

Town Planning Committee Meeting

Minutes

Monday 4 July 2022

Commenced at 7:00 PM

Council Chambers
20 Siding Avenue, Officer
Victoria

Members: Cr Jeff Springfield Mayor
Cr Tammy Radford Deputy Mayor
Cr Kaye Cameron
Cr Stephanie Davies
Cr Jack Kowarzik
Cr Graeme Moore
Cr Collin Ross
Cr Brett Owen
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
Jack Coogan Governance Officer

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1 Opening And Prayer

Meeting opened at 7:00 pm.

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

Cr Davies and Cr Ryan were apologies for the meeting.

4 Declaration Of Interests

Nil.

5 Ordinary Business

5.1 T210321 PA - Use and development of the land for a dwelling and animal husbandry

Responsible GM: Lilli Rosic
Author: Mary Rush

Recommendation:

It is recommended that a Refusal to Grant Planning Permit T210321 be issued for the use and development of the land for a dwelling and animal husbandry at L1 TP248324 V5206 F037, 145 Carses Road, Iona on the following grounds:

- The proposal is contrary to the strategic directions of state and local policy, including Clauses 14.01-1S - Protection of agricultural land, 21.04-2 - Agriculture and 22.05 - Western Port Green Wedge Policy
- The proposal is inconsistent with relevant purposes and decision guidelines of the Special Use Zone - Schedule 1
- The proposal is inconsistent with the relevant provisions of Clause 51.02 - Metropolitan Green Wedge Land: Core Planning Provisions.

Attachments

1. CONFIDENTIAL - T 210321 PA - Copies of Objections [5.1.1 - 4 pages]
2. T 210321 PA - Documents for Assessment - Redacted [5.1.2 - 44 pages]
3. T 210321 PA - Locality Map [5.1.3 - 1 page]

Executive Summary

This application was initially listed for consideration by the Town Planning Committee at its meeting held on 2 May 2022.

At that meeting it was resolved:

That this application be deferred for further consideration at the Town Planning Committee meeting to be held on 6 June to allow further discussion and provision of additional information for consideration by the planners and council.

This application was not submitted to the June Town Planning Committee as no contact had been made by the applicants and no additional information had been provided, this is still the situation.

The application is now resubmitted to the Committee to resolve on the application.

Application no.:	T210321
Applicant:	MASS Construction & Consulting
Land:	145 Carse's Road, Iona
Proposal:	Use and development of the land for a dwelling and animal husbandry
Planning controls:	Special Use Zone Schedule 1 Land Subject to Inundation Overlay
Notification & objections:	Pursuant to Section 52 of the <i>Planning and Environment Act 1987</i> , the application was advertised by the placing of one (1) sign on site and notices in the mail to 8 property owners within the vicinity potentially affected by the proposal. Two objections have been received.
Key planning considerations:	Appropriateness of land use Protection of agricultural land
Recommendation:	Refusal

Background

The land has been used for a combination of cattle grazing and hay production since being purchased by the current owners in 2018. For approximately 30 years prior to this the land was used for potato production.

A planning permit (T190433) for the development of the land for a shed to be used in conjunction with the agricultural use of the land was issued on 11 November 2019.

Subject Site



The subject allotment is an 18.3 hectare square-shaped site located in the north western junction of Mynard Road and Carse's Road.

The topography is flat and devoid of vegetation (trees) apart from some scattered specimens parallel to the Mynard Road boundary. There are no easements registered on the land, or in the vicinity.

The land is currently vacant of built form, with the exception of a hay shed and stockyard in the south-east corner. The land is used for agriculture.

The main characteristics of the surrounding area are:

<ul style="list-style-type: none"> ■ North 	<ul style="list-style-type: none"> ■ Abuts a 20 hectare similarly zoned allotment, which is undeveloped.
<ul style="list-style-type: none"> ■ East 	<ul style="list-style-type: none"> ■ Adjacent to Careses Road and Sidebottoms Rd Drain. Further east is No. 375 Careses road, a similarly sized and zoned allotment.
<ul style="list-style-type: none"> ■ South 	<ul style="list-style-type: none"> ■ Adjacent to Number Seven Yallock Drain. Further south is no. 95 Careses road, a 23 hectare similarly zoned allotment, featuring a dwelling.
<ul style="list-style-type: none"> ■ West 	<ul style="list-style-type: none"> ■ Abuts No. 170 Pitt Road, a 19 hectare similarly zoned allotment, which is undeveloped.

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 received for the use and development of the land for a dwelling and animal husbandry.

The proposed dwelling measures 25.8 metres by 17 metres and has a gable 'Colourbond' roof with a maximum height of 5 metres. The dwelling includes 4 bedrooms, study, kitchen, family room with the usual amenities.

The dwelling will be clad in weatherboard with external covered verandahs surrounding the dwelling.

The dwelling will be located 145 metres from the front boundary (Careses Road), 120 metres from the southern boundary and greater distances from all other boundaries.

The proposed building associated with agriculture measures 20 metres by 12 metres with a gable roof with a maximum height of 5.4 metres. The building will be located 150 metres from Careses Rd, 85 metres from the southern boundary and greater distances to all other boundaries.

The land is also proposed to be used for animal husbandry (combination of cattle breeding/grazing and the keeping, and breeding of racehorses).

An indicative layout of the property indicates that approximately half of the property is to be used for grazing and the other half is to be fenced into individual yards for keeping of racehorses with individual shelters.

The applicant has indicated that the site has a bore which can easily supply 500,000 litres of water.



Planning Scheme Provisions

Planning Policy Framework

The relevant clauses of the PPF are:

- 11.01-1R Green wedges - Metropolitan Melbourne
- 13.03-1S Floodplain management
- 14.01-1S Protection of agricultural land
- 14.01-1R Protection of agricultural land – Metropolitan Melbourne
- 16.01-3S Rural residential development

Local Planning Policy Framework (LPPF)

The relevant clauses of the MPS are:

- 21.01-3 Key issues
- 21.01-4 Strategic vision
- 21.03-5 Rural residential and rural living development
- 21.04-2 Agriculture
- 22.05 Western Port Green Wedge Policy

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 51.02 Metropolitan Green Wedge Land: Core Planning Provisions
- Clause 65 Decision Guidelines
- Clause 66 Referral and Notice Provisions
- Cardinia Western Port Green Wedge. Management Plan

Planning Permit Triggers

- Pursuant to Clause 37.01-1 (Special Use Zone – Schedule 1), a planning permit is required to use the land for a dwelling and animal husbandry.
- Pursuant to Clause 37.01-4 (Special Use Zone – Schedule 1), a planning permit is required to construct a building or construct or carry out works.
- Pursuant to Clause 44.04-2 (Land Subject to Inundation Overlay), a planning permit is required to construct a building or to construct or carry out works.

Public Notification

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by:

- Sending notices to the owners and occupiers of adjoining and nearby land; and
- Placing a sign on site.
- A total of nine (9) nearby owners/occupants received notice of the application by mail.

The notification has been carried out correctly, and Council has received two (2) objections.

The grounds of objection include:

1. The proposal is inconsistent with the intent, purposes and decision guidelines of the SUZ1.
2. Inadequate notification of the application;
3. Inadequate farm management plan

Referrals

The application was referred to Melbourne Water who raised no objections subject to permit conditions.

Discussion

Clause 37.01 (Special Use Zone – Schedule 1)

The Site is within the Special Use Zone – Schedule 1. The zone was specifically established within an area of the Koo Wee Rup Swamp that contains soil recognised as being of high quality, making it agricultural land of state significance.

This highly productive agricultural and horticultural area plays a vital role in providing food for Victoria's population and food security. As such, the purposes of the Special Use Zone – Schedule 1 are:

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

The following decision guidelines of the Special Use Zone – Schedule 1 have been considered:

- Whether the dwelling is reasonably required for the operation of the rural activity being conducted on the land.
- Whether the use, building, works or subdivision will be detrimental to the horticultural significance of the area.
- Whether the use utilises the high quality soils for horticultural or agricultural pursuits.
- The impact of the use, building, works or subdivision on the character and appearance of the area.
- Whether the site is suitable for the use, building, works or subdivision and the compatibility of the proposal with adjoining and nearby farming and other land uses.
- The Land Capability Study for the Cardinia Shire (February 1997).
- Whether the land is liable to flooding and any advice received from Melbourne Water.

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

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

An application to use and develop the land for a dwelling in the Special Use Zone – Schedule 1 must establish that the dwelling is reasonably required to operate a rural activity on the land itself. This burden is placed on applicants to prevent the incremental loss of agricultural land by the encroachment of rural residential development and other incompatible uses.

The use of the land for animal husbandry does not justify a dwelling to be constructed on the land. There are many VCAT cases which find that this type of use does not justify a dwelling.

See, e.g., Noonan v Mount Alexander SC [2017] VCAT 412 (22 March 2017), *Milan v Macedon Ranges SC* [2014] VCAT 717 (16 June 2014), *Mischkulnig v Moyne SC* [2013] VCAT 2110 (17 December 2013), *Zobec v Campaspe SC* [2013] VCAT 1830 (29 October 2013), *Andrews v Hepburn SC & Anor* [2013] VCAT 408 (5 April 2013), *Strachan v LaTrobe CC* [2012] VCAT 414 (12 April 2012), *Panter & Ors v Mt Alexander SC* [2012] VCAT 248 (6 March 2012), *Rehn v Mitchell SC* [2011] VCAT 229 (18 February 2011), *Nicholas v South Gippsland SC* [2009] VCAT 1470 (30 July 2009), *Stone v Colac Otway SC* [2009] VCAT 2251 (23 October 2009), *Gippsland Coastal Board v South Gippsland SC & Ors (No 2)* (Red Dot) [2008] VCAT 1545 (29 July 2008), *Awty v Greater Bendigo CC* [2008] VCAT 14 (16 January 2008), *Pratt v Greater Geelong CC* [2006] VCAT 2654 (20 December 2006).

Whilst it could be argued that a dwelling is required on the land to supervise valuable racehorses, it is Council's opinion that this type of animal husbandry should not be allowed to establish on land with high quality soils which policy says should be used for soil-based agriculture i.e. growing crops in the ground.

The keeping and breeding of racehorses/performance horses can be established on much poorer soils as the majority of the animal's food source comes from supplementary feeding, not from grazing.

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

The use of the land for non-soil based agriculture will be detrimental to the horticultural significance of the area for several reasons.

The use and development of land for a dwelling is a section 2 use (permit required). The dwelling is proposed to be located toward the centre of the site which wastes land for access to the dwelling and reduces the available land for agricultural use.

The presence of dwellings can impact the viability of farming on adjoining land due to offsite amenity impacts associated with agriculture such as noise, and drifting of agricultural sprays and fertilisers. The presence of a dwelling on adjoining land can limit suitable times for spraying and fertilising due to the impacts of wind causing drifts onto adjoining land which can impact residents of the dwelling.

The applicant proposes to use the land for cattle grazing and breeding/keeping of horses. Both uses fall within the definition of animal husbandry and are a section 2 permit required use.

The definition of animal husbandry is:

- Land used to keep, breed, board, or train animals, including birds.

The current application proposes to use approximately half of the land for cattle grazing and half for horse keeping/breeding.

The use of the land for animal husbandry does not utilise the high-quality soils to their highest capacity i.e. growing crops in the ground. Both of these uses proposed can be carried out on much poorer soils.

The immediate result will be a loss of agricultural production and a corresponding reduction in the horticultural significance of the area.

If no dwelling is permitted on the land, there is a high likelihood that the land would continue to be used for soil-based agriculture. This would have a direct flow on effect in the value of the land as the ability to build a dwelling has the immediate effect of increasing the value of the land. If no dwelling is possible, it is likely that the land value will drop and enable existing farmers to increase their landholdings. This would assist with the maintenance of soil-based agricultural production in the future, with a positive impact on the horticultural significance of the area and rural economy.

On the contrary, supporting a dwelling on the land will reduce the productivity of the land given that it is associated with a non-soil based agriculture and only half of the land is proposed to be used for cattle grazing, with the use of the land for breeding/keeping of racehorses not adding to food production.

Both the use and development of the land for a dwelling and animal husbandry will result in the loss of agricultural productivity with no soil-based agriculture being proposed.

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

The subject site has good quality soils which can sustain intensive agricultural production. Prior to the current owners, the land was used for potato production for approximately 30 years.

The proposed use i.e. animal husbandry (racehorses and cattle) does not constitute soil based agriculture. Racehorses do not add to agricultural productivity in terms of food production and cattle grazing underutilises the high-quality soils which can be better used for food production.

As discussed earlier the dwelling is located towards the centre of the property which wastes agricultural land creating a long accessway to the dwelling.

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

The use of the land for the keeping/breeding of racehorses is an intensive use that is likely to result in soil degradation and contaminated runoff from the land into the adjacent Number 7 Yallock Drain.

Horses produce nutrient-rich waste that can cause problems if chemicals and microorganisms leach into the soil and groundwater or run off into water courses. Inappropriate siting and inadequate management practices of horse keepers may pose a significant threat to land and water resource quality and the environment. The submitted farm management plan does not propose any cut off drains or any other methods to stop contaminated runoff entering the adjoining drain.

There are agricultural producers within the vicinity of the subject site that have water licences from Number 7 Drain. The proposed use has the potential to contaminate the drain water that can directly impact food production.

As raised previously, the presence of a dwelling can impact the ability of adjoining farmers to carry out their normal practices due to weather conditions which are unpredictable.

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

As identified above, the proposal has an immediate impact on the agricultural productivity of the land with a domestic area associated with the dwelling being removed from production. There is also no effective method of ensuring that the land will continue to be used for agriculture and there is a great risk that it will not be used for its maximum agricultural potential. Full time farmers are aware and understand appropriate management practices as they have a direct link to productivity.

The application proposes to fence approximately 20 yards with an area of around 1300m², 3 of 25002 and 9 of 3400m² which constitutes approximately half of the site.

These yards will likely be overgrazed given the small area allocated to each yard. Soil compaction and overgrazing are likely to result in erosion of topsoil by wind and rain.

Overgrazing of small paddock is very common on horse properties as horses graze continuously.

It is considered that the current proposal is not consistent with this study and will contribute towards land degradation in an area of agricultural importance. Further discussion regarding agriculturally significant land is below.

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

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

Consideration of objections

1. The proposal is inconsistent with the intent, purposes, and decision guidelines of the SUZ1

Both objections raise concerns over the application being inconsistent with the Special Use Zone. Considering the discussion above, Council officers concurs with this ground of objection.

2. Inadequate notification of the application

The application was advertised in accordance with the requirements of the *Planning and Environment Act 1987* and relevant privacy laws. Private information has been redacted from the advertising documents online as required by privacy laws, and the applicant was advised that they could view full application documents in person at Council's offices.

3. Inadequate farm management plan

An objector has raised concern regarding the content of the submitted farm management plan.

The plan is sufficient for Council to assess the extent of the proposed animal husbandry uses proposed on the land.

Protection of agricultural land: state and local policies

Development pressure from Melbourne's expanding population has increasingly threatened agricultural land in the Shire. In response, the State Government and Council have adopted and strengthened policies relating to the preservation of agricultural land.

Clauses 14.01-1S (Protection of agricultural land) and 14.01-1R (Protection of agricultural land – Metropolitan Melbourne)

Clauses 14.01-1S (Protection of agricultural land) and 14.01-1R (Protection of agricultural land – Metropolitan Melbourne) have objectives and strategies that seek to protect and support areas of agricultural production.

The objective of Clause 14.01-1S (Protection of agricultural land) is to protect the state's agricultural base by preserving productive farmland. Key strategies in this policy are:

- Limit new housing development in rural areas by:
 - Directing housing growth into existing settlements,

- Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses, and
- Encouraging consolidation of existing isolated small lots in rural zones.
- Give priority to the re-structure of inappropriate subdivisions where they exist on productive agricultural land.
- Protect strategically important agricultural and primary production land from incompatible uses.
- Protect productive agricultural land from unplanned loss due to permanent changes in land use.

Additionally, Clause 14.01-1R aims to protect agricultural land in Metropolitan Melbourne's green wedges and peri-urban areas to avoid the permanent loss of agricultural land in those locations.

The proposal is contrary to policies related to agriculture as it seeks to establish two uses, of a dwelling and animal husbandry, which do not need or utilise the high quality soils.

Clauses 21.01-3 and 21.03-4 (Key Issues and Strategic Vision)

Clause 21.01 Cardinia Shire key issues and strategic vision identifies Western Port as a major landscape feature and that a key influence within the Shire is urban growth, including urban pressures on the rural hinterland and management of green wedge areas. The following relevant key issues are identified:

- The protection of the Koo Wee Rup swamp area which contains important groundwater reserves and horticultural soils in the Western Port basin.
- The management of urban growth, including urban pressures on the rural hinterland.
- The protection and sustainable use of agricultural land.

The proposed use and development raise conflict with these key issues because it will result in the degradation and loss of agricultural land in the Koo Wee Rup Swamp area.

Clause 21.04-2 (Agriculture)

Clause 21.04-2 (Agriculture) provides local content to support Clause 14.01 of the Planning Policy Framework. The objective of Clause 21.04-2 is to maintain agriculture as a strong and sustainable economic activity within the municipality.

Several strategies give effect to the policy's objective:

- Protect agricultural land, particularly areas of high quality soils, from the intrusion of urban uses, inappropriate development and fragmentation which would lead to a reduction in agricultural viability, the erosion of the right of farmers to farm land, and ultimately the loss of land from agricultural production.
- Recognise the growing demand for food, both domestically and internationally, and capitalise on opportunities to export fresh produce and processed food products.
- Provide for the restructuring of lots in agricultural areas to reduce the impact of old and inappropriate subdivisions on the agricultural viability of the area.
- Ensure the use or development, including subdivision, of agricultural land takes into consideration land capability.

The proposed use and development are unconnected to any soil based agricultural activity on the site and will further fragment crucial agricultural land, which will lead to a reduction in

agricultural viability on the subject site and within the surrounding vicinity. Establishing a residential use will remove this land from the Shire's agricultural base.

Development pressure from Melbourne's expanding population has increasingly threatened agricultural land in the Shire. In response, amendments to Clause 21.04-2 and the introduction of Clause 22.05 recognise that protecting key agricultural land is more vital than ever to ensure Victoria's food security.

Clause 22.05 - Western Port Green Wedge Policy and Westernport Green Wedge Management Plan

The proposal is inconsistent with Clause 22.05 (Western Port Green Wedge Policy). Amendment C215 introduced this policy on 10 August 2017 to provide guidance in relation to the protection and management of the Western Port Green Wedge. A key vision contained in Clause 22.05 provides:

The Cardinia Western Port Green Wedge will be a permanent green and rural area. It will remain an internationally significant biodiversity habitat, while also strengthening its agricultural and horticultural role to become a truly innovative and productive farming district. Agriculture, horticulture and soil based food production for the long-term food security of Victoria is at the heart of this vision.

The relevant objectives of this Clause are:

- To give effect to Council's vision for the Cardinia Western Port Green Wedge.
- To ensure that land uses are carefully located and managed to be consistent with the vision for the Cardinia Western Port Green Wedge.

Further, relevant policies include that all use and development within the green wedge should:

- Ensure that green wedge soils and their versatility are recognised as a finite resource and are protected accordingly.
- Maintain and protect the highly productive agricultural land from incompatible uses including non-soil based farming.
- Provide for the restructuring of lots in agricultural areas to reduce the impact of old and inappropriate subdivisions on the economic agricultural viability of the area.
- Minimise the risk of flooding which impacts on agricultural activities in the Koo Wee Rup Flood Protection District.

To provide further guidance, Clause 22.05 introduced the Cardinia Western Port Green Wedge Management Plan (the 'Plan') as a reference document. The Plan provides a strategic planning framework that enables Council to take advantage of opportunities and proactively attend to challenges occurring in the Cardinia Western Port Green Wedge over the next 20 years. It recognises Western Port's key attributes, including its environment, established agriculture industry and, rich agricultural soils.

The Plan divides Western Port into three precincts, with the subject site being within Precinct 1 – Agriculture, horticulture and soil based food production. The vision for Precinct 1 is for to be a hub of agriculture, horticulture and soil-based food production that takes advantage of its highly versatile soils, vegetable production (in particular asparagus), dairy and beef farming, other agricultural pursuits, potential access to Class A recycled water and the important role this precinct plays in food security. As stated in the Plan, the area contained within the Special Use Zone – Schedule 1 now produces nearly 90 percent of Australia's asparagus crop. Dairy farming occurs within the area due to the high quality soil and the ability to grow fodder all year round.

The proposed use and development are inconsistent with Clause 22.05. The proposed uses will reduce the agricultural productivity of the land by removing 18 hectares of productive soil based agriculture. The uses are considered to be inconsistent with agricultural and soil based food production, and are therefore considered to be detrimental to the horticultural significance of the area.

Other relevant considerations

Clause 13.03-1S (Floodplain management)

The objective of Clause 13.03-1S is to assist the protection of (1) life, property and community infrastructure from flood hazard, (2) the natural flood carrying capacity of rivers, streams and floodways, (3) the flood storage function of floodplains and waterways, and (4) floodplain areas of environmental significance or of importance to river health. A key strategy is to avoid intensifying the impact of flooding through inappropriately located use and development.

The property is located within the Koo Wee Rup Flood Protection District and is subject to flooding. In accordance with the Land Subject to Inundation Overlay, the susceptibility of the development to flooding and flood damage has been considered. With adequate construction measures implemented, the proposed development can appropriately address these concerns.

Clause 44.04 (Land Subject to Inundation Overlay)

The proposal is consistent with the provisions of the Land Subject to Inundation Overlay. This overlay identifies land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority, and seeks to ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

A permit is required for buildings and works on land affected by the Land Subject to Inundation Overlay, and the relevant decision guidelines include:

- Any comments from the relevant floodplain management authority;
- The existing use and development of the land;
- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay; and
- The susceptibility of the development to flooding and flood damage.

The Application was referred to Melbourne Water, which had no objection subject to the following conditions:

- The dwelling must be constructed with finished floor levels set no lower than 900mm above the natural ground level, which is 600mm above the applicable flood level being 300mm above natural ground level.
- The garage must be constructed with finished floor levels set no lower than 600mm above the applicable flood level, being 300mm above natural ground level.
- The buildings must be constructed on a fill pad that extends a minimum of 5 metres from the building and minimum 150mm above the applicable flood level, which is 300mm above the natural ground level.

With the conditions above satisfied, appropriate measures to manage and mitigate flood risk can be implemented during the construction stage of the development.

Clause 51.02 (Metropolitan Green Wedge Land: Core Planning Provisions)

The proposal is contrary to the purposes of Clause 51.02 (Metropolitan Green Wedge Land: Core Planning Provisions). The relevant purposes within this particular provision are: (1) To protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values, and (2) To protect productive agricultural land from incompatible uses and development.

As discussed above, the proposed uses would result in loss of agricultural land in a horticulturally significant area. Both the dwelling and racehorse/breeding training are incompatible with agriculture because the developments would not only result in this loss, but it would also introduce myriad amenity conflicts with nearby farming enterprises. Therefore, the Application is inconsistent with Clause 51.02.

Conclusion

The proposed use and developments are considered to be inconsistent with the provisions of the Cardinia Planning Scheme and should not be supported on the following grounds:

- The proposal is contrary to the strategic directions of Clauses 14.01-1S - Protection of agricultural land, 21.04-2 - Agriculture and 22.05 - Western Port Green Wedge Policy
- The proposal is inconsistent with relevant purposes and decision guidelines of the Special Use Zone - Schedule 1
- The proposal is inconsistent with the relevant provisions of Clause 51.02 - Metropolitan Green Wedge Land: Core Planning Provisions

Resolution

Moved Cr Kaye Cameron, seconded Cr Collin Ross.

That this application be further deferred for further consideration at the Town Planning Committee meeting to be held on 1 August to allow further discussion and provision of additional information for consideration by the planners and council.

Carried

5.2 Planning Matters VCAT Report

Responsible GM: Lili Rosic
Author: Jason Gilbert

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 and recent decisions from the Victorian Civil and Administrative Tribunal (VCAT).

Relevance to Council Plan

5.1 We practise responsible leadership

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

Applications Recently Lodged at VCAT

Hearing Date	Permit No.	Address	Proposal	Council Decision	Appealed By	Outcome	Decision Date
13/12/22	T190126	35 McDonalds Track, Lang Lang	Multi-lot subdivision, creation of access to a Road Zone Category 1 and the creation of a reserves	Permit	TBD	Awaiting hearing	2 May 2022

Matters Recently Decided at VCAT

Hearing Date	Permit No.	Address	Proposal	Council Decision	Appealed By	Outcome	Decision Date
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	Refusal affirmed – no permit issued.	2 May 2022

Matters Currently the Subject of VCAT Appeal

Hearing Date	Permit No.	Address	Proposal	Council Decision	Appealed By	Outcome	Decision Date
22/08/22	T210338	Warehouse 1/9 Southeast Boulevard, PAKENHAM VIC 3810	Use of the land for a food and drink premises, manufacturing sales and the sale and consumption of liquor (producer's licence) in association with industry (micro-brewery) and a reduction of car parking requirements	N/A	Applicant	Awaiting hearing	
27/07/22	T210005	150 Settlement Road, Caldermeade	Use and development of the land for Domestic Animal Husbandry (Dog Breeding)	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 determination	

Resolution

Moved Cr Graeme Moore, seconded Cr Jack Kowarzik.

That Council note the report.

Carried

5.3 Planning Matters Dealt with by Officers Under Delegated Authority

Responsible GM: Lili Rosic
Author: Jason Gilbert

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

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

Resolution

Moved Cr Graeme Moore, seconded Cr Jack Kowarzik.

That Council note the report.

Carried

5.4 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.

Resolution

Moved Cr Graeme Moore, seconded Cr Jack Kowarzik.

That Council note the report.

Carried

6 Meeting Closure

Meeting closed at 7:05pm.

Minutes confirmed
Chairman