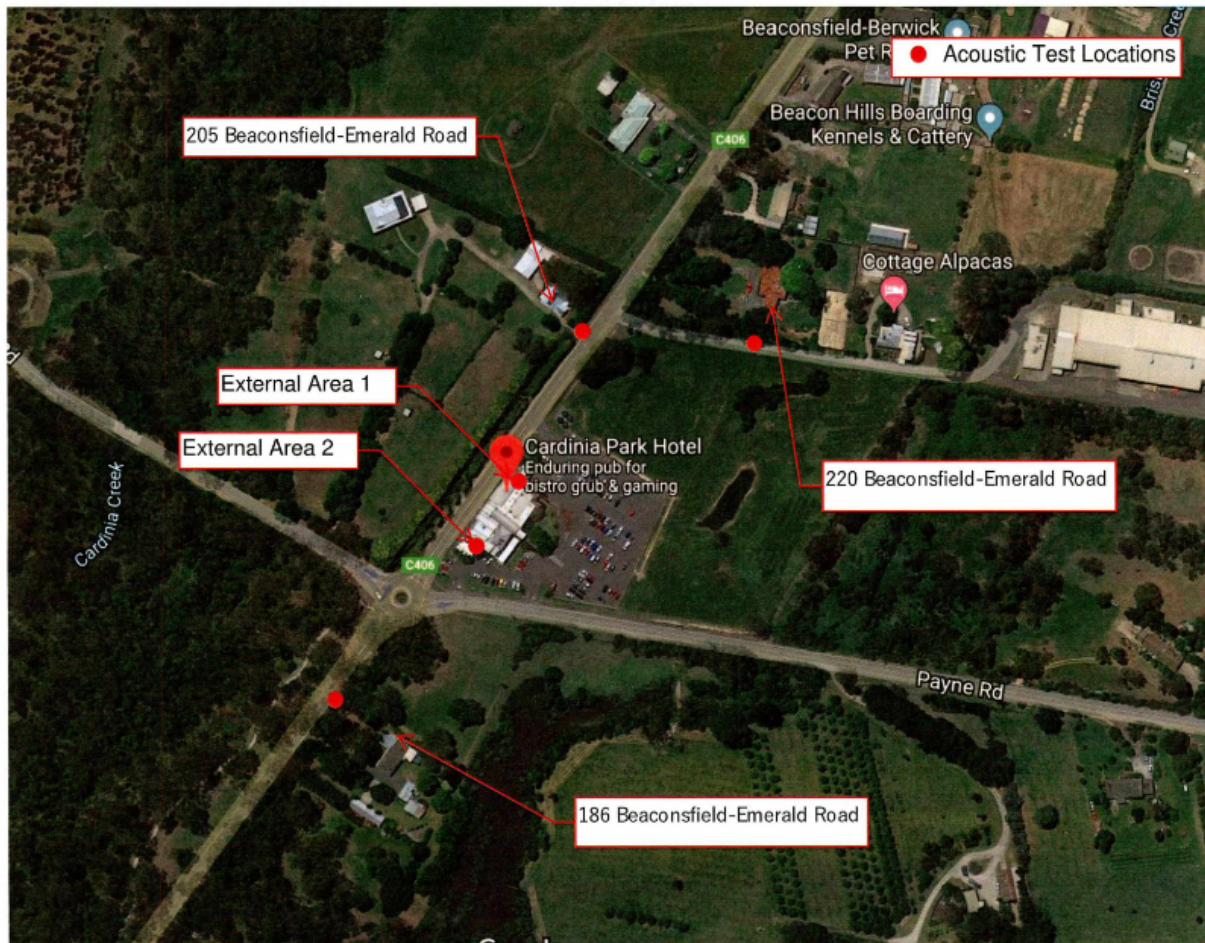
- Pursuant to Clause 63.05 (Existing Uses) outline a use that is in section 3 (prohibited uses) may continue as long no building and works are constructed or carried out without a permit.
- Pursuant to Clause 35.05-5 of the Green Wedge Zone A, a planning permit is required for required to construct or 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 this 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, subject to the proposed conditions 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.

The 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, despite the 50 metre requirement in Clause 56.03. 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 or 12am.

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.

Based on the recommendations of the Acoustic Report and objections received, it is recommended that the following conditions being placed on the Permit conditions to control the following being placed on the Permit:

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

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 amended 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 will continue to have force and effect.

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

Although there is no agreement on the reduced hours, in accordance with the supporting documents and above assessment and discussion, Council considers if the measures are followed in the Acoustic report, hours music can be played undertaken in accordance with the amended permit (until 9pm), 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 reduced hours proposed by Council 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, although the proponent has not agreed to the reduced hours 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 peace 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, subject to the reduced hours proposed by Council. 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>
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THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Prior to music being played in the outdoor areas, 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 Ray Brown.

That Amended Planning Permit Application T130057-1 for the proposed amendments to planning permit T130057 to allow low level live music in the outdoor areas of the Hotel at 200 Beaconsfield-Emerald Road be refused and a Refusal to Grant a Permit be issued based on the following grounds:

1. The proposal is not consistent with Clause 13.07-1S (Land use compatibility)
2. The proposal is not consistent with Clause 13.05-1S (Noise abatement) as there is the potential for community amenity to be reduced by noise emissions
3. The proposal results in unreasonable off-site amenity impacts
4. The proposal cannot ensure that noise sensitive residential uses are adequately protected from noise which is inconsistent with Clause 53.06 (Live music and entertainment noise)
5. The proposal does not represent the orderly planning of the area.

Carried

6.1.2 Amended Report Planning Permit Amendment T120062-1 400 Mountain Road, Gembrook

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

Recommendation(s)

That Council:

1. Note the contents of this report, and
2. Endorse the below Compliance Plan for Mountain Harvest Foods at 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.
 - f. Commencing within 3 months of full operations resuming on the site (and thereafter to a total of no more than 4 times in the following 12 month period) Compliance Officers attend the vicinity (outside of business hours, if necessary) to make preliminary observations of odour impacts on the amenity of the area.

Attachments

1. Signed Planning Permit and Endorsed Plans (2013 Permit) [6.1.2.1 - 7 pages]
2. Amended Planning Permit and Plans (2020 Amended Permit) [6.1.2.2 - 10 pages]

Executive Summary

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.

This report has been amended prior to the Council meeting of 20 July 2020, to take account of feedback provided by interested residents. The previous version is included in the agenda for the 15 June meeting.

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.

To express this another way, as at Feb 2020, Council, the business and affected residents had a common belief that hours of operations were part of the conditions of permit T120662. By March 2020, the Council officers had adopted a different view, as had the business, and the application to amend T120662 proceeded based on this new common understanding. Council officers remain of the view that the current position is the correct and preferable interpretation of the T120662 permit (prior to the amendment). However, the affected residents were not advised of this change in position, due to the intervening fire and the effective conclusion of open complaint investigations.

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 T120662 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.

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.

Background

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).

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 Melbourne Water and Agriculture Victoria.

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. 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 some complaints.

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.

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 or EPA officers will directly witness the conduct. Council and EPA may start investigations based on anonymous reports, but both agencies will be required to assess the strength of admissible evidence before taking enforcement actions. It is likely that the willingness of witnesses to make statements will be a significant factor (if not determinative) when evidence of potential offences is assessed.

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.

The following approach is recommended:

- a) Commencing within 3 months of full operations resuming on the site (and thereafter to a total of no more than 4 times in the following 12 month period) Compliance Officers attend the vicinity (outside of business hours, if necessary) to make preliminary observations of odour impacts on the amenity of the area, and
- b) If these Compliance Officers observe odour from the land that might be considered detrimental to the amenity of the area, they will co-operate with the EPA to review the emissions of the business.

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.

Odour complaints may be transient, or only occur in very specific circumstances. It will greatly assist Council if affected residents provide Compliance Services with full particulars of their observations, including:

- a) Date and time
- b) Location where detected
- c) Description of odour
- d) Duration, and
- e) Any other matter or observation that might help to identify or isolate the causes or origins of odours.

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

The use of roads by heavy vehicles is predominantly regulated through the National Heavy Vehicle Regulator. Heavy vehicles are authorised to utilise these roads.

There is currently no justification to institute further load limits on these roads, as they are in a rural area (and trucks are to be expected), and some higher productivity trucks are specifically permitted through the NHVR to utilise the roads.

Any impacts from trucks entering or operating in the land will have to be assessed in accordance with the requirements of the planning permit, or under Victorian traffic laws.

Council does not have any specific mechanism to compel the owner to change their point of access to Gembrook Rd to avoid the use of these roads.

Conclusion

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 an 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.
- f) Commencing within 3 months of full operations resuming on the site (and thereafter to a total of no more than 4 times in the following 12 month period) Compliance Officers attend the vicinity (outside of business hours, if necessary) to make preliminary observations of odour impacts on the amenity of the area.

Resolution

Moved Cr Leticia Wilmot, seconded Cr Brett Owen.

That Council:

1. Note the contents of this report, and
2. Endorse the below Compliance Plan for Mountain Harvest Foods at 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.
 - f. Commencing within 3 months of full operations resuming on the site (and thereafter to a total of no more than 4 times in the following 12 month period) Compliance Officers attend the vicinity (outside of business hours, if necessary) to make preliminary observations of odour impacts on the amenity of the area.

Carried

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

File Reference: T190162
Responsible GM: Peter Benazic
Author: Emma Brennan

Recommendation(s)

That Council issue Planning Permit T190162 for Use and development of the land for a dwelling, generally in accordance with the endorsed plans at Ropers Lane, Cora Lynn VIC 3814.

Attachments

1. Locality Map [6.1.3.1 - 1 page]

Executive Summary

APPLICATION NO.:	T190162
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:	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 adjoins the subject site to the west, known as Schembri farm. An amended planning permit has recently been issued (T950001-3) which permits a change in use of the land to a poultry farm (egg production) and associated buildings and works. The use has not commenced on site to date.
- An asparagus farm on the south-east corner of Ropers Lane and Tynong Bayles Road, which abuts 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.



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 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 to Clause 44.04 (LSIO), the proposal is exempt from third party notice and review rights. Should any objections have been made on grounds relating to this overlay, no appeal rights would apply.

Referrals

Melbourne Water

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

Discussion

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.*

An assessment against the decision guidelines of the SUZ1 as to whether it is appropriate to locate a dwelling within this zone is required.

The Land Capability Study for the Cardinia Shire (February 1997).

The proposal is consistent with this study and will not contribute towards land degradation or detrimentally impact upon protected areas of conservation and agricultural importance. Further discussion regarding agriculturally significant land is below.

Whether the land is liable to flooding and any advice received from Melbourne Water.

The land is subject to the Land Subject to Inundation Overlay. Melbourne Water did not object to the proposal, subject to conditions which primarily related to the LSIO. It is noted that there are no third party notice or appeal rights under the LSIO as it applies here.

Whether the use, building, works or subdivision will be detrimental to the horticultural significance of the area.

The applicant was requested to undertake a soil test report to demonstrate whether or not horticultural activities could be supported on site. The report, (prepared by aDama Consulting, dated 28 October 2019) concluded that 35-40% of the site consists of deep, coarse-textured sand (a Class 3 soil) with considerable constraints to any form of intensive agricultural or horticultural production. The balance of the soil on site (60-65%) is considered a Class 2 soil, provided appropriate drainage works are undertaken to rectify imperfect drainage on site. The report recommends that the dwelling be located between the two soil types as to preserve the Class 2 soil for agricultural and horticultural activities.

Given the size of the land, being 15.4 hectares, the footprint of the dwelling is quite small relative to the area of the whole property and as such, the removal of this footprint from the balance of the land will be inconsequential. It is noted that the proposal is not for horticultural activities to be undertaken on site, which is discussed later in this report.

Whether the dwelling is reasonably required for the operation of the rural activity being conducted on the land.

In 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 additional information throughout the planning process to address the Tribunal's concerns. The applicant submits that since the time of the Tribunal's decision, the agricultural activities have altered such that a dwelling is required on site as part of a viable agricultural operation:

- 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.

These figures directly relate to actual farming activities carried out on the subject site. These figures provide an overview in response to the Tribunal's concern that the operation results in 'sustainable farming activities.' Therefore it is considered that a dwelling on this property is reasonably required for the operation of the farming activities.

Whether the use utilises the high quality soils for horticultural or agricultural pursuits. The impact of the use, building, works or subdivision on the character and appearance of the area.

The proposed activities on site do not utilise the soil for horticultural or agricultural pursuits. Instead, the site is currently used for other farming activities including racehorse agistment, horse-breaking, beef cattle grazing, cropping (hay), feeding hay and silage to cows and farm contracting services. 'Other farming activities' is entertained in the purpose of the zone and it is not considered that these activities would preclude horticultural activities from occurring on the land should the current farming activities cease to operate.

Whether the site is suitable for the use, building, works or subdivision and the compatibility of the proposal with adjoining and nearby farming and other land uses.

The site is a large, 15.4 hectare parcel of land located within the Special Use Zone (Schedule 1 – Horticultural Preservation). The overarching purpose of the zone is for proposals to have a strong focus on agricultural pursuits, specifically horticultural in nature and other farming activities as appropriate. Dwellings are to be considered secondary to these activities and should only be approved where they are reasonably required for the operation of rural activities to be conducted on site.

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*'. This continues to apply in the assessment of this application.

As identified earlier in this report, a similar application for this site was previously refused by Council and the application being upheld at the Tribunal on 23 November 2012 (being application T110045 (VCAT reference P3350/2011) 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 key differences between the previously refused application and this 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.	The broiler farm operates as 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. Planning permission was also provided in June 2020 for a change in use to an egg production farm. This use has not commenced on site to date.
A Farm Management Plan had not been prepared.	A 'property plan' and a 'farm business plan' were provided with the application (together to be read as a Farm Management Plan). Further details pertaining to the farm operations were provided at the end of the planning process.
A soil test report has not been prepared.	A soil test report has been submitted (prepared by aDama Consulting, dated 28 October 2019, which concludes that intensive agricultural or horticultural activities could operate on 60-65% of the site with appropriate drainage works being undertaken.
The proposed dwelling was sited in the north eastern portion of the site, 93 metres from the Ropers Lane frontage.	The proposed dwelling is proposed to be sited in the north eastern portion of the site, 165 metres from the Ropers Lane boundary.

As mentioned above, there an existing use for a free-range chicken broiler farm on the adjoining subject site to the west, known as Schembri farm. An amended planning permit has also recently been issued for this same property in June 2020 (T950001-3) which permits a change in use of the land to a poultry farm (egg production) and associated buildings and works. The use has not commenced on site to date.

Given existing use rights continue for Schrembi farm (free range broiler farm, Clause 53.09 Poultry Farm of the Cardinia Planning Scheme is still relevant to the proposal. 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. Given existing use rights are active for this free range broiler farm, the above 554 metre separation distance could still be considered.

Given amended planning permit T950001-3 has been issued to change the use to an egg production farm, the risk of Schrembi's broiler farm re-activating the use within the two-year existing use right timeframe afforded to them is considered low. Given we are located within an agricultural area, it is also expected that residents (current and future) will be aware that their standard of living will not be that of residentially-zoned areas and should expect that there could be impacts derived from surrounding agricultural pursuits. Given the risk of the broiler farm use re-activating is low, and not eliminated solely due to T950001-3 being issued for egg production, a note upon any planning permit issued will bring the land owner's attention to the current circumstances of Schrembi farm. It will then become the responsibility of any future landowner of this subject site to undertake any due diligence relating to surrounding land uses.

It is noted that a comparable, recent application for a dwelling was refused by Council in relation to Bottomley Drive in Emerald (T170301-1), on the grounds of the proposal being inconsistent and in conflict with an existing broiler farm. The key differences between these two decisions are that the dwelling was located within the Emerald township environment and within the buffer distances of an existing and on-going use of a broiler farm. The objection received for this application farm was also from the broiler farm itself who had no permits or intentions in changing their operation and had concerns that any approved dwelling within the buffer distances would unreasonably impact upon the dwelling. As there are clear distinctions between this application and Bottomley Drive, it is considered appropriate to approve the use and development of a dwelling in this instance.

Conclusion

Given the above assessment, it is therefore considered that the use and development of a dwelling is consistent with the relevant zoning, overlays and supporting policies of the Cardinia Planning Scheme and it is recommended that a planning permit be issued.

Conditions

1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. Once the development has commenced it must be continued and completed to the satisfaction of the Responsible Authority.

3. 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 all of the buildings, including the roof, must be of a non-reflective nature.
4. All stormwater must be conveyed by means of drains to satisfactory points or areas of discharged approved by the Responsible Authority so that it will have no detrimental effect on the environment or adjoining property owners.
5. Stormwater works must be provided on the subject land to prevent overflows onto adjacent properties.
6. All wastewater from the dwelling must be treated and contained on site in accordance with the EPA Septic Tank Code of Practice and Council requirements. No part of the septic tank system may be located within the fill pad.
7. All wastewater from the dwelling must be discharged into the reticulated sewerage system, to the satisfaction of the Responsible Authority, within 3 months of the sewerage system becoming available to the property.
8. All earthworks must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion to the satisfaction of the Responsible Authority.
9. Before occupation of the dwelling, the dwelling must:
 - a) have access provided via an all-weather road to the satisfaction of the responsible authority.
 - b) be connected to a septic tank system to ensure wastewater is treated and retained on site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.
 - c) be connected to a reticulated potable water supply or have an alternative potable water supply, with appropriate storage capacity for domestic use, to the satisfaction of the Responsible Authority.
 - d) be connected to a reticulated electricity supply or have an alternative energy source

Melbourne Water

10. The dwelling must be constructed with Finished Floor Levels set no lower than 450mm above the natural ground level which is 300mm above the applicable flood level.
11. The garage must be constructed with finished surface level a minimum of 150mm above the applicable flood level and no lower than 300mm above the natural surface level.

Expiry

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

- a) the development does not start within two (2) years after the issue of the permit; or
- b) the development is not completed within four (4) years after the issue of the permit; or

- c) the use does not start within two (2) years after the completion of the development; or
- d) the use is discontinued for a period of two (2) years.

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

Melbourne Water Notes:

- i) The property is located within zone 3 of the Koo Wee Rup Flood Protection District and is subject to flooding. The applicable flood level for the property is approximately 300mm above the natural ground surface levels.
- ii) For general development enquiries, contact our Customer Service Centre on 131 722.

Council Notes:

- iii) It is noted that the subject site is within the buffer distances of a former broiler farm which, at the time of issuing this permit, ceased to exist. It is noted however that existing use rights could be active if the use has not ceased to exist for a period of two years. It is recommended any landowner carries out appropriate due diligence in relation to this by contacting Council's Planning Department.

Resolution

Moved Cr Leticia Wilmot, seconded Cr Carol Ryan.

That Council issue Planning Permit T190162 for Use and development of the land for a dwelling, generally in accordance with the endorsed plans at Ropers Lane, Cora Lynn VIC 3814.

Carried

6.1.4 Use and Development of the Land for an Early Childhood Centre at Lot A PS831715 Campanella Avenue, Officer

File Reference: 5000004466
Responsible GM: Tracey Parker
Author: Lisa Hall

Recommendation(s)

That Council issue Planning Permit T200178 for the use and development of the land for an Early Childhood Centre (kindergarten, consulting rooms and community room) at Lot A PS831715 Campanella Avenue, Officer subject to the conditions attached to this report.

Attachments

1. Locality Plan [6.1.4.1 - 1 page]
2. Development Plans [6.1.4.2 - 15 pages]

Executive Summary

APPLICATION NO.:	T200178
APPLICANT:	Cohen Leigh Architects for Cardinia Shire Council
LAND:	Lot A PS831715 Campanella Avenue, Officer
PROPOSAL:	Early Childhood Centre (kindergarten, consulting rooms and community room)
PLANNING CONTROLS:	Urban Growth Zone Schedule 3 (Applied zone - General Residential Zone) Development Contributions Plan Overlay Schedule 4
NOTIFICATION & OBJECTIONS:	No objections received
KEY PLANNING CONSIDERATIONS:	Planning policy framework Officer Precinct Structure Plan Car parking and access Urban design
RECOMMENDATION:	Approval

Background

The subject lot was recently created under Planning Permit T170671. This permit allows for the subdivision of land in stages and is part of the Arcadia Neighbourhood 3 Estate which is currently under development. At completion Arcadia Neighbourhood 3 will contain 636

dwellings, a primary school, neighbourhood convenience centre, local park and community centre (proposed early childhood centre).

Subject Site

The site is located within Arcadia Estate (Neighbourhood 3), which is currently under construction. The site is 6001sqm in size and rectangular in shape, with a flat topography. Vehicular access will be constructed from Campanella Avenue.

The main characteristics of the surrounding area are:

- North – Land to the north will be developed as a Neighbourhood Convenience Centre in accordance with the Officer Precinct Structure Plan.
- North-east – Land to the north-east will be developed for residential dwellings.
- East & South – Land to the east and south will be developed as a Primary School in accordance with the Officer Precinct Structure Plan.
- West – Campanella Avenue runs along the western boundary of the land. Land to the west of Campanella Avenue will be developed for residential dwellings.

Relevance to Council Plan

Nil.

Proposal

The proposal includes the use and development of the land for an Early Childhood Centre (kindergarten, consulting rooms and community room). The centre will contain a kindergarten comprising three (3) program rooms catering for a total of 164 children, five (5) consulting rooms for maternal and child health nurse appointments and a community room for hire by local service providers for small group activities such as yoga, pilates and parents groups. A total of 37 car-parking spaces are proposed on site, with access from Campanella Avenue. The kindergarten is proposed to operate between the hours of 8am-5pm Monday to Friday, the Maternal and child health consult program between the hours of 8am-5pm Monday to Friday and the community room seven (7) days a week between the hours of 8am-10pm. These operating hours are in line with existing operating hours for Cardinia Shire Council early learning and community facilities.

The building is centrally located within the site and is setback 5.37metres from Campanella Avenue, with a zero setback from the eastern boundary (future school site). Car-parking and the entrance to the centre is located in the southern section of the land and three kindergarten outdoor play areas are located in the northern section of the land. The building presents a modern façade, with external finishes including brick veneer and colorbond, with a variety of fencing and screening measures proposed.

Planning Scheme Provisions

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.03-2S Growth areas
- Clause 13.05-1S Noise abatement
- Clause 15.01-1S Urban design
- Clause 19.02-2S Education facilities

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.04-1 Employment
- Clause 21.05-6 Community services and facilities
- Clause 21.06-1 Design and built form

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 65 Decision guidelines
- Clause 67 Applications under Section 96 of the Act
- Officer Precinct Structure Plan, September 2011 (Amended November 2019)
- Officer Development Contributions Plan, September 2011 (Amended November 2019)
- Officer Native Vegetation Precinct Plan (September 2011)

Cardinia Shire's Liveability Plan 2017-2029

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

- Improved Social Cohesion
- Reduce financial vulnerability

Zone

The land is subject to the **Urban Growth Zone Schedule 3** and the applied zone is **General Residential Zone**.

Overlays

The land is subject to the following overlays:

- Development Contributions Overlay Schedule 4.

Planning Permit Triggers

The proposal for an Early Childhood Centre (kindergarten, consulting rooms and community room)

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

- Pursuant to Clause 32.08-2 of the General Residential Zone a planning permit is required to use land for a kindergarten & place of assembly (Section 2 use).
- Pursuant to Clause 32.08-9 of the General Residential Zone a planning permit is required to construct a building or construct or carry out any works for a use in section 2 of Clause 32.08-2.

Public Notification

As the land is a Council owned/developed facility the provisions of Clause 67 of the Planning Scheme are applicable. Pursuant to Clause 67.02 'Notice Requirements' in accordance with Section 52(1)(c) of the Planning and Environment Act 1987, notice must be given to owners and occupiers of adjoining land.

The notification has been carried out correctly to adjoining landholders by sending notices and placing a sign on the site. Council has received no objections to date.

Referrals

The application was not required to be referred externally.

Discussion

Planning Policy Framework

The proposed Early Childhood Centre is consistent with the aims and objectives of the Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement.

The proposed facility will support the surrounding community and satisfies Clause 11.03-2S Growth areas and Clause 19.02-2S Education facilities of the Planning Policy Framework. Clause 13.05-1S Noise abatement needs to be considered given the proposal is located within a future residential setting (sensitive land use). The proposed hours of operation, combine with the centres location directly adjacent to a future school and neighbourhood convenience centre, rather than adjacent to residential lots means the proposal, subject to noise requirement/amenity based conditions, can satisfy the objective of Clause 13.05-2S being to control potential noise effects on sensitive land uses.

Officer Precinct Structure Plan

The Officer Precinct Structure Plan (PSP) is a broad level plan which provides the future urban structure for Officer as it undergoes significant population growth. The Officer PSP identifies the subject land as a future community facility (children's centre) containing a triple kindergarten, material child health centre and community meeting space. The proposal meets these requirements of the PSP. The proposed facility will form part of a 'neighborhood hub' with the adjoining future neighborhood convenience centre to the north, future public school to the east and south and the local park further south.

Car-parking & access

The proposal needs to ensure that an appropriate number of car parking spaces are provided, having regard to the demand likely to be generated, the activities on the land and the locality. A total of 37 car spaces are proposed on-site. This is considered appropriate and in line with previous approvals for centres of this nature which have been based upon 0.22 car spaces per child attending the kindergarten component (this rate requires 36 spaces for the centre). The consulting rooms and community room will generate some additional car parking demand and as such it is important that these uses be appropriately managed. This can be a condition of approval. It is noted that similar centres operating within the shire with the same car parking rates have not experienced issues/conflicts with car-parking due to multiple services being offered. It is also expected that the location of this childhood centre within a residential estate will see a number of community members walking rather than driving to access the centre.

Vehicular access to the site is via one access point at Campanella Avenue. Campanella Avenue is a Connector Street which links into the broader road network of Rix Road (Connector Boulevard) and Flannagan Avenue (Connector Street), providing good access to the centre via main roads rather than local access streets.

Council's Traffic Department have reviewed the proposal and recommended minor changes to the dimensions of the access aisle and parking areas. This can be a condition of approval. They have also recommended conditions placing restrictions on patron numbers and operating

hours for the community room and consulting rooms to manage car-parking during peak demand times for the kindergarten (drop off and pick up).

Urban Design

The scale and character of the building is appropriate for the future urban context of the area. The building is single storey, with a modern design and is setback 5.37 metres from Campanella Avenue. Whilst the building presents a blank wall with a zero setback along the eastern boundary, this is considered satisfactory given this is the interface to the future school site and is not expected to impact the future school.

Conclusion

The proposed Early Childhood Centre incorporating a triple kindergarten, consulting rooms and community room is an appropriate community facility for the site and accords with the Officer Precinct Structure Plan. The proposed centre will provide important services for the growing population of Officer and is recommended for approval subject to conditions.

Conditions

1. Before the use or development commences amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and one electronic copy must be provided. The plans must be generally in accordance with the plans submitted with the application by Cohen Leigh Architects, but modified to show:
 - a. The width of the vehicular access aisle increased from 6.2 metres to 6.4 metres and the length of all car-parking spaces 5.6 metres.
2. The layout of the uses and buildings and works as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
3. At least 14 days before any works start, a site specific Construction Environmental Management Plan (CEMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the CEMP will be endorsed and will form part of the permit. All works must be undertaken in accordance with the approved CEMP.

The CEMP must address all environmental risks and include:

- a. Temporary stormwater management including sedimentation control.
 - b. Provision of pollution and contamination controls including noise and dust.
 - c. Location of stockpiles and stockpile management.
 - d. Location of site office and facilities.
 - e. Equipment, materials and goods management.
 - f. Tree protection zones, trees to be retained and trees to be removed.
4. Before works commence a stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted to and approved by the Responsible Authority. The stormwater management plan must be prepared by a suitably qualified person and show details of the proposed stormwater works including all existing and proposed features that may have impact (including trees to be retained, crossings, services, fences, abutting buildings, existing boundary levels etc). All works must be undertaken in accordance with the approved stormwater management plan.

5. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
6. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.
7. Any roads used for the purpose of haulage of imported or exported materials for construction must be:
 - a. Approved in writing by the Responsible Authority for the submitted haulage strategy, at least seven days prior to the commencement of use.
 - b. Maintained in accordance with the Responsible Authority's maintenance intervention levels, or as requested by the Responsible Authority if the road deteriorates during the haulage period, and
 - c. Reinstated to the satisfaction of the Responsible Authority.
8. The works associated with the construction of the development must not detrimentally affect the amenity of the area, through the:
 - a. Transport of materials, goods or commodities to or from the land.
 - b. Inappropriate storage of any works or construction materials.
 - c. Hours of construction activity.
 - d. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste and storm water runoff, waste products, grit or oil.
 - e. Presence of vermin.
To the satisfaction of the Responsible Authority.
9. Unless with the prior written consent of the Responsible Authority, all rooftop plant and equipment (including air conditioning units, heating units and hot water systems) must be concealed or screened from general view to the satisfaction of the Responsible Authority.
10. 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/s must be of a non-reflective nature.
11. All external plant and equipment must be located to the satisfaction of the Responsible Authority and if required acoustically treated or placed in sound proof housing to reduce noise to residences to a level satisfactory to the Responsible Authority.
12. External lighting must be designed, baffled and located so as to prevent any adverse effect to residences and adjoining landholders to the satisfaction of the Responsible Authority.
13. Waste collection arrangements for the land must be in accordance with the approved plans and to the satisfaction of the Responsible Authority.
14. Before the development is occupied a commercial/industrial standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority. Note: A Vehicle Crossing Permit must be obtained from Cardinia Shire Council prior to the commencement of any works associated with any proposed vehicle crossing.
15. Before the development is occupied all proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated to the

- satisfaction of the Responsible Authority. Once constructed these areas must be maintained to the satisfaction of the Responsible Authority.
16. Before the development is occupied all buildings must be connected to reticulated water supply, sewerage, drainage and underground electricity to the requirements of the relevant servicing authority.
 17. Before the development is occupied or by such later date as is approved by the Responsible Authority in writing, the landscape works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
 18. Except with the written consent of the Responsible Authority, the uses may operate only between the hours of:
 - a. Kindergarten – 8am to 5pm Monday to Friday.
 - b. Consulting rooms – 8am to 8pm Monday to Sunday.
 - c. Community room – 8am to 10pm Monday to Sunday.
 19. Except with the written consent of the Responsible Authority:
 - a. A maximum of 164 children may attend the kindergarten at any one time;
 - b. A maximum of 30 patrons may attend the community room during kindergarten opening hours and a total of 50 patrons outside of kindergarten opening hours.
 - c. A maximum of five (5) practitioners may attend the consulting rooms at any one time.
 20. The amenity of the area must not be detrimentally affected by the development through the:
 - a. Transport of materials, goods or commodities to or from the land;
 - b. Emission of noise, artificial light, vibration, odours, fumes, smoke, vapour, steam, soot, ash, dust, waste and storm water runoff, waste products, grit or oil;
 - c. Presence of vermin;
 - d. The appearance of the development;or in any other way, to the satisfaction of the Responsible Authority.
 21. Noise levels emanating from the premises must not exceed those required to be met under the relevant Environment Protection Agency policy.
 22. All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes must be stored out of general view and storage areas maintained in a suitable condition to the satisfaction of the Responsible Authority.
 23. The areas set aside for car parking associated with the development as shown on the endorsed plans must be made available for use free of charge to employees and visitors at all times and must not be used for any other purpose.
 24. The landscape works shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
 25. This permit will expire if one of the following circumstances applies:
 - a) The development is not started within **two (2) years** of the date of this permit.
 - b) The development is not completed within **four (4) years** of the date of this permit.

- c) The use does not start within **one (1) year** of the completion of the development.
- d) The use is discontinued for a period of **two (2) years**.

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*.

Resolution

Moved Cr Leticia Wilmot, seconded Cr Carol Ryan.

That Council issue Planning Permit T200178 for the use and development of the land for an Early Childhood Centre (kindergarten, consulting rooms and community room) at Lot A PS831715 Campanella Avenue, Officer subject to the conditions attached to this report.

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
1/06/2020	T190435 - PC1	36 Main Street, Pakenham VIC 3810	Use and development of land for two (2) offices (exceeding 250 square metres)	Issued	08 April 2020
1/06/2020	T200089	30 Skyline Drive, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	23 February 2020
2/06/2020	T190552	57 Solid Drive, Pakenham VIC 3810	Development of the land for a dwelling, earthworks and the removal of native vegetation	Issued	13 September 2019
5/06/2020	T200103	15 Michael Street, Pakenham VIC 3810	Removal of Section 173 Agreement	Withdrawn	28 February 2020
10/06/2020	T190771	5 Doherty Street, Pakenham VIC 3810	Use of the land for a Child Care Centre	Withdrawn	18 December 2019
13/06/2020	T200294	22 Pioneers Crescent, Pakenham VIC 3810	Pool / Spa installation	Withdrawn	13 June 2020
16/06/2020	T170798 - 1	125 Mulcahy Road, Pakenham VIC 3810	Subdivision of land, associated works, creation and removal of easements, creation of reserves and native vegetation removal.	Issued	19 December 2019
18/06/2020	T140571 - PC3	165 Pakenham Road, Pakenham Victoria 3810	Condition 1 Landscape Design - The use and development of twelve (12) dwellings and alteration of access to a Road Zone, Category 1	Issued	08 March 2017
18/06/2020	T160464 - 1	35 Mulcahy Road, Pakenham VIC 3810	See attached correspondence for list of proposed changes. Submitted plans have been prepared in response to Condition 1 requirements.	Issued	30 October 2019
18/06/2020	T160500 - 1	10 James Street, Pakenham VIC 3810	Amended Permit - Development of the land for three (3) dwellings	Withdrawn	27 September 2018
18/06/2020	T180197 - 1	5 Doherty Street, Pakenham VIC 3810	Use of the land for an Education centre (Childcare centre) and associated works	Issued	27 February 2020
18/06/2020	T190782	4 Malcolm Court, Pakenham VIC 3810	Development of the land for one (1) dwelling adjacent to the existing dwelling and alterations and additions to the existing dwelling	Issued	20 December 2019

18/06/2020	T200083	16 Anderson Street, Pakenham VIC 3810	Buildings and works associated with the Lawn Bowls Club (Construction of an all-weather cover over bowling green)	Issued	20 February 2020
22/06/2020	T190752 - PC1	3 Altitude Way, Pakenham VIC 3810	Condition 1. Provide Landscaping Plan	Issued	08 April 2020
23/06/2020	T190438	120 Henry Street & 16 Tremont Street, Pakenham VIC 3810	Subdivision of the land into sixty-three (63) lots	Issued	24 July 2019
23/06/2020	T190725 - PC1	125 Mulcahy Road, Pakenham VIC 3810	Plans to comply with Condition 1 of Planning Permit T190725	Issued	01 April 2020
23/06/2020	T200309	16 Anderson Street, Pakenham VIC 3810	Proposed Storage shed	Withdrawn	23 June 2020
29/06/2020	T180438	21-23 Jennifer Court, Pakenham VIC 3810	Five (5) lot subdivision and removal of restrictive covenant PS617774A	NOD	18 July 2018
30/06/2020	T180429 - PC2	14 Frogmores Street, Pakenham VIC 3810	PC2 - (Con. 04 LMP)	Issued	06 November 2019
3/07/2020	T190267	16-20 Ayesha Rise, Pakenham VIC 3810	Subdivision of the land into four (4) lots, and removal of Restrictive Covenant PS617774A.	Issued	20 May 2019

Port Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
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
2/06/2020	T190561	35 Nash Road, Bunyip VIC 3815	Subdivision of the land into two (2) lots	Issued	24 September 2019
2/06/2020	T200005	26 James Street, Lang Lang VIC 3984	Two (2) lot subdivision and the creation of a restriction	Issued	06 January 2020
2/06/2020	T200118	30 Southeast Boulevard, Pakenham VIC 3810	Development of the land for one (1) warehouse and a reduction in car parking	Issued	06 March 2020
2/06/2020	T200120	32 Southeast Boulevard, Pakenham VIC 3810	Development of the land for one (1) warehouse and a reduction in car parking	Issued	06 March 2020
3/06/2020	T190470	275 Seven Mile Road, Nar Nar Goon VIC 3812	Subdivision of the land into three (3) lots (Boundary realignment)	Issued	08 August 2019
3/06/2020	T190675	46 Railway Avenue, Garfield VIC 3814	Two lot subdivision	Issued	14 November 2019
4/06/2020	T190794	145 Bridal Road, Tonimbuk VIC 3815	Development of the land for an outbuilding and associated earthworks	NOD	06 January 2020
4/06/2020	T200094	129 Wheeler Road, Maryknoll VIC 3812	Use & development of the land for a dependent person's unit	Issued	20 February 2020
9/06/2020	T200142	44 Kaduna Drive, Officer South VIC 3809	Construction of a dwelling on a lot less than 350sqm	Issued	31 March 2020
9/06/2020	T200143	42 Kaduna Drive, Officer South VIC 3809	Construction of a dwelling on a lot less than 350sqm	Issued	31 March 2020
9/06/2020	T200144	40 Kaduna Drive, Officer South VIC 3809	Construction of a dwelling on a lot less than 350sqm	Issued	31 March 2020

9/06/2020	T200145	38 Kaduna Drive, Officer South VIC 3809	Construction of a dwelling on a lot less than 350sqm	Issued	31 March 2020
9/06/2020	T200147	36 Kaduna Drive, Officer South VIC 3809	Construction of a dwelling on a lot less than 350sqm	Issued	31 March 2020
10/06/2020	T200017	335 Fogarty Road, Maryknoll VIC 3812	Development of the land for an outbuilding (shed) and associated works	Issued	13 January 2020
10/06/2020	T200148	34 Kaduna Drive, Officer South VIC 3809	Construction of a dwelling on a lot less than 350sqm	Issued	31 March 2020
10/06/2020	T200261	355 Eight Mile Road, Nar Nar Goon VIC 3812	Alterations and additions to an existing dwelling	Issued	11 May 2020
12/06/2020	T200322	14 Water Lily Road, Bunyip VIC 3815	We are wanting to build our home with the garage to be 1m from the boundary. The rest of the home will be the required 2.5m from the boundary.	Withdrawn	12 June 2020
15/06/2020	T170783 - 1	555 Thwaites Road, Yannathan VIC 3981	Buildings and works to redevelop existing broiler farm	Issued	24 March 2020
15/06/2020	T180505 - 1	254 Snell Road, Nar Nar Goon North VIC 3812	Buildings and works (new building and boardwalks) associated with an existing Accommodation facility	Issued	29 April 2020
15/06/2020	T180618 - PC1	Cardinia Road, Officer South VIC 3809	PC1 - (Con. 01 C1P)	Issued	23 April 2020
15/06/2020	T190598 - PC1	2 Water Lily Road, Bunyip VIC 3815	Development of two (2) dwellings	Issued	29 May 2020
15/06/2020	T190754	95 Soldiers Road, Pakenham South VIC 3810	Development of a stable, riding arena and associated works	Issued	10 December 2019
15/06/2020	T190784	26 Cameron Way, Pakenham VIC 3810	Development of the land for a two (2) storey dwelling to the rear of the existing dwelling and alterations and additions to the existing dwelling	Issued	22 December 2019
15/06/2020	T190632	220 Chasemore Road, Cardinia VIC 3978	Earthworks associated with agriculture	Lapsed	17 October 2019
16/06/2020	T180836 - PC3	Centenary Boulevard, Officer South VIC 3809	Subdivision of the land in stages and the development of multi-dwellings in stages including ancillary clubhouse and maintenance shed and associated works in accordance with the approved plans.	Issued	14 November 2019
16/06/2020	T190263 - PC1	1455 Westernport Road, Heath Hill VIC 3981	Section 173 Agreement - Re-subdivision of the land (two lot boundary re-alignment)	Issued	08 January 2020
16/06/2020	T190732	230 Fourteen Mile Road, Garfield VIC 3814	Development of the land for two outbuildings (carport and garage)	Issued	04 December 2019
16/06/2020	T200005 - PC1	26 James Street, Lang Lang VIC 3984	Two (2) lot subdivision and the creation of a restriction	Issued	10 June 2020
16/06/2020	T200126	11 Mary Street, Bunyip VIC 3815	Removal of one (1) tree	Lapsed	12 March 2020
18/06/2020	T180393 - 1	5 Mary Street, Bunyip VIC 3815	Development of the land for a single storey dwelling, a carport and vegetation removal	Issued	17 January 2020
18/06/2020	T200189	34 Southeast Boulevard, Pakenham VIC 3810	Construction of one (1) warehouse and associated buildings and works	Issued	15 April 2020
19/06/2020	T200331	290 Fourteen Mile Road, Garfield VIC 3814	please refer	Withdrawn	02 June 2020
23/06/2020	T180384 - PC1	75 Manoora Road, Nar Nar Goon North VIC 3812	Development of the land for an outbuilding (garage/shed), vegetation removal, construction of a verandah, and earthworks	Issued	12 June 2020

23/06/2020	T190565	115 Rices Road, Dalmore VIC 3981	Use of the land for Animal keeping	Issued	20 September 2019
23/06/2020	T190670	3 Cambridge Street, Lang Lang VIC 3984	Development of a Second Dwelling and Alterations & Additions to the Existing Dwelling	Issued	04 November 2019
23/06/2020	T190711	100 Greenhills Road, Pakenham VIC 3810	Buildings & works (bulk earthworks)	Withdrawn	20 November 2019
23/06/2020	T950001 - 3	105 Ropers Lane, Bayles VIC 3981	Use of the land for poultry farm (egg production) and associated buildings and works.	Issued	10 October 2019
24/06/2020	T190770	3 Bravo Loop, Pakenham VIC 3810	Use of land for an office and the development of an internal mezzanine floor level	Issued	17 December 2019
24/06/2020	T200023	75 Mount Ararat South Road, Nar Nar Goon VIC 3812	Use of the land for a place of assembly (wedding ceremonies and reception) and waiver of bicycle facility requirements	NOD	20 January 2020
24/06/2020	T200088	140 Rices Road, Dalmore VIC 3981	Development of the land for a replacement dwelling, construction of an agricultural building and associated buildings and works.	Issued	22 February 2020
24/06/2020	T200128	Murray Road, Iona VIC 3815	Development of the land for buildings associated with crop raising (Temporary seasonal worker accommodation)	Issued	16 March 2020
24/06/2020	T200156	50 Martins Road, LANG LANG EAST VIC 3984	Development of the land for an agricultural building (hay shed)	Issued	26 March 2020
24/06/2020	T200161	350 Dalmore Road, Dalmore VIC 3981	Development of the land for a replacement dwelling and associated works	Issued	30 March 2020
24/06/2020	T200191	66 Mortlake Drive, Officer South VIC 3809	Construction of dwelling on a lot less than 350sqm	Issued	15 April 2020
24/06/2020	T200203	175 Garfield North Road, Garfield North VIC 3814	Development of the land for a shed associated with agriculture	Issued	21 April 2020
29/06/2020	T200183	1720 Gembrook-Tonimbuk Road, TONIMBUK VIC 3815	Construction of one (1) building (barn/horse stables)	Issued	04 April 2020
30/06/2020	T200225	40a Denhams Road, KOO WEE RUP VIC 3981	Construction of two (2) sports pavilions and associated works	Issued	27 April 2020
1/07/2020	T200364	Moody Street, Koo Wee Rup VIC 3981	Construction of a storage warehouse	Withdrawn	29 May 2020
3/07/2020	T190692 - PC1	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	01 July 2020
3/07/2020	T200092	275 Five Mile Road, Pakenham South VIC 3810	Development of the land for a dwelling extension	Issued	24 February 2020
3/07/2020	T200187	14 Quarry Road, Tynong VIC 3813	Development of the land for an outbuilding (shed) and associated works	Issued	07 April 2020

Ranges Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
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	Development of the land for an outbuilding (shed) and associated works	Issued	19 May 2020
2/06/2020	T170671 - PC14	Rix Road, Officer VIC 3809	MCP's (Stage 26) Subdivision of the land in stages, associated works (including road-works)	Issued	18 March 2020

		within land affected by the Land Subject to Inundation Overlay)and creation of restrictions			
2/06/2020	T190390	427 Brown Road & 124 McMullen Road, Officer VIC 3809	Subdivision of land, associated works, creation of restrictions and native vegetation removal	Issued	28 June 2019
3/06/2020	T200052	7 Lakeside Drive, Emerald VIC 3782	Development of the land for the construction of one (1) outbuilding and associated works	Issued	04 February 2020
3/06/2020	T200205	5 Brookdale Avenue, Emerald VIC 3782	Development of the land for a non-habitable outbuilding (shed)	Issued	01 May 2020
9/06/2020	T190779	33 Stoney Creek Road, Beaconsfield Upper VIC 3808	Two (2) lot subdivision	NOD	17 December 2019
10/06/2020	T200087	30 Lawsons Road, Emerald VIC 3782	Development of the land for an outbuilding (shed) and associated earthworks	Issued	22 February 2020
10/06/2020	T200236	4 Carawa Street, Cockatoo VIC 3781	Development of the land for an outbuilding	Issued	29 April 2020
13/06/2020	T200338	3 Bower Court, Emerald VIC 3782	New single dwelling & garage	Withdrawn	13 June 2020
13/06/2020	T200339	3 Bower Court, Emerald VIC 3782	New single dwelling & garage	Withdrawn	13 June 2020
13/06/2020	T200340	3 Bower Court, Emerald VIC 3782	New single dwelling & garage	Withdrawn	13 June 2020
15/06/2020	T190057	3 Morris Road, Beaconsfield Upper VIC 3808	Subdivision of land in to two (2) lots and vegetation removal	Issued	04 February 2019
15/06/2020	T190579 - PC1	84 Dickie Road, Officer VIC 3809	Development of the land for an outbuilding and vegetation removal	Issued	24 March 2020
15/06/2020	T190773	55 Station Road, Gembrook VIC 3783	Subdivision of the land into two (2) lots, removal of vegetation and creation of a restriction	NOD	18 December 2019
16/06/2020	T190539 - PC1	24 Lyle Avenue, Beaconsfield VIC 3807	Development of two (2) dwellings and associated two (2) lot subdivision	Issued	15 April 2020
16/06/2020	T190540 - PC1	5 Lakeview Court, Emerald VIC 3782	Plans to comply with Condition 1 of Planning Permit T190540	Issued	25 May 2020
16/06/2020	T190683 - PC1	60 Tivendale Road, Officer VIC 3809	PC1 - (Con. 07 WMP)	Issued	28 May 2020
16/06/2020	T200200	20 Brunt Road, Beaconsfield VIC 3807	Building and works associated with an existing residential village	Issued	21 April 2020
17/06/2020	T200151	414 Pakenham Road, Pakenham VIC 3810	Development of the land for a shed	Withdrawn	18 March 2020
18/06/2020	T160741 - 1	230 Telegraph Road, Beaconsfield Upper VIC 3808	Amended Permit – Development of Dwelling Additions and Alterations	Withdrawn	30 May 2019
18/06/2020	T190163 - PC6	124 McMullen Road & 427 Brown Road, Officer VIC 3809	PC6 - (Con. 16 PCEMP)	Issued	21 April 2020
18/06/2020	T190199 - PC1	50 Phillip Road, Avonsleigh VIC 3782	Construction of a shed and associated earth works	Issued	23 March 2020
18/06/2020	T190390 - PC1	427 Brown Road & 124 McMullen Road, Officer VIC 3809	PC1 - (Con. 19 BDG)	Issued	04 June 2020
18/06/2020	T190390 - PC2	427 Brown Road & 124 McMullen Road, Officer VIC 3809	PC2 - (Con. 18 SMP) Slope Management Plan	Issued	04 June 2020
18/06/2020	T190626	19 Agnes Street, Gembrook VIC 3783	Development of the land for an outbuilding	Issued	11 October 2019
18/06/2020	T200177	27 Eastbourne Crescent, Officer VIC 3809	Building and works (dwelling) within the Significant Landscape Overlay - Schedule 6	Issued	02 April 2020
18/06/2020	T200244	7A Paternoster Road, Cockatoo VIC 3781	Development of the land for an outbuilding	Issued	01 May 2020

18/06/2020	T200307	4 Upper Grieve Road, Avonsleigh VIC 3782	Development of the land for an outbuilding	Issued	26 May 2020
19/06/2020	T200333	8 Gembrook-Launching Place Road, Gembrook VIC 3783	PROPOSED OUTBUILDING	Withdrawn	19 June 2020
22/06/2020	T180651	369 Paternoster Road, Cockatoo VIC 3781	Use and development of the land for a dwelling and removal of vegetation	Refused	03 October 2018
23/06/2020	T200233	7 Suffolk Avenue, Cockatoo VIC 3781	Development of the land for an outbuilding (shed) and associated works (earthworks)	Issued	28 April 2020
24/06/2020	T040522 - 3	19-21 Woods Street, Beaconsfield Victoria 3807	Sale and consumption of liquor associated with a restaurant	Issued	10 March 2020
24/06/2020	T180583	95 Rainy Hill Road, Cockatoo VIC 3781	Retrospective buildings and works associated with a verandah	Issued	04 September 2018
24/06/2020	T200081	Bridge Road, Officer VIC 3809	Removal of native vegetation	Issued	19 February 2020
26/06/2020	T140401 - 2	37 Mary Street, Officer Victoria 3809	Development of the land for multiple dwellings on a lot (in stages)	Issued	12 February 2020
29/06/2020	T190163 - PC4	124 McMullen Road & 427 Brown Road, Officer VIC 3809	PC4 - (Con. 20 LandMP)	Issued	21 April 2020
29/06/2020	T190390 - PC3	427 Brown Road & 124 McMullen Road, Officer VIC 3809	PC3 - (Con. 24 LandMP)	Issued	04 June 2020
29/06/2020	T200251	544 Brown Road, Officer VIC 3809	Section 35 Subdivision, acquisition of land by acquiring authority (Melbourne Water).	Withdrawn	29 June 2020
30/06/2020	T200081 - PC1	Officer South Road, Officer VIC 3809	Plans to comply – credit extract (Cond. 4)	Issued	30 June 2020
1/07/2020	T200081 - PC2	Bridge Road, Officer VIC 3809	Removal of native vegetation	Issued	01 July 2020
3/07/2020	T190135 - 2	247, 251 & 255 Princes Highway, Officer VIC 3809	Development of land for multiple dwellings and associated subdivision in stages	Issued	05 May 2020
3/07/2020	T190626 - 1	19 Agnes Street, Gembrook VIC 3783	Development of the land for an outbuilding	Issued	25 June 2020
3/07/2020	T200093	3 Oakwood Close, Officer VIC 3809	3 Bedroom Brick Veneer dwelling within the developer guidelines that is proposed, also complying within the Heritage overlay	Issued	25 February 2020

Resolution

Moved Cr Leticia Wilmot, seconded Cr Carol Ryan.

That Council note the report.

Carried

6.1.6 Planning Enforcement Matters Report

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

Recommendation(s)

That Council note the list of enforcement matters currently before VCAT, the Magistrates' Court and the County Court.

Executive Summary

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

Relevance to Council Plan

Nil.

Background

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

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

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

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

Current Enforcement Cases

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

Property Address	Nature of Contravention	Status
765 Gembrook Rd, Pakenham Upper (OH-LK-16299)	Native vegetation removal, and earthworks creating driveway and hardstand, in breach of Rural Conservation Zone – Schedule 2, Environmental Significance Overlay Schedule 1, and Clause 52.17	On the 18th December 2019 , Magistrates' Court found the owner guilty of 11 offences, relating to unpermitted vegetation removal and earthworks over a 2 year period. The owner was convicted and fined \$5,000 with Council costs being referred for further hearing.

		The accused has appealed the conviction and sentence. The July 2020 appeal hearing has been nominally adjourned to Oct 2020 , due to COVID case listing restrictions.
1 Walker Street, Koo Wee Rup (OH-SM-19478)	Land that was developed without a permit, in contravention of planning scheme - Heritage Overlay (43.01)	<p>Following a successful prosecution, VCAT enforcement order application commenced and listed hearing on 26th June 2020.</p> <p>On 26th June 2020, VCAT made an enforcement order, requiring the owner to:</p> <ul style="list-style-type: none"> - Prepare appropriate heritage plans to guide the demolition and re-instatement of the heritage place - Complete works to undo the works within a designated time frame, and - Completely remove driveway, shed and replant a protected tree <p>Due to other legal issues surrounding the owner, it is expected that remediation works might be delayed if the property changes hands.</p>
709 Gembrook Rd, Pakenham Upper (OH-DA-20511)	Native vegetation removal in contravention of Clause 42.02, Environmental Significance Overlay, of the Cardinia Planning Scheme	<p>Council has filed application for enforcement order with VCAT. This included a concurrent application for interim enforcement order in relation to the alleged breaches.</p> <p>VCAT heard the application for interim orders on 14 and 19 May 2020. After considering the application, the Tribunal declined to make interim orders.</p> <p>The full hearing of the application (for final enforcement orders) is listed for hearing on 8 October 2020.</p>

Conclusion

The list of current enforcement activities is presented for information.

Glossary of terms

Practice Day Hearing

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

Mention Hearing

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

Administrative Mention

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

Adjournment

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

Land Management Plan

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

Contested Hearing / Full hearing

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

Consent Orders

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

6.1.7 Planning Scheme Amendment Activity Report

File Reference: 95-10-68
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.

Relevance to Council Plan

Nil.

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 	Thu 08/08/2019	Fri 06/09/2019	Panel Report received 29/04/2020. Council is awaiting further information from the proponent in relation to some of the issues raised in the Panel Report.

Cardinia Planning Scheme Amendment Activity Report						
A/No	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			- delete the Environmental Significance Overlay Schedule 1 (ESO1).			
C226	Cardinia Shire Council	Lot 5 PS321195 67 Whiteside Rd Officer, Lot 2 PS327845 130 Whiteside Rd Officer and Lot PP PS746064 325 Princes Hwy Officer	<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.

Cardinia Planning Scheme Amendment Activity Report						
A/No	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C228	Cardinia Shire Council	Pakenham Activity Centre	<p>The Activity Centre Zone Schedule 1 (ACZ1) has been prepared in 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</p>	Thu 24/10/2019	Fri 06/12/2019	<p>On 17/02/2020 Council resolved to refer all 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
			Incorporated Provisions, 20 March 2017 from Clause 72.04.			
C229	Cardinia Shire Council	Tynong, Garfield and Bunyip	Apply Environmental Significance Overlay Schedule 7 (ES07) 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	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 PSP was amended by VPA in March 2020.</p> <p>The amendment is 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
			Scheme to support the implementation of the PSP.			
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>The amendment is 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 (ES01). <p>An ICP will be implemented at a later stage.</p>			<p>Preparation documents were submitted to DELWP in December 2019.</p> <p>Further advice was provided on 13/02/2020.</p> <p>Documentation is being prepared for exhibition of the amendment.</p>
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	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
			new Municipal 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 Panel Hearing was held on 28/04/2020. The Panel Report was received on 09/06/20 and is under consideration.
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.			Approved and Gazetted by the Minister for Planning on 30/06/2020.
C264	Cardinia Shire Council	Cardinia Shire municipality	Implement the Advertising Signage Design Guidelines into the Cardinia			On 17/02/2020 Council resolved to adopt the Advertising

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

6.2 General Reports

6.2.1 Worrell Reserve Master Plan

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

Recommendation(s)

That Council adopt the Master Plan for Worrell Reserve.

Attachments

1. Worrell Reserve Master Plan - Background Report [6.2.1.1 - 46 pages]
2. Landscape Master Plan (Will be updated by external consultant) [6.2.1.2 - 1 page]
3. Public Consultation Report [6.2.1.3 - 13 pages]

Executive Summary

Council officers have been working with Worrell Recreation Reserve Committee of Management, sport clubs, user groups and the community to develop new a master for the Recreation Reserve.

The master plan aims to determine a broad vision for the future development of the reserve as well as outline a number of projects and strategies that are required to be implemented to achieve the new vision.

Officers presented the draft master plan to Council briefing on 1st June 2020 after placing the draft plan on public exhibition for a period of six (6) weeks.

The final Worrell Recreation Reserve Master Plan considers the feedback that was received as part of the public exhibition process.

Background

Worrell Recreation Reserve is located within the township of Emerald. The reserve is Crown Land with Council appointed as a Committee of Management under the Crown Land Reserve Act. Council has then appointed a Section 86 Committee under the Local Government Act.

Following the beginning of the process to formalise the Worrell Recreation Reserve Master Plan in 2017, Council officers have been working with the Worrell Recreation Reserve Section 86 Committee of Management and user groups to develop a new master plan for the reserve.

The final Worrell Reserve Master Plan has been developed to not only reflect the needs and aspirations of the Reserve Committee and user groups, but to also incorporate new opportunities for community sporting and recreation facility provision.

The final Master Plan is attached to this report and consists of two documents:

- Background Report
- Landscape Master Plan

Due to the anticipated future development of the reserve and changing requirements of the user groups, Council has worked with relevant stakeholders to develop a Master Plan for

Worrell Recreation Reserve. The attached Master Plan, Background report and Consultation Report provides details relating to the background, overview of the process undertaken, summary of issues and opportunities and recommendations relating to the future development of Worrell Recreation Reserve.

The draft Master Plan was placed on public exhibition for a six (6) week period starting Monday 15th April 2019 and ending Sunday 26th May 2019.

The key themes that have been identified through the consultation process include:

- Improve the parking and footpaths in the reserve
- Support accessibility via car parking and footpaths in the reserve
- Include a skate park in the proposed multi use area
- Upgrade/ redevelop the tennis pavilion
- Include a ball rebound wall at the tennis facilities
- Mixed support for retention of both playgrounds, there is strong support from tennis club members to retain a playground near the tennis courts, and the general community supports redevelopment of the library playground.
- Mixed support for a separate public toilet in the reserve
- Improve landscaping in the reserve
- Requests from multiple groups to use the old SES building for storage

As a result of the feedback received from both internal, external and community stakeholders, the following recommendations were updated or added to the final master plan.

1. Playgrounds - Recommendation updated - That the Tennis Club play space be removed at the end of its life and that a consolidated and upgraded play space be developed at the site of the existing library play space.
2. Playgrounds - Additional recommendation - When the Tennis Club play space is removed, and that an additional activity space, with a tennis practice rebound wall, be developed on the site of the existing Tennis Club playground.
3. Public Toilet - updated recommendation - That Council demolishes the old toilet block and constructs a new single unisex accessible public toilet in the same location.
4. Tennis Pavilion - New recommendation – That, subject to costing and funding, Council redevelops the existing tennis pavilion to meet sport standards.
5. Multi Use Space - Recommendation updated - That design, documentation and costing of an integrated multi use recreation space, including a skate park, on the former netball courts be undertaken.
6. State Emergency Service - New recommendation - That, until such time as the Emerald SES relocates, a lease or licence for the current activity be pursued in consultation with DELWP.
7. State Emergency Service – Recommendation updated - That the old sheds and buildings on this site are demolished to allow for additional overflow carparking for the reserve.

All other recommendations remained the same as put forward in the draft master plan and have been confirmed in the final master plan.

It's important to recognise that submissions/ comments were received that had varying opinions on various recommendations, but in general the overall response was quite positive and the majority of people who participated in the consultation supports most of the recommendations proposed in the draft master plan.

A copy of the Public Consultation Report is attached to this report which details the feedback received through the consultation process.

Policy Implications

The Worrell Recreation Reserve Master Plan provides a long-term strategic plan for the future development of passive and active recreation facilities in the reserve. The Master Plan, when finalised, will also provide a basis of future funding applications.

Relevance to Council Plan

This report relates to the following components of the Council Plan;

Our Environment

- Develop new and existing, parks, gardens and reserves in a sustainable manner
- Provide accessible facilities to meet identified community needs

Our People

- Support children, young people, families, older adults and people with disabilities by providing a range of accessible facilities and services
- Provide active and passive recreational facilities to meet the needs of our residents; and
- Increase opportunities for participation in a range of sport and leisure activities.

Climate Emergency Consideration

Nil.

Consultation/Communication

Council officers have met with Worrell Recreation Reserve Section 86 Committee of Management and user groups on several occasions.

These sessions, along with internal meetings with relevant Council officers have formed the basis for the development of the draft Master Plan.

Council officers sought feedback on the draft Master Plan through a six (6) week 'public consultation' process. Feedback received through the public exhibition process has been considered as part of the final Worrell Recreation Reserve Master Plan that has been prepared for adoption.

The public consultation process sought community feedback via information on Council's website and social media avenues, advertised via local media, posters distributed within the township and a letter sent to local schools, township committees, progress associations and key stakeholders at the reserve including all reserve user groups and the reserve committee of management.

The draft Master Plan was placed on public exhibition for a six (6) week period starting Monday 15th April 2019 and ending Sunday 26th May 2019.

The draft Master Plan was available to the community to view and a large variety of feedback was provided in a variety of methods, including the following:

- Surveys – online and hardcopy (76 people responded)
- Council Website - (21 direct email submissions received)
- Community drop in session at Emerald Library (16th May 2019) (10 people attended)
- Meetings with key reserve stakeholders (3 meetings held)

- Consultation session with Emerald Secondary College (100+ students participated)

Following a request of Councillors at the June 1st 2020 Council Briefing meeting, a copy of the final master was provided to the Section 86 Committee of management and reserve user groups.

Financial and Resource Implications

The Master Plan does not directly commit Cardinia Shire Council or any other organisation to a responsibility for funding and implementing the identified projects.

Several of the recommendations will fall within Council's current and future Capital Works Program. This includes an allocation in the draft capital works program in 20/21 & 21/22 financial years to asphalt the access road and car parks within Worrell Reserve.

Cost estimates have been developed to provide an understanding of the overall cost to implement the master plan.

The total estimated cost to implement the works recommended in the Masterplan is \$2.7m (GST exclusive). This includes the access road and car park asphaltting project. This does not include unknown costs and costs that are the responsibility of external groups to fund.

The finalised Master Plan will be used as strategic justification to seek external funding to support the delivery of recommendations where appropriate.

Conclusion

The Worrell Recreation Reserve Master Plan will provide a planned approach for the future development of active and passive recreation facilities within the reserve.

Resolution

Moved Cr Leticia Wilmot, seconded Cr Brett Owen.

That Council adopt the Master Plan for Worrell Reserve.

Carried

6.2.2 National Growth Areas Alliance - COVID19 Economic Recovery Proposal

File Reference: Nil.
Responsible GM: Tom McQualter
Author: Tom McQualter

Recommendation(s)

That Council endorse the National Growth Areas Alliance COVID19 Economic Recovery Proposal.

Attachments

1. National Growth Areas Alliance - COVID19 Economic Recovery Proposal [6.2.2.1 - 9 pages]

Executive Summary

The National Growth Areas Alliance ('NGAA') has prepared a COVID19 Economic Recovery Proposal ('the Proposal') on behalf of all its member Council's.

Council is asked to endorse and support the COVID19 Economic Recovery Proposal and work with the NGAA in advocating to government for support of the Proposal.

Background

The following is an extract from the Executive Summary of the Proposal

"The National Growth Areas Alliance (NGAA) represents Councils from the fast growing outer urban areas around Australia's major cities, home to more than 5 million people. Growth area councils accommodate 20% of Australia's population in just over 5% of Australia's local government areas (LGAs). The economic shock brought on by COVID-19 will have a disproportionate effect on growth areas due to their reliance on the hardest hit sectors for employment, and the prominence of vulnerable communities.....

.....Population growth protected Australia from the worst of the Global Financial Crisis; now, with the right support, existing growth areas could help our economy emerge strong from COVID-19. The strong management of the virus in Australia and proportionally small impacts place Australia in a strong position to attract new global manufacturers and industries post COVID-19. With a large workforce, easy access to greenfield industrial and employment land and a strong small business culture, growth areas are positioned to be Australia's next economic powerhouse."

The NGAA have identified three ways to prompt economic growth during a 6-18 month recovery period:

1. Ensure Local Government in growth areas can deliver an enhanced level of service required by local business and the community;
2. Improve conditions in growth areas for Australian business to grow; and
3. support the construction industry to continue residential development.

The full details of each activity are set out in the attached proposal.

Policy Implications

The Proposal by the NGAA is consistent with Council's overarching strategy in response to COVID19 being to support our community and local businesses and encourage growth into the future through capital investment.

Relevance to Council Plan

Endorsing the NGAA - COVID19 Economic Recovery Proposal is in accordance with the Council Plan goal of creating and supporting local employment and business opportunities for our community and the wider region by increasing business diversity, maintaining strong agricultural activities and creating a diverse and resilient business community

Climate Emergency Consideration

Nil.

Consultation/Communication

The NGAA have engaged with their member councils in the development of this plan. Councillor Collin Ross is a member of the NGAA Strategic Advisory Committee.

Financial and Resource Implications

There are no financial implications as a result of this report.

Conclusion

The NGAA have developed a Proposal to assist local government to work with the federal and state government to help our community respond to COVID19.

Resolution

Moved Cr Collin Ross, seconded Cr Ray Brown.

That Council endorse the National Growth Areas Alliance COVID19 Economic Recovery Proposal.

Carried

6.2.3 COVID-19 Delegations

File Reference: Nil.
Responsible GM: Tom McQualter
Author: Tom McQualter

Recommendation(s)

That Council note this report.

Attachments

Nil

Executive Summary

At the Special Council meeting held on 30 March 2020 Council resolved to execute and Emergency Instrument of Delegation to the Chief Executive Officer. At the time there was some concern that due to the COVID-19 restrictions and provisions of the Local Government 1989 the Council would be unable to formally hold meetings.

At this time, the Chief Executive Officer has not been required to use any of the powers that exist under the Emergency Instrument of Delegation.

Background

Due to a range of concerns around COVID19 the Emergency Instrument of Delegation was determined as a prudent and considered approach in March 2020. The Instrument of Delegation allowed the CEO to, among other things, award a contract for works over \$1,000,000 but under \$5,000,000.

Any contract awarded in this range was to be reported to Council at the next available meeting. To date, the Chief Executive Officer has not been required to exercise this power.

It is not considered prudent at this time to revoke this Emergency Instrument of Delegation as the COVID19 pandemic is not yet over and the future remains unknown in regards to its impact.

Policy Implications

There are no policy implications as a result of this report.

Relevance to Council Plan

1.7 Minimised impact of emergencies

1.7.1 Implement plans that support people in times of emergency.

1.7.2 Implement effective plans and procedures that minimise the impact of all emergencies in the Shire.

1.7.3 Protect against the impacts of emergencies through effective preparation and community planning and education.

Climate Emergency Consideration

Nil.

Consultation/Communication

No consultation has taken place in preparation of this report.

Financial and Resource Implications

There are no financial implications as a result of this report.

Conclusion

At the time of writing this report the Chief Executive Officer has not been required to exercise the delegation

Resolution

Moved Cr Brett Owen, seconded Cr Michael Schilling.

That Council note this report.

Carried

6.2.4 Growing Suburbs Fund Grant Application 2020-21

File Reference: Nil.
Responsible GM: Peter Benazic
Author: Cathal O'Loughlin

Recommendation(s)

That Council endorses the Princes Highway (southside) shared pathway application for funding under the 2020–21 Growing Suburbs fund.

Attachments

Nil

Executive Summary

The Victorian Government 2020–21 Growing Suburb Fund (GSF) requires a Council resolution endorsing the recommended application. Council is requested to endorse the Princes Highway (southside) shared pathway application.

Background

The Victorian Government 2020–21 Growing Suburb Fund (GSF) requires a Council resolution endorsing the recommended application. Council is requested to endorse the Princes Highway (southside) shared pathway application.

\$25 Million in funding is available in this round of funding in 2020–21 for Melbourne's ten interface councils and as of this round of funding, there are also six peri-urban councils included.

Announcements of successful funding will be made from 17 August 2020 with funding agreements signed by 31 August 2020. Applications for funding need to be for projects which are 'shovel ready'. Projects need to start construction within six months of the funding agreements being signed and need to be completed within 12 months of the start of construction.

Council officers have met with DELWP officers to discuss the 2020–21 applications with a number of potential projects discussed.

The following feedback has been provided regarding GSF projects:

- Previously funded projects will unlikely receive additional funding to expand the scope, unless all funded works have been completed
- Projects not listed in future capital works budget, therefore don't have a financial commitment that can be brought forward
- Projects that are similar in scope, one should be chosen to be put forward as both unlikely to be funded

Based on the feedback provided by DELWP officers and the new guidelines for the 2020–21 GSF funding round, the application from Council for this round of funding will be the Princes Highway (southside) shared pathway, from Fairweather Parage to Heatherbrae Recreation Reserve and down to the railway line within Heatherbrae Recreation Reserve.

No other eligible or viable projects for the 2020–21 GSF funding round have been identified.

Policy Implications

The proposed 2020–21 GSF application is consistent with the Officer and Cardinia Road Precinct Structure Plan and the Pedestrian and Bicycle Strategy.

Relevance to Council Plan

The application for funding through the Growing Suburbs Fund relates to the following sections of the Council Plan:

Our People

- Support children, young people, families, older adults and people with disabilities by providing a range of accessible facilities and services
- Provide active and passive recreational facilities to meet the needs of our residents; and
- Increase opportunities for participation in a range of sport and leisure activities.

Our Environment

- Provide accessible facilities to meet identified community needs
- Prioritise multi-use pathways, where practicable, to create networks that connect destinations.

Climate Emergency Consideration

Nil.

Consultation/Communication

Consultation with officers from DELWP has taken place to discuss and agree on the recommended 2020–21 GSF application. Internal consultation with community and family services, active communities, and building and facilities has also taken place to determine, shovel ready projects to be considered.

Financial and Resource Implications

The GSF aims for 1 for 1 funding for successful projects. It is proposed to apply for the following amounts of funding under the 2020–21 GSF:

Council's contribution will come from the Officer Development Contribution Plan (DCP) funding and supplemented by Councils Pedestrian & Bicycle Strategy budget. The additional funding from GSF will allow Council to fast track the delivery of this shared pathway connection, ahead of when it could be delivered under the Officer DCP.

Conclusion

Council is requested to endorse the Princes Highway (southside) shared pathway application to be submitted for The Victorian Government 2020–21 Growing Suburb Fund (GSF).

Resolution

Moved Cr Collin Ross, seconded Cr Brett Owen.

That Council endorses the Princes Highway (southside) shared pathway application for funding under the 2020–21 Growing Suburbs fund.

Carried

6.2.5 2020-21 Festival and Event and Community Wellbeing and Support Grants Recommendations

File Reference: Nil.
Responsible GM: Tracey Parker
Author: Helena Moloney and Kym Ockerby

Recommendation(s)

That Council:

1. Approve 51 Festival and Event Grants to the value of \$226,367.71
2. Approve 41 Community Wellbeing and Support Grants to the value of \$77,090.24

Attachments

Nil

Executive Summary

Applications for the 2020-2021 Festival and Event and Community Wellbeing and Support Grants opened for applications on Tuesday 28th January and closed on Monday 2nd March 2020. Fifty-four applications were received for the Festival and Event Grants, seeking \$243,362.71 in funding and 55 were received for the Community Wellbeing and Support Grants seeking \$158,966.85 in funding.

Following an extensive assessment process involving a multidisciplinary group of staff, senior leadership assessment and Councillor Panel assessment it is recommended that 51 applications under the Festival and Event Grant program be approved totalling \$226,367.71 and 41 applications under the Community Wellbeing and Support Grant program be approved totalling \$77,090.24.

Background

Applications across both programs were assessed by a multidisciplinary group of Council officers from the areas of Community Development, Youth Services, Social and Community Planning, Community Places, Passive and Active Reserves, Arts and Culture, Cultural Diversity, Ageing Well, Environment, Community Safety, Emergency Management, Risk and Traffic.

These assessments were then taken to the General Manager Liveable Communities and the Councillor Grant Assessment Panel for further input around the decision before going to Council Briefing for endorsement.

Below are the outcomes following this process:

Application status	Festival and Events	Community Wellbeing and Support
Fully supported	51	31
Partially supported		10

Not supported	2	14
AMOUNT ALLOCATED	\$226,367.71	\$77,090.24

Below is a breakdown of applications received via Ward:

	Central Ward	Port Ward	Ranges Ward
Festival and Event	17	14	23
Community Wellbeing and Support	27	9	19

Total applications and amounts approved via Ward:

	Central Ward	Port Ward	Ranges Ward
Festival and Event	14	14	23
Community Wellbeing and Support	18	6	17
Total Allocated	\$total FE \$88,768.71 CWSG \$38,919.94	\$total FE \$43,031.20 CWSG \$17,379.00	\$total FE \$94,567.80 CWSG \$20,791

Total applications approved per grant category via Ward:

Community Wellbeing and Support	Central Ward	Port Ward	Ranges Ward
Seeding Grant	8	3	1
Volunteer Support Grant	1		2
Small Change Grant	9	3	14
Total	18	6	17

Total applications and amounts declined due to ineligibility and/or not meeting grant criteria:

	Ward	Number of applications	Total amount
Festival and Event	Central	2	\$16,000
Community Wellbeing and Support	Central	10	\$41,727.40
	Port	3	\$10,018
	Ranges	1	\$3,000

Applications withdrawn:

	Ward	Number of applications	Total amount	Reason(s)
Festival and Event	Central	1	\$995	Have remaining funds from 2019-2020 due to COVID-19 event cancellation
Community Wellbeing and Support	Port	1	\$1000	Have remaining funds from 2019-2020 due to COVID-19 delay of project.

COVID-19 considerations for Festival and Event grant recipients

Given the impact of COVID-19 that we've seen to date in the event space and the uncertainty around future impacts, Council will maintain contact with event organisers in the lead up to their event, and in consultation with the Pandemic Team, will lend support where modifications or cancellations due to COVID-19 may need to occur.

Where an event is required to be cancelled due to COVID-19, Council will cover the event organiser's out of pocket expenses up to the value of the approved grant amount.

COVID-19 considerations for Community Wellbeing Support grant recipients

Given the impact of COVID-19 that we've seen to date and the uncertainty around future impacts, Council will maintain contact with successful grant applicants in the lead up to the delivery of their project, and in consultation with the Pandemic Team, will lend support where modifications or cancellations due to COVID-19 may need to occur.

Policy Implications

Both grant programs align to Council priorities and objectives, along with Cardinia Shire's Liveability Plan 2017 - 2029.

Relevance to Council Plan

Our Community

We will foster a strong sense of connection between Cardinia Shire's diverse communities.

1. Our diverse community requirements met
2. Engaged communities
3. Increased levels of community participation
4. Improved health and wellbeing of our residents

Climate Emergency Consideration

Nil.

Consultation/Communication

A comprehensive communications plan was developed which saw the grants widely promoted through various internal departments, newsletter distribution through the Community Strengthening business unit, community leaders, Council's web and Facebook pages, Connect and also through the Councillor Bulletin.

The grant round opened online via Smartygrants on the 28th January and closed on the 2nd March 2020.

The staff who assessed the grants came from the following areas: Community Development, Youth Services, Social and Community Planning, Community Places, Passive and Active Reserves, Arts and Culture, Cultural Diversity, Ageing Well, Environment, Community Safety, Emergency Management, Risk and Traffic.

The Councillor Grant Assessment Panel was also consulted.

Financial and Resource Implications

The budget for 2020-2021 Festival and Event grants is \$250,000. The total amount required to fully support the 51 grant applications is \$226,367.71.

The budget for 2020-2021 Community Wellbeing Support grants is \$97,305. The total amount required to support the 41 grant applications is \$77,090.24

Conclusion

The grant programs align to and add value to Cardinia Shire's Liveability Plan. They have again proved popular with a high number of applications received.

It is recommended that 51 applications to the value of \$226,367.71 be approved under the Festival and Event grant program and 41 applications to the value of \$77,090.24 be approved under the Community Wellbeing Support grant program.

Resolution

Moved Cr Michael Schilling, seconded Cr Brett Owen.

That Council:

1. Approve 51 Festival and Event Grants to the value of \$226,367.71
2. Approve 41 Community Wellbeing and Support Grants to the value of \$77,090.24

Carried

6.2.6 Transition of Section 86 Committees

File Reference: 65-25-6
Responsible GM: Tom McQualter
Author: Doug Evans

Recommendation(s)

That Council in exercising its power conferred by Section 65 of the Local Government Act 2020 (the Act), Council resolves that:

1. On and from 1 September 2020 there be established as Community Asset Committee the following Committees.:

HALL COMMITTEES

- Bunyip
- Cardinia
- Clematis
- Garfield
- Gembrook Community Centre
- Koo Wee Rup Community Complex
- Lang Lang Memorial
- Lilypond House
- Modella
- Nar Nar Goon North
- Yannathan

RECREATION RESERVES

- Cardinia
- Chandler
- Gembrook
- Garfield
- Huxtable Rd Horse Riding Reserve
- Josie Bysouth
- Lang Lang Community
- Maryknoll
- Mountain Road
- Officer
- Pound Road
- Rythdale Hall & Recreation Reserve Committee
- Sutherland Park Recreation Reserve Committee
- Worrell
- Yarrabubba

OTHER

- Bunyip Auditorium
- Nobelius Heritage Park & Emerald Museum

2. The purpose of the Committee is to manage the respective Hall, Recreation Reserve, Heritage Park & Museum or Auditorium as detailed in the title to the Committee

3. The members and office bearers of the Committee shall be those members serving on the existing Section 86 Committee as at 1 September 2020
4. A quorum of the Committee shall be one more than half of the total number of members of the Committee.
5. All members of the Committee have voting rights on the Committee.

Cardinia Access and Inclusion Advisory Committee

That Council resolves that:

1. On and from 1 September 2020 there be established as an Advisory Committee the Cardinia Access and Inclusion Advisory Committee (CAIAC)
2. The purpose of the Committee is to
 - a. Monitor and review Council's Access and Inclusion Policy and Action Plan
 - b. Provide information and timely advice to Council on issues impacting upon people with a disability which prevent their full inclusion in community life
 - c. Have input and participation in strategic planning issues affecting people with a disability in the Shire
3. The members and office bearers of the Committee shall be those members serving on the existing Section 86 Committee as at 1 September 2020
4. A quorum of the Committee shall be one more than half of the total number of members of the Committee.
5. All members of the Committee have voting rights on the Committee.

Attachments

Nil

Executive Summary

To resolve to appoint the existing Section 86 Recreation Reserve, Halls and Heritage Park and Museum Committees as Community Asset Committees under the provisions of the Local Government Act 2020, and appoint the Cardinia Access and Inclusion Advisory Committee as an advisory with no delegated powers.

Background

Council has previously resolved to appoint various Committee to manage community assets under the provisions of Section 86 of the 1989 Local Government Act. With the introduction of the Local Government Act 2020 these committees cease to have any delegated powers from 1 September this year.

To allow these Committees to continue to manage the relevant community asset it is necessary to create them as Community Asset Committees under the provisions of Section 65 of the Local Government Act 2020.

Once they have been established the Chief Executive Officer is then able to delegate various powers and duties to the Committee so that they are able to undertake the task required of them.

The powers and duties are proposed to be the same as the Committees previously enjoyed and no additional powers are proposed to be delegated to them.

A draft Governance Manual for Community Asset Committees has been prepared which is currently being reviewed by relevant staff. It is proposed that the CEO adopts this manual as part of the process to delegate to the Committees.

This Manual includes all matters raised by the recent Internal Audit into the management of Council Committees.

In regard to the Cardinia Access and Inclusion Advisory Committee the new Local Government Act is silent on Committees other than Delegated Committees (eg Town Planning Committee) and Community Asset Committees. Council is able to establish any other committee that meets its needs, provided it has no delegated powers and does not manage a community asset on behalf of council.

It is suggested that Council appoint the Cardinia Access and Inclusion Advisory Committee (CAIAC) as an advisory committee with the same purpose and structure as the current committee.

Policy Implications

It has been Council Policy to appoint Committees to manage Council facilities on behalf of the Council

Relevance to Council Plan

Transitioning these committees is consistent with the Council Plan goals to:

- Provide active and passive recreation facilities to meet the needs of residents.
- Increase opportunities for residents to participate in a range of sport, recreation and leisure activities.
- Recognise, support and promote the value of volunteerism in our communities

Climate Emergency Consideration

Nil.

Consultation/Communication

All of the Committees mentioned above have been advised of the implications of the repeal of Section 86 of the Local Government Act and the intention to recreate the committee as a Community Asset Committee. No objections to this proposal have been received.

Financial and Resource Implications

It is not anticipated that there will be any financial implications associated with the creation of Community Asset Committees.

Conclusion

As Section 86 of the Local Government Act 1989 has been repealed it is necessary for these Committee to be created as Community Asset Committees under the provisions of the Local Government Act 2020 to allow them to continue to manage the community asset on behalf of the Council.

Resolution

Moved Cr Leticia Wilmot, seconded Cr Carol Ryan.

That Council in exercising its power conferred by Section 65 of the Local Government Act 2020 (the Act), Council resolves that:

1. On and from 1 September 2020 there be established as Community Asset Committee the following Committees.:

HALL COMMITTEES

- Bunyip
- Cardinia
- Clematis
- Garfield
- Gembrook Community Centre
- Koo Wee Rup Community Complex
- Lang Lang Memorial
- Lilypond House
- Modella
- Nar Nar Goon North
- Yannathan

RECREATION RESERVES

- Cardinia
- Chandler
- Gembrook
- Garfield
- Huxtable Rd Horse Riding Reserve
- Josie Bysouth
- Lang Lang Community
- Maryknoll
- Mountain Road
- Officer
- Pound Road
- Rythdale Hall & Recreation Reserve Committee
- Sutherland Park Recreation Reserve Committee
- Worrell
- Yarrabubba

OTHER

- Bunyip Auditorium
 - Nobelius Heritage Park & Emerald Museum
2. The purpose of the Committee is to manage the respective Hall, Recreation Reserve, Heritage Park & Museum or Auditorium as detailed in the title to the Committee
 3. The members and office bearers of the Committee shall be those members serving on the existing Section 86 Committee as at 1 September 2020
 4. A quorum of the Committee shall be one more than half of the total number of members of the Committee.

5. All members of the Committee have voting rights on the Committee.

Cardinia Access and Inclusion Advisory Committee

That Council resolves that:

1. On and from 1 September 2020 there be established as an Advisory Committee the Cardinia Access and Inclusion Advisory Committee (CAIAC)
2. The purpose of the Committee is to
 - a. Monitor and review Council's Access and Inclusion Policy and Action Plan
 - b. Provide information and timely advice to Council on issues impacting upon people with a disability which prevent their full inclusion in community life
 - c. Have input and participation in strategic planning issues affecting people with a disability in the Shire
3. The members and office bearers of the Committee shall be those members serving on the existing Section 86 Committee as at 1 September 2020
4. A quorum of the Committee shall be one more than half of the total number of members of the Committee.
5. All members of the Committee have voting rights on the Committee.

Carried

6.3 Policy Reports

6.3.1 Ageing Well Strategy 2019-25

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

Recommendation(s)

That Council adopts the Ageing Well Strategy 2019-2025 noting the minor amendments made to the Draft Strategy following community consultation.

Attachments

1. Draft Ageing Well Strategy and Action Plan 2019-2025 [6.3.1.1 - 42 pages]

Executive Summary

This report provides information from the public exhibition period and the appropriate amendments to the draft Cardinia Shire Ageing Well Strategy 2019-2025 for final adoption.

Extensive community consultation has taken place during 2019 with a range of key stakeholder's community groups and service providers including state and federal government agencies. This engagement has shaped the draft Ageing Well Strategy 2019-2025 and will determine council's five-year strategic priorities for older adults. We welcomed the opportunity for the public to consult on the draft by public exhibition over four weeks. This feedback has been considered and some minor amendments have been made accordingly.

Background

In 2016, Cardinia Shire Council was accepted by the World Health Organisation (WHO) as a member of the Global Network of Age Friendly Cities due to its commitment to deliver age friendly initiatives. This was achieved through delivering the Age Friendly Strategy and action plan 2015-2019, which has now concluded. The Ageing Well Strategy 2019-2025 builds upon those achievements and lays the pathway for a strong and inclusive community that values diversity, ageing and the concept of active ageing by optimising opportunities for good health, social and economic participation.

The strategy integrates council's Liveability domains and the WHO Age Friendly Cities Framework to ensure the outcomes have a specific focus on the priority actions for older people and their families across Cardinia Shire. These six key priorities within this adapted framework acknowledges that this approach can influence the dominant perception for older people from one of decline in both function and community participation to one of active participation, independence and having a voice.

A biannual action plan has been developed to compliment the delivery of this strategy. The plan outlines specific actions that will ensure the achievement of the objectives in a timely manner which will ensure accountability and transparency. These will be measured against specific objectives, providing a clear overview of implementation progress. This will ensure the needs of our community are continuing to be met and amended as appropriate.

A detailed report, draft Ageing Well Strategy and associated action plan were presented to council on 25 May 2020. Following council endorsement of the draft, community feedback was sought.

A public exhibition period was open for four weeks from 26th May - 26th June 2020. These responses and actions have been summarised in the community consultation section within this report.

Policy Implications

The draft Ageing Well Strategy 2019-2025 is influenced from International, National and State levels. The following strategies or policies have influenced this strategy development.

International

International Conventions, Charter of Human Rights and Responsibilities Act 2006
United Nations, Sustainable Development Goals
World Health Organisation - Global Strategy and action plan on Ageing and Health 2017

Federal Government Legislation/Policies

Aged Care -Living Longer, Living Better Act 2013
Disability Discrimination Act 1992

State Government Legislation/Policies

Local government act 1989
Victorian Public Health and Wellbeing Plan 2019-2023
Victorian Charter of Human Rights and Responsibilities Act 2006
Free from Violence 2018 - 2021
Age Friendly Victoria Declaration, 2016 The Age-friendly Victoria Declaration signed by the Municipal Association of Victoria (MAV) together with the Victorian Government in April 2016.
Disability Discrimination Amendment Act 2012

Local government Policies

Council Plan 2019-2020

The Ageing Well Strategy aligns with key outcome measures within the Cardinia Shire's Liveability Plan 2017-29 including:

- Improve mental health and wellbeing
 - Reduce financial vulnerability
 - Improve social cohesion
 - Improve safety
 - Reduce Obesity
 - Reduce Family violence
-
- Social Justice and Equity Policy 2019 - 2023
 - Cardinia Disability Access & Inclusion Policy 2017-2021
 - Cardinia Shire Social and Affordable Housing Strategy 2018-2025
 - Municipal Emergency Management Plan
 - Safer Communities Strategy
 - Reconciliation Action Plan Draft
 - Cardinia Shire Food Strategy 2018-2026

Relevance to Council Plan

The Council Plan has identified managing population growth (projections of a rapidly growing ageing population), and the importance of encouraging residents to improve their health and wellbeing.

Our People

We support a variety of needs and lifestyles through programs and activities that promote and develop the wellbeing of Cardinia Shire's people.

Our Community

We will foster a strong sense of connection between Cardinia Shire's diverse communities.

Our Governance

We will consult with the community, as appropriate, in an open and accountable way to help in determining the key direction of Council.

Climate Emergency Consideration

Nil.

Consultation/Communication

In line with Councils Community Engagement Policy, the development phase of the draft strategy comprised of several community engagement activities facilitated from March through September 2019 as follows;

- Focus Workshops with Councils Age Friendly Alliance Group
- Community Survey – Over 300 respondents
- Seven Community Workshops attending by over 200 residents facilitated in all wards
- Workshop with Student leaders - 100 Grade 6 children and their teachers
- Embrace Ageing Expo – Attended by 220 residents & twenty-two local service providers
- Living Well in Later life – Nine facilitated workshops attended by over 100 residents
- A variety of internal business unit and stakeholder workshops

All community engagement activities were based around the framework of the six priority areas (domains). Education was provided to participants on the domains for the Age Friendly Cities framework including a series of guided questions. Council with the support and participation of councils Age Friendly Alliance members delivered all workshops.

These engagement activities collectively shaped the draft Ageing Well Strategy 2019-2025. To ensure it accurately reflected the community input, public consultation was open for four weeks in 2020 for feedback. Methods used to inform residents of this opportunity included the following;

- Media Releases - advertised in the local Gazette throughout the consultation time frame.
- Social Media promotion on Council Facebook page, LinkedIn and Instagram.
- Creating Cardinia Online Platform which included a snapshot of the community engagement completed, simplified information on Age Friendly Cities, information on the purpose of the strategy and a survey to complete.
- Postal/ e-mailout to all sixteen members of Councils Age Friendly Alliance group for focused feedback.
- Council Bulletin to share with constituents
- Email and postal distribution to all relevant community groups and organisations including those involved in the initial consultation.

Face to face community engagement was unable to be achieved for this public exhibition due to COVID-19 restrictions. Despite this, ample opportunity has been provided through other means including non-digital methods as noted above. Internal staff consultation was also undertaken and communication with targeted business units. The Creating Cardinia platform received 130 views and four written pieces of feedback resulted in minor changes.

All responses have been summarised in the below table including any amendments within the strategy and action plan.

Who	Written/Verbal Feedback received	Updates and/or related action
Councillor request	Please consider adding sports clubs into action 6.2.	6.2 Promote existing opportunities to get active including sports clubs, outdoor trails for cycling and walking. Amended - included the wording Sports Club
Age Friendly Alliance member	"It is a well written document. As you indicated it would have taken a long time and lots of effort to prepare. Well done. With 16 references to the "Aged Friendly Alliance Group" throughout the document it appears there is going to be a lot of interesting involvement by the group over the next few years. Exciting stuff."	5.2 Develop a positive ageing cluster with representation from interested groups to provide a peer-based support and information sharing platform for local groups and organisations focused on older adult social connection. Comments acknowledged
Ranges Ward Resident	Please consider leaving the public consultation period open for longer than four weeks.	The community engagement approach within both the development and public consultation period is aligned to councils Community Engagement policy. Comments acknowledged
Council Officer	2020 Population data updates provided	Section 3- Our Community Amended to reflect current data

Financial and Resource Implications

The Ageing Well Strategy 2019 -2025 and action plan will be delivered within the current budget. Where actions can be enhanced, we will seek external funding and partnership opportunities where possible. Currently a component of EFT for the Ageing Well team is externally funded which ceases in June 2022. Future actions plans beyond this timeframe will be determined on staff capacity.

Item	Budget 20/21	Budget 21/22	Budget 22/23	Budget 23/24	Budget 24/25	Comments
Ageing Well Newsletter	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000	Includes graphic design, for the publication of three editions each calendar and distribution of 3000 copies.

Senior Citizens Operational grants	\$90,000	\$90,000	\$90,000	\$90,000	\$90,000	Support for members, operational function, social activities, and meal offset where provided.
Commonwealth Home Support Program	External funding \$62,781	External funding \$63,723				Funding ceases in June 2022 and CPI index each year.
Seniors Inclusion and Participation grant	External funding \$25,000	N/A				Project funding related F/Y 2020-2022.

Conclusion

The community has had the opportunity to have input into the draft strategy development and by public exhibition for a period of four weeks. Minor adjustments have been made to further reflect the additional input provided during the public exhibition. The Ageing Well Strategy 2019-2025 provides a new roadmap for council to support our older residents to optimise their wellbeing. It is evidence based, builds upon past achievements, new opportunities, and community engagement. It lays the pathway for a strong and inclusive community that values diversity and the concept of active ageing and we look forward to its implementation.

It is recommended that Council adopts the Ageing Well Strategy 2019-2025.

Resolution

Moved Cr Carol Ryan, seconded Cr Collin Ross.

That Council adopts the Ageing Well Strategy 2019-2025 noting the minor amendments made to the Draft Strategy following community consultation.

Carried

6.4 Financial Reports

6.4.1 Community Capital Works Grants Underspend Proposal

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

Recommendation(s)

That Council supports option two, as presented in this report, to redirect the underspend of \$185,000 into Councils 2021/2022 Community Capital Works Grants Budget.

Attachments

Nil

Executive Summary

On the 25 May 2020, Councillors adopted the recommendation of the 2020/2021 CCGW program. Following this meeting, a further paper was submitted to Council at the 29 June 2020 Councillor Briefing session providing options on how the underspend of the program, \$185,000, could be allocated within Cardinia Shire Council.

Background

A total of \$400,000 was identified through the budget process for the Community Capital Works Grants and Major Equipment Grants 2020/2021 programs, as follows:

- Community Capital Works Grants \$350,000
- Major Equipment Grants \$50,000

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.

At the conclusion of the assessment process, 18 Community Capital Works Grants projects will 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.

A total of \$213,857.59 has been allocated to the 20/21 program, leaving an underspend of \$186,143.

During the assessment phase, 12 applications were recognised to being ineligible, these 12 applications totalled \$189,953.75, with the vast majority not meeting the requirements of the Community Capital Works Grant Policy, in particular, where an application must have supporting financial documents showing the whole amount of the grant requested, is available to the club in their account.

Policy Implications

- Community Capital Works Grant Policy
- Major Equipment Policy

Relevance to Council Plan

The below areas of the Council Plan are reflected in this review

- 1.1 Our People - Access to a variety of services for all
- 1.4 Our People - Improved Health and well-being for all
- 1.5 Our People - Variety of recreation and leisure opportunities
- 2.1 Our Community - Our diverse community requirements met
- 3.1 Our Environment - Provision and maintenance of assets on a life-cycle basis
- 3.3 Our Environment - Enhanced natural environment
- 3.4 Our Environment - Natural and built environments supporting the improved health and wellbeing of our communities
- 5.1 Our Governance - An engaged community
- 5.3 Our Governance - Long-term financial sustainability

Climate Emergency Consideration

Nil.

Consultation/Communication

Consultation has not been undertaken with the greater community regarding the underspend, however internal communications have been undertaken with several departments.

Financial and Resource Implications

The Community Capital Works Program for the 2020/2021 program was \$400,000, \$350,000 identified for the Community Capital Grants program and \$50,000 committed to the Major Equipment Grants program.

- \$167,782.59 has been allocated to the Community Capital Works Grants applications, and
- \$46,075 to the Major Equipment Grant applications

Totalling \$213,857.59, leaving an underspend of \$186,143

OPPORTUNITIES TO REDISTRIBUTE UNDERSPEND

Option 1 - Absorb underspend into Councils Budget.

With Councils current financial situation, consideration may be given to retaining the excess funds to assist with Councils end of year budget.

Option 2 - Enhanced 21/22 CCGW Program

There is an opportunity to redirect the amount of \$185k into next years, 21/22 Community Capital Works budget, increasing the amount of money available to our community next year.

A review is currently being undertaken of the Community Grants program, with the aim and purpose to simplify the grants process. A major element of this review is to lessen the burden for clubs to have enough funds in their account prior to applying for grants.

It is expected that the launch of the reviewed grants program will generate more applications, therefore a need for a larger budget may be required.

Option 3 - Redirect underspend to unsuccessful clubs of 19/20 who did not meet the financial threshold

Council is considering a review of the Community Grants program, part of this review is that clubs will be required to provide evidence of their overall annual financial situation, with a percentage of the funding proposed to be identified in their account, before being considered for the grant. This has changed from the current policy where 100% of the grant funding request must be shown in a financial statement.

In addition, the MEG guidelines, of must having a playing surface or reserve, it is proposed to be changed to allow committees that are not sporting affiliated to apply for MEG applications.

By considering the proposed changes to the Grants program against the 12 applications that were unsuccessful in the 19/20 program, six applications could be supported within the underspend, totalling \$87,626.20.

Six applications would still not be successful.

In addition, it is recognised that some clubs/committees may not have applied in the 20/21 round, due to them recognising that they did not meet the requirements of the current policy and guidelines.

Conclusion

Three options are presented to Council regarding the allocation of \$185,000 underspend of the 19/20 Community Capital Works and Major Equipment Grants.

Officers recommendation is that the \$185,000 underspend in the Community Capital Works Budget be redirected into next year's 21/22 Community Capital Works budget, increasing the amount of money available to our community as set out in option two of this report.

Resolution

Moved Cr Ray Brown, seconded Cr Graeme Moore.

That Council approves the grants to the 6 applications which were refused on account of not meeting the financial threshold in the 2019/20 Community Capital Works grants and the balance of funds be redirected towards the 2020/2021 grants program

Carried

6.4.2 Contract 20/05 - Internal Audit Tender

File Reference: Nil
Responsible GM: Tom McQualter
Author: Tom McQualter

Recommendation(s)

That Council accept the schedule of rates tender submitted by Findex (Aust) Pty Ltd trading as Crowe Australasia for the provision of Internal Audit Services for an initial term of 1 year with 4 x 1 year extension options.

Attachments

1. Confidential Memorandum - Circulated to Councillors only [6.4.2.1 - 2 pages]

Executive Summary

Council is required to have an internal auditor in accordance with the Local Government Act.

This tender was structured as a schedule of rates tender with an estimate of five audits to be conducted per annum. The rolling single year terms is designed to allow flexibility within the internal audit service if required.

An evaluation panel, including the Internal Audit Chair was formed to evaluate the five responses received and the tender offering best value for money and service to Council is that provided by Findex (Aust) Pty Ltd trading as Crowe Australasia Crowe Australasia Pty Ltd ("Crowe").

Background

Council's internal audit program is designed by the internal auditor and Council's Internal Audit Committee. The internal auditors are required to undertake fieldwork, complete audit reports and attend audit committee meetings 4-5 times per year.

The Internal Audit program is a critical control in ensuring Council is managing its risk and audit functions appropriately and provides a strong line of defence in risk management theory.

The contract term is for an initial period of 1 year with 4 x 1 year extension options available. However, the overarching Strategic Audit Program is designed for four years with the audit committee.

The tender was advertised on Saturday 22nd February 2020 and closed on Tuesday 24th March 2020. Tender responses were received from five companies:

- Pitcher Partners Consulting Pty Ltd
- KPMG
- Crowe
- HLB Mann Judd (Vic) Pty Ltd
- NTT Australia Digital Pty Ltd

The tenders were assessed against the weighted criterion; Capability and quality of proposed staff, Relevant Experience and Past Performance, Proposed Program, Customer Service and

Compliance with Specification. Non weighted Criterion were also assessed on a pass/fail basis.

- Interviews were held with three shortlisted candidates being Crowe, HLB Mann Judd and Pitcher Partners which the entire assessment panel attended. The assessment panel included the Chair of the Internal Audit Committee.

Based on the assessments, the interviews and a financial assessment, the tender submitted by Crowe is recommended as it provides best value for money against the overall assessment criteria.

Policy Implications

There are no policy implications as a result of this report.

Relevance to Council Plan

5.2.1 Embrace and demonstrate effective governance and transparency, notwithstanding that on occasions, matters under consideration will be confidential.

Climate Emergency Consideration

Nil.

Consultation/Communication

Interviews were held with short listed candidates and referee checks were undertaken on the preferred tenderer Crowe. Those referee checks were satisfactory.

Financial and Resource Implications

The tender received is within budget for 2021-22 financial year and future years.

Conclusion

It is recommended that the tender submitted by Crowe be accepted for Internal Audit Services for an initial term of 1 year with 4x1 year extension options.

Resolution

Moved Cr Leticia Wilmot, seconded Cr Carol Ryan.

That Council accept the schedule of rates tender submitted by Findex (Aust) Pty Ltd trading as Crowe Australasia for the provision of Internal Audit Services for an initial term of 1 year with 4 x 1 year extension options.

Carried

6.5 Activity Reports

6.5.1 Quarterly Report - Council Resolutions

File Reference: Nil.
Responsible GM: Tom McQualter
Author: Doug Evans

Recommendation(s)

That Council note the report detailing the implementation of Council resolutions for the period April to June 2020.

Attachments

1. Quarterly Council Resolutions [6.5.1.1 - 15 pages]

Executive Summary

The attached report details all resolutions made at Council Meetings for the quarter ended June 2020 and the actions taken to implement the decision. The report also includes resolution made at earlier meetings where actions are still proceeding. The report does not include matters for noting or matters that required no action to be taken.

Background

One of the responsibilities of the Chief Executive officer is ensure that Council decisions are implemented without undue delay, this report is intended to inform the Council about the implementation of these decisions and provide transparency to the community regarding this.

Policy Implications

Nil.

Relevance to Council Plan

This regular reporting is relevant to the Council Plan goals included in the Our Governance section, in particular:

- 5.2.1 Embrace and demonstrate effective governance and transparency, notwithstanding that on occasions, matters under consideration will be confidential.
- 5.2.2 Govern and make decisions in the best interests of the Cardinia Shire community.

Climate Emergency Consideration

Nil.

Consultation/Communication

Council staff have been consulted in the preparation of this report

Financial and Resource Implications

Nil.

Conclusion

This report is provided for the information of Councillors to provide a transparent report and provide confidence to the Council that the decisions taken are implemented in a timely manner and without undue delay.

Resolution

Moved Cr Leticia Wilmot, seconded Cr Carol Ryan.

That Council note the report detailing the implementation of Council resolutions for the period April to June 2020.

Carried

6.5.2 Major Projects Report

File Reference: Nil.
Responsible GM: Peter Benazic
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	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	This project has recently been tendered, with submissions currently being assessed. An assessment report is being finalised to submit for approval under delegation (CEO).

Upper Beaconsfield Recreation Reserve redevelopment of change room facilities

Project description	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	Council has been successful in receiving \$300,000 from the Local Roads and Infrastructure grant. Additional funding has also been sought from the Community Sports Infrastructure stimulus program to further address future demand on this reserve. Council officers are awaiting a decision on this application. If successful, a review of delivery timeline will be undertaken.

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 first draft detailed designs to be finalised by the end of July.

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 service installation works are complete, tiling works complete, changeroom flooring installation ongoing and external works well advanced.

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 Funding has been approved. Project has been initiated for commencement of concept design.

Emerald Netball Facility (Pepi's Land) – pavilion

Project description 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 The concrete slab has been completed. Main sewer extension works are ongoing. Wall construction is at the external cladding stage. Installation of ceiling grid and window frames are progressing well. Installation of the roof is ongoing and progressing towards lock up stage.

Pepi's Land dam

Project description 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.

Funding	This project is fully funded by Council
Timelines	This project is complete
Update	Works to repair the dam wall have been completed. Temporary fence will remain in place until September-October to allow the planting to establish.

Gembrook Recreation Reserve – football/cricket pavilion redevelopment

Project description	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	The project is on track with demolition works complete. Service risers and concrete slab works are nearing completion. Drainage and sewer works are also nearing completion. Progressing with commencement of wall structure.

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 2020.

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	Tenders have been received and an assessment report is being finalised for the August Council meeting.

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	Tenders have been received and an assessment report is being finalised for the August Council meeting

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	Tenders have been received and an assessment report is being finalised for approval under delegation of CEO early August.

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 (Western) oval pavilion

Project description	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 project is on track with demolition works complete. Construction of new internal framework complete and progressing with plaster linings. Service installation works are complete.

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	Detail design is complete, and documents are being prepared for tender. Council officers are progressing with the review with the user group.

Toomuc Reserve Southern pavilion and little athletics/baseball facility

Project description	<p>Redevelopment of the junior football and cricket pavilion to include:</p> <ul style="list-style-type: none"> • 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 <p>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.</p>
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	Detail design is complete, and documents are being prepared for tender. Council officers are progressing with the review with the user group.

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 October 2020
Update	Refinements to the draft design have been prepared. Detailed designs are expected to be completed in the coming months.

Roads

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	Works are underway and progressing well and the project is due to be completed in the coming weeks.

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 August 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 late July. Works are due to be completed October due to the need for favourable weather conditions needed for 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
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- 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 and Main Drain Road are currently having the detailed designs reviewed, with tenders to be called through the construction contractors' panel shortly. Evans Road is progressing through environmental approvals.</p> <p>Detailed design for Bessie Creek Road, Huxtable Road, Mt Lyall Road, McGregor/Soldiers/Hobsons Roads and LL and Armytage Roads are well underway.</p> <p>Initial survey has been completed for Thewlis Road. A design consultant is yet to be engaged for Dore Road.</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 now complete. Stage 2 to reach practical completion in August.
Update	<p>Stage 1 works have been completed by the developer with the construction of the raised asphalt speed control devices to be completed in conjunction with the wearing course asphalt in stage 2</p> <p>Works on stage 2 are progressing well.</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 signalling six previously un-signalised intersections. All intersections have been highlighted for additional or extended turn lanes, additional through lanes, bus priority lanes, and shared cycle/pedestrian lanes.</p> <p>Initial progress will include the detailed design and approvals of these projects to inform the decision-making process for subsequent construction and timing.</p>
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Identified intersections include:

1. Glismann Road
2. O'Neil Road
3. Brunt Road
4. Bayview Road
5. Tivendale Road
6. McMullen Road
7. Arena Parade
8. 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	<p>Tenders for O'Neil Road intersection have been received and the contract awarded. Construction is due to start in August 2020 pending approval of the final plans by Department of Transport (DoT). These works are expected to be completed by March 2021.</p> <p>Detailed designs for Glismann Road are well advanced and nearing completion. Construction tenders for Glismann Road are expected to be called in the coming months.</p> <p>The remaining six design packages were awarded in March and are well underway. Preliminary works have been completed and the revised functional layout designs have been submitted to DoT for approval. Completed detailed designs are expected by October 2020 and further construction tenders called, with construction anticipated to start in early 2021.</p>

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	The program of works has been completed, with the exception of Redwood Road, Gembrook
Update	Works are currently being finalised on Redwood Road, Gembrook.

Sealing the hills

Project description	Council has received funds from the Australian Government to seal over 110km of unmade roads in the Dandenong ranges (Emerald, Cockatoo and Gembrook) including a number of connector roads.
Funding	These roads projects are jointly funded by the Australian Government (\$150m) and property owners, who benefit from the project, via special charge schemes (approx. 20% of the overall budget)

Timelines This large package of works will be delivered over the next 10 years with approx. 2-5% occurring each year in the first four years and ramping up to 10-15% in the following six years.

Update Nine design packages constituting 23 roads and approx. 35km have been awarded in May and are underway. Approx. 28km of these roads are connector roads and not subject to a special charge scheme and will form the priority of construction works pending planning requirements. Final design of all nine packages is due to be delivered by late September.

Roads currently being designed are:

- Mt Burnett Road and Morrisons Road (Pakenham Upper/Mt Burnett)
- Ure Road and Mountain road (Gembrook)
- Matters Road, Bourkes Creek Road, Shelton Road and Toomuc Valley Road
- Beenak Road East, (Gembrook) Moore Road, Nar Nar Goon North) and Thewlis Road (Pakenham Upper)
- Dickie Road and Carpenter Road, Beaconsfield Upper
- Telegraph road and Armstrong Road, Beaconsfield Upper
- The following roads are also having preliminary designs completed, however final design sign off will be predicated on future scheme process and feedback.
- Caroline Avenue and Boronia Crescent, Cockatoo
- Chrichton Road and Princess Avenue Emerald
- Station Street, Innes Road, Anzac Street and Heroes Avenue Gembrook.

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 are complete.
Update	All bridge projects for 2019-20 are now complete.

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 July 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>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> <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 mid-August, whilst works at Suffolk Avenue will likely commence early in the 2020-21 financial year.</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. The latest round of footpath inspections on high and medium priority footpaths as set out in the Road Management Plan have now been completed.

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:
Funding	The \$800,000 program is fully funded by Council through the footpath and pedestrian and bicycle strategy programs.
Update	All the works allocated to this program for 2019-20 have now been completed.

2020-21 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 2020-21 are along: <ul style="list-style-type: none">• Rosebery Street, Lang Lang• Mary Street, Bunyip• Kilvington Drive, Emerald
Funding	This program is fully funded by Council.
Update	Quotes are currently being sort for each of the projects and will commence once favourable weather conditions are available.

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	The north bridge reconstruction is complete, and the bridge is now open. The southern bridge commenced construction on site in mid-June and works are progressing well and nearing completion.

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 late July.

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	Tenders have been received and an assessment report is being finalised for the August Council meeting

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	All playgrounds works are now complete and open to the public.

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 Still awaiting on the transfer of land from the developer in order to progress this project.

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 1000m² 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 The concept design has been approved. Ongoing consultation with key stakeholders to review detailed design and further development of the 3D model.

Multicultural hub feasibility study

Project description Undertake a feasibility study, including community and key stakeholder consultation that will outline:

- 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 community members and leaders via video link for stage two consultation is complete. Preparation for phase three consultation complete and will be launched at the end of July.

Resolution

Moved Cr Leticia Wilmot, 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

Cr Leticia Wilmot advised that she had attended an online forum for the Victorian Association of Malawians and Friends group.

Cr Brett Owen talked further about Laura Levens passing. Cr Owen also discussed the Casey Cardinia Foundation's grant progress.

Cr Graeme Moore discussed June Wright's passing and her contributions to Cardinia Shire.

Cr Ray Brown also discussed June Wright and her life around Koo Wee Rup.

Cr Ryan expressed her appreciation to Council staff for their efforts in removing dumped rubbish at a property in Pakenham and commented on her involvement with efforts in several programs in the fields of Mental Health, Men's Wellbeing and elder abuse.

9 Presentation Of Petitions

Nil.

11 Community Questions

The Mayor advised that 1 question was received for the Council meeting. The question was from Mr Longmuir and read:

Has Council considered supporting the motion to rule out working with contractors who work on Adani's Carmichael coal mine?

The Chief Executive Officer responded with the following:

Council does not have an official position in relation to not working with contractors who work on Adani's Carmichael coal mine.

Council publicly tenderers for works over the value of \$200,000 and goods & services over \$150,000, as required by the Local Government Act. All tender responses are evaluated in line with the evaluation criteria as described in the tender documents. This criteria is different for each tender, and is designed to ensure the best value outcome can be achieved for the community. Council does use one mandatory criteria, weighting for local suppliers. The preference for local providers attempts to ensure the local economy is supported and nurtured for the betterment of the community.

In every instance of a procurement process, council conducts due diligence to ensure contractors supply the best possible value to the community outcomes required.

14 Meeting Closure

Meeting closed at 09:17 pm.

Minutes confirmed
Chairman