

Ordinary Council Meeting

Minutes

Monday 15 November 2021

Commenced at 7:00 PM

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

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

Officers:	Carol Jeffs	Chief Executive Officer
	Peter Benazic	General Manager Infrastructure and Environment
	Lili Rosic	General Manager Liveable Communities
	Debbie Tyson	General Manager Governance, Facilities and Economy
	Jenny Scicluna	General Manager Customer, People and Performance
	Doug Evans	Manager Governance

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1 Opening And Reflection/Prayer

I would ask those gathered to join us now for a few moments of silence as we reflect on our roles in this chamber. Please use this opportunity for reflection, Prayer or thought, to focus on our shared intention to work respectfully together for the well-being of our whole community.

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

Recognition of previous Mayor

Before proceeding to the Agenda Items the Mayor asked former Mayor Cr Brett Owen to come forward and presented him with a portfolio of remembrances of his twelve months in office and congratulated him on his stewardship of the Council over the period.

Cr Owen accepted the gift and responded thanking his fellow Councillors and his family in particular for their support to him during his Mayoral term.

4 Adoption And Confirmation Of Minutes

That minutes of the following meetings be confirmed:

- General Council meeting 18 October 2021
- Statutory Council Meeting 8 November 2021

5 Declaration Of Interests

Nil

6 Ordinary Business
6.1 Town Planning Reports

6.1.1 T200834 PA - Development of the Land for Four (4) Dwellings and Associated Work and Removal of a Restrictive Covenant PS804664Q

Responsible GM: Lili Rosic
Author: Evangeline McGauley-Kennedy

Recommendation(s)

That Council issue a Notice of Decision to Grant Planning Permit T200834 for the development of the land for four (4) dwellings, earthworks and removal of a restrictive covenant PS804664Q (from both Lots 2 and 3 PS804664Q) at 19A and 19B Station Road, Gembrook VIC 3783 subject to the following conditions:

1. This permit (relating to buildings and works) does not come into effect until the restrictions contained in Restrictive Covenant PS804664Q are removed from Lots 2 and 3 in the Register of Titles in accordance with the certified plan of removal.

Removal of covenant

2. Before the plan of removal of restriction is certified, a plan in accordance with the *Subdivision Act 1988* must be submitted to and approved by the Responsible Authority. The plan must show the following:
 - a. The three (3) restrictions contained within Sheets 3 and 4 in Covenant PS804664Q on L2 and L3 PS804664Q, Certificate of Title Volume 11955 Folio 140 and Volume 11955 Folio 141 as removed.
3. The certified plan must be lodged with the Office of Titles for registration in accordance with Section 23 of the *Subdivision Act 1988*.
4. The permit holder must notify the Responsible Authority on the lodgement of the removal of the registered restrictive covenant with the Office of Titles.

Development plans required:

5. 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 Sketch Building Design, Issue C, submitted with the application but modified to show:
 - a. Tree Protection Plan:
 - i. The location of tree protection fencing that will protect vegetation including neighbouring trees from construction impacts.

- ii. The location and dimensions of the driveway. The plan must also detail the material and method that will be used to construct the driveway. The proposed driveway must be constructed from permeable materials such as crushed rock and supportive materials, or suitable hard surfacing materials (to the satisfaction of Council) and be designed and constructed for a load limit of at least 15 tonnes and be of all-weather construction. No excavation works can occur for the driveway that will damage nearby tree roots.
 - iii. The location of any underground services within retained tree protection zones installed using boring not trenching.
 - b. Elevation plans:
 - i. Additional north facing windows on the northern elevations of Dwellings 1, 3 and 4 to capable of providing additional northern daylight to the living areas and bedrooms of these dwellings.
 - ii. The west and northern elevations of the dwellings amended to show compliance with Standard B22 (Overlooking).
 - iii. The east elevations of Dwellings 1 and 3 amended to show compliance with Standard B22 (Overlooking).
 - c. Site plans:
 - i. The 2.1m high paling fencing along shown on the eastern boundary along the common driveway to be extended to the rear boundary of Lot 1. The remainder of the eastern boundary fencing to be open/rural style fencing.
 - ii. The location and dimensions of the driveway and any other measures in accordance with the Tree Protection Plan.
 - d. A Waste Management Plan to the satisfaction of the Responsible Authority. The plan must include but is not limited to:
 - i. A scaled bin presentation, including areas for hard rubbish collection.
 - ii. The manner in which waste will be stored and collected including the type, size and number of containers.
 - iii. Provision for on-site storage.
 - iv. Details of how waste collection is to be performed.
 - v. The size of the collection vehicle and the frequency, time and point of collection.
- 6. Before the development starts, an amended 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 an electronic copy in an approved format must be provided. The landscaping plan must be generally in accordance with the plan submitted with the application prepared by F & G Design dated 18/03/21 but updated to reflect the plans referred to in Condition 1 and to show:
 - e. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - f. Buildings and trees (including botanical names) on neighbouring properties including their Tree Protection Zones within three metres of the boundary in accordance with the updated Arboricultural Report and Arboricultural Impact

assessment prepared by PSY Inv Pty Ltd dated 20/04/21 and amended following the submission of amended plans prepared by Sketch Building Design, Issue C.

- g. Details of surface finishes of pathways and driveways required by Condition 5(a)(ii) of this permit.
- h. Details of boundary fencing.
- i. 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.
- j. Landscaping and planting within all open areas of the subject land.
- k. A minimum of one (1) canopy tree capable of reaching a minimum of 8m mature height (minimum two metres tall when planted) in the following areas:
 - i. The rear of each dwelling;
 - ii. Within the space in front of Dwelling 1 and between Dwelling 2 and 3; and
 - iii. Within the area at the end of the driveway.
- l. Landscaping capable of softening the expanse of the driveway provided along the length of the common driveway.
- m. Landscaping capable of providing an effective and permanent visual screen to the properties to the north along the length of the north/ north-eastern title boundary.
- n. Plantings within the front setback of all other dwellings.
- o. Vegetation provided between driveways or directly adjacent to the access to be a maximum of 150mm in height.

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. All plantings are to have regard to any easements on site. Plantings are not to impact sight lines for vehicles or pedestrians.

- 7. 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 (Tree Protection Fencing):

- 8. Before works start, a fence must be erected around any tree shown for retention in the locations shown on the endorsed plan. This fence will protect the trees by demarcating the tree protection zone 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 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:

9. 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
10. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.

Engineering:

17. 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.
18. 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.
19. 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
20. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.

Prior to Occupancy:

21. 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. Fixed privacy screens and/or obscured glazing (not adhesive film) in accordance with the endorsed plans designed to limit overlooking as required Standard B22 of Clause 55.04-6 must be installed to the satisfaction of the Responsible Authority and

- maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.
- b. 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.
 - c. 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.
 - d. All proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed with in accordance with the endorsed plans. They must be constructed with concrete, asphalt or other approved 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.
 - e. 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.
 - f. 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.
 - g. The premises are connected to a reticulated water supply, sewerage, drainage and underground electricity to the requirements of the relevant servicing authority.
 - h. 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.
 - i. 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.
 - j. A mail box must be provided to each dwelling to the satisfaction of the Responsible Authority and Australia Post.
 - k. 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.
 - l. Lighting must be provided near the front entrance of each dwelling to the satisfaction of the Responsible Authority.

Expiry:

22. This 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.

23. The permit for the removal of a covenant will expire if:

- a. The removal of the restrictive covenant is not registered within **two (2) 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.
- iv. A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.
- v. Prior to commencement, a building permit may be required for the proposed boundary fences exceeding 2 metres in height.
- vi. 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:

- vii. 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. Locality Map [6.1.1.1 - 1 page]
2. Development Plans [6.1.1.2 - 16 pages]
3. Clause 55 Assessment [6.1.1.3 - 10 pages]
4. CONFIDENTIAL - Copy of Objections - Circulated to Councillors only [6.1.1.4 - 5 pages]

Executive Summary

APPLICATION NO.:	T200834
APPLICANT:	Hansen Partnership Pty Ltd
LAND:	L2 & 3 PS804664Q, 19A & 19B Station Road, Gembrook VIC 3783
PROPOSAL:	Development of the land for four (4) dwellings, earthworks and removal of a restrictive covenant PS804664Q (from both Lots 2 and 3 PS804664Q)
PLANNING CONTROLS:	<p>Zone:</p> <ul style="list-style-type: none"> • Neighbourhood Residential Zone (Schedule 1) <p>Overlays:</p> <ul style="list-style-type: none"> • Design and Development Overlay (Schedule 2) • Significant Landscape Overlay (Schedule 1) • Vegetation Protection Overlay (Schedule 2)
NOTIFICATION & OBJECTIONS:	<p>Pursuant to Section 52 of the <i>Planning and Environment Act</i> 1987, the application was advertised by the placing of a sign on site, sending notices in the mail to adjoining property owners and placing a notice in the local newspaper.</p> <p>Six (6) objections were received during advertising; however, two (2) objections have been withdrawn following the submission of amended plans, therefore four (4) objections have been considered in this assessment.</p>
KEY PLANNING CONSIDERATIONS:	<p>Neighbourhood character</p> <p>Vegetation protection</p> <p>Landscape character</p> <p>Housing availability</p> <p>Car parking/ traffic</p> <p>Site coverage and dwelling density</p> <p>Garden area</p> <p>Amenity</p> <p>Gembrook Township Strategy</p> <p>Removal of covenants</p>

RECOMMENDATION:

That a Notice of Decision to Grant a permit be issued.

Background

The subject site is located on the southern side of Station Road, within close proximity of Gembrook's Town Centre. The site is directly opposite the Puffing Billy Railway Corridor.

The site is located in an area of Station Road mainly consisting of conventional residential development (single dwellings) with some subdivision and smaller housing lots emerging.

The application originally proposed five (5) dwellings on the site, however amendments to the plans were made to reduce the number of dwellings from five (5) to four (4) and reduce the footprint of each dwelling, following Council's and objectors concerns.

The Planning Permit history for the site includes:

- Planning Permit T160605 which was issued for a three (3) lot subdivision on 31 May 2017. This created the three lots now referred to at 19, 19A and 19B Station Road. The restriction that is proposed to be removed as part of the application under assessment was created in response to a requirement of this Permit. The restriction imposes building envelopes, fencing requirements and driveway requirements on 19A and 19B Station Road.

Subject Site

The site is located on the southern side of Station Road, Gembrook.

A crossover is located on the eastern end of the property frontage, providing access via a common driveway to Station Road.

The site currently consists of two (2) vacant allotments. There is no vegetation located on the subject site.

The topography of the land slopes from south-east of the site down to the north-west (Station Road).

There is a building envelope restriction on both titles (Restrictive Covenant PS804664Q) which is sought to be removed as part of this application.

The site is not subject to Aboriginal Cultural Sensitivity.

The main characteristics of the surrounding area are:

- North: Directly north of the site is 19 Station Road, which is the parent parcel that retained the original weatherboard dwelling. Across Station Road is the Puffing Billy Railway Corridor located in the Public Use Zone. Beyond this is Green Wedge Zone Land.
- South: Directly south of the site is 26 Main Street, Gembrook which is a large residential parcel containing a dwelling and scattered vegetation. Further south are more residential properties.
- East: Directly east of the site is 21 Station Road which is a large residential parcel containing a dwelling and scattered vegetation. Further east are other similar residential properties.
- West: Directly west of the site is 17 Station Road which is a large residential parcel containing a dwelling and scattered vegetation. Further east are other residential properties, which include a number of recently subdivided lots.



Relevance to Council Plan

2.1 We support the creation of liveable spaces and places

2.1.3 Plan for housing diversity that meets community need, is affordable and delivers environmental sustainability, safety and healthy living outcomes.

5.1 We practise responsible leadership

5.1.1 Build trust through meaningful community engagement and transparent decision-making.

Proposal

Approval is sought for the development of the land for four (4) dwellings and associated work and removal of a restrictive covenant PS804664Q (from both Lots 2 and 3 PS804664Q) at the subject site.

Site layout

The site is slightly triangular in shape and access to all four (4) dwellings is proposed by an existing common property driveway along the eastern boundary and a common crossover to Station Road.

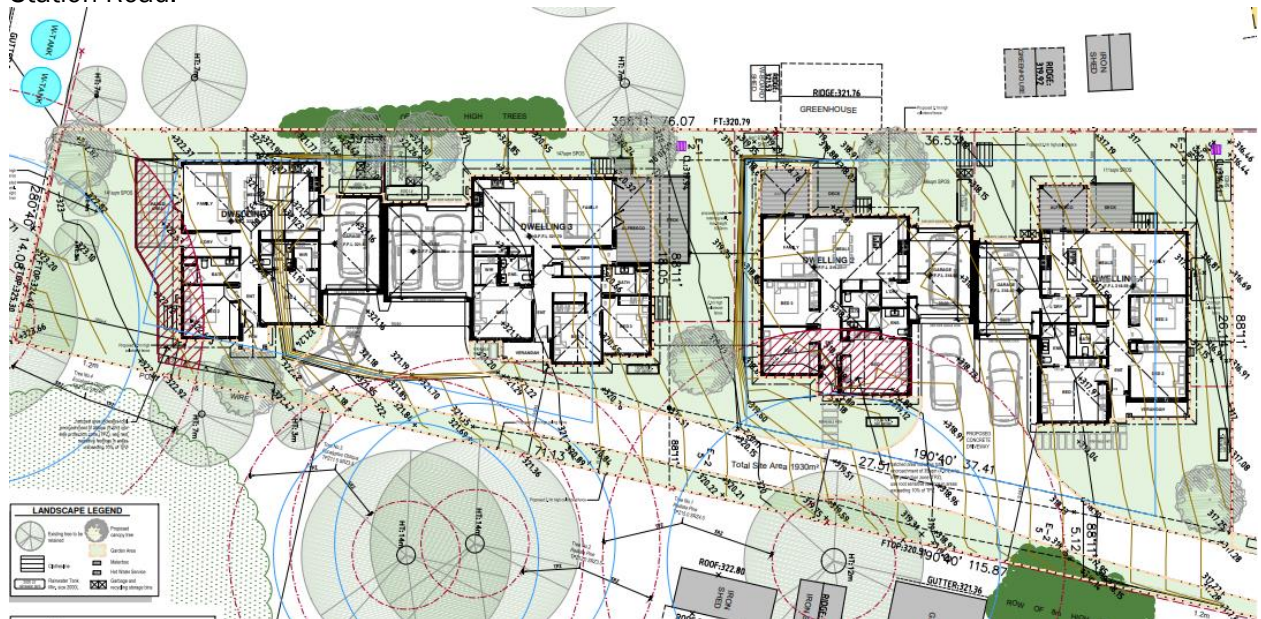


Figure 1: Site layout

The development consists of one (1) single storey, two (2) bedroom dwelling and three (3) single storey, three (3) bedroom dwellings. The proposal provides for a number of floor plans and layouts, each containing an open kitchen, living and dining area. The existing dwelling on 19 Station Road will remain and the siting of the dwellings and garages directly behind this dwelling will ensure that the development presents as a single dwelling from the street.

The proposed dwellings will have a maximum height to the peak of the pitched roofs (from natural ground level) as follows:

- Dwelling 1 will be 6.6 metres.
-
- Dwelling 2 will be 5.24 metres.
-
- Dwelling 3 will be 7.3 metres.
-
- Dwelling 4 will be 4.5 metres



Figure 2: Streetscape

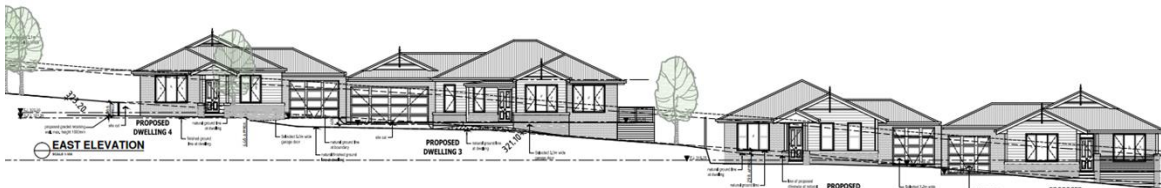


Figure 3: Eastern elevation (Dwellings 1 to 4)

COLOURS & FINISHES SCHEDULE					
A1	Selected Roof Corrugated Sheets: COLORBOND 'Sunflint' (or similar)	B2	Selected Brickwork Ground Floor Walls: BORAL 'Duoless' (or similar)	C3	Selected Stone Cladding Stack Stone Tile: Natural Sand Stone (or similar)
A2	Selected Roof Corrugated Sheets: COLORBOND 'Woodland Grey' (or similar)	C1	Selected Weatherboard Horizontal: DULUX 'Tropical Retreat' (or similar)	D1	Selected Doors Timber Painted: DULUX 'Lexicon 1/4' (or similar)
B1	Selected Brickwork Ground Floor Walls: BORAL 'LaMesa' (or similar)	C2	Selected Weatherboard Horizontal: DULUX 'Lexicon 1/4' (or similar)	D2	Selected Doors Timber Painted: COLORBOND 'Woodland Grey' (or similar)
G1	Selected Garage Door Stack Stone Tile: DULUX 'Lexicon 1/4' (or similar)	G2	Selected Garage Door Horizontal composite timber: COLORBOND 'Woodland Grey' (or similar)	P1	Selected Gutters, Downpipes, Cappings, Vents, Posts & Fascia To Match Render: COLORBOND 'Sunflint' (or similar)
P2	Selected Gutters, Downpipes, Cappings, Vents, Posts & Fascia To Match Render: COLORBOND 'Woodland Grey' (or similar)	W	Selected Windows Aluminium, timber trim to facade: Lexicon 1/4 (or similar)		

PLEASE NOTE:
All colours are AutoCAD derived and only indicative of the manufacturer's product.
Please refer to manufacturer specification for exact colour.
Where colour and manufacturer's specified not available similar match is to be substituted.

PLEASE NOTE:
Selected Downpipes & Rainwater heads to match wall finishes.

Figure 4: Colour schedule (Dwellings 1 to 4)

The proposed dwellings provide a contemporary version of a traditional design incorporating weatherboard and rendered facades with porches and eaves, along with corrugated steel roofs and brick and stone features. The colour schemes chosen include a mixture of white, cream, grey and brown tones, along with grey and charcoal corrugated roofs.

The designs takes cues from the surrounding neighbourhood character, using colours and materials complementary 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 eastern boundary (internal driveway). Due to the north-south orientation of the site, the private open spaces are located to the north (where possible), but are mainly located on the south (Dwelling 4) and western and northern alignment of the site (Dwellings 1 to 3).

Site coverage:

The details of the proposed dwellings are as follows:

	Dwelling 1	Dwelling 2	Dwelling 3	Dwelling 4
Size	167.71sqm	157.49sqm	190.46sqm	147.96sqm
Bedrooms	3	3	3	2
Storeys	Single	Single	Single	Single
P.O.S	145.0sqm	99.0sqm	147.0sqm	194.0sqm
S.P.O.S	111.0sqm	86.0sqm	147.0sqm	141.0sqm

The proposal provides a site coverage of 31.95 percent (excluding driveways and paths) and has 47.66 percent of permeable area (area of the site not covered by buildings, driveways & paths). Garden area has been provided at 47.04 percent (or 907.95sqm of the 1930sqm site), which satisfies the mandatory requirement for dwellings on lots over 650sqm.

Setbacks:

Dwelling 1 will be setback between 2.77 metres from the northern title boundary and between 3.5 metres and 7.1 metres from the western title boundary.

The remainder of the dwellings have setbacks of between 1.82 and 6.1 metres from the western boundary and between 8.02 metres and 10.54 metres from the southern boundary. The dwellings are also between 2.4 metres and 9.08 metres from the eastern boundary. There are no walls proposed to be constructed on boundaries of neighbouring lots.

Visitor car parking and Access

As the development is for less than 5 dwellings, no visitor spaces are required to be provided.

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

Access from Station Road is proposed via the existing crossover to the property. The driveway is approximately 3 metres in width and will provide access to all four (4) dwellings.

Vegetation removal:

No vegetation removal is required on the subject site as it has already been cleared as part of the subdivision.

The plans demonstrate that the Tree Protection Zones (TPZ's) of trees on neighbouring sites, including two (2) large trees to be retained, will not be impacted by the development by encroachment into their TPZs of more than 10 percent in accordance with AS4970 2009 (Protection of Trees on Development Sites).

Earthworks

Although the development has been designed to the fall of the site, some minor earthworks are required to facilitate the proposal. They include some minimal site cut of 1 metre and less.

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 to the east of the driveway will also have a positive contribution to the streetscape and the appearance of the site. A detailed plan will be requested via permit conditions.

Planning Scheme Provisions

Zone

The land is subject to the following zones:

- Neighbourhood Residential Zone – Schedule 1

Overlays

The land is subject to the following overlays:

- Design and Development Overlay (Schedule 2)
- Significant Landscape Overlay (Schedule 1)
- Vegetation Protection Overlay (Schedule 2)

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.01-1S Settlement
- Clause 12.01-1S Protection of biodiversity
- Clause 12.05-2S Landscapes
- Clause 13.02-1S Bushfire Planning
- 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 16.01-3S Rural residential development
- Clause 18.01 Transport
- Clause 19.03-2S Infrastructure design and provision

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.02-2 Landscape
- Clause 21.02-3 Biodiversity
- Clause 21.02-4 Bushfire management
- Clause 21.03-1 Housing
- Clause 21.03-4 Rural Townships
- Clause 21.05-1 Infrastructure provision
- Clause 21.05-3 Local roads
- Clause 21.06-1 Urban design
- Clause 21.07-1 Gembrook

Relevant Particular/General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.02 Easements, Restrictions and Reserves
- 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
- Clause 66 Referral and Notice Provisions
- Gembrook Township Strategy (June 2011)

■

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.
-
- Pursuant to Clause 42.03-2 (SLO1) a planning permit is required to construct a building or carry out works (building exceeding 7m in height).
-
- Pursuant to Clause 43.02-2 (DDO2) a planning permit is required to construct a building or construct or carry out works (building within 2 metres of a boundary, a building exceeding 7m in height and earthworks exceeding 1m in cut or fill).
- Pursuant to Clause 52.02 (Easements, restrictions and reserves) a planning permit is required to proceed under Section 23 of the *Subdivision Act 1988* to remove a restriction.

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.
- Placing a notice in the local newspaper (Star Mail/Pakenham Gazette on 30/3/21).

The notification has been carried out and the statutory declaration has been submitted to Council on 16 April 2021.

Council received six (6) objections at the time of advertising, however following the circulation of the amended plans (on 3 September 2021), two (2) of the objections were withdrawn. As a result, Council has considered a total of four (4) objections in this assessment.

The key issues that were raised in the objection are:

- Car parking, Traffic & Access
- Neighbourhood character
- Bushfire
- Increased dust
- Environmental impacts
- Boundary Fencing
- Loss of amenity

Referrals

External Referrals/Notices:

Referrals/ Notice	Referral Authority	Brief summary of response
Section 55 Referrals	N/A	
Section 52 Notices	Emerald Tourist Railway Board	No response to date.

Internal Referrals:

Internal Council Referral	Advice/ Response/ Conditions
Engineering	No objection (subject to conditions)
Traffic	No objection (no conditions)

Strategic Planning/ Urban Design	Advised that there is a need for additional housing in Gembrook, however the amount of dwellings original proposal was inconsistent with the Gembrook Township. Therefore, the applicant revised the plans to address some of these concerns.
Waste	No objection (subject to conditions requiring a Waste Management Plan)
Environment	No objection (subject to conditions)

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. A number of policies also direct this type of development to areas that are well serviced and in low risk locations in terms of environmental impacts such as flooding and bushfire.

Clause 11.01-1S (Settlement) seeks to promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.

Clause 12.01-1S (Protection of biodiversity) seeks to assist the protection and conservation of Victoria's biodiversity.

Clause 12.05-2S (Landscapes) seeks to protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments.

Clause 13.02-1S (Bushfire Planning) applies to all planning decisions relating to land that is not only in the Bushfire Management Overlay, but also that which is within a designated bushfire prone area. Key strategies to protect human life outlined in this policy are directing population growth and development to low risk locations and ensuring the availability of, and safe access to, areas where human life can be better protected from the effects of bushfire.

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 19.03-2S (Infrastructure design and provision) seeks to ensure that infrastructure meets the needs of the community, and ensure that developments can be integrated with infrastructure and services, whether they are in existing suburbs, growth areas or regional town

Clause 21.02-2 (Landscape) provides location context to Clause 13 seeks to recognise and protect the diverse landscape and areas of significant landscape value.

Clause 21.02-3 (Biodiversity) provides local context to Clause 12.01-1S and seeks to achieve no net loss in the quantity and quality of native vegetation in the municipality.

Clause 21.02-4 (Bushfire management) provides location context to Clause 12.05-2S and seeks to (among other objectives) direct new development to low risk locations.

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.

Clause 21.05-1 (Infrastructure provision) and Clause 21.05-3 (Local roads) provide local context to Clause 19.03-2S and seek to ensure that areas are well serviced and provided with adequate levels of infrastructure as well as ensure that development occurs within areas that are already well serviced.

Clause 21.07-1 (Gembrook) seeks to Ensure that any proposed use or development within the Gembrook township is generally consistent with the *Gembrook Township Strategy (June 2011)*, including the Gembrook Framework Plan and the Central Precincts Plan.

The proposal is compatible with the existing and emerging residential character of the area, and due to the proposed setbacks, single storey height and appropriate location of the proposed dwellings behind the existing weatherboard dwelling at 19 Station Road, it is not expected to have any unacceptable impacts on the surrounding residences or other uses. The dwellings provide a contemporary response to a traditional design, taking cues from the surrounding neighbourhood and an adequate amount of garden area and S.P.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 canopy trees and to soften the built form.

The proposal is consistent with clauses above that seek to ensure that residential development 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.

The site is located within close proximity to Gembrook Township and therefore is provided with adequate services and roads to facilitate the development. The site is in a lower risk location from a bushfire perspective, being within close proximity to the Township and being located out of the Bushfire Management Overlay.

The proposal provides for a varied housing type which provides a different and potentially more affordable option for residents of Gembrook, wishing to downsize, but remain in the community.

The design, separation and siting of the dwellings is in keeping with the neighbourhood character and ensures that the existing streetscape character is maintained.

It is considered that the proposal adequately responds to the above and complements 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, LPPF and MPS as it contemplates development of a vacant parcel that will result in an appropriate level of infill development near services and at less risk of bushfire.

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 32.09-6 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 Gembrook.

The dwellings are well articulated and offer generous boundary setbacks which are generally in keeping with the building envelopes currently registered on title (to be removed).

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 overwhelmingly satisfies this requirement by providing for a minimum of 47.04 percent of the site for 'Garden Area'.

The Zone also identifies a 9 metre mandatory height limit, with no more than 2-storeys, 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 between 4.5 metres (Dwelling 4) and 7.3 metres (Dwelling 3). The proposal therefore meets the mandatory height and garden area requirements.

While the general character of the area is larger-sized residential lots, there are some similar sized developments along Main Street, and other subdivisions have been occurring along Station Road and Main Street (to the rear). 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 Gembrook Town Centre and provides extensive opportunity for landscaping and re-vegetation.

Although traditionally, development or subdivision of the lots within this area of Gembrook 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 5, 15, 35, 39, 45 and 55 Station Road, as well as directly to the rear of the subject site at 1 and 40 Main Street.

The site and its surrounds are in close proximity to services of the Township and the sealed road network and the large size allotments present an opportunity to provide for infill development and more affordable or alternative housing to the larger lots that currently exist.

Once subdivided, the area of the four (4) proposed lots provide for lot sizes consistent with the subdivision pattern of similar sized parcels the surrounding area. This is also in keeping with the objectives of the Township Strategy.

Services within walking distance of the subject site include Gembrook Town Centre which provides for a range of services and facilities. The site is also located approximately 5.3 kilometres to the south-east of the larger facilities of Cockatoo supermarket and approximately 18 kilometres to the north of Pakenham Town Centre, which provide larger retail facilities and services.

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 (Street setbacks) 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 Station Road as the original weatherboard dwelling at 19 Station Road is retained on Lot 1, with all dwellings being single storey to ensure that the development will not be visually dominant when viewed from the street and adjoining properties. Adequate setbacks have also been provided from the side and rear boundaries, in keeping with the DDO2, as well as ResCode requirements. The development will not dominate the streetscape as all the dwellings are located to the rear of 19 Station Road and therefore, will present as one single dwelling from the street. This will ensure that the streetscape is not adversely disrupted. Additionally, at the end of the common driveway is proposed to be a landscaped area to ensure that all four (4) dwellings are less noticeable when viewing the site from the street.

Generous areas of open space have been provided 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 and enhance the vegetated character of Gembrook.

The built form 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 end of the driveway and alongside the it that will assist in breaking up the appearance of hard surfaces when viewed from the street. A concept landscaping plan has been provided with a detailed landscaping plan being required via condition.

There are some canopy trees located on the adjacent property along the south 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, as the driveway has already been constructed for the subdivision. Tree protection fencing conditions will be placed on the permit to ensure that the TPZ's of these trees are maintained during construction.

The driveway provides appropriate and safe access to Station Road, 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 within the site. The layout of the dwellings has considered the setbacks of the building envelopes on title and has generally conformed with these setbacks and also the site coverage that would have been allowed by them. The layout of the dwellings has also tried to mimic the area that would have been occupied by two (2) large dwellings, which if built in the envelopes (and complied with all other triggers) would not have required planning approval. 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 Gembrook.

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, which is still in keeping with the spacious character of Gembrook.

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 north-south orientation of the site.

The proposal does not seek any variation to the distance specified by Standard B6 (Street Setbacks) as the existing dwelling on Lot 1 is to be retained (and does not form part of this application).

The proposal does not vary Standard B7 (Building heights) as maximum height of the single storey dwellings does not exceed between 5.24 metres and a maximum height of 7.3 metres at any point. Standard B7 requires that dwellings on a flat site should not exceed 9 metres in height. Although the site is not flat, 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 616.70sqm of the 1930sqm site complying with this Standard at 31.95 percent.

Proposed at 47.66 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 (Energy efficiency) 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 north-south orientation by locating the driveway to the east and dwellings on the western side of the site ensuring that all the dwellings are provided with adequate northern light throughout the day as much as possible.

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 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 (Landscaping) 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. A full landscaping plan will be required via permit conditions. The site is currently devoid of vegetation due to the previous subdivision. 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 AS4970 2009 (Protection of Trees on Development Sites) as discussed above, including the large street tree to be retained. The landscaping shown on the plans will help to maintain and enhance 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.

Safety in design has also been considered with surveillance of the common driveway offered from all dwellings and entrances to dwellings being clearly visible from the internal driveway. Surveillance of Station Road will continue to be provided from the existing dwelling on 19 Station Road.

All dwellings have been designed with car turning circles in mind. As a result, Council's Traffic Engineer is satisfied that sufficient reversing area has been provided to allow vehicles to exit the site in a forward motion.

The subject property is setback behind 19 Station Road on a battle-axe allotment. Therefore, the frontage to Station Road is only as wide as this access way, being 5.6 metres in width. Whilst this does not comply with Standard B14 (Access), it is considered acceptable in this context.

No visitor space is required as the development does not involve the construction of five (5) or more dwellings. However, 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 (Parking location).

Clause 55.04 Amenity Impacts

The proposed dwellings are well setback from the eastern boundary as they are separated by the common driveway. Additionally, no walls have been proposed to be constructed on the boundaries of adjoining lots.



The proposed dwellings are also generously setback from the northern and western boundaries, as the minimum setback for all the Dwellings being between 1.82 and 6.1 metres from the western boundary and between 8.02 metres and 10.54 metres from the southern boundary, which given the maximum wall height of each dwelling (Dwelling 3) is required to be setback at least 1.34 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, any overshadowing beyond the property boundaries caused by the single storey dwellings will be negligible, given the shadows cast of the existing boundary fencing.

Dwellings 3 and 4 will cause the maximum overshadowing which will occur on the property to the west. This overshadowing is proposed to occur at 9am and will affect a small portion in the rear of secluded private open space (S.P.O.S) of 17 Station Road. 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.





SHADOW LEGEND:

-  SHADOW CAST FROM PROPOSED DWELLINGS
-  SHADOW CAST FROM EXISTING & PROPOSED BOUNDARY FENCING

Shadows at 9am (Sept 22nd Equinox)



SHADOW LEGEND:

-  SHADOW CAST FROM PROPOSED DWELLINGS
-  SHADOW CAST FROM EXISTING & PROPOSED BOUNDARY FENCING

Shadows at 12pm (Sept 22nd Equinox)





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 (and obscured glazing where required) with adequate boundary fencing to be required to be constructed by permit condition.

Based on compliance with Standards B19 (Daylight to existing windows), B20 (North-facing windows) and B21 (Overshadowing) 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 no north facing windows located on the neighbouring lot to the south within 3 metres of the property boundary.

There will also be no internal view issues due to the design of floor levels, windowsill 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. Additional north facing windows will be requested on the northern elevation of Dwelling 1, 3 and 4 to provide more northern light to the bedrooms and living areas for these dwellings via permit conditions.

The proposal also complies with Standard B27 (Daylight to new windows), as direct access from a living area to P.O.S has been provided. The P.O.S. to each Dwelling have been designed to face west, however the parts of the open space also benefit from a northern aspect.

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 well in excess of 40sqm of open space (between 99 and 194sqm), and also well in excess of 25sqm of SPOS (between 86 and 147sqm) 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 dwellings will be required by permit conditions to be constructed of Colorbond fencing to a maximum height of 2.1 metres.

It is proposed that the existing open style fencing along the east, west and south boundaries will be replaced with a combination of 2.1 metre high Colorbond fencing (along the west, south and part of the east boundaries), with a 2.1m high timber paling fence along the remaining length of the eastern boundary. Towards the end of the driveway, the applicant proposes to retain the existing open style fencing.

An objection was withdrawn on the basis that adequate fencing will be provided by the permit holder to ensure their privacy. Therefore, conditions will require the fences be shown on the plans 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.

Landscape, Design and Siting considerations

As well as having to comply with Clause 55, the site is also located in a number of overlays, which seek to achieve a preferred neighbourhood character. These overlays include the Significant Landscape Overlay (Schedule 1), the Design and Development Overlay (Schedule 2) and the Vegetation Protection Overlay (Schedule 2).

Although a permit is not required under the VPO2, given that the site is already cleared of vegetation, a planning permit is required under the SLO1 and DDO2 due to the height, setbacks and earthworks proposed.

As discussed in detail above, the proposal is considered responsive to the controls of the SLO1 and DDO2 and the preferred character of the hills townships that these overlays are seeking to achieve.

The proposed dwellings only seek to vary the requirements of three (3) controls outlined by the SLO1 and DDO2, including the dwelling height, setbacks and earthworks triggers. All other aspects of the proposal comply with the objectives of these controls.

In terms of the building height, the proposal only seeks to vary the controls of the SLO1 and DDO2 for the overall height above natural ground level for the rear of Dwelling 3. Dwelling 3 is proposed to reach a total overall height of 7.3 metres, due to the slope of the site. Given that this measurement exceeds the control by 300mm, coupled with the setbacks proposed, this exceedance is considered negligible when considering the development overall. It is noted that in accordance with the notice requirements of the SLO1, notice of the application was given to the Emerald Tourist Railway Board, with no response being received.

Based on this, the overall height of Dwelling 3, is considered acceptable.

The earthworks proposed are considered reasonable, given the slope of the site and the design of the dwellings. The applicant has made attempts to ensure that earthworks are minimised by designing the dwellings to the fall of the site. Where earthworks are unavoidable, they only marginally exceed 1 metre in cut, which is considered acceptable.

Finally, although the proposed setbacks differ from the objectives of the DDO2, which requires that buildings be setback a minimum of 2 metres from a boundary, given that only an external landing and stairs for Dwelling 3 reduces this setback to 1.82 metres, this is also considered a minor variation. The reduction of 180mm is minor and will not be noticeable from the adjoining lot as the landing is lower than the proposed fence. All other setbacks comply with the DDO2, which is also in keeping with the building envelopes proposed to be removed from title, further ensuring that the development continues to provide a sense of spaciousness between built form that the building envelope and the overlay are seeking to achieve.

Apart from the neighbouring title boundary setbacks, it should also be noted that Dwelling 3 is proposed over the boundary with Lot 2 of the existing plan of subdivision. However, given that the development is proposed together, a condition of the permit will require that the building envelopes be removed from title and the lots consolidated prior to the commencement of any works. Even though Dwelling 3 is proposed over the boundary, there is still 6.9 metres

proposed between it and Dwelling 2, which is considered an acceptable outcome to ensure that the development achieves the sense of spaciousness that the overlays seek to achieve.

Given all of the above, it is considered that the proposal provides an appropriate response to the design controls and will ensure that the preferred hills township character is maintained.

Gembrook Township Strategy

The key purpose of the Strategy is to set out the key issues facing the Gembrook township and explain why they are important.

The strategy also sets out objectives (what we are trying to achieve) and policies and actions (how the objectives will be achieved).

The subject site is located in an area of Gembrook identified as 'Traditional Residential'. The characteristics of this area are large lots, no or low front fencing, mixture of native and exotic vegetation, single storey built form, single driveways, generous side boundary setbacks and dwellings typically have eaves and verandahs.

The Strategy seeks that development in these areas should be respectful of existing dwelling styles, while incorporating individual character. The Strategy also seeks that any multi-dwelling type development be located within close proximity to the Town Centre.

The proposal is considered to generally accord with the principles of the Townships Strategy given that the dwellings are proposed in a style, with colours and materials which are sympathetic to the neighbourhood character. The dwellings are well setback to the rear of an existing dwelling and are provided a single driveway access, ensuring that the streetscape character is not disrupted. The dwellings are also all single storey in design and provide generous setbacks from boundaries, ensuring that a sense of spaciousness is maintained. These generous setbacks will also allow for substantial new plantings to further enhance the landscape character of the hills area.

In addition to the above, the township strategy contemplates that there is a need for this type of housing within the town centre, suggesting that there is limited housing diversity within the Township and that smaller type housing to cater for elderly, persons with limited mobility or downsizers is required, in order to facilitate these community members to remain in their Township when larger lots become too much to maintain.

Further, the site is not located in the Bushfire Management Overlay and is currently devoid of vegetation, therefore it is considered an acceptable site to contemplate the provision of more dense housing within the Township.

Therefore, based on the above, the proposal is considered to be generally consistent with the aims and objectives of the Township Strategy and should be supported.

Clause 52.06 Car Parking

As detailed above the proposed development includes two (2) spaces (within both double and single garages with tandem spaces in front) for the three (3) bedroom dwellings (Dwellings 1, 2 and 3) and one (1) car space (within single garages) for the two (2) bedroom dwelling (Dwellings 4). 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 does not consist of five (5) or more dwellings, visitor spaces are not required.

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.

Removal of Covenant PS804664Q and Clause 52.02

Section 60 (2) of the Planning and Environment Act 1987 provides matters to be considered when assessing the effects of the variation or removal of a covenant. This section provides:

The responsible authority must not grant a permit a permit which allows the removal or variation of a restriction (within the meaning of the Subdivision Act 1988) unless it is satisfied that the owner of any land benefited by the restriction...will be unlikely to suffer

-

- a. *Financial loss; or*
- b. *Loss of amenity; or*
- c. *Loss arising from change in the character of the neighbourhood; or*
- d. *Any other material detriment -*

as a consequence of the removal or variation of the restriction.

The subject site is located within a neighbourhood residential area surrounded by properties which are developed with dwellings, and some that are also being subdivided.

The site currently has a covenant registered on the title with a building envelope restriction. The restriction and building envelope is as follows:

CREATION OF A RESTRICTION

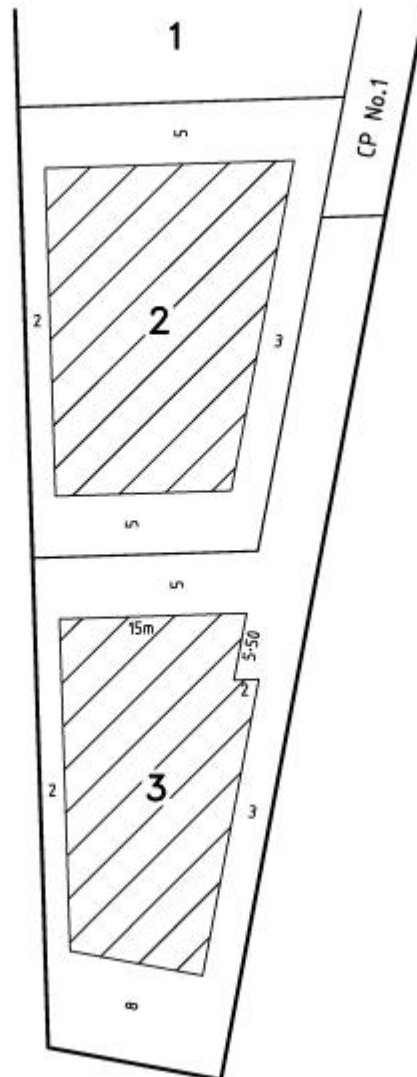
The following restriction is to be created upon registration of this plan.

Land to benefit: Lots 1, 2 & 3 on this plan

Land to be burdened: Lots 2 & 3 on this plan

Description of the restriction:

No building or part of a building may be constructed outside of the building envelope without the further written consent from the Responsible Authority.



As per the above, Lots 2 and 3 has been provided with a building that has the following setbacks and dimensions:

- The building envelope for the subject sites are located to the centre of the site and require the following setbacks:
 - Lot 2:
 - 5 metres from the front boundary;
 - 8 metres from the rear boundary;
 - 3 metres from the east side boundary (common driveway); and
 - 2 metres from the west side boundary.
 - Lot 3:
 - 5 metres from the front and rear boundaries;
 - 3 metres from the east side boundary (common driveway);
 - 2 metres from the west side boundary; and
 - Between 3- 5.5 metres from the east side boundary (common driveway).
- Both rectangles are slightly irregular rectangles in shape.

According to the Officers report for the subdivision, the setbacks and location of both envelopes were provided to achieve the desired character outcomes (setbacks) described above by the Gembrook Township Strategy.

Restriction 1 relates to building (i.e. dwelling). The restriction (Restriction 1) states that:

'No building or part of a building may be constructed outside of the building envelope without further written consent from the Responsible Authority'

Due to the multi dwelling proposal sought, the applicant seeks to remove this covenant as it will no longer be required if these plans are approved.

However, it should be noted that although it is sought to be removed for this proposal, the building envelope restriction allowed buildings to be constructed outside of it with the prior written consent of Council. Therefore, its removal is not considered to be an unacceptable outcome, given that the restriction already is not overly limiting.

According to the Officers report for the subdivision, two (2) further restrictions were required which relate to the type of driveway to be constructed and the type of fencing to be constructed along the side boundary for Lot 1. The fencing restriction was required to prevent a 'gun barrel' look to the driveway and maintain the rural character of the site. The driveway restriction was required to minimise the impacts on adjoining trees.

Restriction 2 relates to fencing along Lot 1. The restriction (Restriction 2) states that:

'The fencing along the eastern boundary of Lots 1 & 2 is to be restricted to post and wire rural fencing except with the written consent of the Responsible Authority.'

Due to the nature of the application, the applicant seeks to remove the fencing restriction as Lot 2 will require secure fencing along this boundary. It is noted that an objection was withdrawn on the basis that more secure/ private fencing would be provided as shown on the plans submitted along this boundary. The plans still demonstrate that rural type fencing will be provided along the boundary with lot 1 which will help to maintain the character.

Restriction 3 relates to the driveway construction for Lots 2 and 3. The restriction (Restriction 3) states:

'Only one driveway shall be constructed, of all weather construction of crushed rock or other permeable surface and allow a load limit of 15 tonnes, with the carriageway easement'

Due to the nature of the application, the applicant seeks to remove the driveway restriction as a concrete driveway will be required to facilitate access to these lots. A condition of the permit will require permeable paving within the TPZ's of trees to reduce impacts. This will also break up the expanse of the driveway.

The proposed covenant removal will aid in maximising the development potential within the site, and given that the proposal is a holistic approach to the development of the site, rather than separate dwelling applications which may not require planning permit, it is considered that in this instance the relevant planning overlays provide enough control to ensure that the development does not cause unreasonable impacts that the restrictions sought to control.

Based on this holistic approach to the development and the proposed permit conditions (if approval is granted), the objectives of the restrictions are considered to be achieved.

Additionally, it is considered that the proposal has considered the restrictions given that the setbacks proposed are generally in accordance with the building envelope requirements, and given that fencing along the boundary of Lot 1 will remain open style 'rural' fencing as shown on the plans. An arborist assessment has been provided for the application and the driveway construction has been assessed by Council's as acceptable, so long as sections of permeable paving are provided within the TPZ's of the neighbouring trees.

The beneficiaries of this covenant are Lots 1, 2 and 3 on this title, and with no objection being received from the owners of the benefitted lot (Lot 1) to the proposed removal, the request is considered reasonable.

As such it is considered that the removal of the covenant will be unlikely to result in financial loss; loss of amenity; loss arising from change to the character of the neighbourhood; or any other material detriment for any person as a consequence of the removal of the restriction, as such should 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 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 four (4) 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 of a Town Centre, located outside of an area of high bushfire risk and within an area with all services readily available. It is therefore, in accordance with existing and emerging character of the area. 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 five (5) to four (4);
-
- All dwellings are now setback generally in accordance with the building envelopes;
-
- More separation between the built form;
-

- Incorporated additional materials and design elements sympathetic to the township character;
- Incorporated fencing to a height of 2.1m; and
- Incorporated more landscaping.

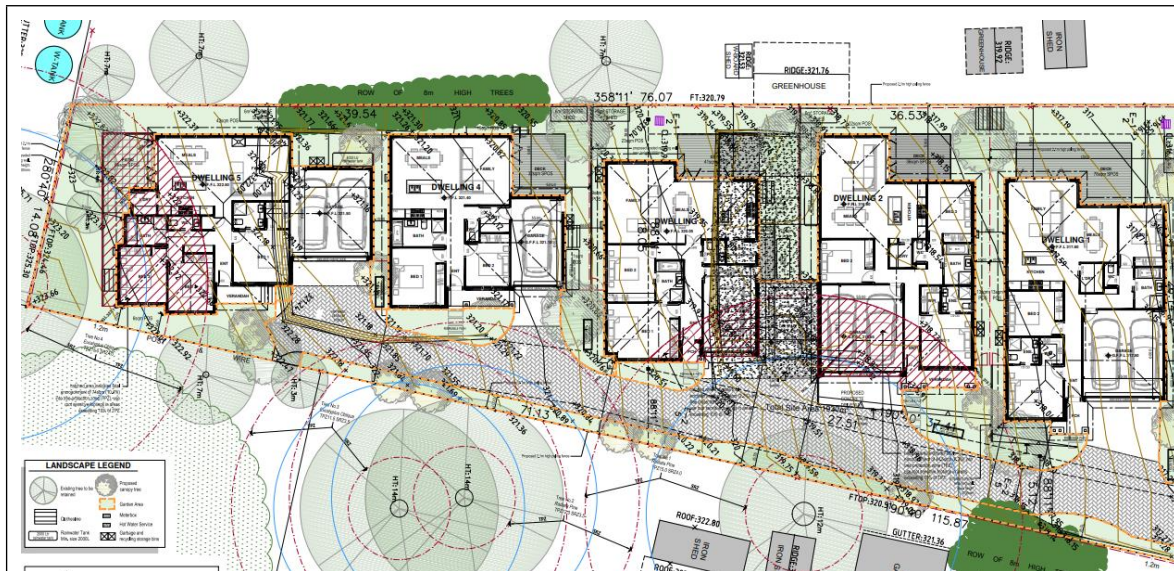


Figure 6: Advertised plans showing five (5) single storey dwellings

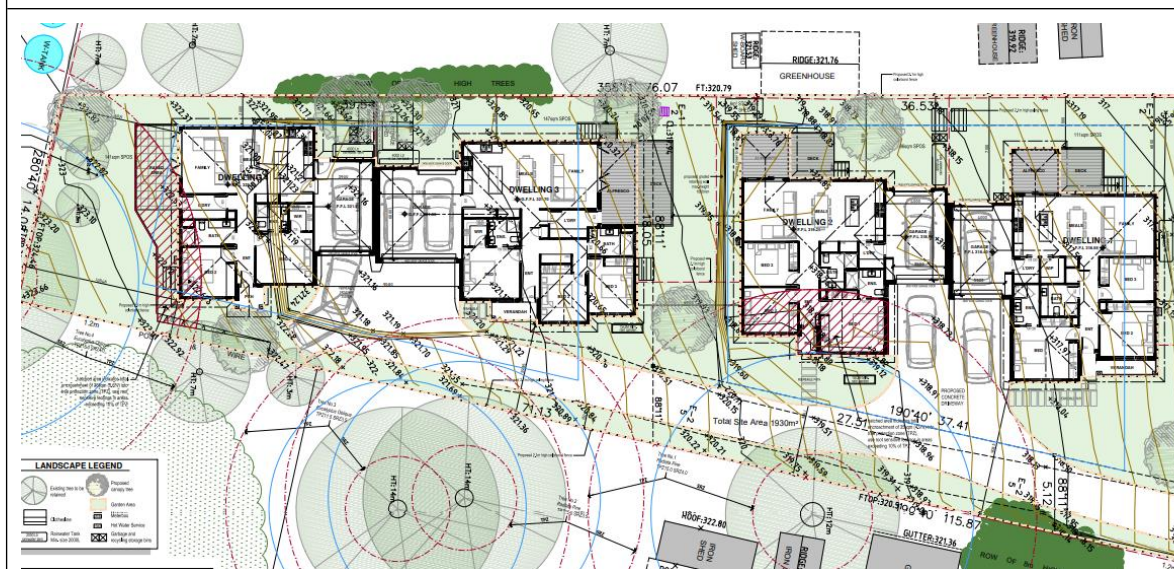


Figure 7: Revised plans showing four (4) single storey dwellings

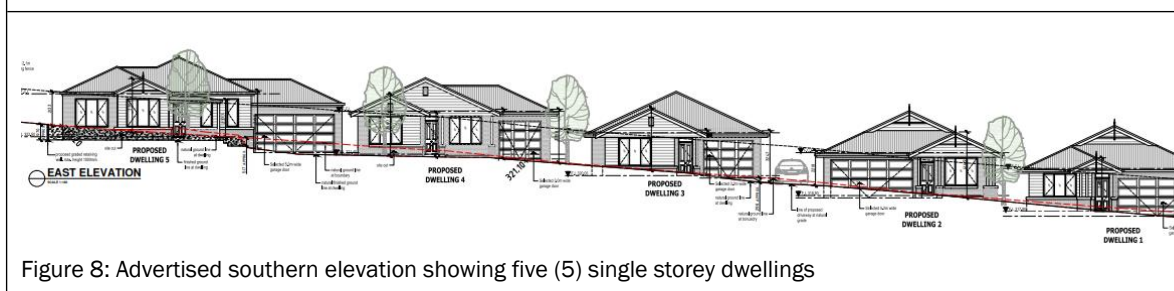


Figure 8: Advertised southern elevation showing five (5) single storey dwellings

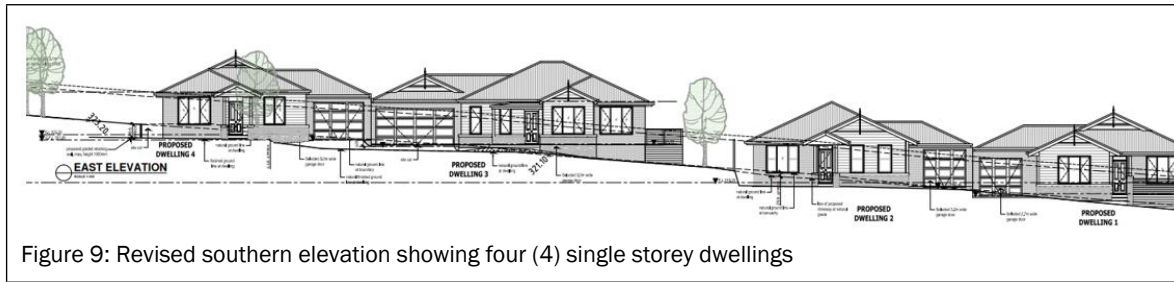


Figure 9: Revised southern elevation showing four (4) single storey dwellings

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.

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 not required to provide a visitor space.

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.

Station Road is a local road under Council's 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 residential traffic and this development is unlikely to significantly increase traffic on the road, or maintenance of the road. Access has been designed to ensure that all vehicles exiting the site can do so in a forward facing direction and 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.

Neighbourhood character:

A number of objections outline that the proposal is not in keeping with the existing neighbourhood character which affords larger lot sizes and spacious built form.

As discussed above, the site is identified in the Gembrook Township Strategy as Traditional Residential, and although the proposal contemplates the increase in dwellings on this site, therefore reducing the size of the lots, it is within close proximity of the Town Centre and therefore, considered an appropriate location for intensification of housing which the Township Strategy identifies a need for.

Additionally, as discussed above, as well as being generally compliant with Clause 55, the revised proposal is responsive to the relevant overlays and the Township Strategy by ensuring that the development is well spaced, there are generous setbacks, the development is single storey in height and of an architectural style that is sympathetic to the township character. Additionally, the development is setback behind the retained existing dwelling on Lot 1 (19 Station Road) therefore, the street scape character is retained.

Therefore, it is considered that the revised proposal appropriately contemplates neighbourhood character.

Bushfire:

A number of objections raised concerns about Gembrook being bushfire prone.

As discussed above, the site is not located within the Bushfire Management Overlay and is within an area of generally modified vegetation and open pastures. It is also within the township and therefore, considered to be at less risk, compared to other sites within more densely vegetated areas or within the BMO.

These areas within the township are considered more appropriate locations for this type of development for this reason.

In addition, as the site is within a Bushfire Prone Area, the development will still need to be constructed to appropriate bushfire safety standards under the Building Regulations.

Therefore, the proposal is considered to be appropriately located and appropriately contemplate bushfire risk.

Dust:

Some objections raised the concern about additional dust. The proposal will be required to seal the driveway, therefore this should not be of concern.

Noise and other amenity impacts:

Some objections raised the concern about additional noise and other amenity impacts. The provision of new boundary fencing should help to mitigate this.

Environmental impacts:

Some objections raised the concern of impacts to native fauna. The proposal contemplates the development of two (2) lots that are currently devoid of vegetation due to the subdivision works. The development has been redesigned to appear more like two (2) large dwellings (within the parameters) of the building envelopes on title, which would have been the likely outcome for the land if this application was not received. Additionally, the permit holder will be

required to landscape the un vegetated site to ensure that the landscape character of the area is maintained. The reintroduction of vegetation is expected to benefit native fauna.

Based on this, the proposal is not expected to cause any detriment to native fauna more than what would be caused by two (2) large dwellings.

Boundary Fencing:

Some objections raised issues about appropriate boundary fencing where the fencing is currently not adequate.

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. Boundary fencing has been shown on the plans (as discussed above) and will be required to be constructed prior to occupation of the dwellings by the permit holder via permit condition.

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 to Grant Planning Permit T200834 be issued for the development of the land for four (4) dwellings, earthworks and removal of a restrictive covenant PS804664Q (from both Lots 2 and 3 PS804664Q) subject to the following conditions:

Conditions

1. This permit (relating to buildings and works) does not come into effect until the restrictions contained in Restrictive Covenant PS804664Q are removed from Lots 2 and 3 in the Register of Titles in accordance with the certified plan of removal.

Removal of covenant

2. Before the plan of removal of restriction is certified, a plan in accordance with the *Subdivision Act 1988* must be submitted to and approved by the Responsible Authority. The plan must show the following:
 - a. The three (3) restrictions contained within Sheets 3 and 4 in Covenant PS804664Q on L2 and L3 PS804664Q, Certificate of Title Volume 11955 Folio 140 and Volume 11955 Folio 141 as removed.
3. The certified plan must be lodged with the Office of Titles for registration in accordance with Section 23 of the *Subdivision Act 1988*.
4. The permit holder must notify the Responsible Authority on the lodgement of the removal of the registered restrictive covenant with the Office of Titles.

Development plans required:

5. 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 Sketch Building Design, Issue C, submitted with the application but modified to show:

- p. Tree Protection Plan:
 - i. The location of tree protection fencing that will protect vegetation including neighbouring trees from construction impacts.
 - ii. The location and dimensions of the driveway. The plan must also detail the material and method that will be used to construct the driveway. The proposed driveway must be constructed from permeable materials such as crushed rock and supportive materials, or suitable hard surfacing materials (to the satisfaction of Council) and be designed and constructed for a load limit of at least 15 tonnes and be of all-weather construction. No excavation works can occur for the driveway that will damage nearby tree roots.
 - iii. The location of any underground services within retained tree protection zones installed using boring not trenching.
- q. Elevation plans:
 - i. Additional north facing windows on the northern elevations of Dwellings 1, 3 and 4 to capable of providing additional northern daylight to the living areas and bedrooms of these dwellings.
 - ii. The west and northern elevations of the dwellings amended to show compliance with Standard B22 (Overlooking).
 - iii. The east elevations of Dwellings 1 and 3 amended to show compliance with Standard B22 (Overlooking).
- r. Site plans:
 - i. The 2.1m high paling fencing along shown on the eastern boundary along the common driveway to be extended to the rear boundary of Lot 1. The remainder of the eastern boundary fencing to be open/rural style fencing.
 - ii. The location and dimensions of the driveway and any other measures in accordance with the Tree Protection Plan.
- s. A Waste Management Plan to the satisfaction of the Responsible Authority. The plan must include but is not limited to:
 - i. A scaled bin presentation, including areas for hard rubbish collection.
 - ii. The manner in which waste will be stored and collected including the type, size and number of containers.
 - iii. Provision for on-site storage.
 - iv. Details of how waste collection is to be performed.
 - v. The size of the collection vehicle and the frequency, time and point of collection.
- 6. Before the development starts, an amended 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 an electronic copy in an approved format must be provided. The landscaping plan must be generally in accordance with the plan submitted with the application prepared by F & G Design dated 18/03/21 but updated to reflect the plans referred to in Condition 1 and to show:
 - a. A survey (including botanical names) of all existing vegetation to be retained and/or removed.

- b. Buildings and trees (including botanical names) on neighbouring properties including their Tree Protection Zones within three metres of the boundary in accordance with the updated Arboricultural Report and Arboricultural Impact assessment prepared by PSY Inv Pty Ltd dated 20/04/21 and amended following the submission of amended plans prepared by Sketch Building Design, Issue C.
- c. Details of surface finishes of pathways and driveways required by Condition 5(a)(ii) of this permit.
- d. Details of boundary fencing.
- e. 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.
- f. Landscaping and planting within all open areas of the subject land.
- g. A minimum of one (1) canopy tree capable of reaching a minimum of 8m mature height (minimum two metres tall when planted) in the following areas:
 - i. The rear of each dwelling;
 - ii. Within the space in front of Dwelling 1 and between Dwelling 2 and 3; and
 - iii. Within the area at the end of the driveway.
- h. Landscaping capable of softening the expanse of the driveway provided along the length of the common driveway.
- i. Landscaping capable of providing an effective and permanent visual screen to the properties to the north along the length of the north/ north-eastern title boundary.
- j. Plantings within the front setback of all other dwellings.
- k. Vegetation provided between driveways or directly adjacent to the access to be a maximum of 150mm in height.

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. All plantings are to have regard to any easements on site. Plantings are not to impact sight lines for vehicles or pedestrians.

7. 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 (Tree Protection Fencing):

8. Before works start, a fence must be erected around any tree shown for retention in the locations shown on the endorsed plan. This fence will protect the trees by demarcating the tree protection zone 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 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:

9. 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
10. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.

Engineering:

17. 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.
18. 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.
19. 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
20. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.

Prior to Occupancy:

21. 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. Fixed privacy screens and/or obscured glazing (not adhesive film) in accordance with the endorsed plans designed to limit overlooking as required Standard B22 of Clause 55.04-6 must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.
- b. 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.
- c. 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.
- d. All proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed with in accordance with the endorsed plans. They must be constructed with concrete, asphalt or other approved 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.
- e. 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.
- f. 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.
- g. The premises are connected to a reticulated water supply, sewerage, drainage and underground electricity to the requirements of the relevant servicing authority.
- h. 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.
- i. 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.
- j. A mail box must be provided to each dwelling to the satisfaction of the Responsible Authority and Australia Post.
- k. 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.
- l. Lighting must be provided near the front entrance of each dwelling to the satisfaction of the Responsible Authority.

Expiry:

22. This permit for the development of land expires if-
 - c. the development does not start within **two (2) years** after the issue of the permit; or
 - d. 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.
23. The permit for the removal of a covenant will expire if:
 - b. The removal of the restrictive covenant is not registered within **two (2) 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:

- viii. 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.
- ix. This application has been assessed against Clause 55 of the Cardinia Planning Scheme.
- x.
- xi. A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.
- xii. Prior to commencement, a building permit may be required for the proposed boundary fences exceeding 2 metres in height.
- xiii. 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:

- xiv. 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 Kaye Cameron.

That Council issue a Notice of Decision to Grant Planning Permit T200834 for the development of the land for four (4) dwellings, earthworks and removal of a restrictive covenant PS804664Q (from both Lots 2 and 3 PS804664Q) at 19A and 19B Station Road, Gembrook VIC 3783 subject to the following conditions:

1. This permit (relating to buildings and works) does not come into effect until the restrictions contained in Restrictive Covenant PS804664Q are removed from Lots 2 and 3 in the Register of Titles in accordance with the certified plan of removal.

Removal of covenant

2. Before the plan of removal of restriction is certified, a plan in accordance with the *Subdivision Act 1988* must be submitted to and approved by the Responsible Authority. The plan must show the following:
 - a. The three (3) restrictions contained within Sheets 3 and 4 in Covenant PS804664Q on L2 and L3 PS804664Q, Certificate of Title Volume 11955 Folio 140 and Volume 11955 Folio 141 as removed.
3. The certified plan must be lodged with the Office of Titles for registration in accordance with Section 23 of the *Subdivision Act 1988*.
4. The permit holder must notify the Responsible Authority on the lodgement of the removal of the registered restrictive covenant with the Office of Titles.

Development plans required:

5. 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 Sketch Building Design, Issue C, submitted with the application but modified to show:
 - a. Tree Protection Plan:
 - i. The location of tree protection fencing that will protect vegetation including neighbouring trees from construction impacts.
 - ii. The location and dimensions of the driveway. The plan must also detail the material and method that will be used to construct the driveway. The proposed driveway must be constructed from permeable materials such as crushed rock and supportive materials, or suitable hard surfacing materials (to the satisfaction of Council) and be designed and constructed for a load limit of at least 15 tonnes and be of all-weather construction. No excavation works can occur for the driveway that will damage nearby tree roots.
 - iii. The location of any underground services within retained tree protection zones installed using boring not trenching.
 - b. Elevation plans:

- i. Additional north facing windows on the northern elevations of Dwellings 1, 3 and 4 to capable of providing additional northern daylight to the living areas and bedrooms of these dwellings.
 - ii. The west and northern elevations of the dwellings amended to show compliance with Standard B22 (Overlooking).
 - iii. The east elevations of Dwellings 1 and 3 amended to show compliance with Standard B22 (Overlooking).
 - c. Site plans:
 - i. The 2.1m high paling fencing along shown on the eastern boundary along the common driveway to be extended to the rear boundary of Lot 1. The remainder of the eastern boundary fencing to be open/rural style fencing.
 - ii. The location and dimensions of the driveway and any other measures in accordance with the Tree Protection Plan.
 - d. A Waste Management Plan to the satisfaction of the Responsible Authority. The plan must include but is not limited to:
 - i. A scaled bin presentation, including areas for hard rubbish collection.
 - ii. The manner in which waste will be stored and collected including the type, size and number of containers.
 - iii. Provision for on-site storage.
 - iv. Details of how waste collection is to be performed.
 - v. The size of the collection vehicle and the frequency, time and point of collection.
- 6. Before the development starts, an amended 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 an electronic copy in an approved format must be provided. The landscaping plan must be generally in accordance with the plan submitted with the application prepared by F & G Design dated 18/03/21 but updated to reflect the plans referred to in Condition 1 and to show:
 - e. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - f. Buildings and trees (including botanical names) on neighbouring properties including their Tree Protection Zones within three metres of the boundary in accordance with the updated Arboricultural Report and Arboricultural Impact assessment prepared by PSY Inv Pty Ltd dated 20/04/21 and amended following the submission of amended plans prepared by Sketch Building Design, Issue C.
 - g. Details of surface finishes of pathways and driveways required by Condition 5(a)(ii) of this permit.
 - h. Details of boundary fencing.
 - i. 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.
 - j. Landscaping and planting within all open areas of the subject land.

- k. A minimum of one (1) canopy tree capable of reaching a minimum of 8m mature height (minimum two metres tall when planted) in the following areas:
 - i. The rear of each dwelling;
 - ii. Within the space in front of Dwelling 1 and between Dwelling 2 and 3; and
 - iii. Within the area at the end of the driveway.
- l. Landscaping capable of softening the expanse of the driveway provided along the length of the common driveway.
- m. Landscaping capable of providing an effective and permanent visual screen to the properties to the north along the length of the north/ north-eastern title boundary.
- n. Plantings within the front setback of all other dwellings.
- o. Vegetation provided between driveways or directly adjacent to the access to be a maximum of 150mm in height.

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. All plantings are to have regard to any easements on site. Plantings are not to impact sight lines for vehicles or pedestrians.

7. 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 (Tree Protection Fencing):

8. Before works start, a fence must be erected around any tree shown for retention in the locations shown on the endorsed plan. This fence will protect the trees by demarcating the tree protection zone 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 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:

9. 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
10. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.

11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.

Engineering:

17. 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.
18. 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.
19. 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.
20. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.

Prior to Occupancy:

21. 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. Fixed privacy screens and/or obscured glazing (not adhesive film) in accordance with the endorsed plans designed to limit overlooking as required Standard B22 of Clause 55.04-6 must be installed to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.
 - b. 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.
 - c. 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.
 - d. All proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed with in accordance with the endorsed plans. They must be constructed with concrete, asphalt or other approved 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.

- e. 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.
- f. 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.
- g. The premises are connected to a reticulated water supply, sewerage, drainage and underground electricity to the requirements of the relevant servicing authority.
- h. 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.
- i. 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.
- j. A mail box must be provided to each dwelling to the satisfaction of the Responsible Authority and Australia Post.
- k. 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.
- l. Lighting must be provided near the front entrance of each dwelling to the satisfaction of the Responsible Authority.

Expiry:

22. This 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.

23. The permit for the removal of a covenant will expire if:

- a. The removal of the restrictive covenant is not registered within **two (2) 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.
- iv. A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.

- v. Prior to commencement, a building permit may be required for the proposed boundary fences exceeding 2 metres in height.
- vi. 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:

- vi. 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

6.1.2 T210202 PA - Removal of Restrictive Covenant Contained in Instrument No. T326405K

Responsible GM: Lili Rosic
Author: Mary Rush

Recommendation(s)

That Council refuse to grant Planning Permit T210202 for the removal of restrictive covenant contained in Instrument No. T326405K from L225 PS318023 V10138 F537, 3 McLeish Terrace, Pakenham VIC 3810 on the following grounds:

1. That pursuant to the requirements of section 60(2) of the *Planning and Environment Act 1987*, Council cannot be satisfied that the variation of the covenant will be unlikely to cause any beneficiary of the covenant or any other person any detriment relating to:
 - a. Financial loss; or
 - b. Loss of amenity; or
 - c. Loss arising from change to the character of the neighbourhood; or
 - d. Any other material detriment.
2. The removal of the restriction will detrimentally affect the interests of surrounding landowners under Clause 52.02 of the Cardinia Planning Scheme.
3. The removal of the restriction is inconsistent with the orderly planning of the area.

Attachments

1. Locality Map [6.1.2.1 - 1 page]
2. Application Documents [6.1.2.2 - 14 pages]
3. CONFIDENTIAL - Copies of Objections - Circulated to Councillors only [6.1.2.3 - 3 pages]

Executive Summary

APPLICATION NO.:	T210202
APPLICANT:	Ioan Ducas
LAND:	L225 PS318023 V10138 F537, 3 McLeish Terrace, Pakenham VIC 3810
PROPOSAL:	Removal of covenant contained in Instrument No. T326405K
PLANNING CONTROLS:	Clause 52.02 Easements restrictions and reserves Clause 65 Decision guidelines – approval of an application or plan <i>Planning and Environment Act 1987</i> section 60(2)
NOTIFICATION & OBJECTIONS:	Notice of the application was given by way of sending notices to adjoining and near-by land owners/occupiers,

	<p>by placing a sign on the road frontage, and by publishing a notice in a newspaper generally circulating in the area in which the subject land is situated.</p> <p>Council has received three (3) objections to date.</p>
KEY PLANNING CONSIDERATIONS:	Variation of restrictive covenant, material detriment, interests of affected persons
RECOMMENDATION:	Refusal.

Background

The subject site has no planning history.

Subject Site

The irregular-shaped site has an area of 1821 square metres and is located on the eastern side of McLeish Terrace and western side of Highland Drive, Pakenham

The site contains an existing single dwelling, which is situated within the western half of the site, with frontage to McLeish Terrace. The remainder of the land is generally undeveloped and does not contain any significant vegetation.

The land has a slope of approximately 25 percent.

The site is within the Pakenham Heights estate, which is characterised by single dwellings on lots measuring approximately 800 to 1400 square metres. At 1821 square metres, the subject site is one of the largest lots in the estate.

It is noted that Council has not approved any variation or removal of restrictive covenants on any other lot within this estate.

Relevance to Council Plan

5.1 We practise responsible leadership

5.1.1 Build trust through meaningful community engagement and transparent decision making.

Proposal

An application has been submitted to Council to remove the restrictive covenant in instrument T326405K, which was created on 27 September 1994, and is summarised below:

AND the said Transferees with the intention that the benefit of this Covenant shall be attached to and run at law and in equity with every Lot on Plan of Subdivision No.31 8023R other than the Lot hereby transferred and that the burden of this Covenant shall be annexed to and run at law and in equity with the said Lot hereby transferred does hereby for himself his heirs executors administrators and transferees and as separate covenants covenant with the

said EDDIE BARRON CONSTRUCTIONS PTY LTD and the registered proprietor or proprietors for the time being of every lot on the said Plan of Subdivision and every part or parts thereof other than the Lot hereby transferred that the said Transferees their heirs executors administrators and transferees in relation to the Lot hereby transferred or any part or parts thereof SHALL NOT:-

- a) Erect or cause to be erected not than one private dwelling house (together with the usual outbuildings)*
- b) Erect or cause to be erected any dwelling with a floor area of less than 120 square metres excluding garage carports and Verandahs.*
- c) Erect or cause to be erected any dwelling and attached garage other than a dwelling and attached garage with external walls constructed substantially of brick veneer or stone.*
- d) Erect or cause to be erected any detached outbuilding other than a detached outbuilding with external walls of brick, stone, timber or metal.*

AND IT is intended that the above Covenant shall appears as an encumbrance on the aforesaid Certificate of Title.

Planning Scheme Provisions

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 15.01-5S Neighbourhood character.

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.06-1 Design and Built Form.

Zone

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

Overlays

The land is subject to the Development Contributions Plan Overlay - Schedule 1.

Relevant Particular/General Provisions and relevant incorporated or background documents

The relevant provisions/ documents are:

- Clause 52.02 - Easements restrictions and reserves
- Clause 65 - Decision guidelines – approval of an application or plan
- Section 60, *Planning and Environment Act 1987*

Planning Permit Triggers

The proposal for the removal of restrictive covenant requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 52.02 of the Cardinia Planning Scheme, a planning permit is required before a person proceeds under Section 23 of the *Subdivision Act 1988* to remove a restriction.

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; and
- Placing a notice in the Pakenham Gazette newspaper.

■
The statutory declaration was submitted to Council on the 16 August, 2021 confirming that the required advertising had been satisfactorily completed.

Council has received three (3) objections to date.

The key issues that were raised in the objections are:

- Breach of covenant (no one can build more than one dwelling);
- Change to single-dwelling neighbourhood character;
- Decrease in property values;
- Creating a precedent for other properties to remove their covenant; and
- Loss of amenity (privacy, increased in noise, traffic, parking of vehicles).

■

Referrals

The application was not referred to any external authorities.

Discussion

Restrictive covenants occupy a unique position in both common law and planning legislation. The benefit of a covenant has the status of a proprietary interest, which gives the beneficiary an interest over land. As such, the *Planning and Environment Act 1987* (the 'Act') requires the responsible authority to consider the matters under Section 60(2) of the Act in an application to vary or remove a restriction created on or after 25 June 1991. These are threshold issues considered before an assessment of the prescribed matters under the planning scheme. Importantly, as a recognition of the proprietary interest afforded to beneficiaries of a covenant, this section provides broader protection to beneficiaries than the planning scheme itself.

Under section 60(2) of the Act:

The responsible authority must not grant a permit which allows the removal or variation of a restriction (within the meaning of the Subdivision Act 1988) unless it is satisfied that the owner of any land benefited by the restriction . . . will be unlikely to suffer—

(a) financial loss; or

- (b) *loss of amenity; or*
- (c) *loss arising from change to the character of the neighbourhood; or*
- (d) *any other material detriment—*

as a consequence of the removal or variation of the restriction.

The Tribunal has provided guidance in interpreting section 60(2) when considering the removal or variation of a covenant. In *Waterfront Place Pty Ltd v Port Phillip CC* (Red Dot) [2014] VCAT 1558 (*Waterfront Place*), Senior Member H. McM Wright QC and Member Benz summarised several principles relating to how the tests in section 60(2) should be applied. These were further cited by Member Blackburn in *Singh & Kaur v Brimbank CC* [2017] VCAT 1730 (23 October 2017). Whilst not an exhaustive list, they provide guidance in decision making:

- *the provision is designed to protect proprietary interests and therefore should be interpreted as beneficial legislation and given as wide a meaning as the words of the sub-section reasonably allow.*
- *the Tribunal must be persuaded to a 'comfortable level of satisfaction' that the threshold requirements are met, rather than 'only just satisfied'.*
- *the loss referred to in section 60(2) must be 'material' but in this context the term does not have as wide a meaning as it does in section 52 of the P&E Act. In past cases, the Tribunal has explained 'material' in this context as meaning:*
 - *'important detriment, detriment of such consequence viewed on an objective basis. It does not include trivial or inconsequential detriment'; or*
 - *'real and not fanciful detriment'.*
- *it is essential to look at the purpose and effect of the restriction as one of the factors relevant in determining the likelihood of any loss or detriment in the event of removal or variation.*
- *in applying the tests set out in section 60(2), it is not a question of balancing the loss suffered by a benefiting owner in each of the categories set out in paragraphs (a) to (d) against the planning benefits of removal or variation of the covenant. The tests must be applied in absolute terms. Consideration of the planning merits can occur only if the tests are satisfied and the discretion to grant a permit thereby enlivened.*
- *the Tribunal must take into account the circumstances of all owners who enjoy the benefit of the covenant, not just those benefitting owners who have objected to the application.*

The restriction at issue, created in 1994, is in essence a 'single dwelling covenant', i.e. a restriction that does not allow more than one dwelling per lot. The purpose and effect of the restrictions are clear: to maintain the single dwelling character of the neighbourhood. Indeed, as a result of the restrictions in the covenant, a genuine neighbourhood character has been established.

Whilst the current proposal does not include an application for additional dwellings, the variation proposes to remove this single dwelling covenant so that additional dwelling/s can be constructed upon the land. For the reasons below, the proposed variation does not meet the threshold requirements of section 60(2) of the Act.

The Applicant cannot establish that the removal of the covenant is unlikely to result in the beneficiaries suffering financial loss, loss of amenity, loss arising from change of character of the neighbourhood, or any other material detriment.

The proposed removal of covenant fails to satisfy the test of section 60(2) of the Act. It cannot be said that as a result of the removal of the covenant that any beneficiary will be unlikely to suffer financial loss, loss of amenity, loss arising from change to the character of the neighbourhood, or any other material detriment.

The proposed removal of the covenant, if successful, would enable two (or more) dwellings on the subject site. This eventual result would be inconsistent with the single dwelling character of the neighbourhood and potentially create amenity impacts to the other beneficiaries of the covenant.

As the proposal does not include an accompanying subdivision and development application, the nature of the tests under section 60(2) are more difficult to satisfy. As Member Blackburn stated in *Singh & Kaur v Brimbank CC*, '[t]he nature of the tests set out in section 60(2) has... made it difficult for applications to vary or remove a restriction to succeed where they are not accompanied by an application for approval of a specific development. This is because in these circumstances the Tribunal often needs to consider a large number of possible development scenarios and be satisfied that all of those scenarios do not cause material detriment to benefited land owners.'

Like the situation in *Singh & Kaur*, a large range of scenarios would need to be contemplated here. We do not know how many lots the owner wishes to create via future subdivision, nor how many dwellings would be constructed on those lots. The removal of the single dwelling covenant would extinguish all of the protections of the restrictive covenant in one fell swoop. There would be no planning consideration of those dwellings (other than the mandatory garden area) if constructed after subdivision.

Concerns raised by the objectors addressed disapproval with the effect of the proposed removal of covenant on a change of character to the area, loss of amenity, and material detriment.

Two objections primarily focussed on the single-dwelling character of the neighbourhood, and a desire to maintain that character. One objection specifically noted,

the covenant was put in place for a reason
-there would be a loss of character of the area with large single dwelling family homes and substantial gardens. The construction of two, double story dwellings (TOWNHOUSES) and construction of two new crossovers is not in line with large single dwelling family homes with substantial gardens in the area"

One objection noted a particular concern with a decrease in property values.

As stated in *Waterfront Place*, the responsible authority must be persuaded to a 'comfortable level of satisfaction' that the threshold requirements in section 60(2) of the Act are met. Based on the objections submitted and the potential development scenarios, it cannot be determined that that the threshold of section 60(2) can be met.

The removal of covenant will result in material detriment to the beneficiaries of the covenant by removing the heightened considerations provided by 60(2) in removal of a covenant.

Nonetheless, it could be argued that the actual change in character, loss of amenity, and other detriment would not occur in this situation by the removal itself, but only upon the 'triggering event' of the issuance of a planning permit for subdivision or development of a second dwelling.

However, if this is considered to be the case, that argument fails to recognise that the proposed removal of the restrictive covenant will cause material detriment to beneficiaries by removing the heightened consideration that Section 60(2) of the Act affords proprietary interests.

Restrictive covenants are private property controls by nature; they allow beneficiaries to enforce a restriction by granting standing to challenge a violation of the covenant. The existence of the covenant also provides the beneficiaries a degree of control and certainty over preferred neighbourhood character that extends beyond the planning scheme. They enjoy elevated protection under the Act in recognition of the unique rights in property they create in beneficiaries.

If the proposed removal of covenant is approved, a successful application for a subdivision permit would unwind the covenant. In the consideration of that subdivision application, Council could only consider the matters under the planning scheme relating to the potential subdivision. Matters in section 60(2) of the Act like 'financial loss', specific examples of 'loss of amenity' (other than the considerations required in Clauses 56 and 65 of the planning scheme), and a broad consideration of 'any other material detriment' would not be contemplated. Approving the removal of the covenant would cause material detriment to beneficiaries of the covenant by removing the protection section 60(2) of the Act affords their proprietary interests.

The removal of the covenant will detrimentally affect the interests of affected persons

For the reasons stated above, the proposed removal of covenant will detrimentally affect the interests of affected persons under Clause 52.02 of the planning scheme. The removal would enable an application to subdivide the land, which would consequentially result in two or more dwellings. This would be inconsistent with the predominant single-dwelling neighbourhood character.

Response to objections

- *Breach of covenant (no one can build more than one dwelling).*
 - As discussed above, the proposed removal of the restrictive covenant will cause material detriment to beneficiaries by removing the heightened consideration that Section 60(2) of the Act affords those who benefit from the covenant.
 -
- *Change to the single-dwelling neighbourhood character.*
 - Council agrees with the objectors that the removal of the covenant would allow the construction of more dwellings and therefore impact on the existing dwelling density which is characterised by single dwellings on larger allotments. All objections have raised the concern that the removal of the covenant would impact the existing single dwelling character of the area to be altered by allowing the construction of more dwellings and increasing the density.
 -
 - As no development/subdivision proposal has been included in the current application, Council cannot be satisfied that any future scenarios will not cause material detriment to benefited land owners.
 -
- *Decrease in property values.*
 - Council cannot be certain that the beneficiaries of the covenant will not suffer a loss of property value. In *Castles v Bayside CC [2004] VCAT 864* at paragraph 33 the Tribunal stated: "Property value is not, in itself, a planning consideration. Amenity questions are, and if values are affected by adverse amenity effects, then it is the

amenity questions that must be considered, not their ramifications in terms of property values". As above, Clause 52.02 does not require any consideration of economic interests and property values are not a planning consideration. A common argument regarding the increasing population of Melbourne driving housing demand and property prices upward could be relied upon to justify multi-dwelling development however, this argument also supports the retention of single dwelling covenants that are "a property law right that limits development and so contributes to people's expectations as to what level or extent of density and development will occur in this area" and this contributes to creating neighbourhood character and is highly valued by residents, as observed in paragraph 43, *Bulalino v Darebin CC* [2019] VCAT 237. It is just as likely therefore that multi-unit development contributes to the erosion of property values in the area.

- *Creating a precedent for other properties to remove their covenant.*
 -
 - The approval of the current application could not be considered to create a precedent as every application is considered on merit.
- *Loss of amenity (increased noise, traffic, parking of vehicles, privacy).*
 - Council agrees with objectors concerns that the removal of the covenant could impact their amenity. Whilst future occupiers are not a planning consideration, if we cite those benefits intended to be conferred by a single dwelling covenant expressed by Associate Justice Mukhtar in *Re Morihovitis* ([2016] VSC 684, 'the peace and tranquillity or ambience of an area' is likely to be eroded by 'more people (maybe tenants), more cars, more movement...more noise or general hustle and bustle, more rubbish and waste collection, so on and so forth', and is a detrimental consequence of the proposal.
 -
 - Although it should also be noted that a single dwelling covenant does not protect against the development of a large multi -storey dwelling that is perceived to compromise privacy.
 -

Conclusion

The Application has been assessed against the decision guidelines of all relevant clauses of the Cardinia Planning Scheme and the *Planning and Environment Act 1987* and the proposed removal of restrictive covenant is determined to be inconsistent with these requirements.

It is recommended that Council refuse to grant Planning Permit T210202 for the removal of restrictive covenant contained in Instrument No. T326405K from L225 PS318023 V10138 F537, 3 McLeish Terrace, Pakenham VIC 3810 on the following grounds:

1. That pursuant to the requirements of section 60(2) of the *Planning and Environment Act 1987*, Council cannot be satisfied that the variation of the covenant will be unlikely to cause any beneficiary of the covenant or any other person any detriment relating to:
 - a. Financial loss; or
 - b. Loss of amenity; or
 - c. Loss arising from change to the character of the neighbourhood; or
 - d. Any other material detriment;

2. The removal of the restriction will detrimentally affect the interests of surrounding landowners under Clause 52.02 of the Cardinia Planning Scheme.
3. The removal of the restriction is inconsistent with the orderly planning of the area.

Resolution

Moved Cr Graeme Moore, seconded Cr Kaye Cameron.

That Council refuse to grant Planning Permit T210202 for the removal of restrictive covenant contained in Instrument No. T326405K from L225 PS318023 V10138 F537, 3 McLeish Terrace, Pakenham VIC 3810 on the following grounds:

1. That pursuant to the requirements of section 60(2) of the *Planning and Environment Act 1987*, Council cannot be satisfied that the variation of the covenant will be unlikely to cause any beneficiary of the covenant or any other person any detriment relating to:
 - a. Financial loss; or
 - b. Loss of amenity; or
 - c. Loss arising from change to the character of the neighbourhood; or
 - d. Any other material detriment.
2. The removal of the restriction will detrimentally affect the interests of surrounding landowners under Clause 52.02 of the Cardinia Planning Scheme.
3. The removal of the restriction is inconsistent with the orderly planning of the area.

Carried

6.1.3 Amendment C262 Planning Permit T190728 11 Thom Road, Lang Lang

Responsible GM: Lili Rosic
Author: Celeste Grossi

Recommendation(s)

That Council:

1. Seek the authorisation of the Minister for Planning under Section 8A(2) of the *Planning and Environment Act 1987* to prepare Amendment C262card to the Cardinia Planning Scheme to:
 - Rezone part of the land at 11 Thom Road, Lang Lang from Farming Zone – Schedule 1 (FZ1) to Neighbourhood Residential Zone – Schedule 1 (NRZ1);generally in accordance with Attachment 1.
2. Consider Planning Permit Application No. T190728 for:
 - a staged subdivision of the subject land into residential lots;
 - creation of two (2) Reserves; and,
 - creation of restrictions on the plan of subdivision;concurrently with Amendment C262card under Section 96A of the *Planning and Environment Act 1987*.
3. Subject to receiving the authorisation of the Minister for Planning under Part 1, Council gives notice of Amendment C262card and Proposed Planning Permit No. T190728 containing conditions generally in accordance with Attachment 2, under Section 96C of the *Planning and Environment Act 1987*.
4. Prior to considering Amendment C262card for adoption, the owner of the land must enter into an agreement with Council under Section 173 of the *Planning and Environment Act 1987* to provide for the timely (prior to the issue of a statement of compliance for the first stage of the proposed subdivision) construction of pedestrian paths along the existing section of Thom Road (western side) and Tresize Court (southern side).
5. Advise the proponent of Council's decision.

Attachments

1. Planning Scheme Amendment C 262 card Documents [6.1.3.1 - 10 pages]
2. Proposed Planning Permit [6.1.3.2 - 21 pages]
3. Proposed Subdivision Plan [6.1.3.3 - 1 page]

Executive Summary

Council has received a request to rezone part of the land at 11 Thom Road, Lang Lang from Farming Zone – Schedule 1 (FZ1) to Neighbourhood Residential Zone - Schedule 1 (NRZ1).

The request also seeks Council's consent to concurrently consider a planning permit application for a staged subdivision of the land into twenty-eight lots (28) for residential purposes, the creation of two (2) reserves and creation of restrictions on the plan of subdivision.

The *Lang Lang Township Strategy (July 2009)* provides in principle support for the rezoning of the land at 11 Thom Road, Lang Lang for residential purposes, subject to additional reports being prepared. Council officers have considered the merits of the request and believe there is strategic justification for Council to support the proposal.

Prior to Council considering the amendment for adoption it is recommended that the proponent be required to enter into an agreement under Section 173 of the *Planning and Environment Act 1987* to provide for the timely construction of a pedestrian path along the existing section of Thom Road (western side) and Tresize Court (southern side). This path will be constructed outside the proposed subdivision site, providing a missing link in the pedestrian network between the proposed subdivision and the town centre. The provision of this path will fulfill the net community benefit that is required to be provided by a proposed planning scheme amendment.

Background

Council received a request from Phil Walton (XWB consulting) on behalf of the landowner, Greg Thom, to rezone part of the land known as 11 Thom Road, Lang Lang (Lot 11 on PS548063T) from FZ1 to NRZ1.

In association with the amendment request, planning permit application T190728 has also been lodged for a staged 28 lot residential subdivision of the land, creation of two (2) reserves and creation of restrictions on the plan of subdivision. It is proposed that this application be considered concurrently with the proposed amendment to facilitate timely development of the land for residential purposes.

The Land and surrounds



Figure 1. 11 Thom Road, Lang Lang

The subject land is located at the end of Thom Road approximately 200m north east of the Lang Lang Town Centre. The land is an irregular shaped parcel with a frontage of 17m to Thom Road and an area of 5.364ha.

The subject land is bounded by the Lang Lang River (north), the South Gippsland Railway Line (west), established residential properties (south) and farming land (east).

The subject land is currently zoned Farming Zone – Schedule 1 (FZ1) and Green Wedge Zone Schedule 1 (GWZ1) and part of the land is affected by the Land Subject to Inundation Overlay (LSIO).

The proposal

The amendment request and planning permit application have been lodged under Section 96A of the *Planning and Environment Act 1987* (PE Act). Section 96A allows Council to consider a planning permit application concurrently with a planning scheme amendment, even though the proposed subdivision would otherwise be prohibited under the current planning controls.

- In summary, the amendment request and planning permit application propose to:
- Rezone land from Farming Zone – Schedule 1 (FZ1) to Neighbourhood Residential Zone - Schedule 1 (NRZ1);
- Subdivide the land into twenty-eight (28) lots, create two (2) Reserves and create restrictions on the plan of subdivision.

A map of the proposed planning zone is contained in Attachment 1, the Proposed Planning Permit is contained in Attachment 2, while the proposed subdivision plan is contained in Attachment 3.

Net Community Benefit

As with any planning scheme amendment, the rezoning of the subject land must result in a net community benefit beyond the provision of standard urban services and amenity to the new subdivision. In addition to the community benefits that will be provided by the proposed Bushland Reserve and Recreation Reserve at the northern end of Thom Road, it is also proposed to construct a missing link in the pedestrian path network along the existing section of Thom Road (western side) and Tresize Court (southern side). This path is in addition to the pedestrian path that will be constructed within the proposed subdivision along the western side of Thom Road.

It is recommended that the landowner be required to enter into a Section 173 Agreement with Council, prior to Council considering the amendment for adoption, to provide for the timely construction of this pedestrian path.

Policy Implications

Plan Melbourne 2017-2050 - Melbourne Metropolitan Planning Strategy

The amendment is consistent with Ministerial Direction No. 9 – Metropolitan Strategy which requires a Planning Authority to have regard to the Metropolitan Strategy (Plan Melbourne 2017-2050). It is considered the amendment assists in achieving the following directions of Plan Melbourne:

- Direction 2.1: Managing the supply of new housing in the right locations to meet population growth and create a sustainable city.
- Direction 2.5: Provide greater choice and diversity of housing.
- Direction 4.3: Achieve and promote design excellence.
- Direction 5.1: Create a city of 20-minute neighbourhoods.
- Direction 5.2: Create neighbourhoods that support safe communities and healthy lifestyles.

Planning Policy Framework

- The following PPF provisions are relevant:
- Clause 11.01-1R – Green Wedges – Metropolitan Melbourne
- Clause 11.02-1S - Supply of urban land
- Clause 12.01-1S – Protection of biodiversity
- Clause 12.01-2S – Native Vegetation Management
- Clause 13.02-1S – Bushfire Planning
- Clause 13.03-1S – Floodplain management
- Clause 14.02-1S – Catchment planning and management
- Clause 15.01-5S - Neighbourhood character
- Clause 15.03-2S – Aboriginal cultural heritage
- Clause 16.01-1S - Integrated housing
- Clause 16.01-2S - Location of residential development

The proposed amendment and subdivision are consistent with these policies by:

- Providing land supply for residential development consistent with, and facilitating the strategic intentions of, the *Lang Lang Township Strategy 2009*.
- Protecting the remnant native vegetation on the subject land in proximity to the Lang Lang River through the provision of a Bushland Reserve, whilst also facilitating growth within the Lang Lang Township.
- Implementing appropriate bushfire mitigation measures and achieving a construction standard of BAL12.5.
- Accurately identifying and responding to land affected by flooding, as advised by Melbourne Water.
- Protecting the corridor along the Lang Lang River to provide for the passage of floodwaters and the protection of remnant trees. The protection of the corridor through the creation of a bushland reserve will allow for the protection and restoration of the river environment.
- Providing a development that reflects the preferred neighbourhood character as expressed in the *Lang Lang Township Strategy 2009*.
- Implementing the requirements of an approved Cultural Heritage Management Plan (CHMP) as required by the *Aboriginal Heritage Act 2006* which applies to the land. To ensure the requirements of the CHMP are achieved, appropriate conditions are included on the Proposed Planning Permit.
- Releasing land for residential purposes and facilitating the strategic intentions of the *Lang Lang Township Strategy 2009*. Providing a variety of lots to improve housing diversity and choice to help meet the demands for varying household types.

Local Planning Policy Framework

The following LPPF provisions are relevant:

- Clause 21.02 – Environment
- Clause 21.03 – Settlement and Housing
- Clause 21.08 – Local Areas

The proposed amendment and subdivision are consistent with these policies by:

- Providing for appropriate management of floodwater along the Lang Lang River (21.02-1)
- Providing for the retention of native vegetation in a Bushland Reserve along the Lang Lang River (21.02-3)
- Mitigating the bushfire risks to the future subdivision and dwellings (21.02-4)
- Providing open space for recreational purposes and environmental protection (21.02-5)
- Protecting an Aboriginal Cultural Heritage site identified on the land within a Bushland Reserve as set out in the Cultural Heritage Management Plan for the land (21.02-7)
- Protecting and maintaining the rural township character as detailed in the *Lang Lang Township Strategy 2009* (21.03-3) and (21.08-1).

Relevance to Council Plan

2.1 We support the creation of liveable spaces and places

2.1.1 Advocate, plan for and deliver accessible community infrastructure and services that address community need.

2.1.2 Plan and maintain safe, inclusive and connected open spaces, places and active travel routes.

2.1.3 Plan for housing diversity that meets community need, is affordable and delivers environmental sustainability, safety and healthy living outcomes.

Climate Emergency Consideration

The proposed amendment and planning permit facilitate housing to be located within the urban growth boundary. This will contribute to housing consolidation within a rural township, reducing the amount of urban sprawl and pressure on Cardinia's main growth front, thereby helping to mitigate the effects on climate change.

Consultation/Communication

The Amendment C262card documents and the Proposed Planning Permit will be exhibited to the public for a period one month in early 2022. Adjoining landowners and occupiers, community groups, referral agencies and authorities will be sent notification in accordance with the requirements of the *Planning and Environment Act 1987*.

Financial and Resource Implications

There are no additional resource implications associated with undertaking the amendment. The statutory fees and any planning panel costs will be paid for by the proponent. Any additional costs associated with this process are provided for by the current and proposed Planning Strategy budget.

Conclusion

It is considered that the proposal is supported by both State and Local planning policy and is consistent the directions of *Plan Melbourne* and the relevant Ministerial Directions.

It is recommended that Council resolve to seek authorisation to prepare and exhibit Amendment C262card to the Cardinia Planning Scheme, concurrently with Proposed Planning Permit T190728.

Resolution

Moved Cr Graeme Moore, seconded Cr Kaye Cameron.

That Council:

1. Seek the authorisation of the Minister for Planning under Section 8A(2) of the *Planning and Environment Act 1987* to prepare Amendment C262card to the Cardinia Planning Scheme to:
 - Rezone part of the land at 11 Thom Road, Lang Lang from Farming Zone – Schedule 1 (FZ1) to Neighbourhood Residential Zone – Schedule 1 (NRZ1);generally in accordance with Attachment 1.
2. Consider Planning Permit Application No. T190728 for:
 - a staged subdivision of the subject land into residential lots;
 - creation of two (2) Reserves; and,
 - creation of restrictions on the plan of subdivision;concurrently with Amendment C262card under Section 96A of the *Planning and Environment Act 1987*.
3. Subject to receiving the authorisation of the Minister for Planning under Part 1, Council gives notice of Amendment C262card and Proposed Planning Permit No. T190728 containing conditions generally in accordance with Attachment 2, under Section 96C of the *Planning and Environment Act 1987*.
4. Prior to considering Amendment C262card for adoption, the owner of the land must enter into an agreement with Council under Section 173 of the *Planning and Environment Act 1987* to provide for the timely (prior to the issue of a statement of compliance for the first stage of the proposed subdivision) construction of pedestrian paths along the existing section of Thom Road (western side) and Tresize Court (southern side).
5. Advise the proponent of Council's decision.

Carried

6.2 General Reports

6.2.1 Gender Equality Monthly Report

Responsible GM: Jenny Scicluna
Author: Kristen Simpson

Recommendation(s)

That Council stays informed of Cardinia's commitment and progress towards Gender Equality within the organisation and the community in general.

Attachments

Nil

Executive Summary

The People and Culture team continues working towards the implementation of the Gender Equality Act. The Workplace Gender Audit has been completed and is current being analysed in line with The Gender Equality Commissions audit guide.

Background

People and Culture Update

Gender Equality Act 2020

The Gender Equality Act 2020 commenced on 31 March 2021. The aim of the Act is to improve Gender Equality in the Victorian public sector, universities, and local councils.

Cardinia will be required to create its first Gender Equality Action Plan (GEAP). The Gender Equality in the Public Sector (Commission) has extended the due date for the GEAP to 31 March 2021.

Gender Impact Assessments

A Gender Impact Assessment (GIA) is required to be conducted for any new policy, program or service that directly & significantly impacts the public. These assessments consider how Cardinia's work affects different people in our community.

Gender Impact Assessments continue to be conducted and will contribute to the GEAP. The Commission for Gender Equality [Gender Impact Assessment Toolkit and Templates](#) will be utilised for this purpose. Guidelines and processes for policy developers are under development and being streamlined to merge with existing process. Training on following these guidelines and processes will commence in 2022.

Gender Survey

Cardinia has engaged the Victorian Public Service Commission to obtain the survey requirements of the Gender Audit that will contribute to the Gender Equality Action Plan.

Cardinia received a 30% response rate to this survey (Local Councils overall achieved a 32% response rate). The dominant respondent persona for this survey across local government was:

- Female
- Aged between 35 – 54 years
- University degree +/- honours
- Heterosexual
- Born in Australian with Australian heritage
- English speaker
- No religion
- Full time
- \$65K - \$95K p.a. (gross base)
- Tenure of 2 – 5 years
- Non-manager
- Ongoing position
- School aged children

On initial analysis, this persona is confirmed by the gender equity audit of the whole organisation where comparable information has been able to be sourced.

In response to the question '*Gender not a barrier to success at Cardinia*' the responses were:

Strongly Disagree	Disagree	Neither agree nor disagree	Agree	Strongly Agree	Don't Know
2%	8%	14%	45%	27%	3%

The following responses were received in relation to gender equality supporting measures.

	Strongly Disagree	Disagree	Neither agree nor disagree	Agree	Strongly Agree	Don't Know
In my workgroup work is allocated fairly, regardless of gender	7%	10%	12%	38%	33%	0%
My organisation uses inclusive and respectful images and language	4%	5%	14%	46%	30%	1%
My organisation would support me if I needed to take family violence leave	0%	1%	7%	45%	42%	5%

The results of this survey will contribute towards the development of Gender Equality Action Plan (GEAP) which aims to further improve this strong positive result. Comparison data from across local government is not available at this time.

Gender Audit

The gender equality audit data is being reassessed in light of new guidance notes from the Commission for Gender Equality. This information is still on track to be submitted to the Commission prior to the 1 December 2021 deadline. Preliminary results are being collated for Council prior to submission to the Commission. The results of this audit will contribute to the GEAP.

Respectful Workplaces Training

In light of the ongoing impacts of COVID restrictions on the method for delivery of training is under review. The aim of this review is to ensure that Respectful Workplaces Training can be delivered in a COVID-safe manner and achieve the outcomes desired in relation to the relevant issues of unconscious bias in discrimination, bystander intervention and address the recommendations handed down by Victorian Auditor General's Office in light of the sexual harassment survey. Improved training will form one of the actions in the GEAP currently under development.

Policy Implications

The Gender Equality Commission has informed defined entities that the new Local Government Act 2020 includes a requirement to develop a workforce plan every four years. The workforce plan must include measures relating to gender equality.

A Gender Equality Action Plan that meets the requirements of the Gender Equality Act, will also meet the requirements of the Local Government Act. Complying with the gender equality requirements of the Local Government Act will not satisfy the requirements of the Gender Equality Act.

Section 26 (2) (ba) of the Public Health and Wellbeing Act requires councils to specify (in their municipal public health and wellbeing plan (Cardinia Shire Liveability Plan) measures to prevent family violence and respond to the needs of victims of family violence in the local community.

Other influential gender equity legislation in the Commonwealth and Victorian State Government is:

- The Charter of Human Rights and Responsibilities Act 2006
- The Workplace Gender Equality Act 2012
- The Equal Opportunity Act 2010
- The Fair Work Act 2009

A Gender Equality Policy for Cardinia will be finalised for consideration, taking into account the above legislation.

Relevance to Council Plan

1.1 We empower our communities to be healthy, connected and resilient

1.1.1 Plan for, and support the delivery of, accessible health and social services that address critical gaps in provision.

1.1.3 Lead by example in creating an inclusive and welcoming community for all by facilitating community education, capacity building, connection and celebration of our diversity.

1.1.4 Facilitate a partnership approach to create safer communities.

2.1 We support the creation of liveable spaces and places

2.1.2 Plan and maintain safe, inclusive and connected open spaces, places and active travel routes.

5.1 We practise responsible leadership

5.1.1 Build trust through meaningful community engagement and transparent decision-making.

5.1.4 Maximise value for our community through efficient service delivery, innovation, strategic partnerships and advocacy.

Climate Emergency Consideration

No applicable

Consultation/Communication

This report has been developed with the cooperation and collaboration of teams across Council and designated groups such as the Respect and Equity Committee.

Financial and Resource Implications

Nil to report

Conclusion

Cardinia continues to undertake several projects to promote and progress towards Gender Equality and meet the requirements of the Gender Equality Act. Cardinia will continue to do so through various projects that will positively impact Cardinia's employees as well as its residents.

Resolution

Moved Cr Collin Ross, seconded Cr Tammy Radford.

That Council stays informed of Cardinia's commitment and progress towards Gender Equality within the organisation and the community in general.

Carried

6.2.2 Community Asset Committees Update

Responsible GM: Lili Rosic
Author: Michael Casey

Recommendation(s)

That this update regarding Community Asset Committees within Cardinia Shire be considered and noted as required by Section 47(6) of the Local Government Act 2020.

Attachments

1. Community Asset Committee Governance Manual [6.2.2.1 - 35 pages]

Executive Summary

Council recognises the important role Community Asset Committees hold in our shire. Volunteer members dedicate time and energy for the provision of these facilities to the community, and Council is grateful for their efforts.

This report provides Council with an update on the activities and performance of Community Asset Committees in respect of which the members have been given a delegation.

Background

Council is responsible for numerous community facilities, including recreation reserves, sports stadiums, public halls, open spaces, and nature reserves. To help Council operate these facilities, we partner with community asset committees, previously known as section 86 committees.

Community asset committees directly manage community property and facilities on behalf of Council. Community asset committee members are unpaid volunteers and are often local residents and/or belong to the facility's user groups (such as a sporting club).

Community asset committees are appointed by Cardinia Shire Council and have delegated responsibilities from the Chief Executive Officer of Cardinia Shire Council, in accordance with the Local Government Act 2020. These committees differ from community committees of management, appointed by DELWP (Department of Environment of Land Water and Planning), under the Crown Land Reserves Act, to manage crown land facilities.

This report provides an update on the different types of community asset committees including recreation reserves, halls and Nobelius heritage park and Emerald Museum committees and the different delegated powers for each type of committee.

A Community Asset Committee Governance Manual has been created to support volunteer members with their responsibilities. The manual includes information and templates to help volunteers in their role as part of a community asset committee, ensuring good practice and consistent and effective management of Cardinia Shire Council facilities. The manual outlines the statutory requirements and aids in all areas of governance. Members of Community Asset Committees must, when exercising the powers, functions and duties delegated to them, comply with the requirements included in the Community Asset Committee Governance Manual as updated from time to time.

This report provides an update on the three different categories of community asset committees: recreation reserve, halls, and museum.

Recreation Reserve Community Asset Committees

Council has worked with the 15 Council appointed Recreation Reserve Community Asset Committees on a risk project to review, document and analyse key areas of risk, and improve the way we support committees into the future. As managers of these facilities, the committee members have various obligations to minimise risks to themselves and the public and improve and maintain the areas under their control as outlined in the Instrument of Delegation.

The powers and functions of Committees to manage the respective recreation reserves include the following:

6. to enter into contracts for an amount not exceeding \$5,000.
7. incur expenditure for a single item for an amount not exceeding \$5,000.
8. to provide sporting facilities for the benefit and use of present and future generations of the Shire.
9. to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers.

The current Council appointed Recreation Reserve Community Asset Committees include:

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

Council conducts routine maintenance and provides Recreation Reserve Community Asset Committees with maintenance grants, workshops to up skill volunteers and access to leadership courses. To further support committees with their work, Council has recently launched the Community Asset Committee portal, as a place for committee members to access important resources, information, and dates.

A new and important resource on the portal is the Community Asset Committee Governance Manual. The manual includes information and templates to help committees in their role as part of a community asset committee to ensure good practices and consistent and effective management of Cardinia Shire Council facilities. The manual also outlines the statutory requirements and aids in all areas of governance.

Officers have been undertaking a project to identify and reduce the risks associated with community asset committees. This project has targeted recreation reserve community asset committees initially, due to the potential risks associated with the maintenance tasks they undertake. Some of the key changes that have been implemented in the risk project include:

- Council is responsible for all reserve surrounds maintenance

- Maintenance to be performed by committees must be conducted by Council approved contractors
- Committee's must collect user fees from all users
- All committee members must complete the online Governance Training

The online Governance Training is provided to all Recreation Reserve Community Asset Committees to ensure members have the skills and knowledge to be able to understand the requirements implemented in the risk project.

Included as part of this risk project, is the allocation of maintenance grants to ensure committees have the resources to engage contractors and are undertaking the required playing field and building maintenance. Committees are required to:

- Hold a meeting to action and implement the governance manual, and adopt the occupational health and safety policy and code of conduct policy
- Provide completed user agreements and maintenance agreements
- Use Council approved contractors for maintenance
- Collect user fees from user groups
- Complete the online training (it can be delivered face-to-face pending restrictions).

Officers are continuing to support committees to ensure compliance.

Council employs a full-time officer (1 EFT) to support the recreation reserve community asset committees including providing training for volunteers and assisting committees in compliance with risk requirements.

Following completion of the risk project with recreation reserves, it will be modified and delivered to support Hall asset committees, and subsequently the Nobelius Heritage Park and Emerald Museum Asset Committee.

Hall Community Asset Committees

In summary, the powers and functions of these Hall committees are to manage the respective Hall, Community Centre or Complex, and for that purpose:

1. to enter into contracts for an amount not exceeding \$5,000
2. incur expenditure for a single item for an amount not exceeding \$5,000
3. to provide community hall facilities for the benefit and use of present and future generations of the Shire
4. to do all things necessary or convenient to be done for or in connection with the performance of those functions, duties and powers.

The current Council appointed Hall Community Asset Committees include:

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

Council supports Hall committees through the provision of an annual maintenance allocation and access to training and leadership opportunities. Officers are available to support committees in hall hire and committee governance.

Nobelius Heritage Park and Emerald Museum Community Asset Committee

The museum committee has the following delegations:

1. to enter into contract for an amount not exceeding \$5,000.
2. incur expenditure for a single item for an amount not exceeding \$5,000.
3. to provide a park and museum facilities for the benefit and use of present and future generations of the Shire.
4. To do all things necessary or convenience to be done for or in connection with the performance of those functions, duties and powers.

Council employs a part time (0.4FTE) Museum officer, reporting to the Manager Environment and Heritage. The objectives of the role are:

- To assist and support the Nobelius Heritage Park and Museum Committee in the daily operations and management of museum collections
- Help promotion of the museum
- Provide leadership as required and impart museum collection and conservation skills to community volunteers within the committee
- Lead the review of the Nobelius Heritage Park and Emerald Museum strategic plan working in collaboration with the committee.

Council supports the museum committee through the provision of annual maintenance allocation.

Policy Implications

This report is an annual requirement and is consistent with both Council policy and the Local Government Act 2020 in relation to the activities and performance of Community Asset Committees in respect of which the members have been given a delegation.

Relevance to Council Plan

1.1 We empower our communities to be healthy, connected and resilient

1.1.1 Plan for, and support the delivery of, accessible health and social services that address critical gaps in provision.

1.1.3 Lead by example in creating an inclusive and welcoming community for all by facilitating community education, capacity building, connection and celebration of our diversity.

2.1 We support the creation of liveable spaces and places

2.1.1 Advocate, plan for and deliver accessible community infrastructure and services that address community need.

2.1.2 Plan and maintain safe, inclusive and connected open spaces, places and active travel routes.

Climate Emergency Consideration

Nil

Consultation/Communication

Officers are in regular communication with all community asset committees. Whether through supporting governance, assisting with questions and queries, or to promote development opportunities, committees are a key stakeholder receiving regular communication from Council.

Through the risk project, recreation reserve community asset committees have been engaged from the outset. An information session was held to outline the project and update committees on what to expect.

Following that, a face-to-face meeting was held with every recreation reserve committee to explain in more detail the stages of the project and answer any questions. The data capturing process was done in part by officers and in part through a consultant, directly with each of the committees.

Recreation reserve committees have been communicated with about the proposed changes to be implemented, and support has been offered to every committee on any aspect of the project.

Financial and Resource Implications

Council provides financial support to each Community Asset Committee to maintain their facilities. For recreation reserve committees, the amount of financial support has recently been increased as part of the implementation of the governance and risk project.

Recreation reserve committee maintenance amounts are used for building and playing field maintenance and are based on the size of the reserve. Council provides committees with 75% of the maintenance costs, committees recover 15% in user fees, and 10% is allocated to the voluntary nature of committees.

All Hall community asset committees are provided with a flat amount to maintain their facilities.

Conclusion

Community Asset Committees are established by Cardinia Shire Council and have delegated responsibilities from the Chief Executive Officer, in accordance with the Local Government Act 2020. Committees are established voluntarily assist Council in the ongoing management and improvement of Council's facilities. This enables the community to participate in activities that provide health and social benefits to the broader community. Council provides financial and officer support for the operation of the 26 current community asset committees for recreation reserves, halls and Nobelius Heritage Park and Emerald Museum.

Resolution

Moved Cr Stephanie Davies, seconded Cr Jack Kowarzik.

That this update regarding Community Asset Committees within Cardinia Shire be considered and noted as required by Section 47(6) of the Local Government Act 2020.

Carried

6.3 Policy Reports

6.3.1 Adoption of Complaints Policy

Responsible GM: Jenny Scicluna
Author: Peter Philp

Recommendation(s)

That Council:

1. Adopts the Complaints Policy.
2. Acknowledges and thanks the Cardinia Shire community for its contribution to the development of the Complaints Policy.

Attachments

1. Draft Complaints Policy [6.3.1.1 - 8 pages]

Executive Summary

To consider adoption of the draft Complaints Policy, following the formal community engagement process undertaken in accordance with Council's Community Engagement Policy.

Background

Council's draft Complaints Policy was released for public comment on Tuesday 7 September, for a 21-day period, undertaken in accordance with Council's Community Engagement Policy.

Public feedback relevant to the draft Complaints Policy was received. In response to the feedback received, and in conjunction with Councillor review and input, several amendments to the draft Complaints Policy were proposed. These amendments are reflected in *Attachment 1 – Draft Complaints Policy*.

Having complied with the provisions of the Local Government Act 2020, and Council's Community Engagement Policy, Council is now in a position to adopt the draft Complaints Policy. Once adopted, the Complaints Policy will be effective from 31 December 2021.

Policy Implications

The draft Complaints Policy is a formal expression of Council's commitment to providing a fair, transparent, and consistent process for community members when they wish to make a complaint.

Relevance to Council Plan

5.1 We practise responsible leadership

5.1.3 Strive to be a customer focused organisation and be a great place to work.

Climate Emergency Consideration

The requirement to develop a complaints policy is unrelated to the climate emergency.

Consultation/Communication

Council's draft Complaints Policy was released for public comment on Tuesday 7 September, via Council's corporate community engagement tool, Creating Cardinia. This formal community engagement was conducted over a 21-day period, in accordance with Council's Community Engagement Policy. The consultation was open to community, councillors and council staff with 110 items of feedback captured regarding the policy. Public feedback received during this engagement has been considered, and in conjunction with Councillor review and input, several amendments to the draft Complaints Policy are proposed and included in the attached version of the Complaints Policy.

Financial and Resource Implications

Enabling, responding to, and learning from complaints from the community is a key function of Council. Any potential financial or resource implications, resulting from the adoption of the draft Complaints Policy, will be managed as required, to ensure this function remains a priority.

Conclusion

Having complied with the provisions of the Local Government Act 2020, and Council's Community Engagement Policy, Council is now in a position to adopt the draft Complaints Policy.

Resolution

Moved Cr Jack Kowarzik, seconded Cr Tammy Radford.

That Council

1, Adopts the Complaints Policy subject to amendments to the following Clauses:

Clause 4.1.2 be amended to read:

If you are dissatisfied with our decision and how we responded to your complaint, we will ask you if you would like to escalate your complaint. If you would like to escalate your complaint, or if we deem that your complaint needs further consideration, we will refer it to the relevant team or manager for investigation, and

Clause 4.3 be amended to read:

Complaints about the Chief Executive Officer will be referred to the General Manager – Customer, People and Performance for investigation, on behalf of the Mayor, and

2. Acknowledges and thanks the Cardinia Shire community for its contribution to the development of the Complaints Policy

Carried

6.4 Financial Reports

6.4.1 Quarterly Financial Report

Resolution

Moved Cr Stephanie Davies, seconded Cr Collin Ross.

That Council:

- Receives and notes the quarterly financial report for the period 1 July 2021 to 30 September 2021.
- Notes that the Chief Executive Officer, as required under Section 97(3) of the *Local Government Act 2020*, is of the opinion a revised budget is not required

Carried

6.4.2 IYU Athletics Track - Civil Construction

Responsible GM: Peter Benazic
Author: Thomas Nicholls

Recommendation(s)

- That Council award the tender submitted by Polytan Pty Ltd for \$3,138,223.75 (excl GST), excluding the sports field lighting and high jump and pole vault mat covers, be accepted by Council for Contract 21-030 IYU Athletics Track Civil Works.
- The remaining Tenderers be advised accordingly; and
- The common seal of the Council be affixed to the contract documents

Attachments

1. IYU Athletics Track Final Design [6.4.2.1 - 1 page]
2. Confidential Memorandum - Circulated to Councillors only [6.4.2.2 - 4 pages]

Executive Summary

The proposed athletics track is located at the IYU Recreation Reserve on Henry Road, Pakenham.

A masterplan was approved by Council in 2009 for the construction of 3 grass soccer fields and one artificial soccer field, pavilion, and a car park to accommodate up to 400 cars. The masterplan also highlights a regional athletics track.

The soccer fields, pavilion and car park have been constructed with the athletics track to be the last facility to be constructed under this masterplan.

The regional athletics track will be home to the Pakenham Little Athletics Club as well as providing desperately needed athletics facilities to the Shire.

The new facility will meet the IAAF and World Athletics standards.

The site will have a 10 lane, 110 meter straight, an 8 lane 400-meter synthetic running track. All athletics sports are accommodated for such as shot put and discus cages, long and triple jump pits, pole vault and high jump areas as well as a steeple chase course integrated into the track.

Significant population growth and the arrival of several families per day into the Shire continue to increase the demand for accessible, multi-use and well-designed community infrastructure.

This report provides consideration for the appointment of a suitably qualified civil contractor to undertake construction works of the athletics track and associated infrastructure.

The tender for the IYU Athletics Track civil construction submitted by Polytan Pty Ltd is the most advantageous for Council, providing the best value for money and excellent service through their experience and innovation in sports field and civil construction.

It is therefore recommended that Contract 21-030 for the civil construction of IYU Athletics Track be awarded accordingly.

Background

In 2008, community consultation was undertaken with the information that was collected during this consultation feeding into the development of a masterplan, which has been endorsed by Council. The master plan identifies all the key elements including sports play, buildings, traffic, and infrastructure.

Key components of the total project include:

- three grass soccer pitches
- one synthetic multi use pitch
- pavilions
- 400 sealed car spaces with additional bus parking and through road
- Athletics track
- Passive open space areas

IYU Athletics Track is proposed to be the home to the new Pakenham Little Athletics club. Schools in the Shire and surrounds will also use the facility for school carnivals.

Tenders were advertised on 3rd July 2021 and closed on 27 July 2021 at 2.00pm.

Tenders were evaluated against the criteria of compliance with the specifications, financial viability, risk and insurance, compliance to conditions of contract, conflict of interest, OHS, quality systems, quality of previous work, project plan, pricing and value for money, compliance with the specifications, capability, relevant experience and past performance of the tenderer,

At the close of Tender, Council received two tender submissions to carry out the civil works. Interviews were carried out to ensure that the preferred tenderer understood the project scope, had been to site and was aware of any site issues, provided a best case solution for soil remediation and to clarify any cost anomalies and innovations that could provide savings and value for money.

Policy Implications

The works have been developed in accordance with Council's Asset Management Plans, Open Space Strategy, Pedestrian and Bicycle Strategy, Cultural Heritage Assessment, Developer Landscape Guidelines, Recreation Facility Guidelines and Community Facility Guidelines.

Relevance to Council Plan

1.1 We empower our communities to be healthy, connected and resilient

1.1.1 Plan for, and support the delivery of, accessible health and social services that address critical gaps in provision.

2.1 We support the creation of liveable spaces and places

2.1.1 Advocate, plan for and deliver accessible community infrastructure and services that address community need.

2.1.2 Plan and maintain safe, inclusive and connected open spaces, places and active travel routes.

Climate Emergency Consideration

The considerations proposed to address the Climate Change Emergency Declaration are to use the natural resources onsite to mitigate the transport and energies to move soil and other materials around the site. All soil will remain onsite that will reduce over 200 truck movements to land fill.

The use of an Australian manufacture for the synthetic surface that does not rely on overseas product reducing the carbon footprint. Using recycled water during construction will ensure that precious rain water is not used in a construction capacity.

Further steps have been taken within the design to ensure that the site is heavily planted and grassed to lower the urban heat effect. The community and park users will benefit from additional shade, reduced travel to other athletics facilities with connected paths and travel options.

Consultation/Communication

Consultation for the new athletics track was undertaken with the Pakenham Little Athletics Club, Athletics Victoria, Casey Cardinia Athletics Association, and the community.

This consultation provided Council with an endorsed design provided by Sporteng, a leader in athletics track design.

Financial and Resource Implications

There is a capital works budget allocation for this project over the next three financial years, 2021/22 \$1,196,000.00 and 2022/23 \$1,866,851.00 and 2023/24 \$109,423.00.

Total Capital Works budget allocation is \$3,172,274.00 ex GST

It is recommended that the contract be awarded to Polytan Pty Ltd for \$3,138,223.75 ex GST.

Conclusion

The tender submitted by Polytan Pty Ltd for \$3,138,223.75 (excl GST), be accepted by Council for Contract 21-30 IYU Athletics Track Civil Works.

Resolution

Moved Cr Collin Ross, seconded Cr Jack Kowarzik.

- That Council award the tender submitted by Polytan Pty Ltd for \$3,138,223.75 (excl GST), excluding the sports field lighting and high jump and pole vault mat covers, be accepted by Council for Contract 21-030 IYU Athletics Track Civil Works.
- The remaining Tenderers be advised accordingly; and
- The common seal of the Council be affixed to the contract documents

Carried

6.5 Activity Reports

6.5.1 Planning Scheme Amendment Activity Report

Responsible GM: Lili Rosic
Author: Luke Connell

Recommendation(s)

That Council note the report.

Executive Summary

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

Status of Active Amendments

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

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

A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C228	Cardinia Shire Council	Pakenham Activity Centre	<p>The Activity Centre Zone Schedule 1 (ACZ1) has been prepared in response to conditions of approval to Cardinia Planning Scheme Amendment C211 to ensure that the Pakenham Structure Plan 2018 has been implemented via the appropriate planning tool into the Cardinia Planning Scheme.</p> <p>The ACZ1 is a 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, and 21.04, 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>	Thu 24/10/2019	Fri 06/12/2019	Approved with changes and gazetted on 30/09/2021.
C229	Cardinia Shire Council	Tynong, Garfield and Bunyip	Apply Environmental Significance Overlay Schedule 7 (ES07) to all land within the Urban Growth Boundary (UGB) of Garfield and Bunyip and all land zoned for urban purposes within Tynong to facilitate the provision of habitat corridors for the	Thu 21/11/2019	Fri 20/12/2019	Re-exhibition completed. Council officers reviewing bushfire

A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			Southern Brown Bandicoot.			assessment.
C238	Cardinia Shire Council	Beaconsfield Precinct - Glismann Road and Old Princes Highway.	<p>Amendment C238 proposes to:</p> <ul style="list-style-type: none"> - Rezone land to the Neighbourhood Residential Zone (NRZ2) (Clause 32.09 Schedule 2) - Apply a Development Plan Overlay (DPO19) to the Glismann Road Area (Clause 43.04 Schedule 19) - Apply Development Contributions Plan Overlay (DCPO5) to the Glismann Road Area (Clause 45.06 Schedule 5) - Amend Clause 72.04 to incorporate the Glismann Road Development Contributions Plan (GRDCP) into the Cardinia Planning Scheme. - Amend Clause 53.01 to facilitate the provision of local open space through the GRDCP. 	Thu 09/07/2020	Mon 14/09/2020	A Panel Hearing was finished on the 11/10/2021. Council Officers now awaiting for Planning Panel Report.
C240	Cardinia Shire Council	Koo Wee Rup Township	<p>Implement the objectives of the Koo Wee Rup Township Strategy by:</p> <ul style="list-style-type: none"> - applying Development Plan Overlay Schedules 23 and 24 to two undeveloped residential precincts in Koo Wee Rup. 	Thu 13/02/2020	Mon 16/03/2020	An application for Ministerial Approval was finalised on 04/05/2021.

A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			<ul style="list-style-type: none"> - applying Design and Development Overlay Schedule 8 to existing residential areas in Koo Wee Rup. - applying Design and Development Overlay Schedule 9 to the commercial town centre of Koo Wee Rup. 			
C257	Cardinia Shire Council	53-65 Woods Street, Beaconsfield	Apply a Development Plan Overlay (DPO) for the Woodland Grove Precinct as shown in the Beaconsfield Structure Plan.			The amendment was adopted by Council on 20/09/2021. Awaiting for Ministerial Approval.
C264	Cardinia Shire Council	Cardinia Shire municipality	Implement the Advertising Signage Design Guidelines into the Cardinia Planning Scheme.	Thu 06/05/2021	Mon 07/06/2021	The amendment has been approved by the Minister for Planning and was gazetted on 22/10/2021.

A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C265	Cardinia Shire Council	Pakenham South Employment Precinct	Incorporate the Pakenham South Employment Precinct Structure Plan.	Thu 15/10/2020	Thu 26/11/2020	Adopted by Council on 19/07/2021. An Infrastructure Contributions Plan (ICP) is currently being prepared.
C270	Cardinia Shire Council	Cardinia Shire municipality	To apply the Heritage Overlay to 9 trees confirmed as historically significant through the Significant Tree Register process.			On 20/09/2021 Council adopted to seek authorisation from the Minister for Planning to prepare Amendment C270.

Resolution

Moved Cr Graeme Moore, seconded Cr Kaye Cameron.

That Council note the report.

Carried

6.5.2 Major projects report

Responsible GM: Peter Benazic
Author: David Fice, Walter Carmignani, Kristen Jackson

Recommendation(s)

That Council note this report

Attachments

1. Major projects report [6.5.2.1 - 18 pages]

Executive Summary

As part of the reporting process to Council, this monthly report provides an update of the status of major projects in progress.

Background

Projects and updates are included in the attached report

Conclusion

This regular activity report (as attached) is provided for Councillor's information

Resolution

Moved Cr Stephanie Davies, seconded Cr Graeme Moore.

That Council note this report

Carried

6.5.3 Performance and Growth Reports - Q1 2021-22

Resolution

Moved Cr Stephanie Davies, seconded Cr Tammy Radford.

The Performance and Growth Reports for Quarter 1 2021-22 be received and noted.

Carried

6.5.4 Environment Council Plan Initiatives Quarterly Report

Responsible GM: Peter Benazic
Author: Desiree Lovell and Jacqui Kelly

Recommendation(s)

That Council note this report

Attachments

1. Environment Council Plan Initiatives Quarterly Report [6.5.4.1 - 7 pages]

Executive Summary

This quarterly report provides an update on projects, services and actions that are undertaken by Council to deliver on the Council Plan focus area number three: thriving environments and its associated initiatives.

Priority: We value our natural assets and support our biodiversity to thrive

We place a high value on our natural assets and biodiversity. We take action to help our natural assets and biodiversity thrive and build their resilience to climate change and natural hazards. We enhance green spaces and habitat links, support our communities to live sustainably, and champion sustainable development and waste management practices.

Initiatives

The initiatives have been categorised according to the Sustainable Environment Policy (SEP) 2018– 28 themes of: Biodiversity, Climate change, Water, Waste and resource recovery

The SEP is the roadmap for the future direction of Council's environmental and sustainability strategies, plans and activities

Background

There are a broad range of projects, services and actions delivering environmental benefits throughout the organisation. While many of these occur within or are led by the Environment and Infrastructure Group, most of the organisation is involved in environmental sustainability to some degree.

Council Plan initiatives and how they link to the Sustainable Environment Policy themes:

- Biodiversity
 - Implement initiatives in the Biodiversity Conservation Strategy
- Climate change
 - Implement initiatives in the Aspirational Energy Transition Plan
- Water
 - Implement initiatives in the Integrated Water Management Plan
- Waste and resource recovery
 - Implement the action plan for the Waste and Resource Recovery Strategy

This report also covers the Council Plan initiative *actively protect key heritage sites within the shire*.

Project update

Projects and updates are included in the attached report.

Resolution

Moved Cr Jack Kowarzik, seconded Cr Graeme Moore.

That Council note this report

Carried

6.5.5 Planning Matters Currently the Subject of Review at the Victorian Civil and Administrative Tribunal and Recent Outcomes

Responsible GM: Lili Rosic
Author: Luke Connell

Recommendation(s)

That Council note the report.

Executive Summary

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

Relevance to Council Plan

5.1 We practise responsible leadership

5.1.1 Build trust through meaningful community engagement and transparent decision-making.

Matters Currently the Subject of VCAT Appeal

Hearing Date	Permit No	Address	Proposal	Council Decision	Appealed By	Outcome	Decision Date
N/A	T200140	L1 PS809384, Brunt Road, Officer	The subdivision of the land	Refusal	Applicant	Consent order - Permit issued	9/08/2021
N/A	T190787-1	104 Tivendale Road Officer	Use and development of the land for a place of worship and, business identification signage	Approval (conditions review)	Applicant	Consent order - Permit issued	9/07/2021
4/04/22	T190768	7 Knights Court, Tynong	Subdivision of land into (2) lots and variation of restrictive covenant PS705124	NOD	Objector	Awaiting hearing	
28/01/22	T200589	48 James Street, Lang Lang	Development of the land for six (6) dwellings	Refusal	Applicant	Awaiting hearing	
13/12/21	T180651	369 Paternoster Road	Use and development of the land for a dwelling and removal of vegetation	Refusal	Applicant	Awaiting hearing	
1/12/21	T190304-1	3480 Princes Highway Bunyip	Amendments to Planning Permit T190304 (issued for the use and development of the land for dog breeding) to increase dog numbers for commercial dog breeding and include additional buildings and works.	Refusal	Applicant	Awaiting hearing	

19/11/21	T200380	55 Mullane Road, Pakenham	Buildings and works associated with the construction of a dwelling	Refusal	Applicant	Awaiting hearing	
14/12/21	T200167	197 Quamby Road, Beaconsfield Upper	Alterations and additions to an existing dwelling and outbuilding	Refusal	Applicant	Awaiting hearing	
9/12/21	T110588	270 Cardinia Road, Officer South (Kaduna)	Multi-lot residential subdivision of the land in stages, associated road networks and works to remove two existing waterbodies within the land	N/A	Applicant	Awaiting hearing	
27/09/21	T110588	Cardinia Road Officer South	Application under Section 149(1)(a) - interpretation of a permit condition/Section 173 agreement	N/A	Applicant	Awaiting decision/ settlement	
27/09/21	T200427	Cardinia Road	Buildings and works associated with the construction of a supermarket and associated retail, office, medical centre, and food and drink premises	Failure	Applicant	Awaiting decision/settlement	
2/09/21	T190712	565 Murray Road, Vervale	Use and development of the land for Rural Industry and Caretakers Dwelling associated with Industrial Hemp	Refusal	Applicant	Awaiting decision	
4/08/21	T190275	905 Koo Wee Rup Road, Pakenham	Use of the land for a Restricted Place of Assembly, alterations and additions to the existing buildings and alteration to access to a Road in a Road Zone Category 1	NOD	Objector	Determined – Decision set aside	21/09/2021
11/02/21	T170301-1	Bottomley Drive, Emerald	Use and development of the land for a dwelling and earthworks	Refusal	Applicant	Determined – Refusal upheld	25/08/2021

Resolution

Moved Cr Graeme Moore, seconded Cr Kaye Cameron.

That Council note the report.

Carried

6.5.6 Planning Matters Dealt with by Officers Under Delegated Authority

Responsible GM: Lili Rosic
Author: Luke Connell

Recommendation(s)

That Council note the report.

Executive Summary

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

Relevance to Council Plan

5.1 We practise responsible leadership

5.1.1 Build trust through meaningful community engagement and transparent decision-making.

Planning Matters Report

Beacon Hills Ward

Date Issued	Permit No	Address	Proposal	Decision	Date Lodged
17/09/2021	T210599	120 Shelton Road, Pakenham Upper VIC 3810	Construction of an outbuilding and associated works	Issued	10/08/2021
20/09/2021	T190790	287 Red Hill Road, Beaconsfield Upper VIC 3808	Use and development of the land for a dwelling, associated earthworks and removal of vegetation	Application Withdrawn	24/12/2019
23/09/2021	T210396	135 Beaconsfield-Emerald Road, Beaconsfield Upper VIC 3808	Development of the land for a replacement dwelling, associated works and vegetation removal	Issued	01/06/2021
23/09/2021	T200683	33 Sugarloaf Road, Beaconsfield Upper VIC 3808	Extend current carport by 49 m squared. No major earthworks, less than 1 m cubed.	Lapsed	19/10/2021
23/09/2021	T210381	6 Stoney Creek Road, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding (garage)	Issued	27/05/2021
23/09/2021		T160025 - 2	3-9 Salisbury Road, Beaconsfield Upper VIC 3808	Amendment to the permit conditions and endorsed documents of Planning Permit T160025-1 (that allows for the partial demolition, construction of buildings and works for additions to an existing residential aged care facility and vegetation removal) to alter access and delete stairs to Decking 1.	Issued 03/08/2021
28/09/2021	T210601	103 Stoney Creek Road, Beaconsfield Upper VIC 3808	Development of the land for a dwelling extension and construction of a non-habitable outbuilding (garage)	Issued	10/08/2021
29/09/2021	T210286	410 Dickie Road, Officer VIC 3809	Development of the land for a dwelling and outbuilding, with associated earthworks and vegetation removal	Issued	26/04/2021
29/09/2021	T210053 - PC2	19-21 Woods Street, Beaconsfield VIC 3807	T210053 PC2 (Con. 02 S173) - Plans to Comply Application	Issued	15/09/2021
29/09/2021	T210112	24 St Georges Road, Beaconsfield Upper VIC 3808	Buildings and works associated with an outbuilding (garage)	Issued	17/02/2021
29/09/2021	T210364	108-110 Stoney Creek Road, Beaconsfield Upper VIC 3808	Buildings and works associated with an outbuilding (shed)	Issued	24/05/2021
30/09/2021	T210316 - 2	422 Paternoster Road, Mount Burnett VIC 3781	Development of the land for an outbuilding and removal of vegetation	Issued	16/08/2021
1/10/2021	T210400	1000 Pakenham Road, Pakenham Upper VIC 3810	Use and development of the land for a dwelling, vegetation removal and associated works	Lapsed	02/06/2021
4/10/2021		T190583 - PC1	L5 PS701135 V11626 F341 (Future Super Lot B, PS709261), 7 Pink Hill Boulevard, Beaconsfield VIC 3807	T190583 - PC1 - Condition 1 & 2 Development of five (5) dwellings and associated works	Issued 07/05/2021
11/10/2021	T210396 - PC1	135 Beaconsfield-Emerald Road, Beaconsfield Upper VIC 3808	Plans to Comply with permit condition 2	Issued	28/09/2021

12/10/2021	T210342	9 Railway Avenue, Beaconsfield VIC 3807	Proposed dual occupancy development	Lapsed	11/05/2021
13/10/2021	T210131	67 Holm Park Road, Beaconsfield VIC 3807	Earthworks associated with a waterbody	Issued	23/02/2021
15/10/2021	T210244	85 Kitchen Road, Beaconsfield Upper VIC 3808	Earthworks in excess of 1 meter	Issued	09/04/2021
15/10/2021	T210623	1000 Pakenham Road, Pakenham Upper VIC 3810	One tree removal and permit for shipping containers.	Lapsed	17/08/2021
18/10/2021	T210286 - PC1	410 Dickie Road, Officer VIC 3809	T210286 PC1 (Con. 01 C1P) - Plans to Comply Application	Issued	04/10/2021
18/10/2021	T210473	109 Quamby Road, Guys Hill VIC 3807	Development of the land for an outbuilding (horse stable) and associated earthworks	Issued	26/06/2021
18/10/2021	T210696	10 Hatfield Road, Pakenham VIC 3810	Buildings and works associated with a dwelling (alfresco)	Issued	09/09/2021
20/10/2021	T200421 - PC2	335 Beaconsfield- Emerald Road, GUYS HILL VIC 3807	T200421 - PC2 (Con. 09 S173) - Plans to Comply Application	Issued	05/08/2021
21/10/2021	T210527	28 Beaconsfield- Emerald Road, Beaconsfield Upper VIC 3808	Use of the land for the sale and consumption of liquor	Issued	18/07/2021
21/10/2021	T210352	15 Twin Creeks Road, Pakenham Upper VIC 3810	Buildings and works associated with an outbuilding	Issued	15/05/2021
25/10/2021	T200421 - PC1	335 Beaconsfield- Emerald Road, GUYS HILL VIC 3807	T200421 PC1 (Con. 10 HTV) - Plans to Comply Application	Issued	08/06/2021
25/10/2021	T210396 - PC2	135 Beaconsfield- Emerald Road, Beaconsfield Upper VIC 3808	Development of the land for a replacement dwelling, associated works and vegetation removal	Issued	12/10/2021

Bunyip Ward

Date Issued	Permit No	Address	Proposal	Decision	Date Lodged	
17/09/2021	T210071	6 Bridle Place, Pakenham VIC 3810	Development of the land for four (4) Dwellings on a lot and to end restrictive covenant P601136V	Refused	05/02/2021	
17/09/2021	T210676	4 Wattletree Road, Bunyip VIC 3815	Shed	Application Withdrawn	27/08/2021	
23/09/2021	T210160	3 Ravendene Court, Maryknoll VIC 3812	Development of the land for two (2) outbuildings and earthworks	NOD	05/03/2021	
30/09/2021	T210471	18 Royanne Close, Bunyip VIC 3815	Removal of part E-3 (Drainage easement) on PS446535V and creation of E-1 & E-4 (Drainage easement)	Issued	25/06/2021	
4/10/2021	T200444 - PC1	25 Wallaby Court, Garfield North VIC 3814	T200444 - PC1 Plans to Comply Application Condition 1, 8 and 9	Issued	04/06/2021	
4/10/2021		T210699	225 Snell Road, Nar Nar Goon North VIC 3812	secondary amendment to Application No.: T160327 ET0142-21 Property No.: 5000014052 Address: L1 PS632038 V11343 F540, 225 Snell Road, Nar Nar Goon North VIC 3812 Proposal: Extension of time application	Application Withdrawn	27/09/2021
4/10/2021	T210705	125 Mont Albert Road, Garfield VIC 3814	Buildings and works associated with a dwelling extension	Issued	13/09/2021	
4/10/2021	T210209 - PC1	7 Morris Way, Bunyip VIC 3815	T210209 PC1 (Con. 01 C1P) - Plans to Comply Application	Issued	10/09/2021	
4/10/2021		T150743 - 1	11 Knights Court, Tynong Victoria 3813	Application to amend the endorsed plans associated with the use and development of the land for a dwelling and buildings and works associated with agriculture for horse stables used associated with a horse training facility	Issued	26/08/2021
5/10/2021	T210320	24 Bunyip-Modella Road, Bunyip VIC 3815	Alterations and additions to an existing dwelling and associated works	Issued	06/05/2021	
7/10/2021		T160560	61-63 A Beckett Road, Bunyip VIC 3815	Subdivision of the land into four (4) lots and associated removal and lopping of native vegetation	Application Withdrawn	30/08/2016
7/10/2021	T180729	94 Railway Avenue, Garfield VIC 3814	Two (2) lot subdivision	Lapsed	13/08/2018	
8/10/2021	T200760 - PC1	60 Moore Road, Nar Nar Goon North VIC 3812	Plans to comply with condition 1 of Planning Permit T200760	Issued	11/06/2021	
12/10/2021	T210553	3 Morris Way, Bunyip VIC 3815	Development of the land for a non-habitable outbuilding (shed)	Issued	27/09/2021	
12/10/2021	T210572	17 Shinnars Close, Bunyip VIC 3815	Development of the land for an outbuilding (shed)	Issued	30/07/2021	
18/10/2021	T210535	40 Mary Street, Bunyip VIC 3815	Development of the land for a non-habitable outbuilding (shed)	Issued	21/07/2021	
20/10/2021	T210607	115 Browning Road, Nar Nar Goon VIC 3812	Buildings and works associated with an agricultural building	Issued	12/08/2021	
25/10/2021	T200296 - PC1	15 Main Street, Nar Nar Goon VIC 3812	T200293 PC1 (Con. 01 C1P) - Plans to Comply Application	Issued	03/09/2021	

Central Ward

Date Issued	Permit No	Address	Proposal	Decision	Date Lodged	
13/10/2021		T210450	28 Earhart Street, Pakenham VIC 3810	Use and development of the land for accommodation community care accommodation)	Issued	18/06/2021

Henty Ward

Date Issued	Permit No	Address	Proposal	Decision	Date Lodged	
16/09/2021	T210177	21 King Street, Pakenham VIC 3810	Removal of easement E-1 (carriageway easement) from PS504660W	Issued	15/03/2021	
22/09/2021	T200464 - PC1	28 Rogers Street, Pakenham VIC 3810	T200464 PC1 (Con. 09e S173) - Plans to Comply Application	Issued	16/06/2021	
1/10/2021		T160577 - PC3	Ascot Park Drive, Pakenham VIC 3810	The use and development of the land for service station, convenience restaurant, convenience shops, shops, restricted recreational facility, access to a Road Zone, Category 1, reduction in the car parking requirement and advertising signage in accordance with the endorsed plans.	Application Withdrawn	22/10/2020
1/10/2021		T160577 - PC2	Ascot Park Drive, Pakenham VIC 3810	The use and development of the land for service station, convenience restaurant, convenience shops, shops, restricted recreational facility, access to a Road Zone, Category 1, reduction in the car parking requirement and advertising signage in accordance with the endorsed plans.	Application Withdrawn	06/08/2019
8/10/2021	T160577 - PC4	Ascot Park Drive, Pakenham VIC 3810	Plans to comply with permit condition 7 of planning permit T160577-3	Issued	19/08/2021	
15/10/2021	T180143- 1 PC2	43 Rogers Street, Pakenham VIC 3810	T180143-1 PC2 - (Con. 01a - 1i C1P) - Plans to Comply	Issued	12/07/2021	
21/10/2021	T200695 - PC1	71 Ahern Road, Pakenham VIC 3810	T200695 PC1 (Con. 01 C1P) Plans to Comply Construction of a second dwelling on a lot	Issued	05/07/2021	
21/10/2021	T000898 - PC2	88-90 & 82-86 & 76- 80 & CM1 PS435535 & 74 Princes Highway and 1 Deveney Street, Pakenham Victoria 3810	T000898-1 PC2 (Con. 1.1 (I) LMP) - Plans to Comply Application	Issued	24/09/2021	

Officer Ward

Date Issued	Permit No	Address	Proposal	Decision	Date Lodged
30/09/2021	T210515	416 Princes Highway, Officer VIC 3809	Buildings and works associated with a Store (outbuilding)	Issued	08/07/2021
30/09/2021	T210668	Timbertop Boulevard, Officer VIC 3809	The removal of one native tree.	Issued	17/08/2021
5/10/2021	T170510 - PC6	115 Bayview Road, Officer VIC 3809	Plans to Comply with condition 53	Issued	31/08/2021
11/10/2021		T160752 - 2	64 Rix Road, Officer VIC 3809	Amendment to the planning permit (preamble, masterplan & design guidelines)	Issued 20/08/2021
13/10/2021	T170510 - PC5	115 Bayview Road, Officer VIC 3809	T170510-1 PC5 (Con. 48 NVO & 49 CRE) - Plans to Comply Application	Issued	13/09/2021
15/10/2021		T210265	16 Bayview Road, Officer VIC 3809	Use and development of the land for a child care centre and business identification sign	Issued 17/04/2021
25/10/2021	T170510 - PC3	115 Bayview Road, Officer VIC 3809	T170510-1 PC3 (Con. 12 BDG) - Plans to Comply Application	Issued	28/06/2021

Pakenham Hills Ward

Date Issued	Permit No	Address	Proposal	Decision	Date Lodged
16/09/2021	T200328 - 1	155 Ahern Road, Pakenham VIC 3810	Permit condition 7 a. to be amended as outlined in the attached covering letter - to enable a Section 173 agreement to be entered into in lieu of construction of a dwelling on each lot prior to the issue of a Statement of Compliance.	Issued	23/07/2021
16/09/2021	T200506 - PC1	9 Osborn Grove, Pakenham VIC 3810	T200506 - PC1 - Plans to Comply	Issued	26/07/2021
17/09/2021	T210512	U 2/64 Ahern Road, Pakenham VIC 3810	Development of the land for a dwelling extension (verandah)	Lapsed	08/07/2021
17/09/2021	T200807 - PC1	20-22 Torre Road, Pakenham VIC 3810	Plans to comply with condition 1 of planning permit T200807	Issued	30/08/2021
23/09/2021	T200728	1 Leigh Drive, Pakenham VIC 3810	Buildings and works associated with an existing Convenience Shop (General Store)	Lapsed	10/11/2020
4/10/2021	T210355	40 Solid Drive, Pakenham VIC 3810	Development of land for a dwelling and associated earthworks and vegetation removal	Issued	18/05/2021
4/10/2021	T210173 - PC1	9 Redcherry Court, Pakenham VIC 3810	T210173 - PC1 Plans to Comply Development of two (2) dwellings	Issued	08/07/2021
5/10/2021	T200104 - 1	90-96 Ahern Road, Pakenham VIC 3810	Amendments to Planning Permit T200104 to amend permit conditions to allow for a Statement of Compliance to be issued at 'lock-up stage' of the dwellings and changes to the landscaping condition	Issued	01/07/2021
12/10/2021	T210255 - PC1	14 Torre Road, Pakenham VIC 3810	T210255 PC1 (Con. 01 and 02) - Plans to Comply Application	Issued	02/09/2021
12/10/2021	T210176 - PC1	5 Redcherry Court, Pakenham VIC 3810	Plans to Comply with permit condition 1 and 2	Issued	08/07/2021
13/10/2021	T210174 - PC1	7 Redcherry Court, Pakenham VIC 3810	T210174 - PC1 Plans to Comply Development of two (2) dwellings	Issued	08/07/2021
13/10/2021	T210254 - PC1	12 Torre Road, Pakenham VIC 3810	T210254 PC1 (Con. 01 and 02) - Plans to Comply Application	Issued	02/09/2021
13/10/2021	T200328 - PC1	155 Ahern Road, Pakenham VIC 3810	T200328 PC1 (Con. 07 S173) - Plans to Comply Application	Issued	13/10/2021
21/10/2021	T210375	6 Serene Court, Pakenham VIC 3810	Development of the land for a dwelling and associated works, and vegetation removal	Issued	25/05/2021

Ranges Ward

Date Issued	Permit No	Address	Proposal	Decision	Date Lodged
16/09/2021	T210094	9 Maurice Street, Cockatoo VIC 3781	Buildings and works (earthworks and retaining wall)	Issued	11/02/2021
16/09/2021	T200341 - PC1	3 Bower Court, Emerald VIC 3782	T200341 PC1 (Con. 01 C1P) - Plans to Comply Application	Issued	13/07/2021
21/09/2021	T210671	11 Paternoster Road, Cockatoo VIC 3781	Construction of wood storage shed	Application Withdrawn	23/08/2021
23/09/2021	T210735	9 First Avenue, Cockatoo VIC 3781	We are wanting to extend a existing single story dwelling.	Application Withdrawn	23/09/2021
29/09/2021	T210529 - 1	3 Goldsack Close, Cockatoo VIC 3781	Development of the land for two (2) outbuildings (carport and garage)	Issued	14/09/2021
5/10/2021	T210420	100 Brisbanes Road, Cockatoo VIC 3781	Buildings and works associated with a dwelling extension	Issued	08/06/2021
5/10/2021	T210490	860 Ure Road, Gembrook VIC 3783	Buildings and works associated with an agricultural shed	Issued	30/06/2021
11/10/2021	T210398	11 Heroes Avenue, Emerald VIC 3782	Removal of vegetation (three exotic trees)	Issued	01/06/2021
11/10/2021	T210667	288 Belgrave-Gembrook Road, Clematis VIC 3782	Development of the land for an outbuilding (carport)	Issued	31/08/2021
15/10/2021	T150154 - PC1	T150154 - PC1	L3 PS332897 and Common property on PS 332897, 920 Woori Yallock Road, Nangana Victoria 3781	Plans to comply with permit conditions T150154 PC1 (Con. 01 C1P)	Issued 30/08/2021
18/10/2021	T210754	22 Emerald-Monbulk Road, Emerald VIC 3782	Extension to existing dwelling (verandah)	Issued	16/09/2021
18/10/2021	T210659	7 Maurice Street, Cockatoo VIC 3781	Buildings and works associated with an existing dwelling (verandah)	Issued	27/08/2021
18/10/2021	T210709	2 Flora Close, Cockatoo VIC 3781	Development of the land for a non-habitable outbuilding (shed)	Issued	14/09/2021
18/10/2021	T210762	6 Wombat Crescent, Emerald VIC 3782	Development of the land for a non-habitable outbuilding (shed)	Issued	04/10/2021
19/10/2021	T210732	7 Legg Road, Emerald VIC 3782	Development of the land for a non-habitable outbuilding (shed)	Issued	22/09/2021
19/10/2021	T200852 - 1	3 Baker Street, Cockatoo VIC 3781	Buildings and works associated with an outbuilding and associated earthworks	Issued	27/09/2021
20/10/2021	T210245	5 Boronia Crescent, Cockatoo VIC 3781	Development of the land for a second dwelling and alterations to the existing dwelling (carport)	NOD	09/04/2021
21/10/2021	T210373	1 Main Street, Gembrook VIC 3783	Buildings and works associated with the construction of an agricultural building	Issued	26/05/2021
22/10/2021	T210701	4 Exley Close, Emerald VIC 3782	Development of the land for a replacement outbuilding (Garage)	Issued	10/09/2021
25/10/2021	T210116	375 Beenak East Road, Gembrook VIC 3783	Use and development of the land for a dwelling and two (2) outbuildings, associated works and vegetation removal	Application Withdrawn	15/02/2021
25/10/2021	T210422	450 Woori Yallock Road, Cockatoo VIC 3781	Use and Development of a Dependant Person Unit	Lapsed	09/06/2021

26/10/2021	T210749	6-8 Palm Court, Emerald VIC 3782	The construction of a verandah within 100m of a Road Zone Category 1 and within 100m of dwellings not in the same ownership.	Application Withdrawn	29/09/2021
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Toomuc Ward

Date Issued	Permit No	Address	Proposal	Decision	Date Lodged
16/09/2021	T210055 - PC1	FY 2/2 Mary Street, Pakenham VIC 3810	T210055 PC1 (Con. 01 C1P) - Plans to Comply Application	Issued	24/08/2021
16/09/2021		T210564	51 Studd Road, Pakenham VIC 3810	buildings and works (dwelling) within the Significant Landscape Overlay - Schedule 6	Issued 29/07/2021
5/10/2021	T210040	12 Skyline Drive, Officer VIC 3809	New Dwelling	Issued	20/01/2021
8/10/2021	T070853 - 2	Kenneth Road, Pakenham VIC 3810	Amended Planning Permit	Issued	12/07/2021
18/10/2021	T200510	Skyline Drive & Princes Highway, Officer VIC 3809	Native vegetation removal	Issued	19/08/2021
22/10/2021		T210498	825 Princes Highway, Pakenham VIC 3810	Use of land for the sale and consumption of liquor, buildings and works for external alterations to an existing building, display business identification signage and car parking reduction	Issued 05/07/2021
26/10/2021		T210614	46 Niseko Crescent, Pakenham VIC 3810	Buildings and works (dwelling) within the Significant Landscape Overlay - Schedule 6	Issued 15/08/2021

Westernport Ward

Date Issued	Permit No	Address	Proposal	Decision	Date Lodged
17/09/2021	T210289	960 McDonalds Drain Road, Pakenham VIC 3810	Buildings and works associated with a dwelling (shed)	Issued	26/04/2021
20/09/2021	T210656	50 Backhouses Road, Bayles VIC 3981	Development of the land for a building associated with Agriculture	Issued	26/08/2021
21/09/2021	T210634	19 Sette Circuit, Pakenham VIC 3810	Development of the land for two (2) warehouses and reduction to the number of car spaces required	Issued	18/08/2021
21/09/2021	T210627	33 Sette Circuit, Pakenham VIC 3810	Development of the land for a warehouse	Issued	17/01/2020
22/09/2021	T200620	225 Daly Road & 95 Daly Road, Nar Nar Goon VIC 3812	Two (2) lot subdivision (Boundary realignment)	Application Withdrawn	01/10/2020
28/09/2021	T210235 - PC1	53 Southeast Boulevard, Pakenham VIC 3810	Plans to comply with condition 1 of Planning Permit T210235	Issued	23/06/2021
29/09/2021	T210424	12-14 Exchange Drive, Pakenham VIC 3810	Subdivision of the land into three (3) lots	Issued	10/06/2021
30/09/2021	T210376	We 3/9 Southeast Boulevard, Pakenham VIC 3810	Use of land for trade supplies and display of business identification signage (exceeding 8 square metres)	Issued	27/05/2021
30/09/2021	T210509	95 National Avenue, Pakenham VIC 3810	Development of the land for a warehouse and reduction to the car parking requirements	Issued	07/07/2021
1/10/2021	T200859 - PC1	500 Thwaites Road, Yannathan VIC 3981	Plans to Comply with condition 1	Issued	10/08/2021
1/10/2021	T210689	2 Flax Court, Koo Wee Rup VIC 3981	Proposed colourbond steel veranda attached to the side of the existing dwelling	Application Withdrawn	07/09/2021
4/10/2021	T210761	345 Fourteen Mile Road, Garfield VIC 3814	Wish to build an agricultural shed.	Application Withdrawn	02/10/2021
4/10/2021	T160039 - PC1	Peet Street, Pakenham VIC 3810	T160039-2 PC1 (Con. 1a C1P) - Plans to Comply Application	Issued	26/04/2021
5/10/2021	T210541	8 Trade Place, Pakenham VIC 3810	Development of the land for a warehouse	Issued	21/07/2021
8/10/2021	T210747	We 5/14 Southeast Boulevard, Pakenham VIC 3810	We are applying for a Mezzanine Floor to be built in this Warehouse. There is no use changes as it is still getting used as a Warehouse.	Application Withdrawn	29/09/2021
8/10/2021	T200606	84 Martin Road, Longwarry VIC 3816	Development of the land for a dwelling and earthworks	Issued	29/09/2020
11/10/2021	T210485	940 Koo Wee Rup Road, Pakenham VIC 3810	Buildings and works associated with an abattoir (wastewater treatment plant)	Issued	30/06/2021
11/10/2021	T210581	17 Sette Circuit, Pakenham VIC 3810	Development of the land for two (2) warehouses	Issued	01/08/2021
11/10/2021	T180638 - PC1	90 Ellett Road, Pakenham South VIC 3810	Plans to Comply with permit condition 1	Issued	29/07/2021
14/10/2021	T210518	13 Annie Avenue, Lang Lang VIC 3984	Single residential dwelling	Application Withdrawn	12/07/2021
15/10/2021	T210239	325 Bunyip-Modella Road, Bunyip VIC 3815	Buildings and works associated with an agricultural building	Issued	07/04/2021

15/10/2021	T210350 - PC1	44 Exchange Drive, Pakenham VIC 3810	Plans to comply with permit conditions	Issued	24/08/2021
15/10/2021	T210231	Peet Street, Pakenham VIC 3810	Development of the land for a Store (self-storage facility) and display of signage	Issued	19/03/2021
18/10/2021	T210600	95 Murray Road, Cora Lynn VIC 3814	Development of the land for a non-habitable outbuilding (shed)	Issued	10/08/2021
18/10/2021	T210612	775 McDonalds Drain Road, Pakenham South VIC 3810	Development of the land for an agricultural shed	Issued	13/08/2021
18/10/2021	T210681	We 4/29 Sharnet Circuit, Pakenham VIC 3810	Buildings and works for an internal mezzanine floor level	Issued	05/09/2021
18/10/2021	T210218 - PC1	105 Eight Mile Road, Nar Nar Goon VIC 3812	T210218 - PC1 Plans to Comply Development of the land for a building associated with agriculture (shed)	Issued	09/08/2021
18/10/2021	T210425	66 Sette Circuit, Pakenham VIC 3810	Display of signage (externally illuminated, major promotion and sky signage)	Issued	10/06/2021
20/10/2021	T210170	3460 Ballarto Road, Koo Wee Rup VIC 3981	Re-subdivision of land into three (3) lots (boundary realignment)	Issued	15/03/2021
20/10/2021	T210662	26 Hill Street (future No. 4 O'Sullivan Street), Pakenham VIC 3810	Development of the land for a warehouse and associated works	Issued	27/08/2021
20/10/2021	T180403 - 1	485 Kettles Road, Lang Lang VIC 3984	Two (2) lot subdivision	Issued	29/09/2021
21/10/2021	T210315	Caldermeade Road, Catani VIC 3981	Use and development of the land for a dwelling	Issued	05/05/2021
21/10/2021	T210649	22 Bormar Drive, Pakenham VIC 3810	Buildings and works associated with a non-habitable building (storage shed)	Issued	24/08/2021
21/10/2021	T210085 - PC1	10 Sette Circuit, Pakenham VIC 3810	T210085 PC1 (Con. 01 C1P) - Plans to Comply Application Development of the land for two (2) warehouses and associated works	Issued	30/07/2021
21/10/2021	T210387 - PC1	99 National Avenue, Pakenham VIC 3810	T210387 PC1 (Con. 01 C1P) - Plans to Comply Application	Issued	05/08/2021
21/10/2021	T210230 - PC1	Main Drain Road, BAYLES VIC 3981	T210230 PC1 (Con. 01 C1P and Con. 17 MW) - Plans to Comply Application	Issued	27/08/2021

Resolution

Moved Cr Graeme Moore, seconded Cr Kaye Cameron.

That Council note the report.

Carried

7 Reports Or Minutes Of Committees

8 Reports By Delegates

Cr Davies advised of her attendance together with the Mayor at a recent meeting of the South East Council's Climate Change Alliance and commented on the position paper prepared regarding electric vehicles.

Cr Owen congratulated the Mayor on his recent election.

Cr Owen advised of his attendance at the Nobeliuss Heritage and Emerald Museum where long serving volunteer Beryl Bartacek was thanked for her long service to the Museum Committee.

Cr Owen advised of his attendance at the Annual General Meeting of the Cardinia Deer Coalition where the results of aerial surveys were released which clearly showed that the significant numbers of deer present was of serious concern.

Cr Owen advised that long serving kindergarten teacher at the Wood Street, Beaconsfield Kindergarten had recently retired after 40 years service to the kindergarten. Cr Owen commented that the kindergarten had recently celebrated its 50th Anniversary.

Cr Owen commented on the activities recently conducted during Seniors Month in October.

Cr Radford advised that she had laid a wreath at the Officer memorial gates on Remembrance Day and was joined by a small crowd of interested local residents.

Cr Radford commented on the recent opening of the playground upgrades undertaken at Kath Roberts Reserve and Keith Ewenson Reserve in Beaconsfield Upper

Cr Kowarzik also commented on the recent opening of the upgraded Kath Roberts Reserve.

Cr Kowarzik commented on the efforts undertaken by members of the CALD Advisory group who worked with members of local CALD communities to encourage them to receive the COVID 19 immunisations.

Cr Kowarzik also commented on the Beaconsfield kindergarten.

Cr Ryan commented on her attendance at the Pakenham Remembrance Day ceremony.

Cr Ryan commented on the local activities conducted on Melbourne Cup Day.

Cr Ryan provided her condolences to Bert Newton's family following his recent passing noting that her grandparents were known to Mr Newton.

Cr Ryan advised of her attendance at Seniors Festival events and activities.

Cr Ryan commented on the recent celebration held to recognise local resident Rosa Santo who had recently retired from operating ristorante in Main Street Pakenham after 32 years.

Cr Ryan advised of activities conducted during Mental Health Awareness Month.

Cr Ryan advised that she had been recognised by the State Government for her work in the Mental Health field but unfortunately was not able to attend Parliament House to receive her award in person.

Cr Ross advised of activities being conducted by the National Growth Areas Alliance in particular the Strategic Advisory Committee of which he was a member.

Cr Moore also commented on the recent retirement of Rosa Santo.

Cr Moore commented on his attendance at several Remembrance Day services where he laid wreaths on behalf of the Council.

The Mayor advised of his attendance at the recent Annual General Meeting of the Emerald Village Association and congratulated the group on their activities.

The Mayor commented on the recent Remembrance Day activities in Emerald and congratulated the Emerald RSL on the day.

9 Presentation Of Petitions

Nil

10 Notices Of Motion

10.1 Notice of Motion 1069 - Cr Cameron

Motion

That Council:

1. Notes the Victorian Government's intent to decriminalise sex work in Victoria and expresses its concerns regarding the following:
 - a. decriminalising street-based sex work in most locations without providing clarity regarding where it will be permitted, and the scale and impact for residential areas;
 - b. altering the sex work licensing and registration system established by the Sex Work Act 1994 including the separation distance requirements between sex work businesses and particular land uses, including dwellings;
 - c. brothels being able to apply for a liquor licence subject to the standard liquor licensing framework established under the Liquor Control Reform Act 1998;
 - d. not having a state wide regulatory framework for the sex work industry, and not providing details about resourcing that will be provided to respond to a new class of workplace and protect vulnerable workers and the community
2. Voices its concern that consultation was only open for two weeks which is inadequate to allow elected representatives to engage with their communities and for meaningful feedback to be provided.
3. Emphasises that:
 - a. meaningful consultation with community and with local government on any proposals must occur before any changes are considered or introduced; and
 - b. community consultation must form and integral consideration for any changes to the sex work industry.
4. Requests the Minister for Consumer Affairs to:
 - a. ensure full consultation with councils and the community before any decisions are made;
 - b. ensure appropriate time is provided for feedback, including consideration of councils meeting cycles;
 - c. to require that adequate and long-term funding be available for an appropriate local service for the purpose of supporting health and safety, advocacy, health promotion, legal support, and community education with regards to the rights and wellbeing of sex workers.
 - d. provide additional evidence including Health Impact Statement, Economic Impact Statement, case studies and criminology assessment in regard to the proposed changes.
5. Writes to the Minister for Consumer Affairs and the shadow Minister for Consumer Affairs to advocate Council's position with a copy of that letter sent to all local members of parliament whose electorates covers Cardinia.
6. Request the CEO or delegate to coordinate with other councils and the Municipal Association of Victoria in regard to any further advocacy opportunities.

Resolution

Moved Cr Kaye Cameron, seconded Cr Tammy Radford.

That Council:

1. Notes the Victorian Government's intent to decriminalise sex work in Victoria and expresses its concerns regarding the following:
 - a. decriminalising street-based sex work in most locations without providing clarity regarding where it will be permitted, and the scale and impact for residential areas;
 - b. altering the sex work licensing and registration system established by the Sex Work Act 1994 including the separation distance requirements between sex work businesses and particular land uses, including dwellings;
 - c. brothels being able to apply for a liquor licence subject to the standard liquor licensing framework established under the Liquor Control Reform Act 1998;
 - d. not having a state wide regulatory framework for the sex work industry, and not providing details about resourcing that will be provided to respond to a new class of workplace and protect vulnerable workers and the community
2. Voices its concern that consultation was only open for two weeks which is inadequate to allow elected representatives to engage with their communities and for meaningful feedback to be provided.
3. Emphasises that:
 - a. meaningful consultation with community and with local government on any proposals must occur before any changes are considered or introduced; and
 - b. community consultation must form and integral consideration for any changes to the sex work industry.
4. Requests the Minister for Consumer Affairs to:
 - a. ensure full consultation with councils and the community before any decisions are made;
 - b. ensure appropriate time is provided for feedback, including consideration of councils meeting cycles;
 - c. to require that adequate and long-term funding be available for an appropriate local service for the purpose of supporting health and safety, advocacy, health promotion, legal support, and community education with regards to the rights and wellbeing of sex workers.
 - d. provide additional evidence including Health Impact Statement, Economic Impact Statement, case studies and criminology assessment in regard to the proposed changes.
5. Writes to the Minister for Consumer Affairs and the shadow Minister for Consumer Affairs to advocate Council's position with a copy of that letter sent to all local members of parliament whose electorates covers Cardinia.
6. Request the CEO or delegate to coordinate with other councils and the Municipal Association of Victoria in regard to any further advocacy opportunities.

Carried

10.2 Notice of Motion 1070 - Cr Owen

Motion

That Council resolves as follows:

1. The Chief Executive Officer must ensure that Council Authorised Officers refrain from enforcing Clause 60H.1.1 of Cardinia Shire Council Local Law 17 to the extent that Clause 60H.1.1 prohibits open air fires from burning, or continuing to burn on Tuesdays, Wednesdays and Thursdays in "Burn off areas" (as defined by Clause 60A of Local Law 17). This resolution applies to conduct occurring during the period commencing 22nd November 2021 and until the commencement of the declared Fire Danger Period.
2. All other requirements of Part 5A of Local Law 17 continue to apply during this period.
3. Council notes that the purpose and intention of this resolution is to promote higher levels of fuel reduction in "Burn Off areas" in preparation for the 2021-2022 fire season.

Resolution

Moved Cr Brett Owen, seconded Cr Graeme Moore.

That Council resolves as follows:

1. The Chief Executive Officer must ensure that Council Authorised Officers refrain from enforcing Clause 60H.1.1 of Cardinia Shire Council Local Law 17 to the extent that Clause 60H.1.1 prohibits open air fires from burning, or continuing to burn on Tuesdays, Wednesdays and Thursdays in "Burn off areas" (as defined by Clause 60A of Local Law 17). This resolution applies to conduct occurring during the period commencing 22nd November 2021 and until the commencement of the declared Fire Danger Period.
2. All other requirements of Part 5A of Local Law 17 continue to apply during this period.
3. Council notes that the purpose and intention of this resolution is to promote higher levels of fuel reduction in "Burn Off areas" in preparation for the 2021-2022 fire season.

Carried

10.3 Notice of Motion 1071 - Cr Ross

Motion

That Cardinia Shire Council improves and lifts the standard of outdoor open space maintenance to the same premium level of the Pakenham Lakeside estate. This shall be done in the most prudent and time effective way possible!

Resolution

Moved Cr Collin Ross, seconded Cr Carol Ryan.

That the Chief Executive Officer provide a report regarding open space maintenance particularly considering the current wet conditions that has affected the current maintenance standard of open space areas.

Carried

11 Community Questions

The Mayor advised that Council had received 2 question from Mr Nisarg Modi, as Mr Modi was not present in the gallery the Mayor advised that his questions would not be read and answered at the meeting but a written reply would be provided.

12 Urgent Business

There was no urgent business.

13 Councillor Questions

Cr Stephanie Davies

Councillors have received unprecedented feedback and concerns regarding long grass in parks.

Has the CEO or Council received similar concerns or feedback?

The Chief Executive Officer advised that Council was certainly aware of the increased requests that Councillors had received and that Council had also received which were quite alarming and she looked forward to providing a report back to council that will not only provide an explanation of the challenges that we are facing but what the Council is doing to remedy the situation, and added that Council will not be waiting before starting action.

14 Meeting Closure

Meeting closed at 9.23PM.

Minutes confirmed
Chairman