

Town Planning Committee Meeting

Minutes

Monday 7 June 2021

Commenced at 7:00 PM

Council Chambers
20 Siding Avenue, Officer
Victoria

Members: Cr Brett Owen Mayor
Cr Jeff Springfield Deputy Mayor
Cr Stephanie Davies
Cr Jack Kowarzik
Cr Graeme Moore
Cr Collin Ross
Cr Tammy Radford
Cr Carol Ryan

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.

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.

4 Declaration Of Interests

Nil.

5 Ordinary Business

5.1 T210053 PA - Demolition of Existing Fire Damaged Heritage Building at 19-21 Woods Street, Beaconsfield

Responsible GM: Peter Benazic
Author: Evangeline McGauley-Kennedy

Recommendation(s)

That Council issue a Notice of Decision to Grant Planning Permit T210053 for the demolition of the heritage building at 19-21 Woods Street, Beaconsfield VIC 3807, subject to the following conditions:

1. Prior to a demolition permit being issued under Section 29A of the Building Regulations, the following must be provided to the satisfaction of the Responsible Authority:
 - a. An itemised list of the materials that are to be salvaged must be provided and approved to the satisfaction of the Responsible Authority, including:
 - i. The front window as pictured in Figure 15 of the Heritage Assessment prepared by The Anthemion Group Pty Ltd;
 - ii. The front door and all lead lighting as pictured in Figure 16 of the Heritage Assessment prepared by The Anthemion Group Pty Ltd;
 - iii. The original block weatherboards from the façade as pictured in Figure 15 of the Heritage Assessment prepared by The Anthemion Group Pty Ltd;
 - iv. All timber fretwork as identified in the Heritage Assessment prepared by The Anthemion Group Pty Ltd; and
 - v. Any undamaged original floorboards, architraves and fireplace bricks within the building.
 - b. Details of a commemorative plaque illustrating the former Post Office building, in context with the adjacent Woods Street Commercial and Civic Precinct. The historic marker must include:
 - i. An image or photograph of the original Post Office building;
 - ii. Construction date;
 - iii. Statement of significance;
 - iv. Reason for demolition; and
 - v. Any other relevant information.

2. Prior to a demolition permit being issued under Section 29A of the Building Regulations, the owner must enter into an agreement with the Responsible Authority and made pursuant to Section 173 of the *Planning and Environment Act 1987* to provide for the following obligations:
 - a. Require the reinstatement/incorporation of the original façade using as many of the original salvaged materials as possible in accordance with Condition 1(a) of Planning Permit T210053 as part of any future development subject to relevant building standards and to the satisfaction of the Responsible Authority via a Planning Permit application.
 - b. Include a list of the materials required to be salvaged and re-used where possible in any future development subject to planning approval.
 - c. Require that the salvaged materials be kept in a safe, secure and weatherproof location on the subject site or an alternative location to the satisfaction to the Responsible Authority.

The application must be made to the Registrar of Titles to register the Section 173 agreement on the title to the land under Section 181 of the Act.

Actions required:

3. During demolition the items listed in Condition 1(a) must be salvaged, with photographic evidence to be provided to the satisfaction of the Responsible Authority.
4. The historic marker/ commemorative plaque required by Condition 1(b) must be erected in a prominent position to the site frontage and within the title boundary of 19-21 Woods Street, Beaconsfield within 6 months of demolition, to the satisfaction of the Responsible Authority.

General:

5. The demolition as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
6. Once the demolition has started it must be continued and completed to the satisfaction of the Responsible Authority.

Expiry:

7. The permit for the demolition expires if—
 - a. the demolition does not start within two (2) years after the issue of the permit; or
 - b. the demolition is not completed within four (4) years after the issue of the permit;

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

Notes:

- i. Council recommends that prior to activating this permit, a registered building surveyor be contacted to ensure the demolition complies with the Building Act and Building Regulations.

Attachments

1. Demolition Plans [5.1.1 - 3 pages]
2. Heritage Assessment and Photos [5.1.2 - 32 pages]
3. CONFIDENTIAL - Objections - Circulated to Councillors only [5.1.3 - 18 pages]

Executive Summary

APPLICATION NO.:	T210053
APPLICANT:	Julia Lawson
LAND:	L1 TP839044, 19-21 Woods Street, Beaconsfield VIC 3807
PROPOSAL:	Demolition of existing fire damaged heritage building
PLANNING CONTROLS:	<p>Zone:</p> <ul style="list-style-type: none"> • Commercial 1 Zone <p>Overlays:</p> <ul style="list-style-type: none"> • Heritage Overlay - Schedule 133 • • Flood Overlay (Partially to rear) • • Public Acquisition Overlay – Schedule 5 (Partially to rear)
NOTIFICATION & OBJECTIONS:	<p>Pursuant to Section 55 of the <i>Planning and Environment Act 1987</i>, the application was advertised by the placing of a sign on site and notices in the mail to adjoining property owners.</p> <p>Seven (7) objections have been received to date and one (1) submission stating that it disagreed with the Heritage Assessment.</p>
KEY PLANNING CONSIDERATIONS:	<p>Heritage significance</p> <p>Impact of demolition on heritage streetscape</p> <p>Intactness of the heritage place</p>
RECOMMENDATION:	That a Notice of Decision to Grant a permit be issued subject to conditions.

Background

The subject site is located on the western side of Woods Street, Beaconsfield, within Beaconsfield's Town Centre and nearby the intersection with Woods Street and Old Princes Highway.

The site is located in an area of Woods Street characterised with a mix of businesses including cafes, restaurants, mechanical workshops, offices and other mixed-use type developments.

The site is a slightly irregular rectangular shape with a frontage to Woods street of 24.59 metres in width and 83.39 metres in depth. It is approximately 2075.49sqm in size and currently contains two (2) buildings and scattered vegetation. The building to the front of the site is subject to this application.

The front building is cited in the Cardinia Shire (North) Heritage Study as the Beaconsfield Post Office and Residence, constructed circa 1910, which is made up of a verandahed, weatherboard building with an attached verandahed residence.

The building is covered by the Heritage Overlay (Schedule 133) which includes a number of other buildings (located at numbers 19-21, 23-25, 24-26 and 37) and Elm trees (located at number 11-17) on Woods Street, as well as the War Memorial (located on Old Princes Hwy). These buildings, trees and war memorial make up the 'Woods Street Commercial and Civic Precinct'.

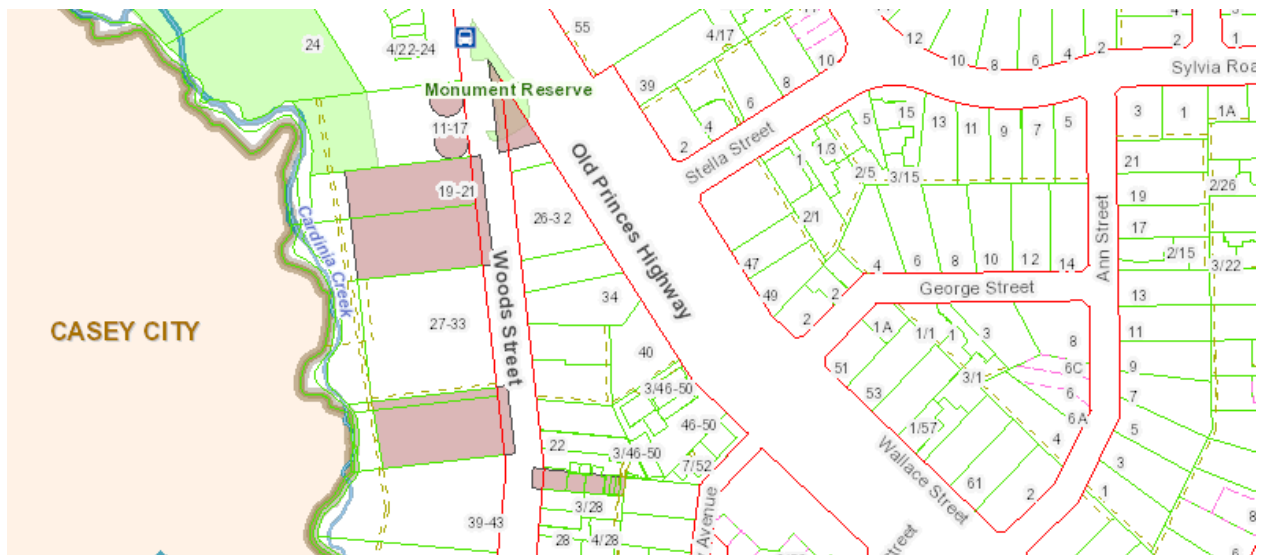


Figure 1: Heritage Overlay 133 - Properties making up the 'Woods Street Commercial and Civic Precinct'

According to records the Beaconsfield Post Office and Residence was originally constructed in a typical Edwardian style, with a steeply-sloped, hipped roof and a prominent, front-facing gable end. The original front-facing, gabled end of the façade appears to have been the entrance to the former post office, as it contained the post boxes as demonstrated in the photograph below.



Figure 2: Former Beaconsfield Post Office taken from Beaconsfield Progress Association website (circa 1988)

Throughout the years the original building has been renovated and added onto and was used for the post office up until 2004. Most recently it was the site of a restaurant.

The original building has been significantly altered throughout this time, with the most significant changes being the removal of the original front-facing gabled part of the façade to make way for the existing front wing which was constructed following the issue of permit P.10758 (issued around April 1992) as seen in the pictures below.



Figure 3: Additions to the front façade as seen today (Photo dated post April 1992)



Figure 4: Original building (outlined blue) and façade (outlined green) and later additions (outlined red)

In early November 2020 the building was subject to a fire in which according to Council's building file the roof frame of the mid-section of the building (original section of the building), which included the kitchen and dine-in area was completely burnt and remaining members for trusses were completely charred. It was also noted that a section of the ceiling was completely collapsed and parts of the roof sheeting had also been removed by firefighters to help control the fire.

Advice from Council's Deputy Municipal Building Surveyor is that the centre part of the building was severely damaged by fire, and while the structure is still standing, the framing members have been reduced in size by the fire, so are not as structurally strong as they should be. Water damage was also caused from firefighting throughout the entire building, causing further damage to the framing members (i.e. mould and rot).

Photographs taken shortly after the fire identify extensive damage to the interior of the building as a result of the fire and its firefighting efforts (water damage).

The façade and the front wing (later addition) appear to remain generally intact, apart from some damage to the northern side of the original rear part of the building near the fireplace and chimney.



Figure 5: Extent of fire damage to buildings (NearMap image dated 25 Nov 2020)

Subject Site



Figure 6: Subject site and surrounds

The subject site is located on the western side of Woods Street, near the intersection with Woods Street and Old Princes Highway.

The subject site is developed with two (2) buildings, one (1) being the fire damaged heritage building subject to this application which was used as a restaurant and bar immediately prior to the fire, along with a caretakers dwelling located to the rear.

It is noted that this caretakers dwelling was not impacted by the fire.

The site is located in a commercial pocket of Beaconsfield providing for services such as offices, a kindergarten, mechanical repairs workshops, veterinary and medical practices, salons, restaurants and cafes.

There are no restrictions or agreements registered on title.

The site is subject to Aboriginal Cultural Sensitivity, however the application is not considered a High Impact Activity under the Aboriginal Heritage Regulations 2018.



Figure 7: Subject site (latest NearMap imagery)

Permit/Site History

The history of the subject property includes:

- Plans for the front wing extension to the post office were found on Council's file under Permit P.10758 and advice was given that a planning permit was not required for these works on 13 April 1992.
 - The front additions appear to have been completed shortly thereafter.
- Planning permit T040522 was issued 23 August 2004 for an on-premises Liquor Licence generally in accordance with the approved plan.
 - Amended Planning Permit T040522-1 was issued 5 October 2004 that amended condition 3 for an alteration to seating numbers.
 - Amended Planning Permit T040522-2 was issued 26 June 2019 to amend the operating hours and delete condition 4 which related to redundant expiry requirements.
 - Amended Planning Permit T040522-3 was issued 24 June 2020 to amend the operating hours, remove reference to retail premises and amend the red line plan.
 - Amended Planning Permit T040522-4 was sort in late 2020 for amendments to the existing liquor license to include on and off premises consumption of liquor, however this application did not proceed due to the fire.
- Planning Permit T050218 was issued for the use and development of the land for the purpose of constructing a care taker's residence on 10 August 2005.
- Planning Permit T120126 was refused for the development of the land for an office and a shop and associated car parking on 6 October 2014.
- Planning permit T160852 was issued for the development of the land for retail and offices, associated vegetation removal, partial demolition of an existing building and associated reduction in on-site car parking (1 space) on 22 March 2018.
- The property was subject to a fire on 13 November 2020.

Relevance to Council Plan

Nil.

Proposal

Approval is sought for the demolition and removal of the entire front building citing the damage caused by the fire, and the subsequent water damage caused by fighting the fire.



Figure 8: Proposed extent of demolition

The building to be removed is located to the front of the subject site and is known in the heritage citation for HO133 as the 'Beaconsfield Post Office'.

The building is setback between 8.2 metres and 15.8 metres from the eastern title boundary (Woods Street), between 3.4 metres and 9.5 metres from the northern title boundary and 2.4 metres from the rear (western) title boundary.

Areas damaged by the fire include:

- Entire original middle section of the building and roof; and
- Parts of the later additions (to the front and rear of building).

Planning Scheme Provisions

Zone

The land is subject to the following zones:

- Commercial 1 Zone

Overlays

The land is subject to the following overlays:

- Heritage Overlay - Schedule 133

- Flood Overlay (Partially to rear)
- Public Acquisition Overlay – Schedule 5 (Partially to rear)

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 15.03 – Heritage
 - Clause 15.03-1S – Heritage conservation

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 – Cardinia Shire Key Issues and Strategic Vision
- Clause 21.02-6 – Post contact heritage

Relevant Particular/General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 65 – Decision guidelines
- Clause 66 – Referral and notice provisions
- Cardinia Shire (North) Heritage Study (1996) - Woods Street Commercial and Civic Precinct
- Beaconsfield Structure Plan (December 2013 – expires 31 December 2021)
- Urban Design Guidelines – Woods Street (North) Beaconsfield (May 2013)

Planning Permit Triggers

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

- Pursuant to Clause 43.01-1 (HO) a planning permit is required to demolish or remove a building.

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 the statutory declaration has been submitted to Council on 11 May 2021.

Council has received seven (7) objections to date, and one (1) submission disagreeing with the heritage assessment.

The main concerns raised by the objections are:

- Lack of perceived objectivity and evidence in the Heritage Assessment.
- The demolition would result in the loss of an important historic building to the Beaconsfield community.
- Community wants to see the building repaired rather than demolished.
- Personal and emotional attachment to the building and its connection to Beaconsfield's history.

Referrals

External Referrals/Notices:

Referrals/ Notice	Referral Authority	Brief summary of response
Section 55 Referrals	N/A	
Section 52 Notices	N/A	

Internal Referrals:

Internal Council Referral	Advice/ Response/ Conditions
Heritage	Supports the demolition of the building, subject to conditions outlined in the discussion.
Building	Provided advice on the scope of the fire/ water damage and viability of repairing the building.

Discussion

A heritage assessment was submitted with the application prepared by The Anthemion Group (dated 31 March 2021) which identified that throughout the years, the original building has been subject to numerous alterations and additions, most of which occurred during the latter part of the 20th Century (c. 1970's-90's). The report identified that what heritage fabric was left of the building, was the section of the building destroyed by the fire and fire-fighting measures. Council's Heritage Officer agreed with these findings based on their own knowledge and inspection of the building.

Because of the irreversible damage that has occurred to what was left of the original section of the building, combined with the limited heritage intactness of the building prior to the fire, the proposal for demolition and removal of the building is considered appropriate given the extreme circumstances.

Planning Policy

Policies such as Clause 15.03-1S (Heritage conservation) and Clause 21.02-6 (Post-contact heritage) are in place to protect and conserve places of historic significance to the state, as well as the Shire.

Clause 15.03-1s (Heritage conservation) seeks to ensure the conservation of places of heritage significance. Similarly, Clause 21.02-6 (Post-contact heritage) seeks to provide for the protection and appropriate management of sites of heritage significance.

Whilst it is recognised that the subject building at 19-21 Woods Street contributes to the Woods Street Commercial and Civic Heritage Precinct, it is not individually significant (under the provisions of the planning scheme). As the unfortunate and unforeseen circumstances of the building fire have caused severe damage to the original section of the building, which would otherwise continue to be conserved and protected, the viability to retain or repair the building must be contemplated.

Due to these circumstances, sometimes there is no ability to meet the objectives of the policy through repairing and retaining the building due to the impracticality of doing so.

In these instances, although the physical building would be lost, a proportionate response to ensure that the demolition is consistent with the objectives of the above policies can be requiring that any approval to demolish the building includes conditions that certain parts of the building to be salvaged and re-used in future development (where practical), as well as ensuring that future development is designed to be sympathetic to the heritage of the place, to ensure that the heritage is not completely lost.

Additionally, as the Heritage Overlay will still apply to the land if the building is removed, Council can encourage the architecture of the original building to be interpreted in any building that is constructed on the land in the future, and also through the installation of historical markers or signage so that the community can remember and learn about the original building.

Furthermore, as the Heritage Overlay relates to a 'precinct', the loss of one (1) building, although unfortunate, is unlikely to disrupt the intention of the overlay to protect a 'pocket' of historical architecture and local significance.

Based on the above, it is considered that even if the building is lost, it would not be completely detrimental to the 'precinct' as a whole.

Heritage Overlay – Schedule 133

The Heritage Overlay aims to conserve and enhance heritage places of natural or cultural significance and elements that contribute to the significance of heritage places. It also seeks to ensure that development does not adversely affect the significance of heritage places.

Pursuant to Clause 43.01-1, a permit is required under this overlay to demolish or remove a building. The relevant decision guidelines of this overlay include:

- The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place;
- Any applicable statement of significance, heritage study and any applicable conservation policy;

- Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place; and
- Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.

The Cardinia Shire (North) Heritage Study (1996) refers to the subject site as the 'Beaconsfield Post Office and Residence', which forms part of the 'Woods Street Commercial and Civic Precinct'. The precinct is made up of seven (7) nearby sites located along Woods Street and Old Princes Highway.

The study states that this precinct includes the post office and residence, the shops or stores further south on Wood Street, the war memorial and planting outside the health centre, all of which can still be recognised as an early commercial and civic centre in a town overtaken by more recent development.

The heritage significance of the place is more closely aligned with the social values of the precinct (as a whole), rather than a specific building or place for its architectural style. The Study identifies that the mainly Edwardian-era Wood Street Commercial and Civic Precinct as significant to the Cardinia Shire because it:

Provides evidence of the variety of buildings (shops, post office) and landscaping (elms) which made up the fabric of the Shire's early service centres, in this case Beaconsfield.

The precinct is early, judged among other similar precincts within the Shire, and the comparative completeness of the group allows scope to interpret the place historically, as part of the day to day lives of local people over a long period.

In terms of the subject site, the Study provides limited description of the Beaconsfield Post Office and Residence apart from stating that it is a verandahed, weatherboard building with an attached verandahed residence constructed circa 1910.

Contrary to this assessment, the Beaconsfield Progress Association's website suggests that the original building was constructed in 1889 and became the Beaconsfield Post Office in 1916, which was in operation at the site until 2004.

Whatever the case, what is not mentioned are the numerous alterations and additions the Post Office building and residence has undergone in the decades since its construction, most detrimentally of which is the construction of the 'mock-heritage' style 'front wing' which, as seen from photographic records of the site (see Figure 2, 3 & 4) was constructed around 1992 and is not the original façade.

Further changes include the replacement of most of the original elements, including windows, weatherboards, verandahs, decking and fretwork with modern materials. All these changes are considered by Council's Heritage Officer to significantly degrade the overall intactness of the heritage place. Combining this with the building fire that destroyed and compromised the entire original middle section of the building, it is deemed that there is now little heritage fabric that can realistically be preserved.

However, despite the fire damage and the intactness of the building, it is still valued due to the social significance to the Shire as well as the local community and therefore, the following decision guidelines of the Heritage Overlay and the implications demolition may have on the heritage precinct as a whole must be considered.

The significance of the heritage place (including any applicable statement of significance, heritage study and any applicable conservation policy) and whether the proposal will adversely affect the natural or cultural significance of the place

The Cardinia Shire (North) Heritage Study, 1996, identifies that the significance of the heritage place is linked to the precinct as a whole, not the specific building at 19-21 Woods Street. Based on the findings of the study the building contributes to the streetscape of the precinct, and to the communities understanding of the early civic and commercial history of the township during the Edwardian era, rather than being individually important.

As identified in the Heritage Assessment prepared with the application, it is suggested that the proposed demolition is unlikely to adversely affect the significance of the precinct or the building, given the little remaining heritage fabric in what could be salvaged from what has been damaged:

The fire has impacted on the roof of the residence and variously internally. However, the fundamental consideration is that only the façade of the residence is original and appears to date from c.1910 – everything else is later and from different eras. This appears to have been the case when the heritage citation was prepared, but in an assessment from the street, this may not have been apparent. The building had little intrinsic significance in its fabric before the fire but it is acknowledged that it is/was a historical marker in Beaconsfield. The only element which does have intrinsic significance in its fabric is the façade to the residence.

The Heritage Assessment submitted identifies that the only original elements of the building left are the timber block-fronted façade, window, eaves bracket and possibly the doorcase (the door and leadlight appears to be later or reproduction although this is not confirmed) located on the eastern elevation of the building. This assessment supports Council's Heritage Officers



findings.

Figure 9: What is left of the original façade (Note: weatherboards to the right are not original).

As discussed, the original front facing gable end façade (pictured in Figure 2) which at one stage contained the post boxes was removed to facilitate the construction of the 'mock-heritage' front wing which can be seen today. This appears to have been constructed in or around mid-1992 under permit P.10758.

The Assessment identifies that the verandah and faux stone flooring is not original. It also details that the cladding along the northern, southern and western elevations is also not original as they are not timber, but rather compressed fibre weatherboards. The original windows have also been replaced at some point along this elevation as they would have been vertically oriented, timber-framed double-hung sash windows with moulded architraves, whereas the existing window is a horizontally-oriented rectangular window with a central cross glazing bar.

Further, the entire front wing, as discussed previously is not original and likely constructed sometime in 1992 based on photographic records and Council's historic planning and building files, therefore it has no heritage value. Additionally, there have been a number of additions to the side and rear including a garage and rear verandah.

As a result of the fire, the entire middle section of the roof and framing have been destroyed and removed to deal with the fire as well as make the building safe, along with severe internal damage to other various elements of the original building.

Council's Heritage Officer's agrees with the Assessment provided based on their knowledge and inspection of the building that there is little remaining heritage fabric to the building. Therefore, the significance is to the character of the precinct rather than the individual site or building.

Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place

As discussed, based on the Heritage Assessment submitted, as well as site inspections conducted following the fire by Council's Heritage Officer and Deputy Municipal Building Surveyor, it is clear that what parts of the building that are left (relatively) intact are of no heritage value. The original fabric of the building (middle section) bore the majority of the fire and water damage, with the entire roof being lost and substantial damage being done to the internal structure of the building as a result of the heat of the fire, as well as physical fire and water damage.

As discussed above, Council's Deputy Municipal Building Surveyor identified that:

- The centre part of the building was severely damaged by fire, and while the structure is still standing, the framing members have been reduced in size by the fire, so are not as strong as they should be.
- The fire travelled throughout the ceiling space, so all the roof framing members have been damaged by fire.
- There is also water damage from the firefighters throughout the entire building, so the framing members would likely have mould and rot in them.

Based on the information submitted and Council's own inspection of the building following the fire, it is not confident that repairing the existing building and its structure is viable given the

damage that has been done. The extensive works that would be required would essentially see the building demolished and rebuilt in order to facilitate repairing it.

The structural work required to rebuild a site effected by fire damage has previously been considered by the Tribunal in considering demolition of heritage buildings. One of the main tests discussed by the Tribunal in *The Roman Catholic Trusts Corporation for the Diocese of Melbourne v Yarra CC* [2012] VCAT 1379 (4 September 2012) is:

Whether rectification works would require substantial reconstruction replacing visible fabric.

As advised by Council's Deputy Municipal Building Surveyor, due to the timber construction of the building, along with its age and the extensive damage, the rectification works required to repair the fire damaged sections of the building to today's standards would certainly require substantial reconstruction which would result in the replacement of visible fabric.

Based on this alone, demolition could be supported, however it is further justified by the lack of original fabric remaining of the building which the Overlay seeks to protect.

Following from this test, the question is also raised of whether it is fair to refuse an application to demolish a building, which prior to an event (such as a building fire), already had little intact heritage elements.

The Tribunal in *The Roman Catholic Trusts Corporation for the Diocese of Melbourne v Yarra CC* held that before granting permission for demolition of a significant building it is not necessary to show that a building is dangerous, ruinous or liable to collapse, but also that costs associated with the reconstruction of a heritage building can be a relevant factor (in certain cases) when contemplating whether a heritage building should be demolished, following an event, such as fire which was beyond the owners control.

The fact that the owners have advised that even though they were insured, the costs of repairing the building, compared to the insurance payout make repairing the building prohibitive for them, should also be considered. They have advised that hardship of losing the building (which they also once lived in and conducted their family business from) and not having the funds to repair it, has also been devastating to them.

The Roman Catholic Trusts Corporation for the Diocese of Melbourne v Yarra CC discusses:

The cost of repair or renovation, and whether a building is uneconomic to repair, are relevant, particularly given section 4(a) of the Planning and Environment Act 1987 which is 'to provide for the fair, orderly, economic and use, and development of land.'

The Tribunal has observed that section 4(a) has sometimes been taken to mean there is an unreasonable hardship on the current owner ('fair') and significance of the building does not warrant undue expenditure ('orderly, economic and sustainable'). However, it is not sufficient to demonstrate that there has been a loss of expectations or 'simply demonstrate a cost of repairs or maintenance.' Furthermore, the effect of demolition must be examined 'with regard to the overall planning impact and direct evidence regarding the heritage place.'

The Tribunal has held that 'It is not simply a matter of saying that as long as it is possible to carry out the required repairs and/or renovations that it is reasonable to require this to occur at any cost in dollars terms.'

The condition of the building is a relevant consideration in a demolition application. For instance, the Tribunal has held that it would be unfair to refuse to allow demolition and a replacement when, amongst other things, 'The cost of reinstating the building would appear to be inordinately high and/or reinstatement may well diminish the heritage values of the heritage place'.

Section 73(b) of the Heritage Act 1995 allows consideration of the extent to which refusal of an application 'would affect the reasonable or economic use of the registered place... or cause undue financial hardship to the owner.' Although there is no similar provision in the Planning and Environment Act 1987, or the Cardinia Planning Scheme, it would be anomalous if such considerations were not also relevant to buildings of local significance.

Effectively, both factors of fairness and the likelihood that repair works would further detrimentally impact the heritage place have been considered in this assessment. In considering this, Council finds that given the limited intactness of heritage fabric of the building prior to the fire, and the extensive works that would be required to repair the building would effectively all but diminish any remaining heritage value, the demolition can be supported.

Even disregarding the above, Council cannot require the repair or reconstruction of a building in private ownership via the planning process. Because of this, and as a permit is required for demolition (as well as any reconstruction works in general), the risk that the building will continue to fall further and further into disrepair if not demolished is a real possibility and must also be considered.

In considering all of the above, in order to determine the suitability for demolition in this scenario, the proposal has been referred to Council's Heritage Officer who advised that based on the information provided, their inspection of the site following the fire and given the unforeseeable circumstances in which the application is being submitted, that:

- The Heritage Assessment provided supports their assessment that there is little intactness of the original heritage fabric of the building;
- What little original building that remains (façade of the left rear wing pictured in Figure 9) has been the most damaged by the fire and water damage (both internally and externally); and
- The remaining alterations and additions to the building (garage, front wing, rear verandahs pictured in Figure 4) which are not as severely damaged by the fire and water damage have no heritage value.

Based on this, Council's Heritage Officer concluded that the demolition is not considered to adversely affect the significance of the heritage site (in isolation) as:

- The majority of the remaining fabric which was of heritage significance has been severely damaged by the fire and firefighting works and is structurally compromised;
- Works required to repair the building have the potential to further diminish the little heritage intactness of the building that remains;
- Due to the alterations and additions the building is of limited heritage significance in isolation, its significance derives from its contribution to the overall significance of a heritage place; and

- The remaining lesser damaged sections of the building to be removed are not significant to the heritage building as they are later additions with no heritage values.

However, as this building contributes to a heritage precinct, whether the demolition will adversely affect the significance, character or appearance of the heritage precinct as a whole has also been considered.

Whether the proposed works will adversely affect the significance, character or appearance of the heritage place

Due to the changes that have occurred to the original building throughout the years, the Heritage assessment submitted contemplates that demolition of the building would not adversely affect the significance, character or appearance of the 'heritage place' (being the Woods Street Commercial and Civic Precinct) citing:

The visual presence of the residence and its role as a historical marker in the Wood Street Commercial & Civic Precinct will be lost. However, in the context of considerably less original fabric than perhaps assumed, added to which there is fire damage, mainly to the roof of the residence and the interior, this is acceptable in the circumstances and from a heritage perspective. The loss could be compensated by interpretation as suggested above.

As a consequence of the proposed demolition, an example of the variety of buildings in the Wood Street Commercial & Civic Precinct will be reduced by one i.e. a post office. The Precinct will still present as an Edwardian pocket of buildings as it does now and thus there will still be an ability to interpret the Precinct historically as a local shopping area servicing a rural community. The amount of change which would occur as a consequence of demolition will not be fatal to the heritage significance of the Precinct.

Although prior to the fire the intactness of the heritage building was already diminished, Council recognises that this building contributes to the heritage character of the precinct and the community's interpretation of the streetscape as a whole.

It is especially evident through the objections received to the application that this site contributes significantly to the local sense of place and history, and therefore is important to the community.

The main issues raised by objectors are:

- Lack of perceived objectivity and evidence in the Heritage Assessment.
- The demolition would result in the loss of an important historic building to the Beaconsfield community.
- Community wants to see the building repaired rather than demolished.
- Personal and emotional attachment to the building and its connection to Beaconsfield's history.

Council acknowledges these concerns, however, in balancing the advice of Council's Deputy Municipal Building Surveyor and Heritage Officer, the damage to the building and its relatively low-level of intactness prior to the fire, with the local significance of the building in the context

of the precinct, demolition of the building, subject to conditions is considered a proportionate response.

To ensure that the overall character and significance of the heritage precinct is maintained as much as possible, any approval granted to demolish the building will require the parts of the original front façade of the building to be salvaged and re-used in a future development on the site (where practical) and a commemorative plaque installed. These measures have been considered an appropriate response to the concerns of the objectors, in a case where requiring the existing building to be retained and repaired is not considered an option due to the damage, its poor condition and limited intactness.

Council's Heritage Officer advised that it is in the best interest of the heritage precinct that any demolition permit will have conditions to ensure that any future development will ensure the features front left wing of the façade is reinstated or incorporated into any future development.

Therefore, it is recommended that every effort is made to salvage the original elements of the front left rear wing including:

- The front window as pictured in Figure 15 of the Heritage Assessment prepared by The Anthemion Group Pty Ltd;
- The front door and all lead lighting as pictured in Figure 16 of the Heritage Assessment prepared by The Anthemion Group Pty Ltd;
- The original block weatherboards from the façade as pictured in Figure 15 of the Heritage Assessment prepared by The Anthemion Group Pty Ltd;
- All timber fretwork as identified in the Heritage Assessment prepared by The Anthemion Group Pty Ltd; and
- Any undamaged original floorboards, architraves and fireplace bricks within the building.

These materials will be required to be kept in a secure safe location (preferably in the remaining buildings on the rear of the site) that is not exposed to weather for use in the reinstatement/incorporation of the original façade as part of any future development subject to relevant building standards and to the satisfaction of the Responsible Authority.

Given the unusual circumstances and state of the building, Council believe that by allowing the demolition of the existing structure to occur, whilst requiring that certain original features be salvaged for future use, a proportionate and fair balance can be achieved that will not cause a detrimental impact to the significance, appearance or character of the heritage precinct as a whole.

Whilst it is acknowledged that preservation is the preferred outcome when it comes to heritage buildings, it must be conceded that in some circumstances such as this one, it is not practical or justified given the state of the building as discussed.

Therefore, in terms of achieving the objectives of the planning controls and policies which seek to protect heritage, it is considered that this is the most sensible approach to ensure that some control over the outcome of the demolition and also to ensure that the future development pays respect to the origins of the site in its context within the heritage precinct.

The site will remain in the Heritage Overlay, and therefore any subsequent application to develop the site will be required to respond to the aims and objectives of the Overlay and provide a sympathetic building design that incorporates the salvaged materials.

In addition to this, and to ensure that the salvaged parts of the building are appropriately stored and incorporated in any future development, a Section 173 Agreement will be required.

A condition of the permit will also require that a historical marker be installed to identify the original heritage building.

As such, and given the circumstances and limited intactness of the building discussed the proposed demolition is not considered to be catastrophic to the interpretation of the heritage Wood Street Commercial & Civic Precinct as a whole. There will still be examples of other similar era Edwardian buildings in the precinct as it presents today, and future development will continue to be subject to the Heritage Overlay. Therefore, it is considered that on balance the removal of the post office building, although unfortunate, will not be detrimental to the precinct.

Conclusion

Based on the above it is recommended that a Notice of Decision to Grant a Permit be issued for the demolition of the post office building at 19-21 Woods Street, Beaconsfield subject to the following conditions.

Conditions

Prior to demolition:

1. Prior to a demolition permit being issued under Section 29A of the Building Regulations, the following must be provided to the satisfaction of the Responsible Authority:
 - a. An itemised list of the materials that are to be salvaged must be provided and approved to the satisfaction of the Responsible Authority, including:
 - i. The front window as pictured in Figure 15 of the Heritage Assessment prepared by The Anthemion Group Pty Ltd;
 - ii. The front door and all lead lighting as pictured in Figure 16 of the Heritage Assessment prepared by The Anthemion Group Pty Ltd;
 - iii. The original block weatherboards from the façade as pictured in Figure 15 of the Heritage Assessment prepared by The Anthemion Group Pty Ltd;
 - iv. All timber fretwork as identified in the Heritage Assessment prepared by The Anthemion Group Pty Ltd; and
 - v. Any undamaged original floorboards, architraves and fireplace bricks within the building.
 - b. Details of a commemorative plaque illustrating the former Post Office building, in context with the adjacent Woods Street Commercial and Civic Precinct. The historic marker must include:

- i. An image or photograph of the original Post Office building;
 - ii. Construction date;
 - iii. Statement of significance;
 - iv. Reason for demolition; and
 - v. Any other relevant information.
2. Prior to a demolition permit being issued under Section 29A of the Building Regulations, the owner must enter into an agreement with the Responsible Authority and made pursuant to Section 173 of the *Planning and Environment Act 1987* to provide for the following obligations:
 - a. Require the reinstatement/incorporation of the original façade using as many of the original salvaged materials as possible in accordance with Condition 1(a) of Planning Permit T210053 as part of any future development subject to relevant building standards and to the satisfaction of the Responsible Authority via a Planning Permit application.
 - b. Include a list of the materials required to be salvaged and re-used where possible in any future development subject to planning approval.
 - c. Require that the salvaged materials be kept in a safe, secure and weatherproof location on the subject site or an alternative location to the satisfaction to the Responsible Authority.

The application must be made to the Registrar of Titles to register the Section 173 agreement on the title to the land under Section 181 of the Act.

Actions required:

3. During demolition the items listed in Condition 1(a) must be salvaged, with photographic evidence to be provided to the satisfaction of the Responsible Authority.
4. The historic marker/ commemorative plaque required by Condition 1(b) must be erected in a prominent position to the site frontage and within the title boundary of 19-21 Woods Street, Beaconsfield within 6 months of demolition, to the satisfaction of the Responsible Authority.

General:

5. The demolition as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
6. Once the demolition has started it must be continued and completed to the satisfaction of the Responsible Authority.

Expiry:

7. The permit for the demolition expires if—
 - a. the demolition does not start within two (2) years after the issue of the permit; or
 - b. the demolition is not completed within four (4) years after the issue of the permit;

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

Notes:

- i. Council recommends that prior to activating this permit, a registered building surveyor be contacted to ensure the demolition complies with the Building Act and Building Regulations.

Resolution

Moved Cr Brett Owen, seconded Cr Tammy Radford.

That:

- consideration of this application be deferred for two months, and
- prior to further consideration of the application a suitable expert be commissioned to attend the site and provide a peer review of the heritage assessment submitted with the application prepared by The Anthemion Group (dated 31 March 2021)

Carried

5.2 T200296 PA - Development of the Land for Six (6) Dwellings and Associated Works at 15 Main Street, Nar Nar Goon

Responsible GM: Peter Benazic
Author: Evie McGauley-Kennedy

Recommendation(s)

That Council issue a Notice of Decision to Grant Planning Permit T200296 for the Development of the land for six (6) dwellings and associated works at 15 Main Street, Nar Nar Goon VIC 3812 subject to the following conditions:

Plans required:

1. Before the development starts, 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 and fully dimensioned. The plans must be generally in accordance with the amended development plans prepared by Thomas Anderson Design, Issue D, submitted with the application but modified to show:
 - a. Amended site plan showing:
 - i. Boundary fencing constructed to be a minimum of 1.8-metre-high timber paling fencing along the south and west boundaries.
 - ii. Northern boundary fencing adjoining the kindergarten to be constructed:
 1. With fence railings facing internal to 15 Main Street, Nar Nar Goon;
 2. To a minimum height of 1.8 metres; and
 3. Treated pine palings must not be used unless paint sealed.
 - b. Amended landscape plan showing:
 - i. The number of dwellings reduced to six (6) as per the Issue D plans.
 - c. Coloured photos of the existing building as a record of the building for Council's records to show:
 - i. All four (4) exterior elevations of the existing building.
 - d. A Waste Management Plan to the satisfaction of the Responsible Authority. The plan must include but is not limited to:
 - i. The manner in which waste will be stored and collected including the type, size and number of containers.
 - ii. Provision for on-site storage.
 - iii. Details whether waste collection is to be performed by Council's services or privately contracted.
 - iv. The size of the collection vehicle and the frequency, time and point of collection.
2. Before the development starts drainage plans must be submitted to and approved by the Responsible Authority. The plans must show the provision of a stormwater detention

system. The stormwater detention system will become the responsibility of the property owner or body corporate to maintain to the satisfaction of the Responsible Authority.

Prior to commencement (Street trees):

3. Before the development starts a fee of \$375.00 must be paid to the Responsible Authority for the removal and replacement of any existing street tree requiring removal to facilitate the extension of the common driveway crossover.
4. Before the development including demolition starts, a tree protection fence must be erected around the existing street trees to be retained outside the canopy zone of the tree to define a "Tree Protection Area". The fence must be constructed of star pickets and chain mesh or similar to the satisfaction of the Responsible Authority. The tree protection fence must remain in place until construction is completed. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Area. Any pruning that is required to be done to the canopy or roots of any tree to be retained is to be done with permission by Council's Arborist by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-2007.

Prior to commencement (Tree Protection Fencing):

5. Before works start, a fence must be erected around the areas of TPZ encroachment of Trees 6, 7, 16, 17 and 18 located on the adjoining land known as 13 Main Street, Nar Nar Goon as shown on the endorsed plan. This fence will protect the trees by demarcating the tree protection zone that extends onto the subject site and must be erected at a radius of $12 \times$ the diameter at a height of 1.3 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the trees, excepting the approved area of encroachment for construction as shown on endorsed plans to the satisfaction of the Responsible Authority. The protection fence must be constructed of star pickets and flagging tape/chain mesh or similar to the satisfaction of the Responsible Authority. The protection fence must remain in place until all works are completed to the satisfaction of the Responsible Authority. Except with the written consent of the Responsible Authority, within the tree protection zone, the following are prohibited:
 - a. Vehicular access.
 - b. Trenching or soil excavation.
 - c. Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products.
 - d. Entry and exit pits for underground services.
 - e. Any other actions or activities that may result in adverse impacts to retained native vegetation.

General:

6. The layout of the site and the size of the proposed buildings and works, as shown on the approved plan/s, must not be altered or modified without the consent in writing of the Responsible Authority
7. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
8. 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 development must be of a non-reflective nature in accordance with the endorsed plans.

9. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
10. All residential waste must be stored within the specified bin storage area for each dwelling. Garbage bins are to be placed on the street for collection in a tidy manner on the appropriate waste collection day for the area.
11. Any external lighting must be designed, baffled and located so as to not detrimentally affect the adjoining land to the satisfaction of the Responsible Authority.
12. The dimensions and layout of the proposed access and parking areas must be in accordance with the requirements of Clause 52.06 of the Cardinia Planning Scheme.
13. All pipes, fixtures, fittings and vents servicing any building on the subject land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

Kindergarten boundary:

14. Boundary fencing along the northern boundary with the Kindergarten as shown on the endorsed plans must be maintained at all times to the satisfaction of the Responsible Authority.

Engineering:

15. 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.
16. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
17. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority.
18. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
19. The slope of batters, both cut and fill, must not exceed 2:1 (horizontal: vertical) or, where this is not practicable, batters must be stabilised by other means to the satisfaction of the Responsible Authority.

Prior to Occupancy:

20. The development approved by this permit must not be occupied until the following works have been completed to the satisfaction of the Responsible Authority:
 - a. Any new fencing shown on the endorsed plans must be constructed at the cost of the owner/permit holder in accordance with the endorsed plans.
 - b. The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority unless an alternative date is agreed to in writing by the Responsible Authority.
 - c. 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.

- d. A residential standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
- e. Any redundant existing vehicle crossing must be removed and the nature strip and kerb and channel reinstated at the cost of the owner and to the satisfaction of the Responsible Authority.
- f. The premises are connected to a reticulated water supply, sewerage, drainage and underground electricity to the requirements of the relevant servicing authority.
- g. Power and telephone lines to all new dwellings must be placed underground from the main point of service supplied by the relevant authority outside the boundaries of the subject land.
- h. A bin storage area must be provided for each dwelling and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
- i. A mail box must be provided to each dwelling to the satisfaction of the Responsible Authority and Australia Post.
- j. A clothesline must be provided for each dwelling and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
- k. Lighting must be provided near the front entrance of each dwelling to the satisfaction of the Responsible Authority.

Expiry:

A permit for the development 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.

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

Notes:

- i. Council recommends that prior to activating this permit, a registered building surveyor be contacted to ensure the development (including boundary fencing) complies with the Building Act and Building Regulations.
- ii. This application has been assessed against Clause 55 of the Cardinia Planning Scheme.
- iii. A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.
- iv. Prior to commencement of the proposed use a Building Permit must be obtained for any retaining wall exceeding 1.0 metres in height.

Drainage notes:

- v. As the development has an impervious ratio greater than 35%, the developer shall engage the services of a suitably experienced Engineer to design a stormwater detention system that will reduce the intensity of the storm water discharge entering Council's drainage system, i.e.: a detention system. The storm water detention system shall provide for the same five (5) year ARI peak discharge as that for a standard house lot with no storm water detention. A standard house lot is assumed to have a fraction impervious area of 35%. Calculations and a plan shall be submitted to Council for approval prior to construction. The storm water detention system must be constructed prior to the occupation of the proposed development.

Attachments

1. Revised Plans - Section 57 A Amendment [5.2.1 - 11 pages]
2. CONFIDENTIAL - Copy of Objections - Circulated to Councillors only [5.2.2 - 14 pages]

Executive Summary

Application no.:	T200296
Applicant:	Southern Planning Consultants
Land:	L2 LP8643, 15 Main Street, Nar Nar Goon VIC 3812
Proposal:	Development of the land for six (6) dwellings and associated works
Planning controls:	Neighbourhood Residential Zone (Schedule 1)
Notification & objections:	<p>Pursuant to Section 55 of the <i>Planning and Environment Act</i> 1989, the application was advertised by the placing of a sign on site and notices in the mail to adjoining property owners.</p> <p>Thirteen (13) objections were received during advertising, however one (1) objection has been withdrawn following the submission of amended plans, therefore twelve (12) objections have been considered in this assessment.</p>
Key planning considerations:	<p>Car parking Neighbourhood character Site coverage and dwelling density Garden area Amenity Carparking</p>
Recommendation:	That a Notice of Decision to Grant a permit be issued.

Background

The subject site is located on the western side of Main Street, within Nar Nar Goon's Town Centre, approximately 200 metres from Nar Nar Goon Train Station to the north-east.

The site is located in an area of Main Street with a mix of uses including residential uses (single dwellings, unit developments), public uses (church and kindergarten) and commercial type uses.

The site is a rectangular shape with a frontage to Main Street of 20.12m and a depth of 100.58m.

It is 2023sqm in size and currently contains a single storey rendered and weatherboard building, which is constructed with a zero setback to Main Street. It was constructed at an

unknown date, but appears to be a Victorian or early Edwardian era building based on its architectural style. Council's Heritage Officer commissioned an assessment of the building as it is not currently listed in a Heritage Overlay under the Cardinia Planning Scheme.

The Heritage Assessment found that the building was likely formerly used for a commercial use (due to its setback off the street) and was likely associated with a pioneering family and the Oaklands homestead (located at 575 Bald Hill Rd which is also not listed in the Heritage Overlay), however that over the years it has been significantly altered to the point where the building has therefore lost most of its heritage significance and unable to be included into a Heritage Overlay.

The Planning Permit history for the site includes:

- Planning Permit T950343 which was issued for dwelling additions on 5 July 1995.
- Planning Permit T070028 which was issued for the development of the land for business identification signs on 21 May 2007.

Subject Site



The site is located on the western side of Main Street, Nar Nar Goon.

A crossover is located on the southern end of the property frontage, providing access to Main Street.

The site currently contains the single building described above, along with a large outbuilding and scattered vegetation.

The topography of the land is relatively flat.

There are no restrictions or agreements registered on title.

The site is not subject to Aboriginal Cultural Sensitivity.

The main characteristics of the surrounding area are:

- North: Directly north of the site is 13 Main Street which contains Nar Nar Goon Kindergarten. Further north is a public car park and park, as well as a small commercial shopping strip.

- South: Directly south of the site is 17 Main Street, which is a similarly sized lot containing a single dwelling, swimming pool and outbuildings. Further south are other residential properties, including a mixture of single dwelling sites and unit developments.
- East: Directly east of the site is Main Street. Across Main Street is St. John's Church and its grounds. Further east is the site of Nar Nar Goon Scout Hall and Recreation Reserve.
- West: Directly west of the site is 2 Richards Road, which is a similarly sized residential parcel containing a single dwelling and outbuilding. Further west are larger Low Density Residential Zone properties.

Relevance to Council Plan

3.5 Our Environment - Balanced needs of development, the community and the environment

3.5.3 Provide for the sustainable development of rural townships while taking into account their existing character and community needs.

Proposal

Approval is sought for the development of the land for six (6) dwellings and associated works at the subject site. The application originally proposed eight (8) double storey dwellings on the site, however amendments to the plans were made to reduce the number of dwellings from eight (8) to six (6) and reduce all the dwellings to single storey, following Council's and Objectors concerns.

Site layout

The site is rectangular in shape and access to all six (6) dwellings is proposed by a common driveway along the southern boundary and a common crossover to Main Street.



Figure 1: Site layout

The development will now comprise of five (5) single storey, three (3) bedroom dwellings and one (1) single storey, two (2) bedroom dwelling. The proposal provides for a number of floor plans and layouts, each containing an open kitchen, living and dining area. The existing buildings on the site will be demolished to make way for the development. The proposed dwellings will have a maximum height of between 5.24 metres (Dwelling 1) and a maximum height of 5.33 metres (Dwelling 6) to the peak of the pitched roof(s) measured from natural ground level.

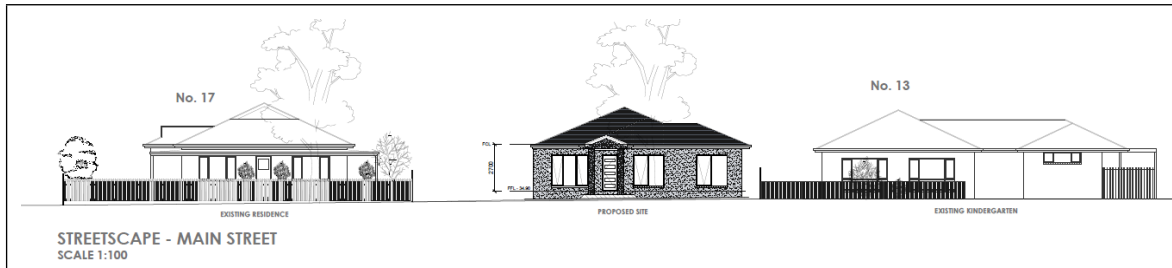


Figure 2: Streetscape elevation

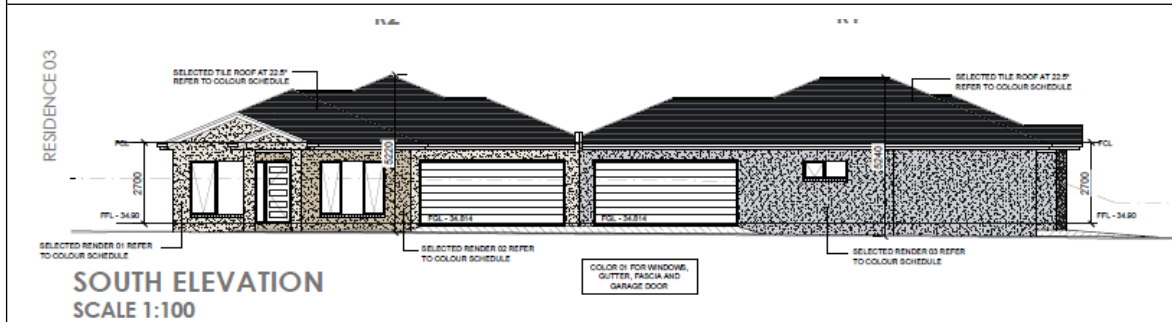


Figure 3: Southern elevation (Dwellings 1 & 2)

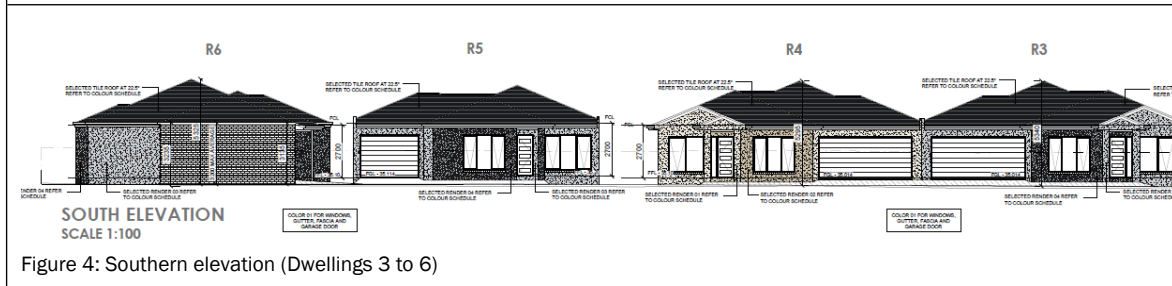


Figure 4: Southern elevation (Dwellings 3 to 6)

The proposed dwellings provide a contemporary design incorporating rendered facades with porches and eaves, along with tile roofs. The colour schemes chosen include a mixture of white, cream and brown tones for Dwellings 2 and 4, specifically the use of Dulux/ Colourbond colours ‘Surfmist’, ‘Evening Haze’ and ‘Paperbark’, along with a charcoal tiled roof.

Dwellings 1, 3, 5 and 6 will have a colour scheme consisting of light and dark grey tones, specifically the use of Dulux/Colorbond colours ‘Shale Grey’ and ‘Monument’, with a charcoal tiled roof.

The designs takes cues from the surrounding neighbourhood character, using colours and materials complimentary to the township character, as well as providing for a variety of articulated facades which adds visual interest and reduces visual bulk.

The dwellings are orientated towards the southern boundary (internal driveway), except for Dwelling 1 which addresses Main Street and the private open spaces are mainly located on the northern alignment of the site.

Site coverage:

The details of the proposed dwellings are as follows:

	Unit 1	Unit 2	Unit 3	Unit 4	Unit 5	Unit 6
Size	153.7sqm	149.1sqm	149.1sqm	149.1sqm	116.0sqm	157.4sqm
Bedrooms	3	3	3	3	2	3

Storeys	Single	Single	Single	Single	Single	Single
Private Open Space	42.0sqm	40.0sqm	40.0sqm	51.0sqm	46.0sqm	105.0sqm

The proposal provides a site coverage of 43 percent (excluding driveways and paths) and has 36 percent of permeable area (area of the site not covered by buildings, driveways & paths). Garden area has been provided at 35.05 percent (or 709sqm of the 2023sqm site), which satisfies the mandatory requirement for dwellings on lots over 650sqm.

Setbacks:

Dwelling 1 will be setback between 6.5 and 7.18 metres from Main Street, with the front porch slightly encroaching into this setback.

The ground floors of the proposed dwellings have setbacks of between 1.1 and 4.66 metres from the northern boundary and over 6 metres from the southern boundary (except for Dwelling 6 which has a garage wall constructed on a boundary).

Visitor car parking and Access

One (1) visitor space is required as the proposal contemplates a development of five or more dwellings on a lot. One (1) visitor spaces have been provided on the site within central locations and spacing between the Dwellings.

Dwellings 1, 2, 3, 4 and 6 are provided with two (2) car spaces each in a double lock-up garage as required for a dwelling with three (3) or more bedrooms. Dwelling 5 is provided with an attached single lock up garage, as required for each two (2) bedroom dwelling.

Access from Main Street is proposed via the existing crossover to the property. The driveway is approximately 3 metres in width and will provide access to all six (6) dwellings. The driveway and crossover are to be extended to 6 metres at the entrance to Main Street to allow safe access to the site for vehicles entering and exiting the site at the same time.

Vegetation removal:

A total of fourteen (14) trees and one (1) small street tree require removal to accommodate the development. Most are exocytic species and since there are no vegetation controls effecting the site, a planning permit is not required for their removal. The small street tree that requires removal to facilitate the extension of the crossover will be required to be compensated for to be replanted elsewhere via permit condition. The plans demonstrate that the Tree Protection Zones (TPZ's) of trees on neighbouring sites, including a large mature street tree to be retained, will not be impacted by the development.

Landscaping

A concept landscaping plan has been provided and demonstrates that design and layout of the proposal can accommodate meaningful landscaping along both the driveway and within the rear yards for each unit. The retention of a large mature street tree will also have a positive contribution to the streetscape and the appearance of the site.

Planning Scheme Provisions

Zone

The land is subject to the following zones:

- Neighbourhood Residential Zone – Schedule 1

Overlays

The land is not subject to any Overlays

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.01-1S Settlement
- Clause 15.01 Built Environment
 - Clause 15.01-2S Building Design
 - Clause 15.01-5S Neighbourhood Character
- Clause 15.02-1S Energy and resource efficiency
- Clause 16.01 Residential development
 - Clause 16.01-1S Housing supply
 - Clause 16.01-2S Housing affordability
- Clause 18.01 Transport

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.03-1 Housing
- Clause 21.03-4 Rural Townships
- Clause 21.06-1 Urban design

Relevant Particular/General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.06 Car Parking;
- Clause 53.18 Stormwater Management in Urban Development;
- Clause 55 Two or More Dwellings on a Lot and Residential Buildings;
- Clause 65 Decision Guidelines; and
- Clause 66 Referral and Notice Provisions

Planning Permit Triggers

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

- Pursuant to Clause 32.09-6 (NRZ1) a planning permit is required to construct two (2) or more dwellings on a lot.

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 and the statutory declaration has been submitted to Council on 19 February 2021.

Council received thirteen (13) objections at the time of advertising, however following the circulation of the amended plans (on 11 and 17 May 2021), one (1) of the objections was withdrawn. As a result, Council has considered a total of twelve (12) objections in this assessment.

The key issues that were raised in the objection are:

- Double storey is out of character for the area
- Neighbourhood character and absence of strategic township plans
- Car parking, access and traffic
- Overlooking and privacy of the neighbouring kindergarten
- Boundary fencing
- Drainage

Referrals

External Referrals/Notices:

Referrals/ Notice	Referral Authority	Brief summary of response
Section 55 Referrals	N/A	
Section 52 Notices	N/A	

Internal Referrals:

Internal Council Referral	Advice/ Response/ Conditions
Engineering	No objection (subject to conditions)
Traffic	No objection (no conditions)
Strategic Planning	No objection (no conditions)
Landscape	No objection (subject to conditions)
Waste	No objection (subject to conditions)
Buildings and Facilities/ Community and Family Services	No objection (subject to conditions)
Heritage	

	No objection (subject to conditions)
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Discussion

The application has been assessed against the decision guidelines of all relevant clauses of the Cardinia Planning Scheme and the proposed development is determined to be consistent with these requirements.

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 dwelling design achieves attractive and diverse neighbourhoods, and to encourage a diversity in housing, close to activity centres, to meet the needs of future and existing residents.

Clause 15.01-2S (Building Design) seeks to achieve building design outcomes that contribute positively to the local context and enhance the public realm.

Clause 15.01-5S (Neighbourhood Character) seeks to recognise, support and protect neighbourhood character, cultural identity, and sense of place.

Clause 15.02-1S (Energy and resource efficiency) seeks to encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.

Clause 16.01-1S (Housing supply) seeks to facilitate well-located, integrated and diverse housing that meets community needs.

Clause 16.01-2S (Housing affordability) seeks to deliver more affordable housing closer to jobs, transport and services.

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

Clause 21.03-4 (Rural Townships) seeks to ensure that the siting and design of new buildings and works complement the rural character of the township, and does not dominate the landscape or surrounding built form character.

Clause 21.06-1 (Urban Design) seeks to promote a high standard of design which creates a strong character and identity for the area, provides for a functional built environment, and promotes community and personal safety.

The proposal is compatible with the existing and emerging residential character from the area, and due to the proposed setbacks, single storey height and appropriate location of the proposed dwellings, it is not expected to have any negative impacts on the surrounding residences or other uses. The dwellings are contemporary and modern in design, but takes cues from the surrounding neighbourhood and an adequate amount of garden area and P.S.O.S has been provided to each dwelling. The site coverage is considered reasonable and the application complies with the requirements of Clause 55.

Landscaping can be provided to provide for shade of canopy trees and to soften the built form. This is consistent with clauses above that seek ensure that residential development in establishing residential areas results in a good and safe design outcome, adequate access to services and amenities, responsive to neighbourhood character and is compliant with the standards and objectives of Rescode.

It is considered that the proposal adequately responds to the above and compliments the existing and emerging development pattern of this street and the surrounding area.

Therefore, it is considered that the proposal is consistent with the PPF and MPS as it contemplates development of a vacant parcel that will result appropriately dense infill development near public transport and services.

Neighbourhood Residential Zone – Schedule 1

The Neighbourhood Residential Zone seeks to limit opportunities for increased residential development and to manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.

Pursuant to Clause 32.09-5 of the NRZ, a permit is required to construct two or more dwellings on a lot. The decision guidelines of this overlay cover a number of matters, such as the purpose of the zone and the objectives, standards and decision guidelines of Clause 55.

The proposed development provides for a diversity of housing types, whilst reinforcing the residential nature of the area and proposes limited housing growth in an area that is within close proximity of the centre of Nar Nar Goon.

It also respects the existing residential character of the area, is consistent, and complies with the relevant purposes and decision guidelines of the Neighbourhood Residential Zone.

The proposal must meet the mandatory garden area requirement stipulated in the Zone, the requirement is for 35% of the site to be free from built form including car parking accommodation. The proposal satisfies this requirement by providing for a minimum of 35.04 percent of the site for 'Garden Area'.

The Zone also identifies a 9 metre mandatory height limit, and being single storey the overall height limit for the proposal does not exceed a maximum height of between 5.24 metres (Dwelling 1) and a maximum height of 5.33 metres (Dwelling 6). The proposal therefore meets the mandatory height and garden area requirements.

While the general character of the area is standard-sized residential lots, there are some similar sized unit developments along Main Street, and therefore, the development is considered responsive to the character of the area as it limits the development footprint, proposes only minimal dwelling growth within close proximity to Nar Nar Goon Town Centre and provides extensive opportunity for landscaping and re-vegetation.

Although traditionally, development or subdivision of the lots within this area of Nar Nar Goon has been sparse, there is an emerging character for this type of development within close proximity to the town centre. There are a few examples of subdivision and development within the immediate area to the south of the site at 19, 23 and 25 Main Street, Nar Nar Goon.

The site and its surrounds are in close proximity to services and transport and the large size allotments present an opportunity to provide for infill development and affordable housing. Once subdivided, the area of the six (6) proposed lots will be consistent with the subdivision pattern of the surrounding area.

Services within walking distance of the subject site include Nar Nar Goon Town Centre (approximately 100-250m walk) which provides for a range of services and facilities. The site is also located approximately 7.3 kilometres to the south-east of Cardinia Lakes Shopping and approximately 9.3 kilometres to the south-east of Pakenham Town Centre, both which provide larger retail facilities and services. Pakenham Town Centre is also accessible by train from Nar Nar Goon Train Station, which is a approximately 300 metres to the north of the site.

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

The proposed development is considered appropriate for the site and surrounds and complies with all the relevant objectives of Clause 55. A summary of the assessment of the development against Clause 55 is listed below (see Clause 55 assessment attached for full summary):

Clause 55.02 Neighbourhood character and infrastructure:

Pursuant to Standard B1 of Clause 55, it is essential for proposed developments to maintain and enhance the neighbourhood character of the area. It is policy with regard to built form that development complements the current character and contributory elements.

The proposal respects the rhythm of developments in Main Street as adequate setbacks have been provided from the front, side and rear boundaries, with all dwellings being single storey to ensure that the development will not be visually dominant when viewed from the street and adjoining properties. The development will not dominate the streetscape as Dwellings 2 to 6 are located behind Dwelling 1 to present as one single dwelling, with the new buildings being setback further than the adjoining Kindergarten to the north and the average of the setbacks of the adjoining development (which is 7.05 metres). This will ensure that the streetscape is not adversely disrupted.

Generous areas of open space have been provided at ground floor to the rear and sides of each of the dwellings. The areas of secluded private open space (S.P.O.S) are considered sufficient in size for landscaping and the planting of canopy trees, which will further assist in screening the proposed development.

The built form of the proposed character of the dwellings including external materials and openings (i.e. door and windows) is consistent with the existing dwellings and surrounding area. Each garage is located to the side of the dwellings and will face the internal driveway, further ensuring that the streetscape is not further disrupted.

Additional landscaping opportunities are provided within the front setback and alongside the driveway that will assist in breaking up the appearance of hard surfaces when viewed from the street. The landscaping plan provided with the application has been assessed by Council's Landscape Officer as suitable, however due to the amendments to the plans, a new landscaping plan showing six (6) dwellings will be required via condition.

There are some canopy trees located on the adjacent property along the north and east boundaries of the site. The plans demonstrate that these trees are unlikely to be impacted by the proposal due to the TPZ's shown. The plans also demonstrate that the large street tree is also unlikely to be impacted by the development. Tree protection fencing conditions will be placed on the permit to ensure that the TPZ's of these trees are maintained during construction.

The driveways provide appropriate and safe access to Main Street, allowing all vehicles to enter and exit the site in a forward-facing direction. Given the width of the allotment and its depth it also allows for the separation of built form, both within the site and in the streetscape. Given the existing multi-dwelling developments within the immediate area, it is considered that the design responds and provides balance to the existing residential character of Nar Nar Goon.

The objective of Clause 52.02-3 (Dwelling diversity) is also considered to be met as the proposal provides for an alternative to the larger residential and rural properties in the area, resulting in more affordable housing stock close to Nar Nar Goon Town Centre. The two (2) and three (3) bedroom dwellings will suit people at all stages with easily accessible entrances. The use of single storey dwellings will also ensure that all bedrooms and living areas are located at

ground level which will also facilitate use of the dwellings by persons with limited mobility. The design also makes good use of private open space and spaciousness between built form, providing for better use of the site and a more useable living arrangement.

It is also noted that the development can be suitably accommodated into the infrastructure of the existing area and as such, all reticulated services (electricity, water, gas and sewerage) will be available to the development.

Clause 55.03 Site layout and building massing:

The site layout and building massing generally meets all standards and objectives, including building height, site coverage, permeability, open space, landscaping and safety. Dwellings single storey and designed and sited to ensure appropriate energy efficiency and access as much as possible given the east-west orientation of the site.

The proposal seeks a minor variation to the distance specified by Standard B6 (Street Setbacks). The setback required is based on the first development context in Table B1 (Street setback) as there is an existing building on both abutting allotments facing the same street and the site is not on a corner. Based on this the required setback is the average distance as the front wall of the existing dwellings on the abutting allotments facing the front street or 9 metres (whichever is lesser). The average setback of the front walls on the abutting allotments (when combined) is 7.05 metres. The proposal seeks to construct Dwelling 1, between 6.5 and 7.18 metres from the front title boundary, which is a reduction of 574mm (at the closest point). The front porch complies, as it is less than 3.6 metres in height (at approximately 3.2 metres) and does not encroach into the front setback by more than 2.5 metres. Given the minor reduction of 574mm, combined with the reduced setback of the adjoining Kindergarten (which has a setback of between 860mm and 4.625 metres from Main Street) and given that the remainder of Dwelling 1's front wall is setback more than required by the Standard, the minor variation is not expected to impact the character of Main Street, and supported in this context and location.

The proposal does not vary Standard B7 (Building heights) as maximum height of the single storey dwellings does not exceed 5.33 metres at any point. Standard B7 requires that dwellings on a flat site should not exceed 9 metres in height. The NRZ has a maximum height limit of 9 metres (no more than two-storey), and therefore the proposal sits comfortably within the Standard. Given the pattern of development on the surrounding sites, the proposed single storey design and height is considered suitable being single storey as to not disrupt the streetscape which is considered acceptable in this context and location.

Site coverage is considered acceptable as the standard under Clause 55.03-3 mandates a maximum site coverage of 60 percent. The proposed area covered by buildings in this development is 874sqm of the 2023sqm site complying with this Standard at 43 percent.

Proposed at 36 percent the development also comfortably complies with Standard B9, which requires that the minimum permeable area of a site equal to at least 20 percent of the site area. Standard B9 also outlines that the stormwater management system should be designed to:

- Meet the current best practice performance objectives for stormwater quality as contained in the Urban Stormwater - Best Practice Environmental Management Guidelines (*Victorian Stormwater Committee, 1999*); and
- Contribute to cooling, improving local habitat and providing attractive and enjoyable spaces.

An assessment against Clause 53.18 (Stormwater management in urban development) has been provided with the application which demonstrates compliance with each guideline. The

proposal is consistent with ensuring that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits by:

- Installation of retention systems which are to be incorporated into paving and drainage plans
- Installation of rainwater tanks for each dwelling
- Ensuring discharge is normal and safe for a dwelling
- The use of retention systems and rain gardens and water tanks will ease the distribution of additional stormwater
- Gutters, drains, tanks, retention systems will be easily accessible for maintenance.

Stormwater management will be further controlled via the requirement to provide a stormwater management plan via permit conditions.

Standard B10 is also met as the proposed design orientates the dwellings to make better use of solar energy. Living areas and private open space mostly have been orientated to the north side of each dwelling or has access to a northern aspect when not located directly to the north of the dwelling, maximising solar access to north facing habitable room windows and P.O.S. The site makes good use of the east-west orientation by locating the driveway to the south and dwellings on the northern side of the site ensuring that all the dwellings are provided with adequate northern light.

Window sizes and locations have been selected to reflect the use of each room with regard to winter heat loss and summer heat gain.

The proposed Dwellings are proposed to reach a 6-Star Energy Rating and will be required to comply with the relevant requirements of the BCA at building permit and construction stage.

Effort has been made to ensure that the P.O.S is as wide and usable as possible, given the development of the additional dwellings and the orientation of the site.

Standard B13 will also be achievable given the design and layout of the open areas of the site and has been demonstrated by a concept landscaping plan (prepared for the seven dwelling version of the plans). A full landscaping plan will be required via permit conditions. There are fourteen (14) trees/shrubs to be removed on the subject site and one (1) small street tree, however none are significant. The plans demonstrate that there are a number of trees located on neighbouring sites, however the plans demonstrate that none of the trees will have their TPZ encroached beyond the 10 percent outlined in AS-4970 as discussed above, including the large street tree to be retained. The landscaping shown on the plans will help to maintain the landscape character of the neighbourhood, as the subject site is relatively clear of vegetation. Only drought tolerant native vegetation will be allowed to be planted.

A small street tree requires removal to facilitate the crossover for Dwelling 1 which is accepted by Council's Landscape Department. A contribution to re-plant a street tree elsewhere will be required by permit condition.

Safety in design has also been considered with surveillance of Main Street offered from Dwelling 1 and entrances to dwellings being clearly visible from Main Street or the internal driveway.

All dwellings have been designed with car turning circles in mind. As a result, sufficient reversing area has been provided to allow vehicles to exit the site in a forward motion.

The subject property fronts Main Street to the east (total length 20.12 metres). One existing crossover is located there along the southern boundary, which will be retained and upgraded to the satisfaction of Council to provide access to all the dwellings. The existing crossover is approximately 3 metres, however, is required to be widened to allow for opposing vehicles to

pass one another at the entrance of the site. Once widened the crossover will be 6.1 metres in width, which represents 30.31 percent of the frontage, and as this is under 33 percent, it complies with Standard B14.

A visitor space is required as the development involves the construction of five (5) or more dwellings and one (1) visitor space has been provided, which along with the provision of adequate car parking on site (within garages), it is expected that there will be no adverse effect on street parking or normal traffic flows is expected.

Access ways to all dwellings comply with the prescribed requirements of B14 in respect to width. The proposed access has been assessed by Council's Traffic Engineer as satisfactory.

Further, an attached garage is provided for each new dwelling providing convenient and secure parking for residents. The garage dimensions have been assessed by Council's Traffic Engineer as complying with requirements of the Planning Scheme. The minimum setback of 1.5 metres is exceeded between habitable room windows and common driveways for all dwellings, which is consistent with Standard B15.

Clause 55.04 Amenity Impacts

The proposed dwellings are well setback from the southern boundary as they are separated by the common driveway (apart from Dwelling 6) which has part of its southern wall (garage) constructed on the boundary. This wall does not exceed 10 metres in length, and it has an average wall height under 3.2 metres complying with the Standard.

The proposed dwellings are also well setback from the northern and western boundaries, as the minimum setback for all the Dwellings is between 1.1 and 4.66 metres, which given the wall height of each dwelling is required to be setback at least 1 metre from all boundaries, complying with the Standard.

The height and setbacks of the development respect the existing and preferred neighbourhood character and overshadowing diagrams demonstrate that the single storey dwellings are designed to ensure that the development will not create significant overshadowing to adjoining properties, limiting the impact on the amenity of existing dwellings within the vicinity. According to the shadow diagrams, none of the single storey dwellings will cause overshadowing beyond the property boundaries, with the maximum overshadowing occurring over the common driveway.

Dwelling 6 will cause the maximum overshadowing which will occur on the property to the south. This overshadowing is proposed to occur at 9am, 12pm and 3pm and will affect a small portion in the rear of secluded private open space (S.P.O.S) of 17 Main Street. Given the size of this allotment the overshadowing does not reduce sunlight to the private open space of the dwelling at these time to under 40sqm.





Figure 5: Shadow diagrams

Therefore, within this five (5) hour span, this properties will receive at least 75 percent or 40sqm of adequate sunlight, complying with the Standard.

Overlooking is avoided by the single storey design with adequate boundary fencing to be required to be constructed by permit condition.

Preventing overlooking is also important in this context to comply with the regulations relating to protecting the privacy of children attending the Kindergarten next door to the north. To confirm the relevant requirements the application was both advertised to the Kindergarten Manager and a referral was sent to Council's internal Buildings and Facilities and Community and Family Services Departments who manage Council Kindergartens. Since then, the plans have been amended to remove all double storey dwellings from the plans, therefore, with adequate boundary fencing being provided (via permit condition) there will be no overlooking as a result of the dwellings to the neighbouring kindergarten.

Based on compliance with Standards B19, B20 and B21 it is demonstrated that there will be no impact on the daylight to existing windows, north facing windows or private open space of the neighbouring lots. There are north facing windows located on the neighbouring lot to the south within 3 metres of the property boundary. Therefore, the buildings on the subject site are required to be setback at least 3.8 metres from the southern boundary. The buildings are setback over 6 metres from the southern boundary (due to the common driveway), therefore, complying with the Standard.

There will also be no internal view issues due to the design of floor levels, window sill heights, proposed and existing screening fences and the location of secluded private open space.

Clause 55.05 On Site Amenities and Facilities:

The development has been designed to provide a sense of identity for each dwelling and adequate open space areas in accordance with the requirements of Clause 55. The proposal has been designed to ensure adequate provision of on-site amenities and facilities, including accessibility, daylight and solar access. Given the orientation of the site, north facing windows have been provided where possible to all dwellings. All the dwellings also benefit from a northern aspect to their respective S.P.O.S.

The proposal also complies with Standard B27, as direct access from a living area to P.O.S has been provided and there is adequate solar access from north facing habitable room windows (living areas). The P.O.S. to each Dwelling have been designed to face north.

All proposed Dwellings, within the constraints of the site, have been provided with individual functional areas as part of the private open space provisions. Private open space, where possible, has been located to maximise solar access.

The layout of private open spaces is such that they provided in rear yards with direct access to the living areas of the dwellings. Each Dwelling is provided at least 40sqm of open space, with 25sqm of SPOS with a minimum dimension of 3 metres at ground level.

Clause 55.06 Detailed Design:

The design details of the proposed development are compatible with the character of the surrounding area. The proposal is of a good standard of design that responds to the residential character of the area.

No new front fencing is proposed.

The proposed driveways are functional and capable of efficient management. The remainder of the internal side fencing between the three dwellings will be required by permit conditions to be constructed of timber palings to a maximum height of 1.8 metres. It is proposed that the existing 1.8-metre high combination Colorbond and paling fences on the south boundary will be retained and the section of post-and-wire fencing to the rear will be replaced with 1.8m high timber paling fence along the southern boundary, and the existing 1.8m high timber paling fence to the west will also be retained. There is an existing 1.8m high timber paling fence along the northern boundary, however due to the regulations of the Kindergarten, this fence will be required to be replaced to ensure it complies with the relevant standards for childcare centres in terms of the material, height and location of rails (to ensure children cannot climb over the fence). Conditions will require the fences be shown as 1.8 metre high timber paling (minimum) and will require them to be constructed in accordance with the plans.

It is considered that all services and facilities can be provided to the site, and this will take the form of conditions on any permit issued.

Clause 52.06 Car Parking

As detailed above the proposed development includes two (2) spaces (within double garages) for the three (3) bedroom dwellings (Dwellings 1, 2, 3, 4 and 6) and one (1) car space (within single garages) for the two (2) bedroom dwelling (Dwellings 5). Clause 52.06 requires that each 1 to 2 bedroom dwelling be provided one (1) car parking space, and each 3 or more bedroom dwelling be provided two (2) car parking spaces, therefore the application complies with the Standard.

As the proposal consists of five (5) or more dwellings, visitor spaces are also required. The development proposes one (1) visitor space located on-site and evenly distributed through the site. Clause 52.06 requires that one (1) visitor space be provided for every five (5) dwellings. As this proposal provides one (1) visitor space it complies the requirement therefore, complying with the Standard.

The proposed design has incorporated internal dimensions for the garages and accessway width is consistent with minimum requirements. Council's Traffic Engineer, deems the development to have suitable space to perform safe vehicle movements. Vehicles will be able to enter and exit the site in a forward-facing direction. As such, the proposal is consistent with the car parking and access requirements of the Cardinia Planning Scheme.

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 effect the proposal may have on the orderly planning of the area;
- The amenity of the area, proximity to public land;
- Factors likely to contribute to land degradation;
- The quality of stormwater within and exiting the site;
- Effects on native vegetation;
- Potential hazards;
- The suitability of the land for subdivision; and
- The existing use and possible future development of the land.

The application proposes six (6) dwellings which is considered to be in a suitable location that is consistent with the orderly planning of the area because it increases density in a location close to amenities and public transportation in accordance with existing and future planning policy. The proposal allows for infill development contained in an established residential area clear of significant vegetation and therefore it will not affect native vegetation or cause degradation to the land in any meaningful way. Stormwater drainage impacts will be further addressed via permit conditions. Therefore, it is considered that the application is consistent with the decision guidelines of all applicable planning controls.

Response to Objections

In response to both Council and Objector concerns the permit applicant has provided a revised set of drawings for consideration. To summarise the main changes include:

- Reduction in the number of dwellings from eight (8) to six (6);
- All dwellings are now proposed as single storey;
- Incorporated additional materials and design elements sympathetic to the township character;
- Incorporated fencing to a height of 1.8m; and
- Incorporated single storey dwellings throughout the development to address neighborhood character concerns.

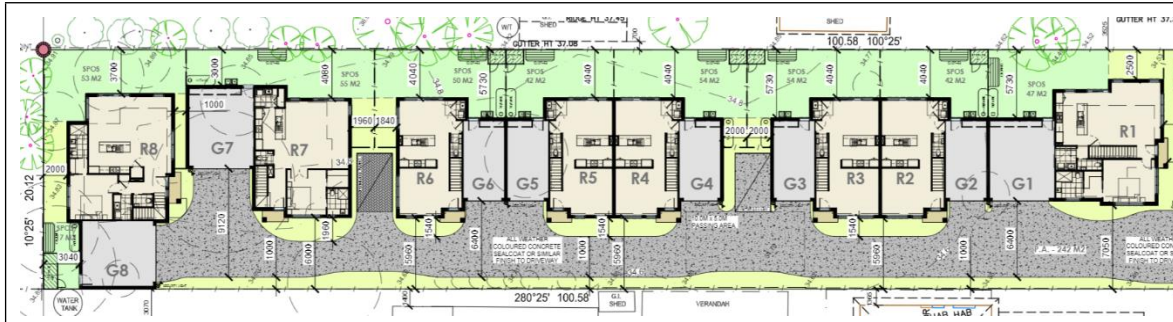


Figure 6: Advertised plans showing eight (8) double storey dwellings

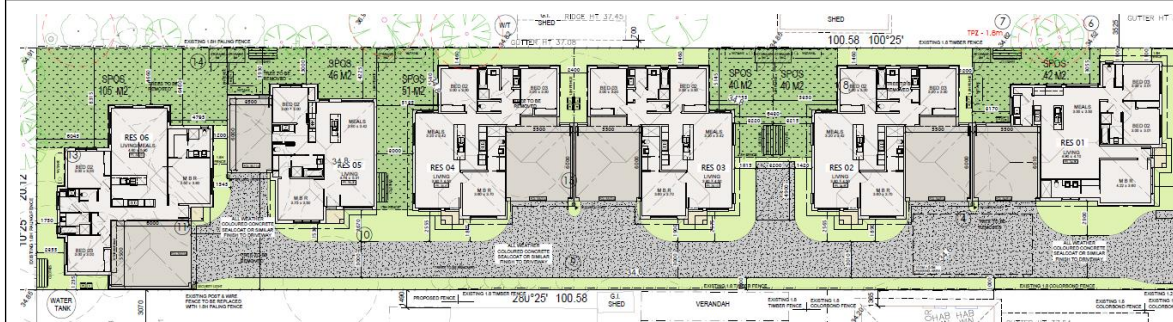


Figure 7: Revised plans showing six (6) single storey dwellings

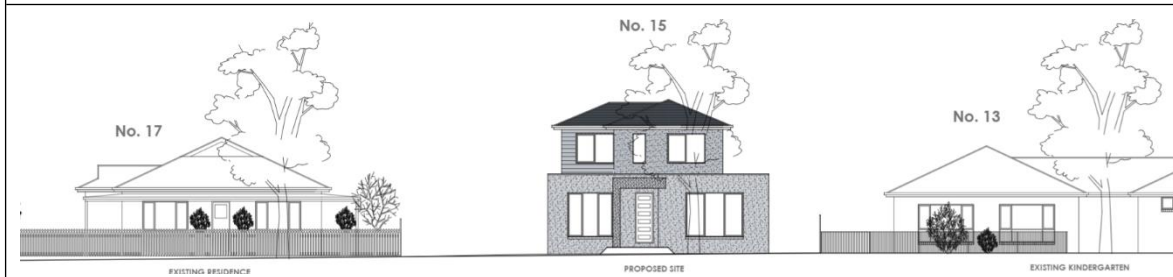


Figure 8: Advertised streetscape plan showing Dwelling 1 as double storey

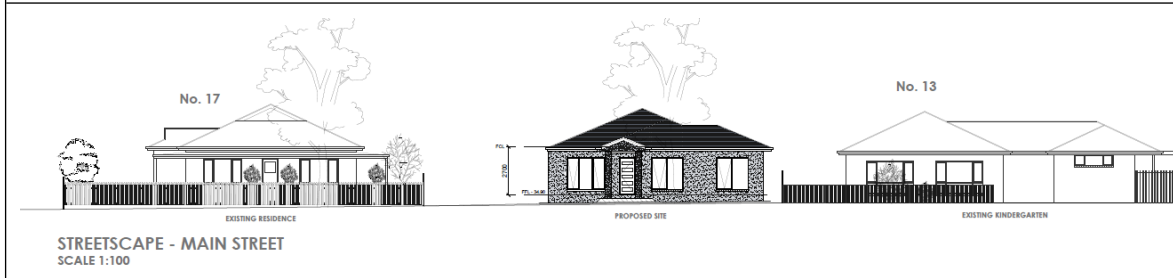


Figure 9: Revised streetscape plan showing Dwelling 1 as single storey



Figure 10: Advertised southern elevation showing all eight (8) dwellings as double storey



The following addresses the specific concerns raised by the objections received:

Car parking, Traffic & Access:

A number of objections raised concerns about increased traffic and potential car parking issues that may be caused by this development (especially at school and kinder drop off and pick up times) on Main Street.

The amount of car parking provided is compliant in accordance with the requirements of Clause 52.06 (Car Parking) of the Cardinia Planning Scheme. Clause 52.06 requires the following number of spaces to be provided for this type of development:

- For each 1-2 bedroom dwelling a total of 1 car parking space are to be provided for that dwelling:
 - Each 2-bedroom dwelling is provided 1 car space in a single lock up garage as required.
- For each 3+ bedroom dwelling a total of 2 car parking spaces are to be provided to that dwelling:
 - Each 3-bedroom dwelling is provided 2 car spaces in a double lock up garage as required.
- For every 5 dwellings (in developments of five dwellings or more) 1 visitor space is to be provided for the site.
 - The site is provided with 1 visitor space, complying with the number of visitor spaces required.

Access, turning circles and garage sizes have been assessed by Council's Traffic Engineer and are compliant with their standards and the standards of the planning scheme.

Main Street is a Road Zone Category 2 (a main road under Council control) and Council's Traffic Department did not raise any concerns about increased Traffic onto the road network at this location. The road is designed to accommodate more traffic when compared to other local roads. Access has been designed to ensure that all vehicles exiting the site can do so in a forward facing direction and on-site visitor spaces should ensure that the proposal does not detrimentally affect on-street parking or traffic into the local road network.

Therefore, it is considered that the proposal appropriately contemplates car parking, traffic and access.

Overlooking & privacy issues for the neighbouring Kindergarten:

A number of objections raised concerns about overlooking of S.P.O.S of neighbouring properties, and also issues of privacy and overlooking into the neighbouring Kindergarten.

The dwellings are required to be designed to prevent overlooking onto the private open space and habitable windows of adjoining lots. This has been achieved by proposing all single storey dwellings and requiring boundary fencing to a minimum height of 1.8 metres. As discussed above, any approval will be subject to such conditions.

Also as discussed above, Council's Community and Family Services team that oversees the management of the neighbouring kinder (located on Council land) have been given a copy of the application for review. They have requested a number of requirements of the plans to ensure that the kindergarten and children are adequately protected from overlooking and loss of privacy as required under the relevant Act/s that govern Kindergartens and Child Care Centres. These measures include requiring the use of obscured glazing to a minimum height of 1.7m above FFL or highlight windows to a minimum height of 1.7m above FFL on the upper floor levels facing the kinder, as well as appropriate boundary fencing.

As the proposal no longer includes double storey dwellings, the requirement for obscured glazing at the upper floor level is no longer required, however the fencing will still be required to comply with their standards.

Neighbourhood character & absence of strategic township plans:

A number of objections raised concerns about the proposal not aligning with the existing neighbourhood character of Nar Nar Goon, especially the double storey design in an area predominantly made up of single storey development.

The original design was not considered to have a sympathetic approach to the character of Main Street and the surrounding area, and therefore, the applicant was asked to consider changes to the plans to ensure the development was more sympathetic. The results are the amended plans which show all dwellings to be single storey, spacing between buildings and a range of different materials and colours more sympathetic to the neighbourhood.

The amended plans also demonstrate that all dwellings will be single storey which is more in-line with the existing streetscape character. The result of this is that the number of dwellings has also been reduced from eight (8) to six (6).

A number of objectors also raised concerns that Nar Nar Goon does not have its own Township Strategy to help guide development and protect neighbourhood character within the township.

Unfortunately, in the absence of an enforceable township strategy for Nar Nar Goon, Council can only rely on the existing planning policy in the Planning Scheme when assessing applications. This can make it more difficult to advocate for preferable outcomes. Council is aware of this issue and in response is working on a township policy (Cardinia Shire Railway Towns) which will include Nar Nar Goon and provide more guidance for development in the area if approved.

However, currently there is only a very small portion of Nar Nar Goon township which this type of development can be considered on (mainly consisting of the Neighbourhood Residential Zone along parts of Main Street, Nar Nar Goon-Longwarry Rd, Station St, Spencer St and Carney St). The remaining areas of the township centre are Low-Density Residential Zone which would require re-zoning to allow for this type of development to occur. The Planning Scheme recognises that it is important to provide for a range of housing types in regional towns to cater for all different types of households and families within the area. However, these comments were taken on board and the design response in the changes demonstrated in amended plans (reduction in dwellings and reduction in storey's) are intended to help address these concerns.

A map of the town centre and zoning showing the small area of Neighbourhood Residential Zone (NRZ) is below for reference (NRZ is shown in LIGHT PINK):



Boundary Fencing:

Some objections raised issues about appropriate boundary fencing where the fencing is currently not adequate. Concerns were also raised about fencing adjoining the kindergarten.

Although not normally a planning consideration (as fencing is a civil matter) Council can consider the inclusion of permit conditions requiring the permit holder to construct the appropriate boundary fencing. This is normally required to be a minimum of 1.8m high, timber paling fencing, and any areas which have not been shown on the plans as being constructed as such, will be required by permit condition. Alternatives to this can be discussed civilly between the permit holder and the adjoining neighbour as would normally be required when dealing with boundary fencing.

As discussed above, appropriate fencing with rails facing internally to the subject site to prevent children from climbing the fence will be included on the permit.

All boundary fencing will be required to be constructed prior to occupancy of the dwellings via permit condition.

Drainage:

Some objections also raised concerns about drainage and how it will be managed for the property.

The Stormwater management strategy provided is intended to provide options to deal with stormwater run-off. It includes the use of water tanks, on-site detention and landscaping all to combat and reduce stormwater run-off, as well as improve its quality.

This application has also been assessed by Council's Drainage Engineer and a number of conditions will address drainage, including conditions for the submission of drainage plans and an on-site stormwater detention system provided.

Conclusion

The proposed development is consistent with the requirements of the Cardinia Planning Scheme and will not cause detriment to adjoining properties. It is therefore recommended that a Notice

of Decision for planning permit T200296 be issued for the development of the land for six (6) dwellings and associated works at 15 Main Street, Nar Nar Goon, VIC, 3812 subject to the following conditions:

Conditions

Plans required:

1. Before the development starts, 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 and fully dimensioned. The plans must be generally in accordance with the amended development plans prepared by Thomas Anderson Design, Issue D, submitted with the application but modified to show:
 - a. Amended site plan showing:
 - i. Boundary fencing constructed to be a minimum of 1.8-metre-high timber paling fencing along the south and west boundaries.
 - ii. Northern boundary fencing adjoining the kindergarten to be constructed:
 1. With fence railings facing internal to 15 Main Street, Nar Nar Goon;
 2. To a minimum height of 1.8 metres; and
 3. Treated pine palings must not be used unless paint sealed.
 - b. Amended landscape plan showing:
 - i. The number of dwellings reduced to six (6) as per the Issue D plans.
 - c. Coloured photos of the existing building as a record of the building for Council's records to show:
 - i. All four (4) exterior elevations of the existing building.
 - d. A Waste Management Plan to the satisfaction of the Responsible Authority. The plan must include but is not limited to:
 - i. The manner in which waste will be stored and collected including the type, size and number of containers.
 - ii. Provision for on-site storage.
 - iii. Details whether waste collection is to be performed by Council's services or privately contracted.
 - iv. The size of the collection vehicle and the frequency, time and point of collection.
2. Before the development starts drainage plans must be submitted to and approved by the Responsible Authority. The plans must show the provision of a stormwater detention system. The stormwater detention system will become the responsibility of the property owner or body corporate to maintain to the satisfaction of the Responsible Authority.

Prior to commencement (Street trees):

3. Before the development starts a fee of \$375.00 must be paid to the Responsible Authority for the removal and replacement of any existing street tree requiring removal to facilitate the extension of the common driveway crossover.
4. Before the development including demolition starts, a tree protection fence must be erected around the existing street trees to be retained outside the canopy zone of the tree to define a "Tree Protection Area". The fence must be constructed of star pickets and

chain mesh or similar to the satisfaction of the Responsible Authority. The tree protection fence must remain in place until construction is completed. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Area. Any pruning that is required to be done to the canopy or roots of any tree to be retained is to be done with permission by Council's Arborist by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-2007.

Prior to commencement (Tree Protection Fencing):

5. Before works start, a fence must be erected around the areas of TPZ encroachment of Trees 6, 7, 16, 17 and 18 located on the adjoining land known as 13 Main Street, Nar Nar Goon as shown on the endorsed plan. This fence will protect the trees by demarcating the tree protection zone that extends onto the subject site and must be erected at a radius of $12 \times$ the diameter at a height of 1.3 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the trees, excepting the approved area of encroachment for construction as shown on endorsed plans to the satisfaction of the Responsible Authority. The protection fence must be constructed of star pickets and flagging tape/chain mesh or similar to the satisfaction of the Responsible Authority. The protection fence must remain in place until all works are completed to the satisfaction of the Responsible Authority. Except with the written consent of the Responsible Authority, within the tree protection zone, the following are prohibited:
 - a. Vehicular access.
 - b. Trenching or soil excavation.
 - c. Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products.
 - d. Entry and exit pits for underground services.
 - e. Any other actions or activities that may result in adverse impacts to retained native vegetation.

General:

6. The layout of the site and the size of the proposed buildings and works, as shown on the approved plan/s, must not be altered or modified without the consent in writing of the Responsible Authority
7. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
8. 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 development must be of a non-reflective nature in accordance with the endorsed plans.
9. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
10. All residential waste must be stored within the specified bin storage area for each dwelling. Garbage bins are to be placed on the street for collection in a tidy manner on the appropriate waste collection day for the area.
11. Any external lighting must be designed, baffled and located so as to not detrimentally affect the adjoining land to the satisfaction of the Responsible Authority.
12. The dimensions and layout of the proposed access and parking areas must be in accordance with the requirements of Clause 52.06 of the Cardinia Planning Scheme.

13. All pipes, fixtures, fittings and vents servicing any building on the subject land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

Kindergarten boundary:

14. Boundary fencing along the northern boundary with the Kindergarten as shown on the endorsed plans must be maintained at all times to the satisfaction of the Responsible Authority.

Engineering:

15. 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.
16. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
17. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority
18. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
19. The slope of batters, both cut and fill, must not exceed 2:1 (horizontal: vertical) or, where this is not practicable, batters must be stabilised by other means to the satisfaction of the Responsible Authority.

Prior to Occupancy:

20. The development approved by this permit must not be occupied until the following works have been completed to the satisfaction of the Responsible Authority:
 - a. Any new fencing shown on the endorsed plans must be constructed at the cost of the owner/permit holder in accordance with the endorsed plans.
 - b. The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority unless an alternative date is agreed to in writing by the Responsible Authority.
 - c. 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.
 - d. A residential standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
 - e. Any redundant existing vehicle crossing must be removed and the nature strip and kerb and channel reinstated at the cost of the owner and to the satisfaction of the Responsible Authority.
 - f. The premises are connected to a reticulated water supply, sewerage, drainage and underground electricity to the requirements of the relevant servicing authority.
 - g. Power and telephone lines to all new dwellings must be placed underground from the main point of service supplied by the relevant authority outside the boundaries of the subject land.

- h. A bin storage area must be provided for each dwelling and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
- i. A mail box must be provided to each dwelling to the satisfaction of the Responsible Authority and Australia Post.
- j. A clothesline must be provided for each dwelling and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
- k. Lighting must be provided near the front entrance of each dwelling to the satisfaction of the Responsible Authority.

Expiry:

A permit for the development 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.

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

Notes:

- i. Council recommends that prior to activating this permit, a registered building surveyor be contacted to ensure the development (including boundary fencing) complies with the Building Act and Building Regulations.
- ii. This application has been assessed against Clause 55 of the Cardinia Planning Scheme.
- iii. A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.
- iv. Prior to commencement of the proposed use a Building Permit must be obtained for any retaining wall exceeding 1.0 metres in height.

Drainage notes:

- v. As the development has an impervious ratio greater than 35%, the developer shall engage the services of a suitably experienced Engineer to design a stormwater detention system that will reduce the intensity of the storm water discharge entering Council's drainage system, i.e.: a detention system. The storm water detention system shall provide for the same five (5) year ARI peak discharge as that for a standard house lot with no storm water detention. A standard house lot is assumed to have a fraction impervious area of 35%. Calculations and a plan shall be submitted to Council for approval prior to construction. The storm water detention system must be constructed prior to the occupation of the proposed development.

Resolution

Moved Cr Graeme Moore, seconded Cr Stephanie Davies.

That Council issue a Notice of Decision to Grant Planning Permit T200296 for the Development of the land for six (6) dwellings and associated works at 15 Main Street, Nar Nar Goon VIC 3812 subject to the following conditions:

Plans required:

1. Before the development starts, 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 and fully dimensioned. The plans must be generally in accordance with the amended development plans prepared by Thomas Anderson Design, Issue D, submitted with the application but modified to show:
 - a. Amended site plan showing:
 - i. Boundary fencing constructed to be a minimum of 1.8-metre-high timber paling fencing along the south and west boundaries.
 - ii. Northern boundary fencing adjoining the kindergarten to be constructed:
 1. With fence railings facing internal to 15 Main Street, Nar Nar Goon;
 2. To a minimum height of 1.8 metres; and
 3. Treated pine palings must not be used unless paint sealed.
 - b. Amended landscape plan showing:
 - i. The number of dwellings reduced to six (6) as per the Issue D plans.
 - c. Coloured photos of the existing building as a record of the building for Council's records to show:
 - i. All four (4) exterior elevations of the existing building.
 - d. A Waste Management Plan to the satisfaction of the Responsible Authority. The plan must include but is not limited to:
 - i. The manner in which waste will be stored and collected including the type, size and number of containers.
 - ii. Provision for on-site storage.
 - iii. Details whether waste collection is to be performed by Council's services or privately contracted.
 - iv. The size of the collection vehicle and the frequency, time and point of collection.
2. Before the development starts drainage plans must be submitted to and approved by the Responsible Authority. The plans must show the provision of a stormwater detention system. The stormwater detention system will become the responsibility of the property owner or body corporate to maintain to the satisfaction of the Responsible Authority.

Prior to commencement (Street trees):

3. Before the development starts a fee of \$375.00 must be paid to the Responsible Authority for the removal and replacement of any existing street tree requiring removal to facilitate the extension of the common driveway crossover.

4. Before the development including demolition starts, a tree protection fence must be erected around the existing street trees to be retained outside the canopy zone of the tree to define a "Tree Protection Area". The fence must be constructed of star pickets and chain mesh or similar to the satisfaction of the Responsible Authority. The tree protection fence must remain in place until construction is completed. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Area. Any pruning that is required to be done to the canopy or roots of any tree to be retained is to be done with permission by Council's Arborist by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-2007.

Prior to commencement (Tree Protection Fencing):

5. Before works start, a fence must be erected around the areas of TPZ encroachment of Trees 6, 7, 16, 17 and 18 located on the adjoining land known as 13 Main Street, Nar Nar Goon as shown on the endorsed plan. This fence will protect the trees by demarcating the tree protection zone that extends onto the subject site and must be erected at a radius of 12 × the diameter at a height of 1.3 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the trees, excepting the approved area of encroachment for construction as shown on endorsed plans to the satisfaction of the Responsible Authority. The protection fence must be constructed of star pickets and flagging tape/chain mesh or similar to the satisfaction of the Responsible Authority. The protection fence must remain in place until all works are completed to the satisfaction of the Responsible Authority. Except with the written consent of the Responsible Authority, within the tree protection zone, the following are prohibited:
 - a. Vehicular access.
 - b. Trenching or soil excavation.
 - c. Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products.
 - d. Entry and exit pits for underground services.
 - e. Any other actions or activities that may result in adverse impacts to retained native vegetation.

General:

6. The layout of the site and the size of the proposed buildings and works, as shown on the approved plan/s, must not be altered or modified without the consent in writing of the Responsible Authority
7. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
8. 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 development must be of a non-reflective nature in accordance with the endorsed plans.
9. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
10. All residential waste must be stored within the specified bin storage area for each dwelling. Garbage bins are to be placed on the street for collection in a tidy manner on the appropriate waste collection day for the area.

11. Any external lighting must be designed, baffled and located so as to not detrimentally affect the adjoining land to the satisfaction of the Responsible Authority.
12. The dimensions and layout of the proposed access and parking areas must be in accordance with the requirements of Clause 52.06 of the Cardinia Planning Scheme.
13. All pipes, fixtures, fittings and vents servicing any building on the subject land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

Kindergarten boundary:

14. Boundary fencing along the northern boundary with the Kindergarten as shown on the endorsed plans must be maintained at all times to the satisfaction of the Responsible Authority.

Engineering:

15. 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.
16. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
17. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority
18. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
19. The slope of batters, both cut and fill, must not exceed 2:1 (horizontal: vertical) or, where this is not practicable, batters must be stabilised by other means to the satisfaction of the Responsible Authority.

Prior to Occupancy:

20. The development approved by this permit must not be occupied until the following works have been completed to the satisfaction of the Responsible Authority:
 - a. Any new fencing shown on the endorsed plans must be constructed at the cost of the owner/permit holder in accordance with the endorsed plans.
 - b. The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority unless an alternative date is agreed to in writing by the Responsible Authority.
 - c. 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.
 - d. A residential standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
 - e. Any redundant existing vehicle crossing must be removed and the nature strip and kerb and channel reinstated at the cost of the owner and to the satisfaction of the Responsible Authority.
 - f. The premises are connected to a reticulated water supply, sewerage, drainage and underground electricity to the requirements of the relevant servicing authority.

- g. Power and telephone lines to all new dwellings must be placed underground from the main point of service supplied by the relevant authority outside the boundaries of the subject land.
- h. A bin storage area must be provided for each dwelling and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
- i. A mail box must be provided to each dwelling to the satisfaction of the Responsible Authority and Australia Post.
- j. A clothesline must be provided for each dwelling and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
- k. Lighting must be provided near the front entrance of each dwelling to the satisfaction of the Responsible Authority.

Expiry:

A permit for the development 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.

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

Notes:

- i. Council recommends that prior to activating this permit, a registered building surveyor be contacted to ensure the development (including boundary fencing) complies with the Building Act and Building Regulations.
- ii. This application has been assessed against Clause 55 of the Cardinia Planning Scheme.
- iii. A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.
- iv. Prior to commencement of the proposed use a Building Permit must be obtained for any retaining wall exceeding 1.0 metres in height.

Drainage notes:

- v. As the development has an impervious ratio greater than 35%, the developer shall engage the services of a suitably experienced Engineer to design a stormwater detention system that will reduce the intensity of the storm water discharge entering Council's drainage system, i.e.: a detention system. The storm water detention system shall provide for the same five (5) year ARI peak discharge as that for a standard house lot with no storm water detention. A standard house lot is assumed to have a fraction impervious area of 35%. Calculations and a plan shall be submitted to Council for approval prior to construction. The storm water detention system must be constructed prior to the occupation of the proposed development.

Carried

5.3 T000898-1 APP - Amendments to Planning Permit T000898 at 74 Princes Hwy and 1 Deveney St, Pakenham

Responsible GM: Peter Benazic
Author: Evie McGauley-Kennedy

Recommendation(s)

That Council issue a Notice of Decision to Grant a permit for Amendments to Planning Permit T000898 for changes to the permit to allow for the use and development of the land for a seventh convenience restaurant and sale and consumption of liquor (located on 74 Princes Hwy and 1 Deveney St, Pakenham) and associated works, to display business identification and illuminated signage and alteration to access to a road in a Road Zone Category 1

Attachments

1. Development Plans [5.3.1 - 8 pages]
2. CONFIDENTIAL - Copy of Original Permit and Endorsed Plans - Circulated to Councillors only [5.3.2 - 6 pages]
3. CONFIDENTIAL - Copy of Objections - Circulated to Councillors only [5.3.3 - 28 pages]

Executive Summary

APPLICATION NO.:	T000898-1
APPLICANT:	Squareback
LAND:	L1 on PS435535, 88-90 Princes Highway, Pakenham L2 on PS435535, 82-86 Princes Highway, Pakenham, L3 on PS435535, 76-80 Princes Highway, Pakenham & CM1 on PS435535, Princes Highway Pakenham, L13 on LP58251, 74 Princes Highway and L14 on LP58251, 1 Deveney Street, Pakenham.
PROPOSAL:	To amend planning permit T000898 to make changes to the permit to allow for the use and development of the land for a seventh convenience restaurant and sale and consumption of liquor (located on 74 Princes Hwy and 1 Deveney St, Pakenham) and associated works, to display business identification and illuminated signage and alteration to access to a road in a Road Zone Category 1
PLANNING CONTROLS:	Zone: <ul style="list-style-type: none"> • General Residential Zone (Schedule 1) • Land adjacent to a Road Zone Category 1 Overlay:

	<ul style="list-style-type: none"> Development Contributions Plan Overlay (Schedule 1)
NOTIFICATION & OBJECTIONS:	<p>Pursuant to Section 55 of the <i>Planning and Environment Act 1987</i>, the application was advertised by the placing of a sign on site and notices in the mail to adjoining property owners.</p> <p>Four (4) objections have been received to date.</p>
KEY PLANNING CONSIDERATIONS:	<p>Commercial development Highway development Land use compatibility Urban design Noise impact Traffic impact Sale and consumption of liquor</p>
RECOMMENDATION:	<p>That a Notice of Decision to Grant a Permit be issued, subject to conditions.</p>

Background

The subject sites have previously been used for single dwellings, however as it is located along the Princes Highway, these dwellings have historically sat within an area of the highway catering for a mixture of commercial and community services uses.

The neighbouring site to the west were developed for convenience restaurants following the issue of Planning Permit T000898 in 2001.

The neighbouring sites were developed over 2002-2004 and have been in operation since. The types of business next door include a Hungry Jacks (with attached drive thru), a group of individual take away restaurants as well as a bicycle store. Further west there is a service station and a McDonalds (also with an attached drive thru).

Subject Site



Figure 1: Subject site

The subject site is located on the northern side of Princes Highway, on the western corner of Deveney Street.

The subject sites are each developed with a single dwelling, a various outbuildings and minimal vegetation cover.

The site is located on the edge of a Mixed Use Zone and on a section of the highway that has been developed over the past 20 years for more commercial and service type uses.

The surrounding area is characterised by:

- North: Directly north of the site is 3 Deveney Street, which contains a single dwelling. Further north is an established residential area of Pakenham.
- South: Directly south of the site is the service road to Princes Highway. Further south is Princes Highway and across is the area identified by the future Pakenham Activity Centre Zone. Pakenham Town Centre is located approximately 660 metres to the south.
- East: Directly east of the site is Deveney Street. Across Deveney Street is a dwelling, which according to Council's records appears may be being used for a Medical Centre (no permit required). Further east is one other single dwelling, another medical centre and Millhaven Lodge (an assisted living and nursing home).
- West: Directly west of the site is 90 Princes Highway, which as discussed above contains a variety of convenience restaurants, including one with an attached drive thru and a retail premises. Further west is another convenience restaurant with an attached drive thru and a service station.

There are no restrictions or agreements registered on title.

The site is subject to Aboriginal Cultural Sensitivity, and a Cultural Heritage Management Plan was required to be prepared for this activity. CHMP No. 17613 has been provided to Council to accompany the application as required.

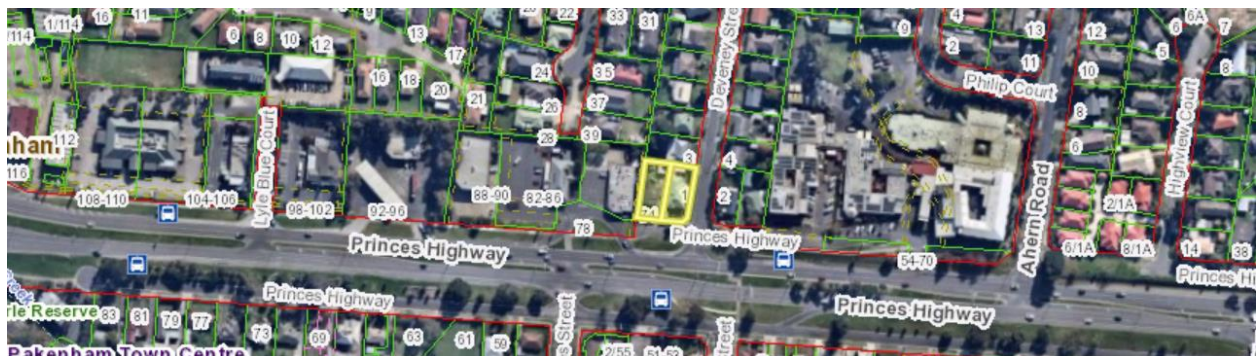


Figure 2: Subject site and surrounds

Permit/Site History

The history of the subject property includes:

- Planning Permit T000898 which was refused at Council for the use and development of the land for the purpose of a take-away food premises and restaurants on 7 March 2001.
- - The refusal decision was appealed at the Victorian Civic and Administrative Tribunal (No. 2001/023589), and Council's decision was set aside, and a permit directed to be issued on 15 November 2001.
 -
 - A Planning Permit for T000898 was issued at the direction of the Victorian Civic and Administrative Tribunal for the use and development of the land for

the purpose of six (6) convenience restaurants with associated car parking generally in accordance with the substituted plans TP1.P and TP2-J on 20 December 2001.

Relevance to Council Plan

3.5 Our Environment - Balanced needs of development, the community and the environment

3.5.2 Plan for the development of the urban growth area with a mix of residential, commercial, employment, recreational and community activities to meet the needs of our growing community in a sustainable way.

4.1 Our Economy - Increased business diversity in Cardinia Shire

4.1.1 Plan for and support local employment opportunities.

4.1.2 Support the development of existing and new businesses within the Shire.

4.3 Our Economy - Diverse and resilient business community

4.3.2 Encourage the establishment of tourism and hospitality in appropriate areas of the Shire.

Proposal

The applicant has submitted a request to amend the permit address (land affected by the permit), preamble, plans and conditions on Planning Permit T000898 which granted the permission for the use and development of the land for the purpose of six (6) convenience restaurants with associated car parking generally in accordance with the substituted plans TP1.P and TP2-J.

The amendments are sort to allow the use and development of the land at 74 Princes Hwy and 1 Deveney Street for a seventh convenience restaurant, restaurant and sale and consumption of liquor, to display business identification and illuminated signage and the alteration of access to a road in a Road Zone Category 1.

As well as the above permissions that are sought, the additional convenience restaurant intends to cater for 60 seated patrons, and also cater for drive-thru and takeaway orders. To cater for these patrons, the proposal also includes the provision of seventeen (17) new car parking spaces.

New signage and acoustic fencing are also proposed.

The design also requires some slight adjustments to be made to the location of the loading bay and bin enclosure.

It is noted that the additional convenience restaurant was originally submitted to Council requesting 24-hour, seven day a week operation, and sale and consumption of liquor between 7:00am and 11:00pm, seven days a week, however this has since been agreed by the application to be changed to:

Restaurant hours reduced to:

- 7:00am until 11:00pm – Sunday to Thursday; and
- 7:00am until 1am (the next day) – Friday to Saturday.

Sale and consumption of liquor hours reduced to:

- 10:00am until 11:00pm – Monday to Sunday.

Further details are listed below:

Introduction of new permit trigger/s	Change to Permit preamble or affected land
<p>General Residential Zone:</p> <p>Pursuant to Clause 32.08-2 (GRZ1) a planning permit is required for the use of the land for a convenience restaurant.</p> <p>Pursuant to Clause 32.08-9 (GRZ) a planning permit is required to construct or carry out works associated with a Section 2 use (Convenience restaurant)</p> <p><i>(Note: A condition of this use in the GRZ is the site must adjoin, or have access to a road in a Road Zone - Complies)</i></p> <p>Signage:</p> <p>Pursuant to Clause 52.05-11 (Signs) a planning permit is required to display business identification signage and internally illuminated signage.</p> <p><i>(Note: No conditions for this signage are specified in the table to Clause 52.05-11).</i></p> <p>Licensed Premises:</p> <p>Pursuant to Clause 52.27 (Licensed Premises) a planning permit is required to use the land for the sale and consumption of liquor.</p> <p>Land Adjacent to a Road Zone Category 1:</p> <p>Pursuant to Clause 52.29 (Land adjacent to a Road Zone Category 1) a planning permit is required to alter access to a Road in a Road Zone Category 1.</p> <p><i>(Note: The original permit would have triggered Clause 52.29, however it is unclear if this provision existed at this time the original permit was issued, therefore it has been considered a permit trigger for the purposes of this assessment)</i></p>	<p>General Residential Zone:</p> <p>The permit preamble will not change as a result of the Clause 32.08-2 or 32.08-9 permit triggers. The permit already allows the 'use' and 'development' of the land for convenience restaurants.</p> <p>What will be affected is the number of convenience restaurants will be amended from six (6) to seven (7) and the land that is affected will include number 74 Princes Highway and 1 Deveney Street.</p> <p>Signage:</p> <p>The permit preamble will be amended to include the permission to 'display business identification and internally illuminated signs' at 74 Princes Highway and 1 Deveney Street.</p> <p>Conditions will reflect this permission.</p> <p>Licensed Premises:</p> <p>The permit preamble will be amended to allow for the 'sale and consumption of liquor'. This will only apply to the land at 74 Princes Highway and 1 Deveney Street. Permit conditions will reflect this permission.</p> <p>Land Adjacent to a Road Zone Category 1:</p> <p>The permit preamble will be amended to include the 'alteration of access to a Road in a Road Zone Category 1'.</p>
Amendment to the endorsed plans	Deletion/inclusion of Permit conditions
<p>Endorsed plans for the land affected by the current permit (T000898) being Lot 4, PS413099, 78 Princes Highway Pakenham will remain unchanged.</p>	<p>The following conditions are requested to be deleted:</p>

New plans for 74 Princes Highway and 1 Deveney Street will be introduced.

In general the new plans will show:

- The location, layout and floor plans for the seventh convenience restaurant;
- Elevations for the seventh convenience restaurant;
- Signage;
- Car parking; and
- Landscaping.

The plans will also provide further detail on the following:

- Provide one way vehicle access from the common property to the service lane (76 – 90 Princes Highway).
- Provide two way vehicle access from the service lane to the site (74 Princes Highway).
- Provide one way vehicle access from Deveney Street to the site (1 Deveney Street).
- Construction of a single storey building which is to be used for the purpose of a convenience restaurant (Guzman Y Gomez) and incorporating indoor and outdoor dining areas and a drive through service.
- Provide seventeen (17) additional onsite car parking spaces.
- Provide a 3.2 metre high acoustic fence along the northern boundary of the site where it has an interface with 3 Deveney Street.
- Provide signage associated with the proposed convenience restaurant (Guzman Y Gomez) including one internally illuminated pole sign, internally illuminated and non-illuminated façade signage, directional and traffic management signage, menu displays and canopies.
- Provide a new bin enclosure and loading bay.

Condition 1(c):

Prior to the commencement of any works under this permit, plans must be submitted to the Responsible Authority showing:

- An additional car space to the east side of parking area 94;

Condition 1(d):

Prior to the commencement of any works under this permit, plans must be submitted to the Responsible Authority showing:

- Closure security fences between the bin storage building and the north boundary fence and between the southeast corner of Area 6 and the east fence to the satisfaction of the Responsible Authority. The area enclosed by these shall not be used for storage purposes

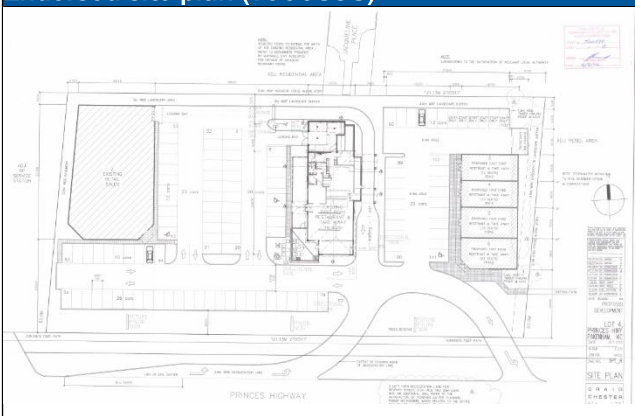

Council's preference is to retain any original Condition 1 requirements as in this instance they were required by the Tribunal.

However, as new Condition 1 plans are required, the condition will be amended to ensure that it is clear that Conditions 1(a) to 1(d) relate to the original approval and have been satisfied, and new permit conditions relate to the new development allowed by T000898-1.

Additional conditions will be to address each of the following:

- Amended plans to show acoustic fencing and bin storage areas
- Amended plans required by Traffic
- Provision of a landscaping plan for 74 Princes Hwy & 1 Deveney St
- Provision of a construction Management Plan for 74 Princes Hwy & 1 Deveney St
- Provision of a Site Management Plan for 74 Princes Hwy & 1 Deveney St
- New engineering conditions (unless they are already included) for 74 Princes Hwy & 1 Deveney St

	<ul style="list-style-type: none"> • New Health conditions (unless they are already included) for 74 Princes Hwy & 1 Deveney St • Sale and consumption of liquor and signage conditions 74 Princes Hwy & 1 Deveney St • Operation hours for 74 Princes Hwy & 1 Deveney St • CHMP conditions for 74 Princes Hwy & 1 Deveney St
Conditions requested to be amended	Amendments requested
<u>Condition 9 currently reads:</u>	<u>Requested that Condition 9 is amended to read:</u>
<p><i>Directional signs not greater than 0.5 sq m in area must be erected at the access points to indicate clearly the area set aside for parking and the direction of traffic movement.</i></p>	<p><i>Directional signs must be erected at the access points to indicate clearly the area set aside for parking and the direction of traffic movement</i></p>
<u>Condition 14 currently reads:</u>	<u>Requested that Condition 14 is amended to read:</u>
<p><i>The six (6) premises shall only be open to the public between the hours of 6:00am and 12:00pm midnight Thursday to Saturday and 6:00am to 11:00pm Sunday to Wednesday.</i></p>	<p><i>The six (6) premises on 76 - 90 Princes Highway shall only be open to the public between the hours of 6:00am and 12:00pm midnight Thursday to Saturday and 6:00am to 11:00pm Sunday to Wednesday; and</i></p>
	<p><i>The one (1) premises on 74 Princes Highway and 1 Deveney Street shall be open to the public 24 hours, seven days per week.</i></p>
	<p>Condition 14 will be updated to read:</p>
	<p><i>The six (6) premises on 76 - 90 Princes Highway shall only be open to the public between the hours of 6:00am and 12:00pm midnight Thursday to Saturday and 6:00am to 11:00pm Sunday to Wednesday; and</i></p>
	<p><i>The one (1) premises on 74 Princes Highway and 1 Deveney Street shall be open to the public:</i></p> <ul style="list-style-type: none"> • <i>7:00am until 11:00pm – Sunday to Thursday; and</i> • <i>7:00am until 1am (the next day) – Friday to Saturday.</i>
<u>Condition 16 currently reads:</u>	<u>Requested that Condition 16 is amended to read:</u>

<p><i>All external lighting shall be suitably baffled and all lighting adjacent to the north and east boundaries shall be a maximum of 1.2m in height.</i></p> <p><u>Condition 18 currently reads:</u></p> <p><i>Each convenience restaurant is to be provided with appropriate and hygienic waste disposal areas which are regularly cleared to the satisfaction of the Responsible Authority. The enclosed bin enclosure shown on the drawings at the north end of Area 3 shall be a fully enclosed brick building, with a completely enclosed roof with acoustic qualities, to house waste bins. Its design and construction shall be approved by the Responsible Authority.</i></p>	<p><i>All external lighting shall be suitably baffled to avoid light spill into the residential properties to the north of the site.</i></p> <p><u>Requested that Condition 18 is amended to read:</u></p> <p><i>Each convenience restaurant is to be provided with appropriate and hygienic waste disposal area which are regularly cleared to the satisfaction of the Responsible Authority.</i></p> <p><u>Condition 18 will be amended to read:</u></p> <p><i>Each convenience restaurant is to be provided with appropriate and hygienic waste disposal area which are to be appropriately designed to reduce noise and regularly cleared to the satisfaction of the Responsible Authority.</i></p>
<p>Endorsed site plan (T000898)</p> 	<p>Proposed site plan (T000898-1)</p> 

Planning Scheme Provisions

Zone

The land is subject to the following zones:

- General Residential Zone (Schedule 1)
- Mixed Use Zone
- Land adjacent to a Road Zone Category 1

Overlays

The land is subject to the following overlays:

- Development Contributions Plan Overlay – Schedule 1

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.01-1S – Settlement
- Clause 13.05 – Noise
 - Clause 13.05-1S – Noise abatement
- Clause 13.07-1S – Land use compatibility
- Clause 15.01 – Built environment
 - Clause 15.01-1S – Urban design
 - Clause 15.01-2S – Building design
- Clause 15.03-2S – Aboriginal cultural heritage
- Clause 17.01 – Employment
 - Clause 17.01-1S – Diversity economy
- Clause 17.02 – Commercial
 - Clause 17.02-1S – Business
- Clause 18.02-4S – Car parking

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 – Cardinia Shire Key Issues and Strategic Vision
- Clause 21.03-2 – Urban Established Area – Beaconsfield and Pakenham
- Clause 21.04-1 – Employment
- Clause 21.06-1 – Urban design
- Clause 22.04 – Highway development

Relevant Particular/General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.05 – Signs
- Clause 52.06 – Car parking
- Clause 52.27 – Licensed premises
- Clause 52.29 – Land adjacent to Road Zone Category 1
- Clause 65 – Decision guidelines
- Clause 66 – Referral and notice provisions

Additional Planning Permit Triggers

The Section 72 Amendment proposal requires the assessment of these additional planning permit triggers of the Cardinia Planning Scheme:

- Pursuant to Clause 32.08-2 (GRZ1) a planning permit is required for the use of the land for a convenience restaurant.
- Pursuant to Clause 32.08-9 (GRZ) a planning permit is required to construct or carry out works associated with a Section 2 use (Convenience restaurant).
- Pursuant to Clause 52.05-11 (Signs) a planning permit is required to display business identification signage and internally illuminated signage.
- Pursuant to Clause 52.27 (Licensed Premises) a planning permit is required to use the land for the sale and consumption of liquor.
- Pursuant to Clause 52.29 (Land adjacent to a Road Zone Category 1) a planning permit is required to alter access to a Road in a Road Zone Category 1.

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 the statutory declaration has been submitted to Council on 11 March 2021.

Council has received four (4) objections to date.

The main concerns raised by the objections are:

- Traffic concerns
- Noise impacts
- Compatibility with neighbouring residential uses
- Consumption of liquor (social and nuisance impacts)
- Operation hours

Referrals

External Referrals/Notices:

Referrals/ Notice	Referral Authority	Brief summary of response
Section 55 Referrals	Department of Transport (formally VicRoads)	No response received to date.
Section 52 Notices	N/A	

Internal Referrals:

Internal Council Referral	Advice/ Response/ Conditions
Engineering	<p>No objection (subject to conditions)</p> <p>Required a number of new conditions relating to the development of 74 Princes Hwy & 1 Deveney St and works on CM1 on PS435535, Princes Highway Pakenham.</p> <p>These conditions have been included at Conditions 35 to 38, 49(a), (b) and (c) and 50 to 63.</p>
Traffic	<p>No objection (subject to conditions)</p> <p>Required amended plans to demonstrate line marking and signage on the new development at 74 Princes Hwy & 1 Deveney St. These are new conditions and has been included at Conditions 1.1(e) to 1(k)</p>
Landscape	<p>No objection (subject to conditions)</p> <p>Required landscaping plans to be submitted, and conditions about the ongoing maintenance of landscaping for the new development on 74 Princes Hwy & 1 Deveney St. These are new conditions and have been included at Condition 1(l), 31, 34 and 48(e).</p>
Health	<p>No objection (subject to conditions)</p> <p>Required that the use not detrimentally affect the amenity of the area. This condition already exists on the permit at Condition 11 and will remain.</p> <p>Required that the use complies with SEPP N-1. This condition already exists on the permit at Condition 15 and will remain.</p> <p>Required a Construction Management Plan. This is a new condition and has been included at Condition 1(m).</p>

Waste	<p>No objection (no further conditions)</p> <p>A Waste Management Plan (WMP) was prepared and submitted with the application demonstrates that waste can be satisfactory managed on the new site. Condition 18 will continue require that Waste on the site (74 Princes Hwy & 1 Deveney St) be managed appropriately and to Council's satisfaction.</p>
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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 are determined to be consistent with these requirements.

The Planning Scheme encourages commercial type uses to be centrally located alongside over similar uses to ensure that conflicts with nearby sensitive uses can be controlled and reduced to an acceptable level. This prominent highway location is considered an appropriate location for the proposed expansion of the existing convenience precinct to the west.

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

A number of state and local policies identified above are relevant to this application that aim to ensure that commercial development is appropriately located and the highway development is well designed and located, whilst ensuring that impacts to nearby sensitive uses can be appropriately managed and potential adverse effects mitigated.

The proposal is compatible with the urban and commercial character of this section of Princes Highway and is therefore considered appropriate infill development. It provides for an extension to an existing 'take-away food precinct' and incorporates good urban design, providing for a more diverse and (healthier) selection of cuisines for residents and travellers in a convenient location.

General Residential Zone

The amendment seeks to include land in the General Residential Zone to the permit, therefore the following considerations must be discussed.

The General Residential Zone seeks to encourage development which respects the neighbourhood character, whilst allowing a limited (permit required) range of other non-residential uses to serve the local community needs in appropriate locations.

An application for a convenience restaurant can be considered at this site, via a planning permit application as in the Table of uses outlined by Clause 32.08-2 (GRZ) a convenience restaurant is a Section 2 use and is only allowable in locations that adjoin or have access to a Road in a Road Zone, which this site has being adjacent to Princes Highway, a Road Zone Category 1.

Based on this the proposal to locate this use in the General Residential Zone, along with the proposal to locate the restaurant alongside an existing precinct of convenience restaurants, is considered appropriate. As it is established that the use can be allowed in the proposed location subject to planning approval, the decision guidelines of the General Residential Zone must now be considered. The decision guidelines require that before deciding on an application, in addition to the decision guidelines of Clause 65, the Responsible Authority must consider the following, as appropriate:

- Whether the use or development is compatible with residential use.
- Whether the use generally serves local community needs.
- The scale and intensity of the use and development.

- The design, height, setback and appearance of the proposed buildings and works.
- The proposed landscaping.
- The provision of car and bicycle parking and associated accessways.
- Any proposed loading and refuse collection facilities.
- The safety, efficiency and amenity effects of traffic to be generated by the proposal.

The proposal is considered to generally align with the decision guidelines of the General Residential Zone outlined above. Given the highway location and the existing commercial uses that are being carried out along this section of the Princes Highway (between Pakenham Road and Atkins Road) some, as well as some of these sites also being located in the General Residential Zone, the proposed use and development is considered compatible with the nearby residential uses. If the surrounding area was not already developed in such a commercial way, the proposal may not be considered appropriate at this location. The use contributes to a variety of recreational options for the local community, as well as providing a different option for take-away food compared to the standard fast-food options located close by. Given the uses on the adjoining site and their current operation hours, the scale and intensity of an additional restaurant is considered minimal at this location. The proposed design of the building incorporates good urban design principles and the height, setbacks and appearance of the buildings is considered acceptable given the proximity to a residential area. The car parking provided and accessways are sufficient, waste can be collected efficiently and loading and refuse collection areas remain in the same location on the neighbouring allotment. Landscaping can be provided throughout the site and traffic impacts can be appropriately managed via permit conditions.

Overall the proposal is considered appropriate to be located in the General Residential Zone in this context given the proximity to the Princes Highway, the neighbouring commercial uses and the good level of urban design.

In addition to considering the decision guidelines of the applicable zone, 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 significant changes to the planning scheme since this permit was originally issued in 2001, including a number of changes that were made to the General Residential Zone the most recently being under amendment VC110, which saw the introduction of the Garden Area provision for certain types of residential development. This provision is not applicable to this application.

However, the most change has been the result of minor 'fix-up' amendments, which incorporated a wide range of reforms designed to provide more clarity to the controls, provide

more exemptions and remove out-dated terminology. None of which are detrimental to this application.

Advertising and response to objections

Council considers that there will not be any significant effects of the proposed amendment on the locality. This is further discussed in response to the concerns raised by objectors below.

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

- Operating hours (both the restaurant and sale and consumption of liquor).
- Traffic impacts (including):
 - Impacts of additional traffic entering and exiting Deveney Street (which is a ‘no through road’); and
 - Safety impacts regarding traffic movements (internal and external to the site)
 - Residential on-street car parking being utilised for the restaurant
- Amenity impacts (including):
 - Increased noise (vehicles and people);
 - Increased rubbish;
 - Increased odour; and
 - Service of alcohol (impacts on noise and personal safety).
- Suitability of amending a permit instead of issuing a new permit.
- Extent of notice given to residents.

In response to these concerns the following can be said:

Operating hours (both the restaurant and sale and consumption of liquor)

In response to these concerns the applicant has agreed to reducing their proposed operating hours to be more in line with the existing convenience restaurants as follows:

Restaurant hours reduced from:

- 24 hours – Seven days a week

To:

- 7:00am until 11:00pm – Sunday to Thursday; and
- 7:00am until 1am (the next day) – Friday to Saturday.

Sale and consumption of liquor hours reduced from:

- 24 hours – Seven days a week

To:

- 10:00am until 11:00pm – Monday to Sunday.

It is acknowledged that these hours are slightly longer than the hours allowed by the neighbouring premises, however, of the site the reduced hours are not considered unusual or unreasonable for a business of this type and is considered a proportionate response to the concerns raised given the highway context.

The weekday hours are in keeping, and in some cases lesser than the hours of operation of the other convenience restaurant businesses allowed by the existing permit, and the weekend hours proposed are also not dissimilar to what is already allowed, being only 1 hour longer than what can already occur.

For example, under the existing permit (T000898) the six (6) existing restaurants can currently operate between:

- 6:00am and 12:00am (midnight) – Thursday to Saturday; and
- 6:00am and 11:00pm – Sunday to Wednesday

The proposed hours of operation will form permit conditions and any non-compliance or nuisance can be investigated and enforced by Council's Planning Compliance Officer or Health Officers (depending on the nature of the complaint). However, to ensure that the hours of operation do not adversely affect the amenity of neighbouring properties, existing noise and other amenity conditions will remain on the permit and become applicable to this site, as well as the requirement to install an acoustic fence along the northern boundary to further mitigate any potential impacts.

Traffic impacts (including):

- *Impacts of additional traffic entering and exiting Deveney Street (which is a 'no through road');*
- *Safety impacts regarding traffic movements (internal and external to the site); and*
- *Residential on-street car parking being utilised for the restaurant*

In response to the concerns raised by objectors regarding traffic impacts and safety concerns, in addition to signage and line marking already proposed on the plans, the applicant has put forward the following:

- Provision of a 'local traffic only' sign at the entrance to Deveney Street.
- Provision of a 'watch for pedestrians' sign at the vehicle exit point.

In addition, the application was referred to Council's Traffic Engineer who advised that they were satisfied with the provision and layout of car parking and access to the site. They did not have any safety concerns subject to conditions controlling traffic flow being included on the permit. These requirements include:

Relevant signage and pavement markings to be installed to reinforce the one-way entry operation of the Deveney Street crossover, the access from the existing commercial site and the Princes Highway Service Road. Amended plans to Council's satisfaction are required to demonstrate:

- The Deveney Street crossover to include a one-way pavement arrow at the entrance and 'NO ENTRY' signs facing vehicles within the car park.
- Service Road entry from the existing commercial site to include a one-way pavement arrow within the access aisle, and 'NO ENTRY' signs facing east for vehicles exiting the subject site car park.
- The two-way crossover onto the service road from the subject site (74 Princes Hwy & 1 Deveney St) to include a 'Left Only' sign and pavement arrow for exiting vehicles.
- Princes Highway Service Road to include 'NO ENTRY' signs at the intersection with Deveney Street and modified intersection pavement markings.
- A kerb outstand will also be required at the service road / Deveney Street intersection to reduce the service road width and reinforce one-way operation.

These measures are intended to be implemented to better manage traffic flows to and from the site, and ensure that the way the subject site interacts with the surrounding road network is conducted safely and efficiently to ensure that impacts to surrounding properties is reduced. All vehicles will be required to exit the site via the service road, and will only be allowed to enter the site via the Deveney Street entrance. This will result in a traffic flow which mimics the way traffic already enter and exit the site, reducing the impact on the Deveney Street/ Princes Highway intersection as only vehicles leaving residences on Deveney Street will use this intersection to access Princes Highway.

Furthermore, the number of car parking spaces provided over the entire site totals 124 spaces, when including the additional 17 spaces being provided by the subject site. This is a surplus of 30 car parking spaces when combined across the seven (7) premises which should ensure that there is no adverse impact on car parking in the neighbouring streets.

A Traffic Impact Assessment was also provided with the application which has been reviewed by Council's Traffic Engineer who did agree with its findings. It concluded that having undertaken a detailed traffic engineering assessment of the proposed mixed-use development at 74-80 Princes Highway and 1 Deveney Street, Pakenham, Traffic Engineers are of the opinion that:

- *The proposed parking layout and vehicle access arrangements generally accords with the requirements of the Planning Scheme, AS2890.1:2004 (where relevant), AS2890.6-2009 and current practice.*
- *Adequate opportunities for loading and waste collection are available within the car parking areas adjacent to the take away food premises, with timing of these activities to accord with existing permit controls that apply.*
- *The level of traffic generated as a result of this proposal can be safely accommodated by the nearby road network.*
- *Vehicle access arrangements associated with the configuration of the service road are acceptable and formal functional layout plans can be prepared as a condition of permit as required, and*
- *There are no traffic engineering reasons why a planning permit for the proposed development should not be approved, subject to appropriate conditions.*

The application was also referred to the Department of Transport (DoT – formally VicRoads) who did not provide a response. Based on this and the provisions of the *Planning and Environment Act, 1987* it is considered that they have no comment to make on the application.

Based on the above, it is considered that the proposal appropriately addresses the traffic concerns raised by objectors. Permit conditions will ensure that the measures outlined above are implemented in the design and operation of the site.

Amenity impacts (including):

- *Increased noise (vehicles and people)*
- *Increased rubbish*
- *Increased odour*
- *Service of alcohol (impacts on noise and personal safety)*

In response to the concerns raised by objectors regarding amenity impacts, in addition to the reduction in operating hours discussed above, the applicant has put forward the following:

- Installation of a 2-metre-high acoustically treated fence along part of the Deveney Street frontage extending south from the northern corner of the site for a length of at least 14 metres.
- Provision of a Site Management Plan which includes details of the hours of operation, venue capacity, staff numbers, alcohol service, ventilation, odour control, pest control, security and surveillance, staff training, noise, waste, cleaning and deliveries.
- External lighting designed to minimise light spill into the residential properties along Deveney Street.

By implementing the above measures, especially the acoustic fence and patron management plan it is not expected that the use will cause any additional detriment to the neighbouring residences beyond the noise that is currently experienced from Princes Highway and the neighbouring commercial uses. An Acoustic Assessment submitted with the application details that:

- *The ambient noise level in the vicinity of the subject site is dominated by noise from Princes Highway.*
- *Movements of vehicles along Princes Highway result in noise levels of 64-79dB(A) at No. 74 Princes Highway and 58-61dB(A) at No. 39 Jacqueline Place.*
- *It is recommended that a 3.0m high acoustic fence be constructed along the boundary with No. 74 Princess Highway.*
- *Noise from vehicles driven in a normal manner around the car park will meet the nominated sleep disturbance criterion at all neighbouring properties.*
- *With an acoustic fence installed along the eastern boundary of the subject site, the noise levels of vehicle and patron activity within the car park will not exceed the sleep disturbance criterion of 57dB(A) at No. 74 Princess Highway.*

- *Vehicles currently travelling along the Princess Highway during the night- time period exceed the sleep disturbance criterion at No. 74 Princess Highway and would have the potential to cause sleep disturbance if the window of the residential property were open.*
- *The proposed development would have a negligible effect on the overall noise environment.*

As recommended by the Acoustic Assessment, permit conditions will require that a minimum of 3-metre-high acoustic fence be installed along the northern boundary with 3 Deveney Street. This fence whilst reducing noise impacts to this neighbouring dwelling will also act as a screen to reduce light spill from signage, car parking lights onto this adjoining site.

Along with the reduced hours and patron management plan which can be enforced by Council, on top of normal amenity conditions regarding ensuring that the use does not impact the amenity of the area by way of noise, odour, light etc, it is considered that the neighbouring residences can be reasonably protected from any adverse amenity impacts caused by the use.

Suitability of amending a permit instead of issuing a new permit

Some objections raised a concern about the existing permit being amended.

There is no requirement of the Planning Scheme or the *Planning and Environment Act, 1987* that such applications must be submitted as a new permit application. Section 72 of the *Planning and Environment Act, 1987* allows for a person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit. It does not apply in the case where the Tribunal has directed that under Section 85 a Responsible Authority may not amend a permit. Although this permit was originally issued at the direction of the Tribunal, it did not direct in its orders dated 15 November 2001 (No. 2001/023589) that the Responsible Authority (Council) could not amend the permit, therefore Council is able to consider this application.

The existing permit is still valid and as the application includes works on the neighbouring site, it makes sense to include the current application by way of an amended permit. This application will not affect the existing permissions given by T000898 and by amending the permit it reduces the proliferation of permits relating to the subject site which is preferred.

Extent of notice given to residents

Some objectors raised concerns about the extent of notice given to residents. Under Section 52 of the *Planning and Environment Act, 1987*, the Responsible Authority is required to give notice in the prescribed form, being:

- By placing a sign on the site
- Giving notice personally or via post

In this case the *Act* directs that notice is required to be given to:

- To the owners (except persons entitled to be registered under the Transfer of Land Act 1958 as proprietor of an estate in fee simple) and occupiers of allotments or lots adjoining the land to which the application applies unless the responsible authority is satisfied that the grant of the permit would not cause material detriment to any person; and

- To a municipal council, if the application applies to or may materially affect land within its municipal district; and
- To any person to whom the planning scheme requires it to give notice.

In this instance Council advertised to a number of adjoining properties that it identified whose amenity it identified may be affected by the proposal and also required two (2) signs to be displayed on the site. It is considered that notice was carried out correctly and adequately based on what is required by Section 52 of the *Act*.

Based on the above assessment, it is considered that the application has adequately addressed the concerns of objectors and subject to permit conditions, the application should not cause any material detriment to surrounding properties.

Advice from referral authorities

The amended permit application was required to be referred to the Department of Transport (formally VicRoads) pursuant to Clause 66 (Referral and notice provisions).

In accordance Section 59(2) of the *Planning and Environment Act, 1987*, applications where a Section 55 referral is required to a referral authority, the Responsible Authority may decide on an application as soon as it gets the last of the replies from referral authorities—

- a) if the responsible authority gets all of the replies before the end of the prescribed period or periods or any extended period allowed by the Minister under section 56.

In accordance with Regulation 24 of the *Planning and Environment Regulations 2015*, the prescribed periods under Section 59(2) of the *Act* are:

- a) 28 days from the day on which the referral authority is given a copy of the application.

As discussed above, it has been over 28 days since the Department of Transport (DoT) received notice of the application. Since then DoT have not provided a response to the application or follow up requests, therefore it is considered that DoT have no comments to make and Council can decide on the application.

Effects on the locality and environment

As discussed above in response to the objections, it is considered that subject to appropriate permit conditions and mitigation requirements there will be no such effects as part of this amendment.

Increase in detriment to any persons

Based on the supporting documents and above assessment and discussion, if the measures are followed in by permit conditions in relation to the reduced hours of operation, installation of acoustic fencing, appropriate venue and traffic management are undertaken in accordance with the amended permit, there should be no further detriment in the form of noise, light, traffic, odour or any other adverse effect arising from the operations to any person living within close proximity to the convenience restaurant 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. Subject to the amended conditions, regulation by the VCGLR (liquor licence) and Council the convenience restaurant is expected not expected to cause any detrimental social or economic impacts. Due to the type of restaurant it is unlikely that patrons will be encouraged to stay and drink as the type of restaurant does not lend itself to be a 'destination', rather most customers will expected to utilise take away options or stop in quickly for a convenient meal.

It will provide for local hospitality industry jobs and jobs for young people starting out in the workforce, which will make a positive contribution to the community.

Provided the additional conditions of the amended permit are implemented and followed, 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 and title restrictions

There are no Section 173 Agreements or title restrictions affecting any of the lots subject to this application.

Other relevant matters

It is noted that the site is subject to the Development Contributions Plan Overlay (Schedule 1). This contribution only relates to residential development (as outlined by the Pakenham Township Development Contributions Plan document) and therefore, a contribution is not required by this land.

Other relevant matters to this application is the fact that the site is subject to Aboriginal Cultural Sensitivity, and as the development is considered a 'High Impact Activity' under the Aboriginal Heritage Regulations 2018, a Cultural Heritage Management Plan (CHMP) was required to be prepared in order to ensure that any heritage uncovered on the site during works is appropriately managed and protected.

The applicant has submitted a CHMP prepared by Alpha Archaeology Pty Ltd dated 21 April 2021 (CHMP No. 17613). This CHMP was approved by the Director Heritage Services Aboriginal Victoria on 18 May 2021.

The CHMP submitted outlines that a desktop, standard and complex assessment has been undertaken.

The results of the desktop assessment revealed the activity area has been subject to disturbance over the majority of the ground surface; through early European land clearing and the construction and subsequent demolition of a number of structures.

It was concluded that there was low potential for Aboriginal cultural material to be present subsurface within the activity area. The standard assessment concluded that the majority of the surface of the activity area had been disturbed through past land use, however the depth of disturbance could not be determined. A complex assessment was recommended to investigate the level of disturbance subsurface, reveal the depth of deposits, and test for the presence of any Aboriginal cultural material.

The complex assessment revealed that those areas tested within the activity area have been subject to ground disturbance with an upper layer of introduced fill, which overlaid a clayey silt, diffusing to a sandy silt context. The clay base was reached at 67cm and 75cm depth. No Aboriginal cultural material was found during the complex assessment.

The assessment determined that there is no Aboriginal cultural heritage registered in the activity area.

Permit conditions will ensure that any recommendations or conditions of the CHMP are carried out during construction.

Are the changes to the Planning Permit considered appropriate?

Based on the above assessment, it has been demonstrated that the concerns arising from the proposed additional convenience restaurant have been appropriately discussed and addressed by this assessment.

The proposed use and development of the site for the purpose of an additional convenience restaurant are considered reasonable given their scope and scale. The site is appropriately located along Princes Highway immediately adjoining a commercial precinct. Permit conditions, including reduced hours as discussed above and requirements of any approval have been demonstrated by the submitted specialist reports that amenity impacts to adjoining sites can be mitigated to appropriate levels.

The hours proposed are, as discussed, not dissimilar to the existing hours of operation allowed by permit by the adjoining convenience restaurants, and in some instances during the week the hours are lesser.

Based on the above assessment, it is considered reasonable that this application be supported.

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 aligns with Planning Policy Frameworks and the purpose of the Zone to facilitate these uses in appropriate locations, such as this one.

Convenience restaurant uses have been in existence on the immediately adjoining sites for almost 20 years under the original planning permit which identified that this location is a suitable location for this type and scale of land use, which it continues to be. The use has been demonstrated to result in compliance with noise levels and are not expected to further reduce the amenity of the surrounding sensitive uses. The potential impacts on road safety and traffic resulting from the use 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 the use will cause unreasonable detriment to adjoining properties. It is therefore recommended that a Notice of Decision for amended planning permit T000898-1 be issued for the amendment to Planning Permit T000898 to make changes to the permit to allow for the use and development of the land for a seventh convenience restaurant and sale and consumption of liquor, to display business identification and illuminated signage and alteration to access to a road in a Road Zone Category 1 at L1 on PS435535, 88-90 Princes Highway, Pakenham L2 on PS435535, 82-86 Princes Highway, Pakenham, L3 on PS435535, 76-80 Princes Highway, Pakenham & CM1 on PS435535, Princes Highway Pakenham, L13 on LP58251, 74 Princes Highway and L14 on LP58251, 1 Deveney Street, Pakenham subject to the following amended conditions:

Conditions

ADDRESS OF THE LAND: L1 on PS435535, 88-90 Princes Highway, Pakenham L2 on PS435535, 82-86 Princes Highway, Pakenham, L3 on PS435535, 76-80 Princes Highway, Pakenham & CM1 on PS435535, Princes Highway Pakenham, L13 on LP58251, 74 Princes Highway and L14 on LP58251, 1 Deveney Street, Pakenham.

THIS PERMIT ALLOWS Use and development of the land for seven (7) convenience restaurants, sale and consumption of liquor, to display business identification and illuminated signage and alteration to access to a road in a Road Zone Category 1, generally in accordance with the substituted plans known as TP1.P and TP2-J and 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:
20 May 2021	<p>Address</p> <p>The address of the land has been updated to reflect the current addressing, as well as to include L13 on LP58251, 74 Princes Highway and L14 on LP58251, 1 Deveney Street, Pakenham</p> <p>Preamble</p> <p>The permit preamble has been amended to include:</p> <p>The use and development of the land for seven (7) convenience restaurants;</p>

	<p>The sale and consumption of liquor (at 74 Princes Hwy & 1 Deveney St only);</p> <p>To display illuminate signage; and</p> <p>Alter access to a Road Zone Category 1</p> <p>Conditions</p> <p>Inclusion of Conditions 1.1 (a) to 1.1 (n) requiring amended plans for the development on 74 Princes Hwy & 1 Deveney St.</p> <p>Conditions 9, 16 and 18 amended.</p> <p>Condition 14 amended to include operation hours for 74 Princes Hwy & 1 Deveney St.</p> <p>Condition 27 (expiry) amended, moved and renumbered to Condition 65.</p> <p>Condition 28 renumbered to Condition 27.</p> <p>Inclusion of new conditions 28 to 64 for 74 Princes Hwy & 1 Deveney St and works in the road reserve and CM1 on PS435535.</p> <p>Inclusion of new permit notes.</p>
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THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Amended plans required:

1. Prior to the commencement of any works under this permit (T000898), plans must be submitted to the Responsible Authority showing:
 - a) A detailed landscape plan prepared by a qualified landscape architect, showing the treatment of a designated landscape areas within the site and the species, numbers and spacing of all plant materials proposed to be used. Preference should be given to native or indigenous species including planting along the north boundary that will form a dense screen to adjoining residential properties, taking account of its acoustic qualities;
 - b) Details of the construction for the acoustic fence in accordance with Condition 5;
 - c) An additional car space to the east side of parking area 94;
 - d) Closure security fences between the bin storage building and the north boundary fence and between the south-east corner of Area 6 and the east fence to the satisfaction of the Responsible Authority. The area enclosed by these shall not be used for storage purposes.

- 1.1 Prior to the commencement of any works under this amended permit (T000898-1) plans must be submitted to the Responsible Authority showing:

Floor/ red line plan:

- a) Updated floor and red line plan to demonstrate that the restaurant has seats for 60 patrons.

Fencing:

- b) Security fences between the new bin storage area shown on TP100 Rev B and the northern boundary fence and from the southeast corner to the east boundary fence to the satisfaction of the Responsible Authority.
- c) A 3.2-metre high acoustically treated fence constructed along the northern boundary with 3 Deveney Street.
- d) A 2-metre high acoustically treated fence along part of the Deveney Street frontage extending south from the northern corner of the site for a length of at least 14 metres.

Traffic:

- e) The location of a 'local traffic only' sign at the entrance of Deveney Street.
- f) The location of a 'watch for pedestrians' sign at the vehicle exit point.
- g) The Deveney Street crossover to include a one-way pavement arrow at the entrance and 'NO ENTRY' signs facing vehicles within the car park.
- h) Service Road entry from the existing commercial site to include a one-way pavement arrow within the access aisle, and 'NO ENTRY' signs facing east for vehicles exiting the subject site car park.
- i) The two-way crossover onto the service road from the subject site (74 Princes Hwy & 1 Deveney St) to include a 'Left Only' sign and pavement arrow for exiting vehicles.
- j) Princes Highway Service Road to include 'NO ENTRY' signs at the intersection with Deveney Street and modified intersection pavement markings.
- k) The location of a kerb outstand at the service road / Deveney Street intersection to reduce the service road width and reinforce one-way operation.

Landscaping:

- l) A landscape plan prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and one electronic copy in an approved format must be provided. The plan must show:
 - i. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - ii. Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.

- iii. Details of surface finishes of pathways and driveways.
- iv. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
- v. Landscaping and planting within all open areas of the subject land.
- vi. Canopy trees (minimum one and a half (1.5) metres tall when planted) in the following areas:
 - i.i Three (3) small canopy trees typically growing to at least 6 metres high by 4 metres wide at maturity within the Deveney Street setback.
 - ii.i One (1) medium canopy tree typically growing to at least 8 metres high by 6 metres wide at maturity within the Princes Highway setback facing the service road.
- vii. Dense screening vegetation with a minimum expected height of 2 metres at maturity for the full length of the northern property boundary, planted at a density sufficient to completely screen the fence line.

All species selected must be to the satisfaction of the Responsible Authority and should be drought tolerant and proven hardy cultivars suitable to the local conditions. Plantings are not to impact sight lines for, or impede the movement of, vehicles or pedestrians.

Construction Management Plan:

- m) A Construction Management Plan (CMP) 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 detail how the environmental and construction issues associated with the development will be managed and address the following:
 - i. Any demolition, bulk excavation, management of the construction site, land disturbance, noise, control of dust and hours of construction.
 - ii. Public safety and traffic management, construction vehicle road routes and soiling and cleaning of roadways.
 - iii. Discharge of any polluted water, disposal of site waste and any potentially contaminated materials.
 - iv. Security fencing, location of site offices, redirection of any above or underground services and site lighting during any night works.

Site Management Plan:

- n) A Site Management Plan which includes details of the hours of operation, venue capacity, staff numbers, alcohol service, ventilation, odour control, pest control, security and surveillance, staff training, noise, waste, cleaning and deliveries.

All plans must be submitted to the satisfaction of the Responsible Authority.
When approved these plans will be endorsed as part of this permit.

General conditions (All land included in this permit):

2. The layout of the site and the size of the proposed buildings and works, as shown on the approved plans, shall not be altered or modified without the consent in-writing of the Responsible Authority.
3. The landscape plan must be implemented in the first growth season following the completion of the works and thereafter maintained in a healthy condition to the satisfaction of the Responsible Authority.
4. The area set aside for landscaping on the approved plan must be used for no other purpose.
5. The north boundary of the site for its whole length of the property must be provided with an acoustic fence not less than 3m in height to the satisfaction of the Responsible Authority. The fence shall be designed in accordance with acoustic report provided by Marshall Day dated 30/8/01.
6. The acoustic fence referred to in Condition 5 must be constructed within four months of the issue of this permit. Construction of the fence shall not cause damage to the gardens of adjoining properties. Any damage done to plants or gardens shall be made good without cost to the neighbours, and without delay. Prior to commencing work on fences, neighbours shall be informed, with at least seven days notice. Permit applicant shall reimburse the cost of boarding three dogs for the duration of loss of security at 39 Jacqueline Place. Permit applicant shall provide to neighbours an estimate of the duration of fence construction.
7. The buildings must not be occupied and the uses must not be commenced until that areas set aside for car parking and access lanes as shown on the approved plan(s) have been:
 - a) Constructed with sealed surface;
 - b) drained;
 - c) line marked to indicate each car space and all access lanes;

to the satisfaction of the Responsible Authority. The car parking area and access lanes shall be maintained to accordance with these requirements once constructed.

8. No advertising sign may be displayed on the land except in accordance with the provisions of the Planning Scheme.
9. Directional signs must be erected at the access points to indicate clearly the area set aside for parking and the direction of traffic movement.
10. The number of seats provided for patrons in each of the convenience restaurants, and the number of car parking spaces shown on the approved plans, may not be varied without the written consent of the Responsible Authority.

11. The amenity of the area must not be detrimentally affected by the use or development, through the:
 - a) transport of materials, goods or commodities to or from the land;
 - b) appearance of any building, works or materials;
 - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste product, grit or oil;
 - d) presence of vermin, or any other cause.
12. The collection of waste and delivery of goods shall take place only between the hours of 7.00am to 7.00pm Monday to Friday and 8.00am to 6.00pm Saturday and Sunday.
13. There shall be no emptying of bottles or rubbish into external refuse collection areas after 9.00pm each day.
14. The six (6) premises on 76 - 90 Princes Highway shall only be open to the public between the hours of:
 - a) 6:00am and 12:00pm midnight Thursday to Saturday; and
 - b) 6:00am to 11:00pm Sunday to Wednesday; and

The one (1) premises on 74 Princes Highway and 1 Deveney Street shall be open to the public:

- c) 7:00am until 11:00pm – Sunday to Thursday; and
 - d) 7:00am until 1am (the next day) – Friday to Saturday.
15. Noise levels emitted from the site must not exceed the permissible levels specified in State Environment Protection Policy No. N-1.
16. All external lighting shall be suitably baffled to avoid light spill into the residential properties to the north of the site.
17. The area set aside for car parking, as shown on the approved plan, must be used for the parking of vehicles and for no other purpose.
18. Each convenience restaurant is to be provided with appropriate and hygienic waste disposal area which are to be appropriately designed to reduce noise and regularly cleared to the satisfaction of the Responsible Authority.
19. The use and development must comply with the following standards:
 - a) AS1940-1988: the storage and handling of flammable and combustible liquids; and
 - b) AS1596-1989: the storage and handling of liquefied gasses.
20. The use and development must comply with the following regulations:
 - a) Dangerous Goods (Storage and Handling) Regulations 1989;

- b) Dangerous Goods (Transport) Regulations.
- 21. Stormwater must not be discharged from the site other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain.
- 22. Vehicles under the care, management or control of the operator of the use, including staff vehicles must not be parked in any nearby road.
- 23. Access shall be at a location and to a standard satisfactory to VicRoads.
- 24. A left turn deceleration land for Deveney Street 3.0m wide and 33m long, with an additional 30m taper to the satisfaction of VicRoads.
- 25. Detailed engineering plans of the road works shall be submitted for approval to VicRoads. When the plans are approved, an additional copy shall be submitted for supervision purposes.
- 26. The standards of all materials and work shall be to the satisfaction of VicRoads.

VicRoads' Conditions, Additional Conditions:

- 27. Prior to gaining approval from VicRoads to undertake works on the highway, the developer shall:
 - a) provide payment to VicRoads of \$550 which includes GST or 1% of the estimated cost of roadworks plus GST, whichever is greater, to cover the cost of surveillance;
 - b) provide a bank guarantee, without a termination date, to VicRoads for the estimated cost of works. The bank guarantee will be held by VicRoads for a three (3) month maintenance period after the works have achieved a satisfaction level of completion, as declared by the VicRoads' Surveillance Officer;
 - c) provide evidence that the contractor has a public liability insurance policy for at least \$10 million that will be effective for the duration of the works;
 - d) provide VicRoads with the name, address, business and out-of-hours telephone numbers of the principal roadworks contractor;
 - e) submit to VicRoads for approval, a Traffic Management Plan showing the proposed provision for traffic and signing for the duration of the works. The Traffic Management Plan shall meet the requirements of the VicRoads Worksite Traffic Management (Roadworks Signing) Code of Practice which incorporates AD 1742.3-1996. Traffic management/control shall be carried out by suitably trained personnel;
 - f) arrange for the contractor to contact the VicRoads Improvement Projects Officer on telephone number 9881 8079, three working days prior to the commencement of works.

NOTE: Construction work on the site shall not commence before 7.00am Monday to Friday and 9.00am weekends and public holidays or finish after 7.00pm Monday to Friday and 6.00pm Sundays and public holiday

Conditions continued (Land at 74 Princes Hwy & 1 Deveney Street *or as amended* only):Cultural Heritage Management Plan:

28. Any obligations outlined in Cultural Heritage Management Plan (CHMP) 17613 prepared by Alpha Archaeology Pty Ltd dated 21 April 2021 and approved by Aboriginal Victoria must be carried out as necessary.

Prior to commencement:

29. Prior to commencement any plans required by Condition 1 (e) to (r) relating to this development must be submitted and endorsed by the Responsible Authority.
30. Before the development starts, a stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted for the approval of 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.
31. Before the development including demolition starts, a tree protection fence must be erected around the existing street trees to be retained outside the canopy zone of the tree to define a "Tree Protection Area". The fence must be constructed of star pickets and chain mesh or similar to the satisfaction of the Responsible Authority. The tree protection fence must remain in place until construction is completed. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Area. Any pruning that is required to be done to the canopy or roots of any tree to be retained is to be done with permission by Council's Arborist by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-2007.

General:

32. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
33. The use of the premises must not be changed without the written consent of the Responsible Authority.
34. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.

Engineering:

35. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
36. 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.

37. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
38. The slope of batters, both cut and fill, must not exceed 2:1 (horizontal: vertical) or, where this is not practicable, batters must be stabilised by other means to the satisfaction of the Responsible Authority.

Sale and consumption of liquor:

39. The sale and consumption of liquor (restaurant/ café license) may only occur on the site identified in this permit as 74 Princes Highway and 1 Deveney Street (or as amended) and must not be altered or modified without the consent in writing of the Responsible Authority.
40. The areas shown hatched on the approved plans may be used for the licensed area and must not be altered or modified without the consent in writing of the Responsible Authority.
41. Except with the written consent of the Responsible Authority, the sale and consumption of liquor (restaurant/ café license) may only occur between the hours of:
 - a) Monday to Sunday: 10:00am until 11:00pm; and
 - b) Good Friday and Anzac Day: 12:00pm to 11:00pm
42. The predominant activity carried out on the premises, must be the preparation and serving of meals for consumption on the premises.
43. At all times during the operation of the use, there must be present on the premises a person over the age of 18 years who is responsible for ensuring that the activities on the premises and the conduct of persons attending the premises do not have a detrimental impact on the amenity of the area and are in accordance with the endorsed Site Management Plan.

Illuminated signs:

44. The location and details of the signs, including those on the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
45. The illumination of the sign/s must not detrimentally affect the amenity of the area through the emission of unreasonable levels of light beyond the boundary of the subject land.
46. The sign/s lighting must be designed, baffled and located to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.
47. The sign/s must not contain any flashing light.

Prior to occupation:

48. Before the development at 74 Princes Hwy and 1 Deveney St is occupied or by such later date as is approved by the Responsible Authority:
- a) 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.
 - b) Commercial standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
 - c) All directional sign and line marking shown on the endorsed plans must be installed and/or carried out to satisfaction of the Responsible Authority.
 - d) Any redundant existing vehicle crossing must be removed and the nature strip and kerb and channel reinstated at the cost of the owner and to the satisfaction of the Responsible Authority.
 - e) The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
 - f) The acoustic fencing as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority.

Conditions continued (Works in Road Reserve and on CM1 on PS435535):

Prior to commencement:

49. 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 then 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; and
 - f) Tree protection zones, trees to be retained and trees to be removed.
50. Before the works commence and submission of detailed design construction plans (engineering plans), a functional layout plan for the works, generally in accordance with the standards nominated in the Cardinia Shire Council "Guidelines for the

Development & Subdivision of Land”, “Development Construction Specification” and the Water Sensitive Urban Design (WSUD) Guidelines, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority.

When approved, the functional layout plan will be endorsed and will then form part of the permit. Three copies of the functional layout plan must be drawn to a scale of 1:500 to acceptable drafting standards and an electronic copy (pdf) must be provided.

The functional layout plan must show:

- a) A fully dimensioned layout, including street names, lot numbers/ addresses and widths of street reservations;
- b) Topography and existing features, including contours for the subject land and any affected adjacent land;
- c) Identification by survey of all trees (or group of trees) existing on the subject land, including dead trees and those that overhang the subject land from adjoining land;
- d) Details of tree protection zones (TPZs) for all trees to be retained on the subject land;
- e) All trees proposed for removal from the subject land clearly designated;
- f) Typical cross-sections for each street type, dimensioning individual elements, services offsets and any other spatial requirements identified in the Development Plan;
- g) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls;
- h) The proposed minor drainage network and any spatial features requiring access;
- i) The major drainage system, including any watercourse, lake, wetland, sediment pond
- j) rain gardens, bio-infiltration system and/or piped elements showing preliminary sizing;
- k) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination;
- l) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for the construction and maintenance;
- m) A table of offsets for all utility services and street trees;
- n) Preliminary location of reserves for electrical kiosks; and

- o) Traffic management plan showing sufficient notional (unmarked) on-street car parking spaces, at the rate of one space per lot, traffic control devices and large vehicle turning overlays.

Sites that are not adjacent to existing or approved infrastructure will be required to show the following information in addition to the above standard requirements:

- p) The relationship between the works/ development and surrounding land;
- q) Works external to the works/development, including both interim and ultimate access requirements;
- r) Intersections with Category 1 roads showing interim and ultimate treatments; and
- s)
- t) Drainage and sewerage outfalls including any easements required over other property.

Engineering:

- 51. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
- 52. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
- 53. 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.
- 54. Land to be filled must be filled and compacted (in accordance with AS 3798/1996) to comply with fill density tests in order to support residential house foundations. The results of the tests must be to the satisfaction of the Responsible Authority.
- 55. If required prior to sealing as per the approved plans CCTV results for the full length of all stormwater drainage pipes where Council is the responsibility authority, must be submitted for assessment. The submitted information is to be to the satisfaction of the Responsible Authority.
- 56. Before a certificate of practical completion is issued for Council infrastructure as per the approved plans, “as constructed” digital road and drainage information in AutoCAD format with all Xrefs binded into the drawings and showing any amendments during construction, must be submitted for all civil works where Council is the Responsibility Authority.
- 57. Before a certificate of practical completion is issued for Council infrastructure as per the approved plans permit holder must provide:
 - a. Provide survey enhanced “as constructed” GIS data for the drainage, road and footpath information components of the development, in accordance with the current version of D-SPEC and R-SPEC. Council’s preferred format for the

submission of the graphical data is in "MapInfo Native Format". A secondary format is "MapInfo MID/MIF". Grid Co-ordinates must be MGA zone 55 (GDA 94). Please refer to the A-SPEC website for further information: www.a-specstandards.com.au

58. Before the occupation of the development the works must be designed and constructed to a satisfactory point of discharge in accordance with plans and specifications approved by the Responsible Authority.
59. Before the occupation of the development, all road and drainage infrastructure must be designed and constructed in accordance with plans and specifications approved by the Responsible Authority. The works must comply with the standards nominated in the Cardinia Shire Council "Guidelines for the Development & Subdivision of Land", "Development Construction Specification" and the "Water Sensitive Urban Design (WSUD) Guidelines".
60. Before occupation of the development, all services, including drainage and/or sewerage, servicing any existing dwelling or building on the lot(s), must be relocated (if required) to the satisfaction of the Responsible Authority.
61. Lighting of streets and pedestrian/cycle paths must be designed and provided (before a certificate of practical completion is issued for Council infrastructure as per the approved plans) in accordance with Australian Standard 1158.1 to the satisfaction of the Responsible Authority.

Traffic management and haulage of materials:

62. All 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.
63. No fill or excavated material for or from this development is to be carted/hailed into or from the site without first obtaining the further written consent from Council's Engineering Department at least seven (7) days prior to the cartage/haulage works commencing to the satisfaction of the Responsible Authority.

Expiry:

64. This permit (T000898) will expire if:
 - a) the use and development is not commenced within two (2) years of the date of this permit; or
 - b) the use and development is not completed within four (4) years of the date of this permit.

The use and development allowed by this amended permit (T000898-1) will expire if:

- a) the use and development is not commenced within two (2) years of the date of this permit; or
- b) the use and development is not completed within four (4) years of the date of this permit.

The Responsible Authority may extend the periods referred to, if a request is made in writing before the permit expires or within the timeframes prescribed by Section 69 of the *Planning and Environment Act, 1987*

Notes:

- i. The condition 1(a) to 1(d) requirements of this permit have already been met. Plans were endorsed for T000898 on 2 August 2002.
- ii. Conditions 28 to 63 are only relevant to the development of 74 Princes Hwy and 1 Deveney St.
- iii. Council recommends that prior to activating this permit, a registered building surveyor be contacted to ensure the development (including boundary fencing) complies with the Building Act and Building Regulations.
- iv. This application has not been assessed against Clause 54/55 of the Cardinia Planning Scheme.
- v. Prior to commencement of the proposed use a Building Permit must be obtained for any retaining wall exceeding 1.0 metres in height.
- vi. A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.
- vii. Works within the road reserve permit must be obtained from Council prior to any works occurring within the Road Reserve.
- viii. Further approval may be required from Department of Transport for vehicle crossings or works within/ nearby to the Road Zone.
- ix. Works must cease immediately upon the discovery of any Aboriginal cultural material, and Aboriginal Affairs Victoria must immediately be notified of any such discovery.
- x. Development on the land subject of this permit must cease immediately upon the discovery of any suspected human remains. The Police or State Coroner must be informed of the discovery without delay. If there are reasonable grounds to suspect that the remains are Aboriginal, the discovery must also be reported to Aboriginal Affairs Victoria.

Resolution

Moved Cr Carol Ryan, seconded Cr Collin Ross.

That Amended Planning Permit Application T000898-1 for the proposed amendments to planning permit T000898-1 to allow for the use and development of the land for a seventh convenience restaurant and sale and consumption of liquor (located on 74 Princes Hwy and 1 Deveney St, Pakenham) and associated works, to display business identification and illuminated signage and alteration to access to a road in a Road Zone Category 1 at 74 Princes Hwy and 1 Deveney St, Pakenham be refused and a Refusal to Grant a Permit be issued based on the following grounds:

- 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
- The proposal is not consistent with the Clause 13.07-1S (Land use compatibility) and the decision guidelines of the General Residential Zone
- The proposal results in unreasonable off-site amenity and traffic impacts
- The proposal is not consistent with the decision guidelines of Clause 52.27 (Licensed premises)
- The proposal is not consistent with the decision guidelines of Clause 53.04 (Convenience restaurant and take-away food premises)

Cr Davies foreshadowed that if Cr Ryan's motion were lost, she would raise the officer's recommendation.

Lost

Cr Ryan called for a division

For: Cr Ryan, Ross and Owen.

Against: Cr Davies, Moore, Springfield, Radford, Kowarzik.

Moved Cr Stephanie Davies, seconded Cr Kowarzik .

That Council issue a Notice of Decision to Grant a permit for Amendments to Planning Permit T000898 for changes to the permit to allow for the use and development of the land for a seventh convenience restaurant and sale and consumption of liquor (located on 74 Princes Hwy and 1 Deveney St, Pakenham) and associated works, to display business identification and illuminated signage and alteration to access to a road in a Road Zone Category 1, with to a revised weekend closing time of 12am. The conditions being:

Amended plans required:

1. Prior to the commencement of any works under this permit (T000898), plans must be submitted to the Responsible Authority showing:
 - a) A detailed landscape plan prepared by a qualified landscape architect, showing the treatment of a designated landscape areas within the site and the species, numbers and spacing of all plant materials proposed to be used. Preference should be given to native or indigenous species including planting along the north boundary that will form a dense screen to adjoining residential properties, taking account of its acoustic qualities;

- b) Details of the construction for the acoustic fence in accordance with Condition 5;
- c) An additional car space to the east side of parking area 94;
- d) Closure security fences between the bin storage building and the north boundary fence and between the south-east corner of Area 6 and the east fence to the satisfaction of the Responsible Authority. The area enclosed by these shall not be used for storage purposes.

1.1 Prior to the commencement of any works under this amended permit (T000898-1) plans must be submitted to the Responsible Authority showing:

Floor/ red line plan:

- a) Updated floor and red line plan to demonstrate that the restaurant has seats for 60 patrons.

Fencing:

- b) Security fences between the new bin storage area shown on TP100 Rev B and the northern boundary fence and from the southeast corner to the east boundary fence to the satisfaction of the Responsible Authority.
- c) A 3.2-metre high acoustically treated fence constructed along the northern boundary with 3 Deveney Street.
- d) A 2-metre high acoustically treated fence along part of the Deveney Street frontage extending south from the northern corner of the site for a length of at least 14 metres.

Traffic:

- e) The location of a 'local traffic only' sign at the entrance of Deveney Street.
- f) The location of a 'watch for pedestrians' sign at the vehicle exit point.
- g) The Deveney Street crossover to include a one-way pavement arrow at the entrance and 'NO ENTRY' signs facing vehicles within the car park.
- h) Service Road entry from the existing commercial site to include a one-way pavement arrow within the access aisle, and 'NO ENTRY' signs facing east for vehicles exiting the subject site car park.
- i) The two-way crossover onto the service road from the subject site (74 Princes Hwy & 1 Deveney St) to include a 'Left Only' sign and pavement arrow for exiting vehicles.
- j) Princes Highway Service Road to include 'NO ENTRY' signs at the intersection with Deveney Street and modified intersection pavement markings.
- k) The location of a kerb outstand at the service road / Deveney Street intersection to reduce the service road width and reinforce one-way operation.

Landscaping:

- l) A landscape plan prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and one electronic copy in an approved format must be provided. The plan must show:
- i. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - ii. Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
 - iii. Details of surface finishes of pathways and driveways.
 - iv. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - v. Landscaping and planting within all open areas of the subject land.
 - vi. Canopy trees (minimum one and a half (1.5) metres tall when planted) in the following areas:
 - i.i Three (3) small canopy trees typically growing to at least 6 metres high by 4 metres wide at maturity within the Deveney Street setback.
 - ii.i One (1) medium canopy tree typically growing to at least 8 metres high by 6 metres wide at maturity within the Princes Highway setback facing the service road.
 - vii. Dense screening vegetation with a minimum expected height of 2 metres at maturity for the full length of the northern property boundary, planted at a density sufficient to completely screen the fence line.

All species selected must be to the satisfaction of the Responsible Authority and should be drought tolerant and proven hardy cultivars suitable to the local conditions. Plantings are not to impact sight lines for, or impede the movement of, vehicles or pedestrians.

Construction Management Plan:

- m) A Construction Management Plan (CMP) 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 detail how the environmental and construction issues associated with the development will be managed and address the following:

- i. Any demolition, bulk excavation, management of the construction site, land disturbance, noise, control of dust and hours of construction.
- ii. Public safety and traffic management, construction vehicle road routes and soiling and cleaning of roadways.
- iii. Discharge of any polluted water, disposal of site waste and any potentially contaminated materials.
- iv. Security fencing, location of site offices, redirection of any above or underground services and site lighting during any night works.

Site Management Plan:

- n) A Site Management Plan which includes details of the hours of operation, venue capacity, staff numbers, alcohol service, ventilation, odour control, pest control, security and surveillance, staff training, noise, waste, cleaning and deliveries.

All plans must be submitted to the satisfaction of the Responsible Authority. When approved these plans will be endorsed as part of this permit.

General conditions (All land included in this permit):

2. The layout of the site and the size of the proposed buildings and works, as shown on the approved plans, shall not be altered or modified without the consent in-writing of the Responsible Authority.
3. The landscape plan must be implemented in the first growth season following the completion of the works and thereafter maintained in a healthy condition to the satisfaction of the Responsible Authority.
4. The area set aside for landscaping on the approved plan must be used for no other purpose.
5. The north boundary of the site for its whole length of the property must be provided with an acoustic fence not less than 3m in height to the satisfaction of the Responsible Authority. The fence shall be designed in accordance with acoustic report provided by Marshall Day dated 30/8/01.
6. The acoustic fence referred to in Condition 5 must be constructed within four months of the issue of this permit. Construction of the fence shall not cause damage to the gardens of adjoining properties. Any damage done to plants or gardens shall be made good without cost to the neighbours, and without delay. Prior to commencing work on fences, neighbours shall be informed, with at least seven days notice. Permit applicant shall reimburse the cost of boarding three dogs for the duration of loss of security at 39 Jacqueline Place. Permit applicant shall provide to neighbours an estimate of the duration of fence construction.
7. The buildings must not be occupied and the uses must not be commenced until that areas set aside for car parking and access lanes as shown on the approved plan(s) have been:
 - a) Constructed with sealed surface;

- b) drained;
- c) line marked to indicate each car space and all access lanes;

to the satisfaction of the Responsible Authority. The car parking area and access lanes shall be maintained to accordance with these requirements once constructed.

8. No advertising sign may be displayed on the land except in accordance with the provisions of the Planning Scheme.
9. Directional signs must be erected at the access points to indicate clearly the area set aside for parking and the direction of traffic movement.
10. The number of seats provided for patrons in each of the convenience restaurants, and the number of car parking spaces shown on the approved plans, may not be varied without the written consent of the Responsible Authority.
11. The amenity of the area must not be detrimentally affected by the use or development, through the:
 - a) transport of materials, goods or commodities to or from the land;
 - b) appearance of any building, works or materials;
 - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste product, grit or oil;
 - d) presence of vermin, or any other cause.
12. The collection of waste and delivery of goods shall take place only between the hours of 7.00am to 7.00pm Monday to Friday and 8.00am to 6.00pm Saturday and Sunday.
13. There shall be no emptying of bottles or rubbish into external refuse collection areas after 9.00pm each day.
14. The six (6) premises on 76 - 90 Princes Highway shall only be open to the public between the hours of:
 - a) 6:00am and 12:00pm midnight Thursday to Saturday; and
 - b) 6:00am to 11:00pm Sunday to Wednesday; andThe one (1) premises on 74 Princes Highway and 1 Deveney Street shall be open to the public:
 - c) 7:00am until 11:00pm – Sunday to Thursday; and
 - d) 7:00am until 12:00am (the next day) – Friday to Saturday.
15. Noise levels emitted from the site must not exceed the permissible levels specified in State Environment Protection Policy No. N-1.
16. All external lighting shall be suitably baffled to avoid light spill into the residential properties to the north of the site.

17. The area set aside for car parking, as shown on the approved plan, must be used for the parking of vehicles and for no other purpose.
18. Each convenience restaurant is to be provided with appropriate and hygienic waste disposal area which are to be appropriately designed to reduce noise and regularly cleared to the satisfaction of the Responsible Authority.
19. The use and development must comply with the following standards:
 - a) AS1940-1988: the storage and handling of flammable and combustible liquids; and
 - b) AS1596-1989: the storage and handling of liquefied gasses.
20. The use and development must comply with the following regulations:
 - a) Dangerous Goods (Storage and Handling) Regulations 1989;
 - b) Dangerous Goods (Transport) Regulations.
21. Stormwater must not be discharged from the site other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain.
22. Vehicles under the care, management or control of the operator of the use, including staff vehicles must not be parked in any nearby road.
23. Access shall be at a location and to a standard satisfactory to VicRoads.
24. A left turn deceleration land for Deveney Street 3.0m wide and 33m long, with an additional 30m taper to the satisfaction of VicRoads.
25. Detailed engineering plans of the road works shall be submitted for approval to VicRoads. When the plans are approved, an additional copy shall be submitted for supervision purposes.
26. The standards of all materials and work shall be to the satisfaction of VicRoads.

VicRoads' Conditions, Additional Conditions:

27. Prior to gaining approval from VicRoads to undertake works on the highway, the developer shall:
 - a) provide payment to VicRoads of \$550 which includes GST or 1% of the estimated cost of roadworks plus GST, whichever is greater, to cover the cost of surveillance;
 - b) provide a bank guarantee, without a termination date, to VicRoads for the estimated cost of works. The bank guarantee will be held by VicRoads for a three (3) month maintenance period after the works have achieved a satisfaction level of completion, as declared by the VicRoads' Surveillance Officer;
 - c) provide evidence that the contractor has a public liability insurance policy for at least \$10 million that will be effective for the duration of the works;

- d) provide VicRoads with the name, address, business and out-of-hours telephone numbers of the principal roadworks contractor;
- e) submit to VicRoads for approval, a Traffic Management Plan showing the proposed provision for traffic and signing for the duration of the works. The Traffic Management Plan shall meet the requirements of the VicRoads Worksite Traffic Management (Roadworks Signing) Code of Practice which incorporates AD 1742.3-1996. Traffic management/control shall be carried out by suitably trained personnel;
- f) arrange for the contractor to contact the VicRoads Improvement Projects Officer on telephone number 9881 8079, three working days prior to the commencement of works.

NOTE: Construction work on the site shall not commence before 7.00am Monday to Friday and 9.00am weekends and public holidays or finish after 7.00pm Monday to Friday and 6.00pm Sundays and public holiday

Conditions continued (Land at 74 Princes Hwy & 1 Deveney Street *or as amended* only):

Cultural Heritage Management Plan:

- 28. Any obligations outlined in Cultural Heritage Management Plan (CHMP) 17613 prepared by Alpha Archaeology Pty Ltd dated 21 April 2021 and approved by Aboriginal Victoria must be carried out as necessary.

Prior to commencement:

- 29. Prior to commencement any plans required by Condition 1 (e) to (r) relating to this development must be submitted and endorsed by the Responsible Authority.
- 30. Before the development starts, a stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted for the approval of 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.
- 31. Before the development including demolition starts, a tree protection fence must be erected around the existing street trees to be retained outside the canopy zone of the tree to define a "Tree Protection Area". The fence must be constructed of star pickets and chain mesh or similar to the satisfaction of the Responsible Authority. The tree protection fence must remain in place until construction is completed. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Area. Any pruning that is required to be done to the canopy or roots of any tree to be retained is to be done with permission by Council's Arborist by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-2007.

General:

32. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
33. The use of the premises must not be changed without the written consent of the Responsible Authority.
34. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.

Engineering:

35. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
36. 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.
37. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
38. The slope of batters, both cut and fill, must not exceed 2:1 (horizontal: vertical) or, where this is not practicable, batters must be stabilised by other means to the satisfaction of the Responsible Authority.

Sale and consumption of liquor:

39. The sale and consumption of liquor (restaurant/ café license) may only occur on the site identified in this permit as 74 Princes Highway and 1 Deveney Street (or as amended) and must not be altered or modified without the consent in writing of the Responsible Authority.
40. The areas shown hatched on the approved plans may be used for the licensed area and must not be altered or modified without the consent in writing of the Responsible Authority.
41. Except with the written consent of the Responsible Authority, the sale and consumption of liquor (restaurant/ café license) may only occur between the hours of:
 - a) Monday to Sunday: 10:00am until 11:00pm; and
 - b) Good Friday and Anzac Day: 12:00pm to 11:00pm
42. The predominant activity carried out on the premises, must be the preparation and serving of meals for consumption on the premises.
43. At all times during the operation of the use, there must be present on the premises a person over the age of 18 years who is responsible for ensuring that the activities on the premises and the conduct of persons attending the premises do

not have a detrimental impact on the amenity of the area and are in accordance with the endorsed Site Management Plan.

Illuminated signs:

44. The location and details of the signs, including those on the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
45. The illumination of the sign/s must not detrimentally affect the amenity of the area through the emission of unreasonable levels of light beyond the boundary of the subject land.
46. The sign/s lighting must be designed, baffled and located to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.
47. The sign/s must not contain any flashing light.

Prior to occupation:

48. Before the development at 74 Princes Hwy and 1 Deveney St is occupied or by such later date as is approved by the Responsible Authority:
 - a) 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.
 - b) Commercial standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
 - c) All directional sign and line marking shown on the endorsed plans must be installed and/or carried out to satisfaction of the Responsible Authority.
 - d) Any redundant existing vehicle crossing must be removed and the nature strip and kerb and channel reinstated at the cost of the owner and to the satisfaction of the Responsible Authority.
 - e) The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
 - f) The acoustic fencing as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority.

Conditions continued (Works in Road Reserve and on CM1 on PS435535):

Prior to commencement:

49. 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 then 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; and
- f) Tree protection zones, trees to be retained and trees to be removed.

50. Before the works commence and submission of detailed design construction plans (engineering plans), a functional layout plan for the works, generally in accordance with the standards nominated in the Cardinia Shire Council “Guidelines for the Development & Subdivision of Land”, “Development Construction Specification” and the Water Sensitive Urban Design (WSUD) Guidelines, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority.

When approved, the functional layout plan will be endorsed and will then form part of the permit. Three copies of the functional layout plan must be drawn to a scale of 1:500 to acceptable drafting standards and an electronic copy (pdf) must be provided.

The functional layout plan must show:

- a) A fully dimensioned layout, including street names, lot numbers/ addresses and widths of street reservations;
- b) Topography and existing features, including contours for the subject land and any affected adjacent land;
- c) Identification by survey of all trees (or group of trees) existing on the subject land, including dead trees and those that overhang the subject land from adjoining land;
- d) Details of tree protection zones (TPZs) for all trees to be retained on the subject land;
- e) All trees proposed for removal from the subject land clearly designated;
- f) Typical cross-sections for each street type, dimensioning individual elements, services offsets and any other spatial requirements identified in the Development Plan;
- g) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls;

- h) The proposed minor drainage network and any spatial features requiring access;
- i) The major drainage system, including any watercourse, lake, wetland, sediment pond rain gardens, bio-infiltration system and/or piped elements showing preliminary sizing;
- j) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination;
- k) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for the construction and maintenance;
- l) A table of offsets for all utility services and street trees;
- m) Preliminary location of reserves for electrical kiosks; and
- n) Traffic management plan showing sufficient notional (unmarked) on-street car parking spaces, at the rate of one space per lot, traffic control devices and large vehicle turning overlays.

Sites that are not adjacent to existing or approved infrastructure will be required to show the following information in addition to the above standard requirements:

- o) The relationship between the works/ development and surrounding land;
- p) Works external to the works/development, including both interim and ultimate access requirements;
- q) Intersections with Category 1 roads showing interim and ultimate treatments; and
- r)
- s) Drainage and sewerage outfalls including any easements required over other property.

Engineering:

- 51. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
- 52. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
- 53. 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.
- 54. Land to be filled must be filled and compacted (in accordance with AS 3798/1996) to comply with fill density tests in order to support residential house foundations. The results of the tests must be to the satisfaction of the Responsible Authority.

55. If required prior to sealing as per the approved plans CCTV results for the full length of all stormwater drainage pipes where Council is the responsibility authority, must be submitted for assessment. The submitted information is to be to the satisfaction of the Responsible Authority.
56. Before a certificate of practical completion is issued for Council infrastructure as per the approved plans, “as constructed” digital road and drainage information in AutoCAD format with all Xrefs binded into the drawings and showing any amendments during construction, must be submitted for all civil works where Council is the Responsibility Authority.
57. Before a certificate of practical completion is issued for Council infrastructure as per the approved plans permit holder must provide:
 - a. Provide survey enhanced “as constructed” GIS data for the drainage, road and footpath information components of the development, in accordance with the current version of D-SPEC and R-SPEC. Council’s preferred format for the submission of the graphical data is in “MapInfo Native Format”. A secondary format is “MapInfo MID/MIF”. Grid Co-ordinates must be MGA zone 55 (GDA 94). Please refer to the A-SPEC website for further information: www.a-specstandards.com.au
58. Before the occupation of the development the works must be designed and constructed to a satisfactory point of discharge in accordance with plans and specifications approved by the Responsible Authority.
59. Before the occupation of the development, all road and drainage infrastructure must be designed and constructed in accordance with plans and specifications approved by the Responsible Authority. The works must comply with the standards nominated in the Cardinia Shire Council “Guidelines for the Development & Subdivision of Land”, “Development Construction Specification” and the “Water Sensitive Urban Design (WSUD) Guidelines”.
60. Before occupation of the development, all services, including drainage and/or sewerage, servicing any existing dwelling or building on the lot(s), must be relocated (if required) to the satisfaction of the Responsible Authority.
61. Lighting of streets and pedestrian/cycle paths must be designed and provided (before a certificate of practical completion is issued for Council infrastructure as per the approved plans) in accordance with Australian Standard 1158.1 to the satisfaction of the Responsible Authority.

Traffic management and haulage of materials:

62. All 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.

63. No fill or excavated material for or from this development is to be carted/hailed into or from the site without first obtaining the further written consent from Council's Engineering Department at least seven (7) days prior to the cartage/haulage works commencing to the satisfaction of the Responsible Authority.

Expiry:

64. This permit (T000898) will expire if:

- a) the use and development is not commenced within two (2) years of the date of this permit; or
- b) the use and development is not completed within four (4) years of the date of this permit.

The use and development allowed by this amended permit (T000898-1) will expire if:

- a) the use and development is not commenced within two (2) years of the date of this permit; or
- b) the use and development is not completed within four (4) years of the date of this permit.

The Responsible Authority may extend the periods referred to, if a request is made in writing before the permit expires or within the timeframes prescribed by Section 69 of the *Planning and Environment Act, 1987*

Notes:

- i. The condition 1(a) to 1(d) requirements of this permit have already been met. Plans were endorsed for T000898 on 2 August 2002.
- ii. Conditions 28 to 63 are only relevant to the development of 74 Princes Hwy and 1 Deveney St.
- iii. Council recommends that prior to activating this permit, a registered building surveyor be contacted to ensure the development (including boundary fencing) complies with the Building Act and Building Regulations.
- iv. This application has not been assessed against Clause 54/55 of the Cardinia Planning Scheme.
- v. Prior to commencement of the proposed use a Building Permit must be obtained for any retaining wall exceeding 1.0 metres in height.
- vi. A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.
- vii. Works within the road reserve permit must be obtained from Council prior to any works occurring within the Road Reserve.
- viii. Further approval may be required from Department of Transport for vehicle

crossings or works within/ nearby to the Road Zone.

- ix. Works must cease immediately upon the discovery of any Aboriginal cultural material, and Aboriginal Affairs Victoria must immediately be notified of any such discovery.
- x. Development on the land subject of this permit must cease immediately upon the discovery of any suspected human remains. The Police or State Coroner must be informed of the discovery without delay. If there are reasonable grounds to suspect that the remains are Aboriginal, the discovery must also be reported to Aboriginal Affairs Victoria.

Carried.

Cr Ryan called for a division.

For: Cr Davies, Moore, Springfield, Radford, Kowarzik.

Against: Cr Ryan, Ross and Owen.

T200500-1 APP – application to amend planning permit T200500 that allows for the use and development of a place of worship and associated works to delete requirements of condition 1

Responsible GM: Peter Benazic
Author: Dean Haeusler

Recommendation(s)

That a Notice of Decision to grant Planning Permit application T200500-1 be issued to delete requirements of condition 1 (d) (ii), (vi) and (vii) of the permit at L1 LP140615, Army Road, Pakenham VIC 3810.

Attachments

1. Locality Map [5.4.1 - 1 page]
2. Development Plans [5.4.2 - 7 pages]
3. CONFIDENTIAL - Copy of Objections - Circulated to Councillors only [5.4.3 - 2 pages]

Executive Summary

APPLICATION NO.:	T200500
APPLICANT:	Natalie Gray
LAND:	L1 LP140615, Army Road (Corner of Murphy Road), Pakenham VIC 3810
PROPOSAL:	Deletion of condition 1 d) ii, vi and vii of planning permit T200500
PLANNING CONTROLS:	General Residential Zone – Schedule 1 Development Contributions Plan Overlay - Schedule 1
NOTIFICATION & OBJECTIONS:	Notices sent to owners and occupiers of adjoining properties. Two (2) objections were received.
KEY PLANNING CONSIDERATIONS:	Neighbouring amenity
RECOMMENDATION:	Notice of decision to grant a permit

Background

Planning permit T200500 was issued by Council on 2nd February 2021 allowing for the use and development of the land for a place of worship and associated works.

As part of the approved permit, a condition was applied requiring amended plans that must be submitted and approved by Council, prior to receiving stamped plans.

Condition 1 d) is the subject is this amendment which requires an amended landscape plan to show:

- All buildings and vegetation within 3 metres of the fence lines;
- Canopy trees along the full length of the Murphy Road and Army Road frontages; and
- 2 metre-wide landscaped screening along the southern and western property boundaries.

Subject Site



The site is 2.695 hectares in size and located on the south-east corner of the Murphy Road and Army Road.

The site has a frontage to Murphy Road of 205.07 metres (northern boundary), an eastern boundary of 124.97 metres, an irregular southern boundary with three lengths totalling 230.14 metres in length and a western boundary of 123.08 metres. A 9-metre-wide tree expanse of trees runs along the road reservation adjacent to the western boundary.

There are presently no formal crossovers to the site from Murphy Road, a crossover to the site is located on Army Road adjacent to the southern boundary and there is no easement on title.

The topography of the land is mostly flat with the site sloping slightly to the south-east.

The subject site is located in an established residential precinct of Pakenham, just north of the Pakenham Activity Centre. The immediately adjoining allotments to the subject site contain single dwellings and garages and unit developments. Unit developments and in-fill subdivisions is emerging in the area, with several allotments currently developed with multiple dwellings. The houses are largely single storey and are constructed of a variety of materials.

To the north-west of the Army Road and Murphy road intersection is Pakenham Hills Primary School.

The main commercial street of Pakenham Activity Centre is located 1000 metres south of the subject site with localised shopping 500 metres to the east. Within a 3-kilometre radius of the subject site there are pre-schools, primary and secondary schools, childcare centres, public open space and access to medical cares.

Relevance to Council Plan

1.4 Our People - Improved health and wellbeing for all

1.4.4 Support children, young people, families, older adults and people of all abilities by providing a range of accessible services and facilities.

2.1 Our Community - Our diverse community requirements met

2.1.3 Support opportunities for participation in a diverse range of arts, cultural and tourism activities.

Proposal

Introduction of new permit trigger	Change to Permit preamble or affected land
Not applicable	Not applicable
Deletion/amendment/inclusion of Permit conditions	Amendment to the endorsed plans
<p>Condition 1 d) of the permit requires the submission and approval of an amended landscape plan with various changes to Council's satisfaction.</p> <p>The applicant is seeking to delete 1d) ii, vi and vii detailed below:</p> <p>1) <i>Before the development starts, 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 form part of the permit. The plans must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the plans submitted with the application but modified to show:</i></p> <p>d) <i>Revised landscape plan generally in accordance with the landscape concept plan dated 10 August 2020 prepared by Craig Eldridge Design Landscape Architecture, except that the plan must show:</i></p> <p>ii) <i>Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.</i></p>	<p>An amended landscape plan has been submitted to satisfy the requirements of condition 1 d), subject to the deletion of the three requirements being sought.</p>

<p>vi) <i>Canopy trees capable of reaching a height of 8 metres and a width of 6 metres at maturity (minimum one and a half (1.5) metres tall at the time of planting) generally consistent with the layout and density of plantings shown on the landscape concept plan dated 10 August 2020 prepared by Craig Eldridge Design Landscape Architecture in the area between the proposed carpark and Murphy Road, continuing in the following additional areas.</i></p> <ul style="list-style-type: none"> • <i>the full extent of the Murphy Road frontage to the eastern property boundary.</i> • <i>the full extent of the Army Road frontage to the southern property boundary.</i> <p>vii) <i>A screening vegetation strip at least two (2) metres wide along the full extent of the existing rear fence lines along the southern and eastern property boundaries. The strip must be planted with screening shrubs capable of growing a minimum of 2m tall and at a density sufficient for them to completely screen the fence line at maturity.</i></p>	
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The reasoning set by the applicant for the deletion is that the requirements are disproportionate to the scale of the proposal and the area that the works occupy relative to the size of the property. The applicant instead seeks to contain landscaping to the 'development area' only, defined by the internal fencing (shown in red on figure 2 below).

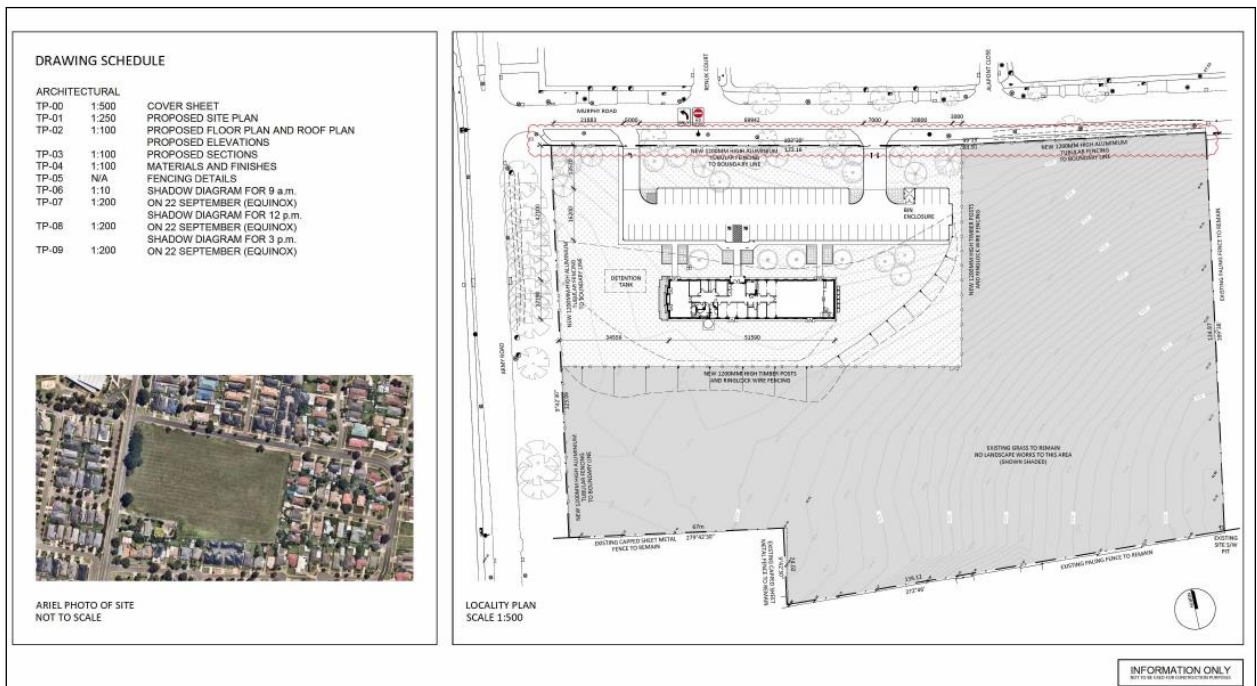


Figure 1: Subject site and approved development

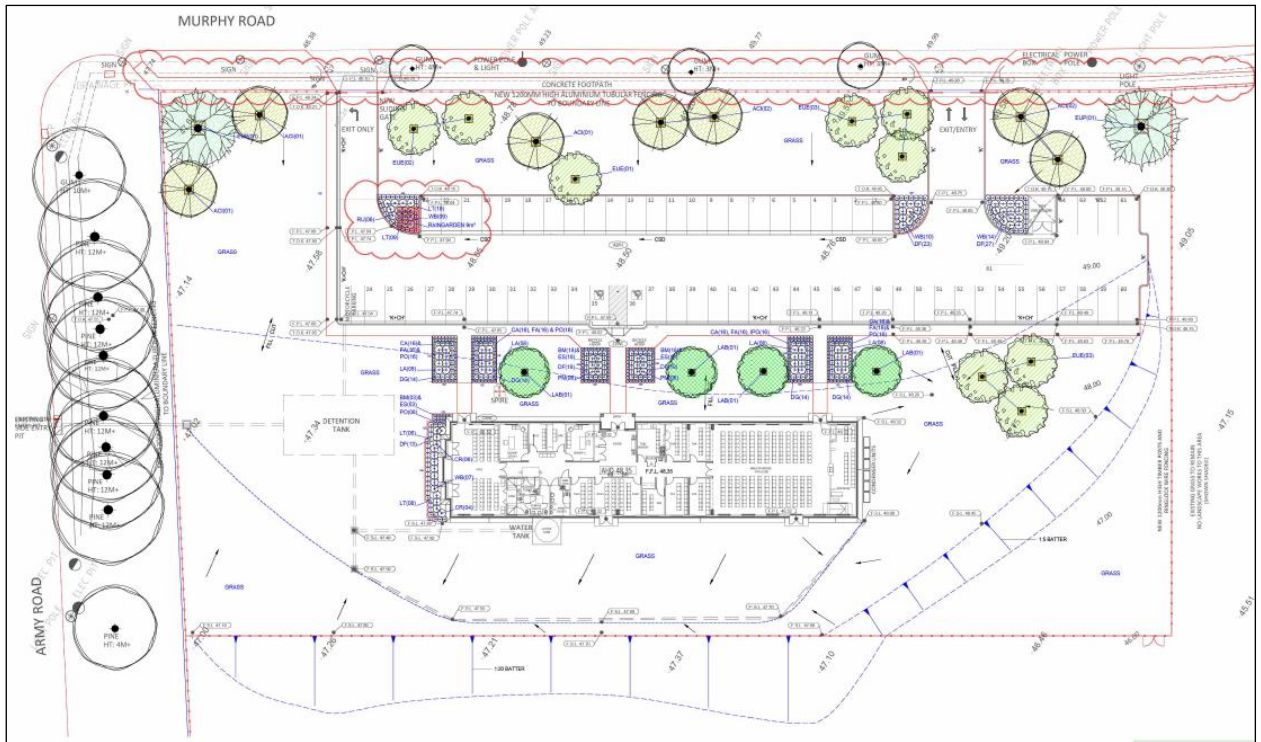


Figure 2: Initial landscape plan

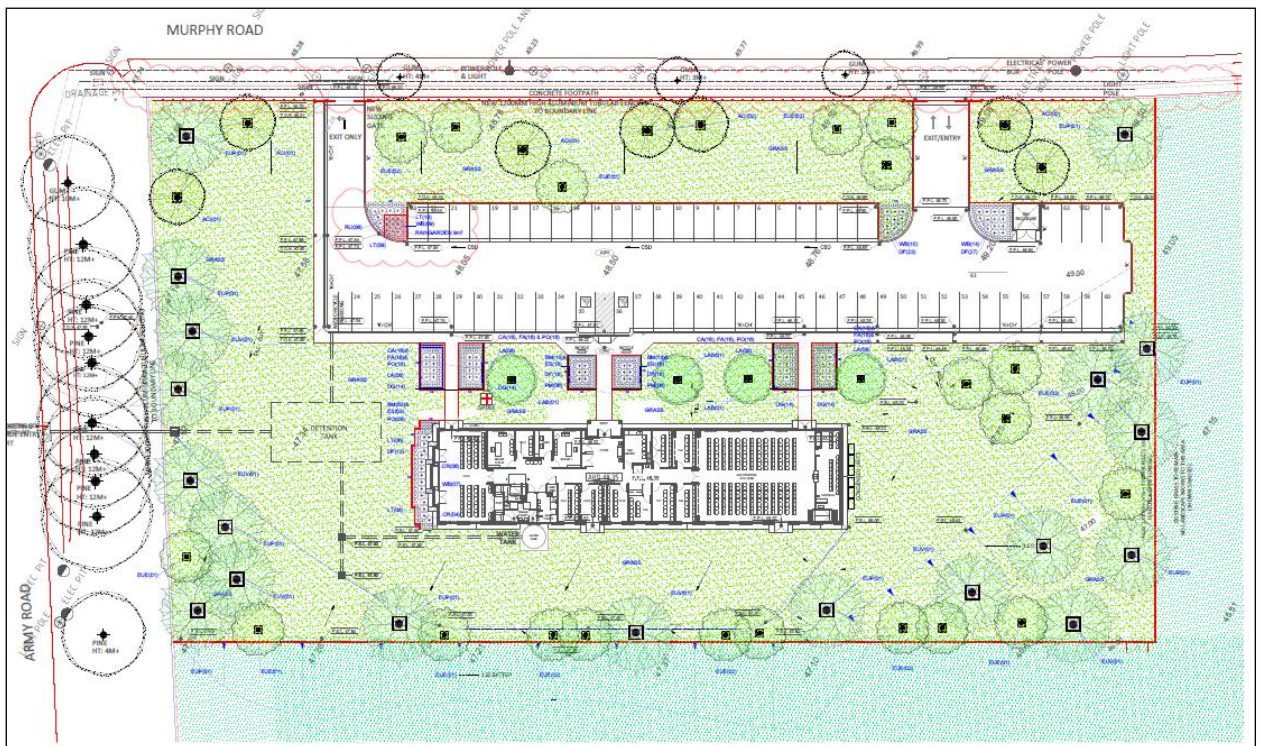


Figure 3: Amended landscape plan (current)

Planning Scheme Provisions

Zone

General Residential Zone – Schedule 1

Overlays

Development Contributions Plan Overlay – Schedule 1

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.03-1s Activity Centres
- Clause 15.01-1s Urban Design
- Clause 15.01-2s Building design
- Clause 15.01-5s Neighbourhood Character
- Clause 15.02-1s Energy and resource efficiency
- Clause 19.02-4a Social and Cultural Activities

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01-4 Strategic Vision
- Clause 21.05-1 Community Services and Facilities

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.06 Car parking
- Clause 65 Decision Guidelines
- Pakenham Development Contribution Plan

Planning Permit Triggers

There are no new permit triggers for assessment by this amendment.

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.

Council has received two (2) objections to date.

The grounds of the objections include:

- Noise
- Visual screening
- Extended hours of operation

Referrals

Internal referrals - Parks and Gardens department

The amended landscape plan was submitted to the Parks and Gardens department for review. The initial landscape plan (figure 2) limited landscaping to the northern frontage of the building along Murphy Road including a group of garden beds and scattered small to medium sized native trees.

The proposed changes were not supported by the department who identified the sensitive residential location and the likely future removal of the Army Road reservation trees that would result in very limited screening and softening of the built form from this aspect.

In response to the concerns raised by Council and two objections received during public notice, an amended landscape plan was submitted (figure 3) that has introduced landscaping along the west, south and east sides of the building and car park.

The Parks and Gardens department have reviewed the latest version of the plan and are satisfied with the additional landscaping and reduction in the distribution of planting proposed.

Discussion

Relevant considerations under the Planning and Environment Act 1987

Section 72(1) of the Planning and Environment Act 1987 states that “a person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit”.

Section 73 outlines the procedure for applications to amend permits. It states that sections 47 to 62 (with any necessary changes) apply to an application to the responsible authority to amend a permit as if the application were an application for a permit.

Before deciding on an application to amend a plan or permit, the responsible authority must 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 significant social / economic / environmental effects which the responsible authorities considered the amendments may have; and*
- *Any decision and comments of a referral authority which it has received.*

In addition to the above, before deciding on an application to amend a plan or permit, the responsible authority, if the circumstances appear to so require, may consider:

- *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 All objections and other submissions which it has received and which have not been withdrawn;*
- *Any agreement made pursuant to section 173 affecting the land the subject of the application; and*
- *Any other relevant matters.*

It is noted that this assessment is limited to the matters that are the subject of the amendment. The assessment cannot revisit the already-approved elements of the development or address other matters that are unrelated to the amendments sought through this specific application.

The responsible authority, in undertaking an assessment of this application has considered all of the above, pursuant to Section 60 of the *Planning and Environment Act 1987*.

Assessment

It is the view of the responsible authority that the proposal is consistent with Section 60 of the Act by way of the following:

- The changes are generally of a minor nature and are consistent with the intent of the original permit and condition 1 d).
- The Planning Scheme has not changed in any significant way since the issue of this permit, with the permit having only recently been issued and all planning controls and relevant policies remaining unchanged.
- There will be no significant social, economic or environmental effects as a consequence of this amendment.

Objections

The amended permit application was advertised by notice to adjoining landowners and occupiers. Following this process two (2) objections were received from properties at 1 Conrad Court, located adjacent to and south-east of the subject site.

Concerns raised in the objections relate to the loss of visual amenity and the effect of noise through the deletion of parts of condition 1 d). The hours of operation were also raised through one objection however it is noted that the approved hours are not proposed to change.

In response to the objections and Council concerns, the permit applicant has amended the landscape plan by broadening the distribution and increasing the volume of landscaping throughout the development area, particularly to the south-eastern aspect. A combination of Eucalyptus Viminalis, Eucalyptus Polyanthemus and Eucalyptus 'Euky Dwarf' have been selected along the southern and eastern interfaces that will provide visual screening at varying heights once mature.

As there is no proposed changes to the building/car park design and layout or to the use of the land, the impacts of noise is limited to whether a reduction of landscaping to the development area only will result in an increase in the perception of noise from the distribution required by condition 1d) vi & vii.

Are the changes to the Planning Permit considered appropriate?

The changes to condition 1d) of the permit are considered appropriate to the scale of development when considered against the site context and balance of undeveloped area.

The existing siting of the building and car park concentrate activity within the north-west corner of the site, allowing separation of over 60 metres and 75 metres from the nearest southern and western boundaries respectively.

While a screening of vegetation along these property boundaries may result in a different effect on noise, the wording of the current condition required a mature height of two metres that is unlikely to result in a tangle impact beyond the height of the paling fence lines. By contrast, the use of medium and large tree species focused in the development area is considered to provide a similar effect on visual amenity and suppression of noise once the trees reach a mature size.

A reduced extent of landscaping along the road frontages to concentrate on the development area only will continue to ensure landscaping objectives are achieved through the breaking-up of built form and hard surfacing from beyond the site.

It is noted that if the remainder of the land were to be further developed, or the current proposal expanded, a planning permit would likely be required, and the landscaping response reviewed at this point in time.

As a consequence of the updated landscape plan, the landscaping will act to sufficiently minimise the visual impact imposed by the development from sensitive site interfaces with a suitable selection of shrubs, and a focus on medium and larger tree species that have greater longevity and potential for screening once mature.

Deletion of condition 1 d) ii - Recommendation

Deletion of this condition is appropriate as the buildings and works are not located within proximity to property neighbouring boundaries or vegetation.

Deletion of condition 1 d) vi - Recommendation

Deletion of this condition is appropriate as the proposed landscaping will ensure the building and car park and still sufficiently screened from the road frontages.

Deletion of condition 1 d) vii - Recommendation

Deletion of this condition is appropriate as the proposed landscaping will ensure sufficient screening is provided along the south and western sides of the development area.

Conclusion

It is recommended that the amendment is supported and the landscape plan endorsed with the development plans.

Conditions

ADDRESS OF THE LAND: L1 LP140615, Army Road (Corner of Murphy Road), Pakenham VIC 3810

THIS PERMIT ALLOWS: Use and development of the land for a place of worship and associated works, generally in accordance with the approved plans

Date amended:	Pursuant to Section 72-76B of the <i>Planning and Environment Act 1987</i> the permit has been amended to:
XX Month, 20XX	Deletion of condition 1 d) ii, vi & vii

- 1) Before the development starts, 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 form part of the permit. The plans must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) The internal pedestrian path to be no less than 1.5 metres in width.
 - b) A 1.5 m wide concrete footpath to be provided along the entire site frontage to Murphy Road.
 - c) A 1.5 m wide concrete pedestrian path, including pram ramps, to link to the existing pedestrian path on the eastern side of Army Road.

- d) Revised landscape plan generally in accordance with the landscape concept plan dated 10 August 2020 prepared by Craig Eldridge Design Landscape Architecture, except that the plan must show:
- i) A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - ii) Delete.
 - iii) Details of surface finishes for all areas, including pathways and driveways.
 - iv) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - v) 1200mm organic mulch diameter around any proposed trees to be planted in lawn.
 - vi) Delete
 - vii) Delete
 - viii) All species selected must be to the satisfaction of the Responsible Authority and should be drought tolerant and proven hardy cultivars suitable to the local conditions. Plantings are not to impact sight lines for, or impede the movement of, vehicles or pedestrians.
- e) Revised Sustainable Management Plan generally in accordance with the “The Church of Jesus Christ Latter-day Saints, Sustainable Management Plan, Job: 10875, Date: August 2020, Revision 02 prepared by BRT Consulting” but amended to show:
- i) a detailed plan is to be provided to the responsible authority showing the details of the 25kW solar energy system. This is to confirm the solar array layout and inclusion. This is required as the 25kW solar energy system is referred to in appendix B of the Sustainable Management Plan.
 - ii) Plans that demonstrate outcomes of the Sustainable Management Plan.
- 2) The use and development of land must be generally in accordance with the plans endorsed under this permit and subject to the conditions set out in this permit.
 - 3) The layout of the access, use and development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
 - 4) Once the development starts, it must be continued and completed to the satisfaction of the Responsible Authority.
 - 5) Except with the written consent of the Responsible Authority, the use of the land for a place of worship may only operate:
 - Monday to Thursday: 6am – 10pm.
 - Friday and Saturday: 7am – 12am.
 - Sunday: 8am – 9pm.
 - 6) Except with the written consent of the Responsible Authority, a maximum of 170 patrons associated with the use of the land for a place or worship are permitted on the land at any time.
 - 7) All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise to a level satisfactory to the Responsible Authority.
 - 8) 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.

- 9) No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes at any time without the written consent of the Responsible Authority.
- 10) All waste material not required for further onsite processing must be regularly removed from the subject land. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the Responsible Authority.
- 11) All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes shall be kept in a storage area screened from view to the satisfaction of the Responsible Authority.
- 12) External lighting must be designed, baffled and located so as to not detrimentally effect on adjoining land to the satisfaction of the Responsible Authority.
- 13) All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise to a level satisfactory to the Responsible Authority.
- 14) No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

Buildings and Works

- 15) Before the development starts by such later date as is approved by the Responsible Authority in writing:
 - a) 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.
 - b) a tree protection fence must be erected around the existing street trees to be retained outside the canopy zone of the tree to define a "Tree Protection Area". The fence must be constructed of star pickets and chain mesh or similar to the satisfaction of the Responsible Authority. The tree protection fence must remain in place until construction is completed. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Area. Any pruning that is required to be done to the canopy or roots of any tree to be retained is to be done with permission by Council's Arborist by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-2007.
 - c) A fee of \$375.00 per tree must be paid to the Responsible Authority for the replacement of the existing street tree/s nominated to be removed for the development. Replacement will be undertaken by Council contractors within the streetscape in the next planting season.
- 16) Before the development is occupied or by such later date as is approved by the Responsible Authority in writing:
 - a) 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.

- b) 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.
 - c) the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
 - d) A report from the author of the Sustainable Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainable Management Plan and the associated details on the approved plans, have been implemented in accordance with the Sustainable Management Plan and approved plans.
- 17) The location of any tree protection zones and protection measures including for street trees accurately drawn to scale and labelled and notations referring to any endorsed Arboricultural Assessment prepared by Shane Laszczyk – Arbor Advocacy Dated 30 June 2020.
- 18) All species selected must be to the satisfaction of the Responsible Authority and should be drought tolerant and proven hardy cultivars suitable to the local conditions. Plantings are not to impact sight lines for vehicles or pedestrians.
- 19) The development must be constructed in accordance with the requirements, recommendations and details of the Sustainable Management Plan to the satisfaction of the Responsible Authority, and the associated details shown on the approved plans.

Commencement of Use

- 20) Before the use commences, as defined by the issue of a Certificate of Occupancy under the Building Act 1993, the following must be satisfied:
- a) All proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed in accordance with approved plans, drained and the parking areas delineated to the satisfaction of the Responsible Authority.
 - b) A bin storage area must be provided and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
 - c) the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
 - d) The outfall drainage for the development must be designed and constructed to a satisfactory point of discharge in accordance with plans and specifications approved by the Responsible Authority.
- 21) The use and development must be managed so that the amenity of the area is not detrimentally affected 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) Presence of vermin.
- To the satisfaction of the Responsible Authority.
- 22) 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.

- 23) The areas shown on the endorsed plans for access and car parking must not be used for any other purpose and must be maintained to the satisfaction of the Responsible Authority. Access ways must be in accordance with Clause 52.06 of the Cardinia Shire Planning Scheme.
- 24) The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
- 25) All wastewater from the proposal must be treated and contained within the property boundaries in accordance with the current EPA Code of Practice – Onsite Wastewater Management: Guidelines for Environmental Management, Australian Standards 1547 and Council requirements.
- 26) Stormwater works must be provided on the subject land so as to prevent overland flows onto adjacent properties.
- 27) The slope of batters, both cut and fill, must not exceed 2:1 (horizontal: vertical) or, where this is not practicable, batters must be stabilised by other means to the satisfaction of the Responsible Authority.
- 28) Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
- 29) 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.
- 30) Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.

Resolution

Moved Cr Jack Kowarzik, seconded Cr Carol Ryan.

That a Notice of Decision to grant Amended Planning Permit application T200500-1 be issued, to delete condition 1 d) ii and amend condition 1 d) vi of the permit at L1 LP140615, Army Road, Pakenham VIC 3810, in accordance with the following conditions:

- 1) Before the development starts, 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 form part of the permit. The plans must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) The internal pedestrian path to be no less than 1.5 metres in width.
 - b) A 1.5 m wide concrete footpath to be provided along the entire site frontage to Murphy Road.
 - c) A 1.5 m wide concrete pedestrian path, including pram ramps, to link to the existing pedestrian path on the eastern side of Army Road.
 - d) Revised landscape plan generally in accordance with the landscape concept plan dated 10 August 2020 prepared by Craig Eldridge Design Landscape Architecture, except that the plan must show:
 - i) A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - ii) Delete.
 - iii) Details of surface finishes for all areas, including pathways and driveways.
 - iv) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - v) 1200mm organic mulch diameter around any proposed trees to be planted in lawn.
 - vi) Canopy trees capable of reaching a height of 8 metres and a width of 6 metres at maturity (minimum one and a half (1.5) metres tall at the time of planting) generally consistent with the layout and density of plantings shown on the landscape concept plan dated 10 August 2020 prepared by Craig Eldridge Design Landscape Architecture in the area between the proposed carpark and Murphy Road, continuing in the following additional areas.
 - The extent of the Army Road and Murphy Road frontages, as defined by the internal fence lines shown on the assessed plans.
 - vii) A screening vegetation strip at least two (2) metres wide along the full extent of the existing rear fence lines along the southern and eastern property boundaries. The strip must be planted with screening shrubs capable of growing a minimum of 2m tall and at a density sufficient for them to completely screen the fence line at maturity.
 - viii) All species selected must be to the satisfaction of the Responsible Authority and should be drought tolerant and proven hardy cultivars suitable to the local conditions. Plantings are not to impact sight lines for, or impede the movement of, vehicles or pedestrians.

- e) Revised Sustainable Management Plan generally in accordance with the “The Church of Jesus Christ Latter-day Saints, Sustainable Management Plan, Job: 10875, Date: August 2020, Revision 02 prepared by BRT Consulting” but amended to show:
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 - ii) Plans that demonstrate outcomes of the Sustainable Management Plan.
- 2) The use and development of land must be generally in accordance with the plans endorsed under this permit and subject to the conditions set out in this permit.
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 - 7) All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise to a level satisfactory to the Responsible Authority.
 - 8) 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.
 - 9) No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes at any time without the written consent of the Responsible Authority.
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 - 11) All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes shall be kept in a storage area screened from view to the satisfaction of the Responsible Authority.
 - 12) External lighting must be designed, baffled and located so as to not detrimentally effect on adjoining land to the satisfaction of the Responsible Authority.
 - 13) All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise to a level satisfactory to the Responsible Authority.
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Buildings and Works

- 15) Before the development starts by such later date as is approved by the Responsible Authority in writing:
- a) 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.
 - b) a tree protection fence must be erected around the existing street trees to be retained outside the canopy zone of the tree to define a "Tree Protection Area". The fence must be constructed of star pickets and chain mesh or similar to the satisfaction of the Responsible Authority. The tree protection fence must remain in place until construction is completed. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Area. Any pruning that is required to be done to the canopy or roots of any tree to be retained is to be done with permission by Council's Arborist by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-2007.
 - c) A fee of \$375.00 per tree must be paid to the Responsible Authority for the replacement of the existing street tree/s nominated to be removed for the development. Replacement will be undertaken by Council contractors within the streetscape in the next planting season.
- 16) Before the development is occupied or by such later date as is approved by the Responsible Authority in writing:
- a) 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.
 - b) 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.
 - c) the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
 - d) A report from the author of the Sustainable Management Plan approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Sustainable Management Plan and the associated details on the approved plans, have been implemented in accordance with the Sustainable Management Plan and approved plans.
- 17) The location of any tree protection zones and protection measures including for street trees accurately drawn to scale and labelled and notations referring to any endorsed Arboricultural Assessment prepared by Shane Laszczyk – Arbor Advocacy Dated 30 June 2020.
- 18) All species selected must be to the satisfaction of the Responsible Authority and should be drought tolerant and proven hardy cultivars suitable to the local conditions. Plantings are not to impact sight lines for vehicles or pedestrians.

- 19) The development must be constructed in accordance with the requirements, recommendations and details of the Sustainable Management Plan to the satisfaction of the Responsible Authority, and the associated details shown on the approved plans.

Commencement of Use

- 20) Before the use commences, as defined by the issue of a Certificate of Occupancy under the Building Act 1993, the following must be satisfied:
- a) All proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed in accordance with approved plans, drained and the parking areas delineated to the satisfaction of the Responsible Authority.
 - b) A bin storage area must be provided and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
 - c) the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
 - d) The outfall drainage for the development must be designed and constructed to a satisfactory point of discharge in accordance with plans and specifications approved by the Responsible Authority.
- 21) The use and development must be managed so that the amenity of the area is not detrimentally affected 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) Presence of vermin.
- To the satisfaction of the Responsible Authority.
- 22) 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.
- 23) The areas shown on the endorsed plans for access and car parking must not be used for any other purpose and must be maintained to the satisfaction of the Responsible Authority. Access ways must be in accordance with Clause 52.06 of the Cardinia Shire Planning Scheme.
- 24) The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
- 25) All wastewater from the proposal must be treated and contained within the property boundaries in accordance with the current EPA Code of Practice – Onsite Wastewater Management: Guidelines for Environmental Management, Australian Standards 1547 and Council requirements.
- 26) Stormwater works must be provided on the subject land so as to prevent overland flows onto adjacent properties.
- 27) The slope of batters, both cut and fill, must not exceed 2:1 (horizontal: vertical) or, where this is not practicable, batters must be stabilised by other means to the satisfaction of the Responsible Authority.
- 28) Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.

- 29) 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.
- 30) Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.

Carried

5.5 Planning Enforcement Matters Report

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

3.5 Our Environment - Balanced needs of development, the community and the environment

3.5.2 Plan for the development of the urban growth area with a mix of residential, commercial, employment, recreational and community activities to meet the needs of our growing community in a sustainable way.

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. The appeal commenced on 11th and 12th February 2021 , had further hearings on 19th and 20th April 2021 , and was adjourned for further hearing on 21st and 22nd June 2021 .
2 Johanna Court, Pakenham (JALF-TD-20542)	Native vegetation removed, contrary to Vegetation Protection Overlay (42.02) and Clause 52.17	On 25th March 2021 the Dandenong Magistrates Court found the accused company (being the owner of the land) guilty of breaching the scheme, by removing native understory vegetation. The company was convicted and fined \$20,000 and ordered to pay Council costs, and has applied for a re-hearing, which will be next heard on 3rd June 2021 .
Earnley Way, Officer (JALF-TD-20506)	Native vegetation removed, contrary to provisions of 52.17 (Officer Native Vegetation Precinct Plan)	Matter listed for contest mention at Dandenong Magistrates' Court on 17th June 2021 .
95 Old Sawmill Rd, Nar Nar Goon North (JALF-KS-20539)	(Building prosecution for building work without a permit – related to planning permit refused by Council during 2020)	This matter has been referred for Diversion on 17th June 2021 , and the accused have voluntarily removed all subject buildings from the site.

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.

Resolution

Moved Cr Jack Kowarzik, seconded Cr Graeme Moore.

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

Carried

5.6 Planning Scheme Amendment Activity Report

Responsible GM: Nigel Higgins
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.

A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C222	XWB Consulting	85 McNamara Road, Bunyip	<p>Amendment C222 proposes to:</p> <ul style="list-style-type: none"> - rezone land from Farming Zone Schedule 1 (FZ1) to Low Density Residential Zone Schedule 3 (LDRZ3) (55 & 85 McNamara Road), - apply a Development Plan Overlay Schedule 21 (DPO 21) (85 McNamara Road), - apply a Design and Development Overlay Schedule 1 (DDO1), and delete the Environmental Significance Overlay Schedule 1 (ES01). 	Thu 08/08/2019	Fri 06/09/2019	<p>Panel Report finalised on 29/04/2020.</p> <p>Council is awaiting further information from the proponent in relation to some of the issues raised in the Panel Report.</p>
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>	Thu 24/10/2019	Fri 06/12/2019	<p>Adopted Amendment submitted to the Minister for Planning for approval on 23/03/2021.</p>

A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			<p>The ACZ1 is a direct translation of the objectives and strategies as set out in the draft Pakenham Structure Plan 2018 and draft Urban Design Framework 2018. The amendment amends Clauses 21.03, 21.04 and 21.06, implements two new reference documents, deletes parts of two Development Plan overlays Schedule 1 and 2 of 43.04, and deletes the Pakenham Activity Centre Incorporated Provisions, 20 March 2017 from Clause 72.04.</p>			
C229	Cardinia Shire Council	Tynong, Garfield and Bunyip	<p>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.</p>	Thu 21/11/2019	Fri 20/12/2019	<p>Re-exhibition completed.</p> <p>A bushfire risk assessment is in progress.</p>
C238	Cardinia Shire Council	Beaconsfield Precinct - Glismann Road and	<p>Amendment C238 proposes to:</p> <ul style="list-style-type: none"> - Rezone land to the 	Thu 09/07/2020	Mon 14/09/2020	<p>Council resolved to refer submissions to</p>

A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
		Old Princes Highway.	<p>Neighbourhood Residential Zone (NRZ2) (CI 32.09 Sch 2)</p> <ul style="list-style-type: none"> - Apply a Development Plan Overlay (DPO19) to the Glismann Road Area (CI 43.04 Sch 19) - Apply Development Contributions Plan Overlay (DCPO5) to the Glismann Road Area (CI 45.06 Sch 5) - Amend Clause 72.04 to incorporate the Glismann Road Development Contributions Plan (GRDCP) into the CPS. <p>Amend Clause 53.01 to facilitate the provision of local open space through the GRDCP</p>			<p>a Planning Panel for consideration on 15/02/2021.</p> <p>A Directions Hearing was held on 26/03/2021.</p> <p>A Panel Hearing was held in the week beginning 03/05/2021.</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	Adopted Amendment submitted to the Minister for Planning for approval on 01/04/2021.
C257	Cardinia Shire Council	53-65 Woods Street, Beaconsfield	Apply a Development Plan Overlay (DPO) for the Woodland Grove Precinct as shown in the			On 19/04/2021 Council resolved to refer all submissions to

A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			Beaconsfield Structure Plan.			a Planning Panel for consideration.
C264	Cardinia Shire Council	Cardinia Shire municipality	Implement the Advertising Signage Design Guidelines into the Cardinia Planning Scheme.			Advertising commenced 6 May 2021 for 4 weeks.
C265	Cardinia Shire Council	Pakenham South Employment Precinct	Incorporate the Pakenham South Employment Precinct Structure Plan.	Thu 15/10/2020	Thu 26/11/2020	<p>A Planning Panel Hearing was held on 12/04/2021.</p> <p>The Panel report was received by Council on 12 May 2021, recommending that the Amendment be adopted as exhibited and subject to minor changes.</p>

Resolution

Moved Cr Jack Kowarzik, seconded Cr Graeme Moore.

That Council note the report.

Carried

6 Meeting Closure

Meeting closed at 08:23 pm.

Minutes confirmed
Chairman