

Town Planning Committee Meeting

Minutes

Monday 6 February 2023

Commenced at 7:00 PM

Council Chambers
20 Siding Avenue, Officer
Victoria

Members:	Cr Tammy Radford	Mayor
	Cr Jack Kowarzik	Deputy Mayor
	Cr Kaye Cameron	
	Cr Stephanie Davies	
	Cr Jeff Springfield	
	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

Order of Business

1 Opening And Prayer	3
2 Acknowledgements	3
3 Apologies	3
4 Declaration Of Interests	3
5 Ordinary Business.....	4
5.1 T220274 PA - Buildings And Works (Earthworks) For A Pond - 10 Craik Road, Beaconsfield Upper	4
5.2 T210561 PA - Use And Development Of The Land For A Dwelling And Outbuilding And The Removal Of Vegetation At 31 Walford Road, Beaconsfield Upper	24
5.3 Planning Matters Dealt With By Officers Under Delegated Authority.....	52
5.4 Planning Matters VCAT Report.....	66
5.5 Planning Scheme Amendment Activity Report	70

1 Opening And Prayer

Meeting opened at 7:00pm.

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.

4 Declaration Of Interests

Nil.

5 Ordinary Business

5.1 T220274 PA - Buildings and Works (Earthworks) for a Pond - 10 Craik Road, Beaconsfield Upper

Responsible GM: Lili Rosic
Author: Hamish Mival

Recommendation(s)

That Council grant Planning Permit T220274 for Buildings and Works (Earthworks) for a Pond at Lot 2 on PS448079, 10 Craik Road, Beaconsfield Upper, VIC 3808, subject to the following conditions:

Amended plans required

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) Contours on property to Australian Height Datum (AHD).
 - b) Setbacks from all boundaries.
 - c) Cross-sections of pond from all four sides.
 - d) Method of construction.
 - e) Geo-textile liner and details of liner to be clearly shown on cross-sections/elevations.

Landscaping

2. Before the development starts, a Landscape Plan must be submitted to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must show:
 - a) All slopes that will be excavated or filled as part of this application, which are to be planted with indigenous plants.
 - b) A list of indigenous plant species to be used, and the name of the indigenous nursery where plants will sourced from. Plantings must include a range of indigenous trees, shrubs and grasses.
 - c) Plant densities, which must be generally in accordance with *DSE Native Vegetation Revegetation Planting Standards (2006)*.
 - d) Actions and timing of all planting preparation and follow up maintenance works including tree guards and mulch.
3. Within three (3) months of the completion of the development, all works associated with the Landscape Plan must be completed to the satisfaction of the Responsible Authority, with photographic evidence submitted to Council.
4. The landscaping shown on the Landscape Plan 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.

Layout not altered

5. The layout and size of the proposed pond, as shown on the endorsed plans, must not be altered or modified without the written consent of the Responsible Authority.

Satisfactory completion

6. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Engineering

7. The pond must be sited and constructed to prevent damage or detriment to adjoining properties from the discharge of water from the pond.
8. Any topsoil on the pond site must be stripped and stockpiled for spreading on all disturbed ground above the full supply level.
9. No excavated material may be removed from the pond site without the written approval of the Responsible Authority.

General amenity provision – construction works

10. The works associated with the construction of the development must not detrimentally affect the amenity of the area, through the:
 - a) Transport of materials, goods or commodities to or from the land.
 - b) Inappropriate storage of any works or construction materials.
 - c) Hours of construction activity.
 - d) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste and storm water runoff, waste products, grit or oil.
 - e) Presence of vermin.

Existing Sewerage Disposal

11. The works must not disturb or interfere with the existing sewerage disposal system on the property. If the location of the existing sewerage disposal system needs to be varied, then approval must be obtained from the Responsible Authority.

Minimal soil erosion

12. 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.

Attachments

1. Assessed Plans [5.1.1 - 4 pages]
2. CONFIDENTIAL - Copy of Objection 1 - Confidential [5.1.2 - 1 page]
3. CONFIDENTIAL - Copy of Objection 2 - Confidential [5.1.3 - 1 page]
4. CONFIDENTIAL - Copy of Objection 3 - Confidential [5.1.4 - 1 page]
5. CONFIDENTIAL - Copy of Objection 4 - Confidential [5.1.5 - 1 page]

Executive Summary

APPLICATION NO.:	T220274
APPLICANT:	Mr Peter Li
LAND:	Lot 2 PS448079, 10 Craik Road, Beaconsfield Upper, VIC 3808
PROPOSAL:	Buildings and Works (Earthworks) for a Pond
PLANNING CONTROLS:	Green Wedge A Zone – Schedule 2 Environmental Significance Overlay – Schedule 1 Bushfire Management Overlay
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the <i>Planning and Environment Act 1987</i> , by sending notices to the owners and occupiers of adjoining land. Four (4) objections were received.
KEY PLANNING CONSIDERATIONS:	Potential for adverse impact on surrounding land The capability of the land to accommodate the proposed development Potential for environmental impact
RECOMMENDATION:	Planning Permit

Background

Outside of this current application, there are numerous Planning Permits and Applications related to the land, these being:

- Planning Permit T070227 a – 1 (Issued 4 October 2007) (Expired) – *The use and development of the land for a dwelling, garage and shed and associated earthworks (exceeding one metre)*
- Planning Permit T070227 b – 2 (Issued 9 March 2011) (Expired) – *The use and development of the land for a dwelling, garage and associated earthworks (exceeding one metre), generally in accordance with the approved plan/s*
- Application T120232 (Refused 22 May 2011) – *Use and development of the land for a rural store*
- Planning Permit T130419 (Issued 18 October 2013) – *Use and development of the land for a dwelling exceeding seven (7) metres in height, outbuilding and associated earthworks exceeding one (1) metre*
- Planning Permit T130699 (Issued 19 March 2014) – *Development of the land for earthworks (retrospective permit)*

- Application T160420 (Lapsed 25 January 2017) – *Development of the land for a carport*

Also relating to the site is its original subdivision as below:

- Planning Permit T970608 (Issued 6 April 1998) – *Subdivision* (One into four lots)
- Planning Permit T970608A – 1 (Issued 16 July 1998) – *Approve Amended Plans*

Subject Site

The subject site is located on the north side of Craik Road in Beaconsfield Upper and borders a Council reserve to the west. It is 2.02ha in size and generally of a rectangular shape.

Access to the site is via a crossover from Craik Road to the south. Craik Road is a cul-de-sac, with the crossover into the subject site being the last on the street. A path leads from this dead end into the reserve down the slope, along the southern boundary of the subject site. The lot is one of four within a previous subdivision.

The site currently contains a dwelling and some small outbuildings located towards the south-east corner of the land. The majority of the lot is cleared, with some remnant vegetation roughly in the centre of the lot. The location of the proposal is completely clear of any vegetation.

The lot slopes down towards to the west/north-west. This slope leads down into a gully within Harris Reserve. The land slopes back up on the other side of the reserve further to the west, with an older residential subdivision occupying this slope.

To the north is 9A Sugarloaf Road, Lot 3 within the same subdivision. It also contains a dwelling and is mostly cleared of vegetation. To the east is 9 Sugarloaf Road (Lot 1), similarly containing a dwelling. Roughly half of this lot is cleared of remnant vegetation. To the South is Craik Road, and beyond a continuation of the reserve to the west. There is also a large pond within this reserve, directly due south from the proposed pond.

Aerial imagery suggests a pond may have already been created in the chosen location, making this a retrospective permit application.



Relevance to Council Plan

3.1 We value our natural assets and support our biodiversity to thrive

3.1.3 Work with community to improve and manage our natural assets, biodiversity and cultural heritage.

5.1 We practise responsible leadership **5.1.1 Build trust through meaningful community engagement and transparent decision-making.**

Proposal

The proposal is for earthworks to create a rectangular pond. The pond is to be 8m wide and 9m long. It is to have a maximum depth of 600mm. While the lot has a general north-westerly slope, the chosen location of the pond remains somewhat level east to west, sloping down to the north. The pond will be located 10m off the western boundary.

The pond will have a geotextile liner installed. Vegetation planting is proposed surrounding the pond, although no plans have been provided. No filtration system or retaining wall is proposed.

Planning Scheme Provisions

The relevant Clauses of the Planning Policy Framework (PPF) are:

- Clause 11.01-1R – Green wedges – Metropolitan Melbourne
- Clause 12.03-1S – River and riparian corridors, waterways, lakes, wetlands and billabongs
- Clause 12.05-1S – Environmentally sensitive areas
- Clause 13.04-2S – Erosion and landslip
- Clause 14.02-1S – Catchment planning and management
- Clause 14.02-2S – Water quality

The relevant Clause of the Local Planning Policy Framework (LPPF) are:

- Clause 21.02-1 – Catchment and coastal management
- Clause 21.02-3 – Biodiversity
- Clause 21.07-4 – Upper Beaconsfield

Relevant Particular/General Provisions and relevant incorporated or reference documents:

The relevant provisions/documents are:

- Clause 65 Decision Guidelines
- Clause 71.02-3 – Integrated decision making
- Upper Beaconsfield Township Strategy, 2009 (incorporated document)

Planning Permit Triggers

- Pursuant to Clause 35.05-5 of the Green Wedge A Zone (GWAZ) a Planning Permit is required for earthworks which change the rate of flow or the discharge point of water across a property boundary

Public Notification

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

- Sending notices to the owners and occupiers of adjoining land.

The notification has been carried out correctly, and Council has received four (4) objections to date. These are discussed later in this report.

Referrals

Referrals/ Notice	Referral Authority	Brief summary of response
Section 55 Referrals	None	N/A
Section 52 Referrals	Melbourne Water	No objection received.
Internal Referrals	Engineering	No objection, subject to conditions. The department made the following comments: “The land naturally falls towards the adjacent Council reserve, which is predominantly for drainage purposes. The proposed small pond, when full, will still naturally overflow into this reserve. The drainage reserve captures a large catchment in addition to the overland flows from the subject land, therefore any retention of

		<p>water in this proposed small pond will have minimal, or no, impact on the drainage reserve.”</p> <p>Conditions including:</p> <ol style="list-style-type: none"> 1. Submission of amended plans showing consistent dimensions, cross-sections of the proposed pond, and method of construction. 2. Various standard conditions
	Environment	No objection, subject to conditions.

Discussion

The application is for Buildings and Works (Earthworks) for a Pond, which requires a planning permit under the provisions of the Green Wedge A Zone.

The key considerations of this application relate to:

- The relevant policies of the Planning Policy Framework and the Local Planning Policy Framework
- The purpose, objectives and decision guidelines of the Green Wedge A Zone
- The decision guidelines of Clause 65.

Planning Policy Framework and Local Planning Policy

The landscape significance of the area is relatively high, with undulating land characterised by unique views, significant areas of remnant vegetation, and habitats of botanical and zoological significance. However, the proposed earthworks are minor in size, roughly the length and width of a swimming pool, which are common in the surrounding area and do not regularly require a planning permit. The depth will also be less deep than the average swimming pool.

As the earthworks constitute entirely of excavation with no fill, to then be filled with water, the impact on the landscape character of the area will be low. To address visual amenity concerns, a condition will be attached to the permit requiring a Revegetation/landscape plan at the request of Council’s Environment department. The proposal therefore complies with Clause 11.01-R Green wedges, and Clause 12.05-1S Environmentally sensitive areas.

As Harris Reserve to the west is designed for drainage purposes and capable of carrying and draining large amounts of water, the potential for additional retained water within the proposed pond to impact on overland flow is low. A referral to Council’s Engineering department has been undertaken, with no objection subject to conditions that will be imposed on any planning permit. Further details on their response are provided above. Therefore, the proposal complies with Clause 12.03-1S (Water Bodies and Wetlands) and Clause 14.02-1S Catchment planning and management.

Impact on erosion and sediment run-off is considered to be minor, with a geo-textile liner proposed to be installed and vegetation to surround the pond. Plans also indicate that the earthworks will be sited away from the existing effluent envelope on site. The proposal therefore complies with Clause 13.04-2S Erosion and landslip, Clause 14.02-2S Water quality and Clause 21.02-1 Catchment and coastal management.

Clause 35.05 - Green Wedge A Zone – Schedule 2

The purpose of the Green Wedge A Zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To protect, conserve and enhance the biodiversity, natural resources, scenic landscapes and heritage values of the area.
- To ensure that use and development promotes sustainable land management practices and infrastructure provision.
- To protect, conserve and enhance the cultural heritage significance and the character of rural and scenic non-urban landscapes.
- To recognise and protect the amenity of existing rural living areas.

The zone presents various decision guidelines, which are assessed below as appropriate:

General Issues

The site is identified within the *Land Capability Study of Cardinia, 1997* as having poor soil quality for most uses. On balance, this does not preclude the proposed development, with only a maximum of 600mm cut proposed along with a geo-textile liner. The land is deemed capable of accommodating this.

As noted above, the proposal will have a minimal impact on the landscape character of the area. The addition of new plantings will help to alleviate any impact, and contribute positively. Potential impact on amenity of neighbouring residents will be addressed below in a response to objections.

Rural Issues

The land is presently used for a dwelling and is poorly suited to agriculture. The proposal takes up a small footprint, and could be feasibly removed and remediated if required. In either instance, the land and that surrounding it is not used for agriculture, with the site bordering the more densely populated Beaconsfield Upper township, and so the development of the land for other purposes should be reasonably expected. The land has already been approved for a dwelling, and so appropriate development ancillary to this established use is an acceptable outcome.

Environmental Issues

The site is presently clear of vegetation, with no vegetation within 10m of the proposed cut. The proposal will provide a net increase in the amount of vegetation on site through conditions on any planning permit as recommended by Council's Environment department. The applicant has also cited that the pond is intended for use by local fauna. There will be no impact on the existing effluent envelope on site.

In summary, the application is consistent with the purpose and decision guidelines of the Green Wedge A Zone.

Response to Objections

Council has received four (4) objections to the application. These are listed below, including the objector's concerns:

Objector	Concerns
1	"This permit if granted will allow diverting water from flowing to the Melbourne Water protected area. Surely this is not permitted"
2	"This person has made an eye-sore of the area and most likely is only needing the pond due to water around his property from doing so much illegal earthworks. He needs to be given clear guidelines, supervision and a timeline for any further work before he makes a complete mess of it all!"
3	Various, including: <ul style="list-style-type: none"> - Earthworks on site without a permit. - Quality of assessed plans.
4	Various, including: <ul style="list-style-type: none"> - Scepticism of need for pond - Previous and ongoing works on site over "10 years" - Applicant's history of non-permitted works - General amenity impacts of works and property - Environmental impact

While there is a history of non-permitted works on this property, this application must be viewed on its own merits. This application appears to be retrospective, in that works for what appears to be a pond have already been carried out, as can be seen through aerial imagery. The ongoing earthworks have been addressed by Council's Compliance department. Notwithstanding this, there is enough information to assess the proposal and determine that its merits are sound.

However, the provided plans are not satisfactory, and so a condition should be attached to the permit requiring amended plans showing all dimensions, including elevations from all sides. In order to address visual amenity concerns, a condition requiring a vegetation/landscape plan has been imposed at the recommendation of Council's Environment department. Standard conditions to reduce amenity impacts during any works have also been required.

To determine potential for impact on overland flow into the drainage reserve (Harris Reserve), the application was referred to Council's Engineering department, who did not object subject to conditions. They provided the below comment:

"The land naturally falls towards the adjacent Council reserve, which is predominantly for drainage purposes. The proposed small pond, when full, will still naturally overflow into this reserve. The drainage reserve captures a large catchment in addition to the overland flows from the subject land, therefore any retention of water in this proposed small pond will have minimal, or no, impact on the drainage reserve."

Subject to conditions, it is therefore determined there will be no undue effect on overland flow into the reserve.

Conclusion

The proposal complies with the relevant provisions of the Cardinia Planning Scheme.

It is recommended that Council approve Planning Permit T220274 for Buildings and Works (Earthworks) for a Pond at L2 PS448079, 10 Craik Road, Beaconsfield Upper, VIC 3808, subject to conditions as detailed in the recommendation section of this report.

Resolution

Moved Cr Stephanie Davies, seconded Cr Jeff Springfield.

That Council grant Planning Permit T220274 for Buildings and Works (Earthworks) for a Pond at Lot 2 on PS448079, 10 Craik Road, Beaconsfield Upper, VIC 3808, subject to the following conditions:

Amended plans required

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) Contours on property to Australian Height Datum (AHD).
 - b) Setbacks from all boundaries.
 - c) Cross-sections of pond from all four sides.
 - d) Method of construction.
 - e) Geo-textile liner and details of liner to be clearly shown on cross-sections/elevations.

Landscaping

2. Before the development starts, a Landscape Plan must be submitted to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must show:
 - a) All slopes that will be excavated or filled as part of this application, which are to be planted with indigenous plants.
 - b) A list of indigenous plant species to be used, and the name of the indigenous nursery where plants will be sourced from. Plantings must include a range of indigenous trees, shrubs and grasses.
 - c) Plant densities, which must be generally in accordance with *DSE Native Vegetation Revegetation Planting Standards (2006)*.
 - d) Actions and timing of all planting preparation and follow up maintenance works including tree guards and mulch.
3. Within three (3) months of the completion of the development, all works associated with the Landscape Plan must be completed to the satisfaction of the Responsible Authority, with photographic evidence submitted to Council.
4. The landscaping shown on the Landscape Plan 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.

Layout not altered

5. The layout and size of the proposed pond, as shown on the endorsed plans, must not be altered or modified without the written consent of the Responsible Authority.

Satisfactory completion

6. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Engineering

7. The pond must be sited and constructed to prevent damage or detriment to adjoining properties from the discharge of water from the pond.
8. Any topsoil on the pond site must be stripped and stockpiled for spreading on all disturbed ground above the full supply level.
9. No excavated material may be removed from the pond site without the written approval of the Responsible Authority.

General amenity provision – construction works

10. The works associated with the construction of the development must not detrimentally affect the amenity of the area, through the:
 - a) Transport of materials, goods or commodities to or from the land.
 - b) Inappropriate storage of any works or construction materials.
 - c) Hours of construction activity.
 - d) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste and storm water runoff, waste products, grit or oil.
 - e) Presence of vermin.

Existing Sewerage Disposal

11. The works must not disturb or interfere with the existing sewerage disposal system on the property. If the location of the existing sewerage disposal system needs to be varied, then approval must be obtained from the Responsible Authority.

Minimal soil erosion

12. 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.

Carried

5.2 T210561 PA - Use and Development of the Land for a Dwelling and Outbuilding and the Removal of Vegetation at 31 Walford Road, Beaconsfield Upper

Responsible GM: Lili Rosic
Author: Dean Haeusler

Recommendation(s)

That Council refuse planning permit application T210561 for the use and development of land for a Dwelling and outbuilding and removal of native vegetation on the following grounds:

1. The proposal does not respond to the purposes or decision guidelines of Clause 35.06 Rural Conservation Zone and Schedule 2 – Conservation Values.
2. The proposal results in unnecessary bushfire risk, pursuant to Clause 44.06 Bushfire Management Overlay and associated Planning Policy and Local Planning Policy Framework provisions and is not a solely appropriate planning justification for the required vegetation removal.
3. The proposal does not respond to the statement of significance, environmental objectives or decision guidelines of Clause 42.01 Environmental Significance Overlay and Schedule 1 – Northern Hills.
4. The proposal does not respond to the decision guidelines of Clause 52.17 Native Vegetation (and results in significant habitat destruction of an endangered species (Eucalyptus Fulgens), registered under the Flora and Fauna Guarantee Act 1988 threatened species list).
5. The proposal does not appropriately respond to a number of visions, strategies and objectives of Clause 11 Settlement, Clause 12 Environmental and Landscape Values, Clause 13 Environmental Risks and Amenity, Clause 15 Built Environment and Heritage, Clause 16 Housing, Clause 21.02 Environment, Clause 21.03 Settlement and Housing and Clause 21.07 Local Areas – Hills Region.

Attachments

1. Locality Map [5.2.1 - 1 page]
2. Development and Tree Removal Plans [5.2.2 - 5 pages]

Executive Summary

APPLICATION NO.:	T210561
APPLICANT:	Alison Tunnard
LAND:	31 Walford Road, Beaconsfield Upper 3808
PROPOSAL:	Use and development of land for a dwelling and outbuilding, and removal of native vegetation

PLANNING CONTROLS:	Rural Conservation Zone – Schedule 2 (RCZ2) Bushfire Management Overlay Environmental Significance Overlay – Schedule 1 (ESO1)
NOTIFICATION & OBJECTIONS:	Pursuant to Section 52 of the Planning and Environment Act 1987, the application was advertised by sending notices to nearby property owners and occupiers. No objections received.
KEY PLANNING CONSIDERATIONS:	<ul style="list-style-type: none"> • Response to Planning Policy Framework • Response to the Rural Conservation Zone • Vegetation Removal and environmental impacts • Bushfire considerations
RECOMMENDATION:	Refusal of application.

Background

- **T210561** was lodged in July 2021, and a Request for Further Information (RFI) was issued in October 2021 identifying concerns with the proposal including siting of the dwelling, impact upon the landscape, vegetation impacts and bushfire risk.
- A response to the RFI was provided in March 2022, and a subsequent Section 50 Amendment to the Application was received in April 2022.
- Prior to notification (advertising) of the application, ongoing discussions between Council Officers and the applicant occurred in relation to ongoing concerns with the proposal.
- Notification of the application occurred in May 2022, with no objections received.
- The appropriate internal and external referrals have been undertaken, as discussed within this report.

Subject Site

The approximate 8.06ha (80,600m²) rectangular site is located on the northern side of Walford Road (gravel road), located approximately 4.8km east of Beaconsfield Upper and 4km west of Pakenham Upper.

The site is void of any structures and is heavily vegetated with the exception of a narrow cleared area of approximately 15-20m in width adjacent to the western property boundary. The title also includes a carriageway easement along the western property boundary which provides access to 95 Walford Road to the north (rear).

The majority of the canopy vegetation is *Eucalyptus fulgens* (Green Scentbark) and *Eucalyptus radiata* (Narrow-Leaved Peppermint). Understorey is described as 'diverse' and dominated by indigenous species such as Burgan, Scrub Sheoak, Yellow Rice-flower, Wiry Spear-grass, Red-fruited Saw-sedge and native herbs and flowers including Chocolate Lily, Common Rice-flower, Milkmaids, Small Grass-tree, Bluebells and Twining Glycine. Weed species are limited on the site, with the exception of the vacant pasture grass along the western boundary. Site inspections have noted native bees, wombats and other ground-dwelling species. Further, assessment reports have identified the site is likely home to a number of protected species such as White Star Bush, Angahook Pink-Fingers and Purple Diuris.

The undulating topography of the site and dense vegetation makes much of the site inaccessible via vehicle. The site is located within a mosaic area of heavily vegetated areas, punctuated by scattered remnant vegetation and farmland / lifestyle living arrangements. Surrounds include:

- To the east of the site is open farm land, with properties that are accessed via Toomuc Valley Road. A number of dwellings are located within the open areas, generally located within close proximity to the road frontage.
- To the south is Walford Road, and further south is a mixture of open areas subject to dwellings and lifestyle properties, and more dense areas of vegetation.
- To the west is a similar sized property addressed as 25 Walford Road, Beaconsfield Upper which includes a dwelling in an open area (front portion of the property), with dense vegetation in the rear half of the property. Further west are a mixture of lot sizes, with the majority of lots having a vacant portion of land subject to a dwelling.
- To the north is a heavily vegetated area and Walford Creek, with a number of lots benefiting from vacant areas subject to dwellings.



Figure 1 - Aerial imagery of the site (highlighted in blue) and immediate surrounds (Nearmap, February 2022)



Figure 2 - Aerial imagery of the site (blue) and wider surrounds (Nearmap, February 2022)

Relevance to Council Plan

3.1 We value our natural assets and support our biodiversity to thrive.

3.1.3 Work with community to improve and manage our natural assets, biodiversity and cultural heritage.

Proposal

The proposal seeks to construct a dwelling and outbuilding accessed via a driveway, and remove native vegetation associated with bushfire risk and effluent field.

The proposed **double-story dwelling** is to be set back 39m from the front property boundary, and 36.8m from the site property boundary. The dwelling is to comprise of three bedrooms however is to have a total building area of 640m² as follows:

- Ground Floor to comprise of three bedrooms (1 x master with walk in robe and ensuite), study, family bathroom, open plan kitchen/dining/living and a 147m² alfresco/deck area
- Sub-Floor area to include a gym, billiard room, sitting room, bar area, theatre, laundry, powder room, 62m² of alfresco/balcony area and a double car garage.

To the rear of the dwelling is a **proposed 11 x 17m (187m²) outbuilding** associated with the dwelling ("barn") incorporating a shed area and workshop area. The outbuilding requires 3m of fill to create a flat pad for the 4.259m outbuilding.

A driveway is proposed to connect to the existing crossover and accessway located within the carriageway easement, providing vehicular access to the dwelling, with a large gravel pad area connecting the dwelling and the outbuilding.

Further, a **540m² effluent envelope** is proposed, which is to be located approximately 16m to the east of the outbuilding.

To accommodate the dwelling (and associated bushfire risk), outbuilding and effluent area a total of

0.76ha of land is to be partially cleared, and 0.26ha is to be fully cleared of native vegetation, totalling an area of 1.024ha to be impacted which incorporates a minimum of 92 trees to be removed.

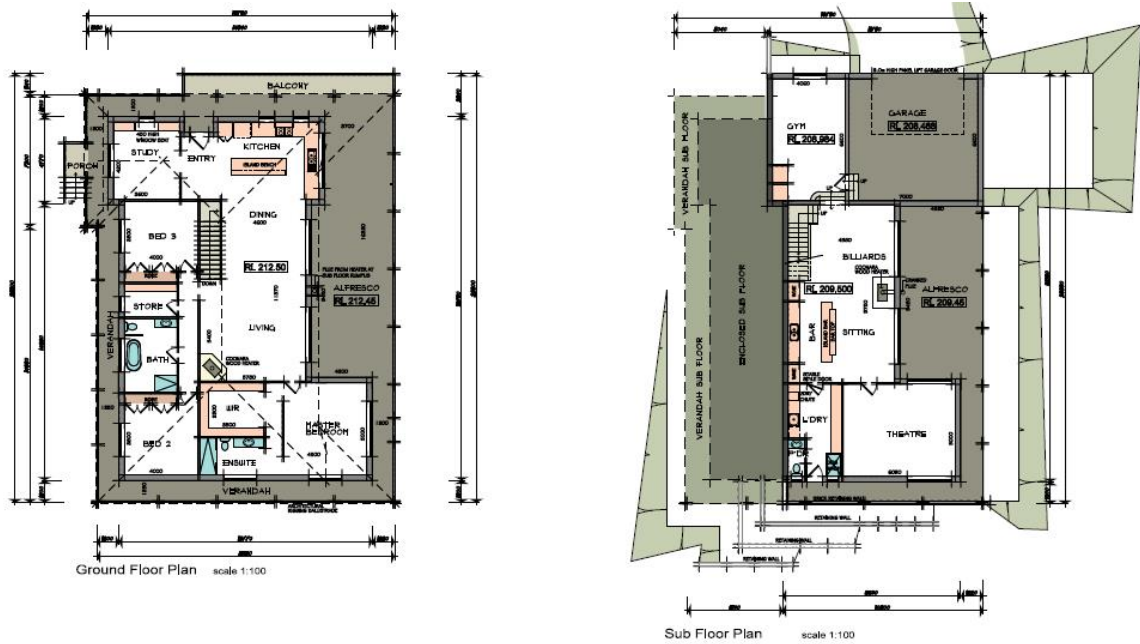


Figure 3 - Floor Plan (left) and Sub Floor Plan (right).

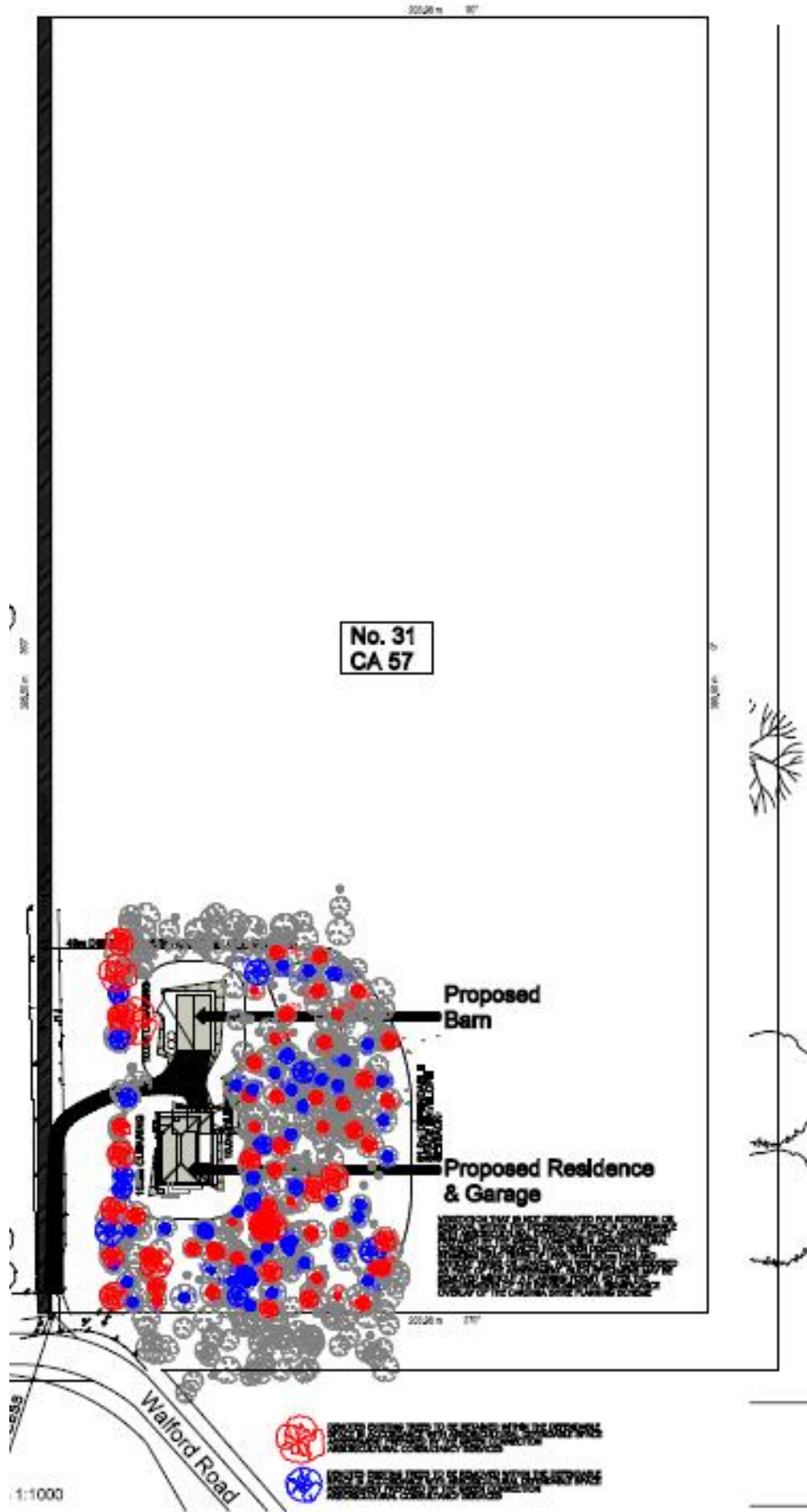


Figure 4 - Site Plan identifying proposed development is to be located within the south-west corner of the site.

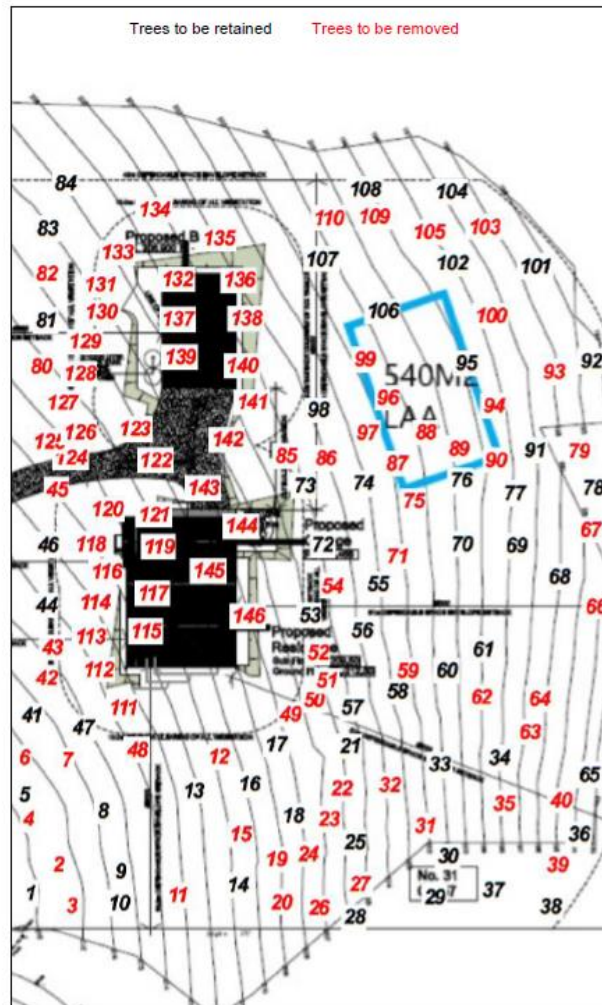


Figure 5 - Tree Removal Plan (The Green Connection, Version 2, February 2022)

Planning Scheme Provisions

Zone

The land is subject to the Rural Conservation Zone – Schedule 2 (RCZ2 – Conservation Values).

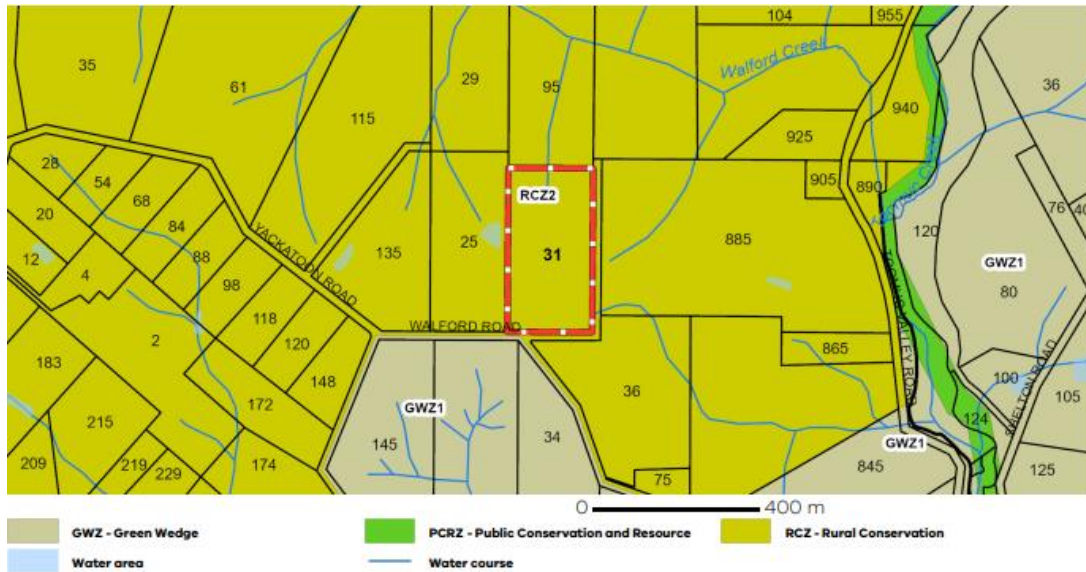


Figure 6 - Zoning Map of the subject site.

Overlays

The land is subject to the following overlays of the Cardinia Planning Scheme:

- Bushfire Management Overlay
- Environmental Significance Overlay – Schedule 1 (ESO1 – Northern Hills)

Planning Policy Framework (PPF)

The relevant provision of the PPF include:

- Clause 11 Settlement, inclusive of Clause 11.02-1S Settlement
- Clause 12 Environmental and Landscape Values, inclusive of Clause 12.01-1S Protection of Biodiversity, Clause 12.01-2S Native Vegetation Management and Clause 12.05-2S Landscapes
- Clause 13 Environmental Risks and Amenity, inclusive of Clause 13.02-1 Bushfire Planning.
- Clause 15 Built Environment and Heritage, inclusive of Clause 15.01-1S Urban Design, Clause 15.01-2S Building Design and Clause 15.01-6S Design for Rural Areas
- Clause 16 Housing, inclusive of Clause 16.01-1S Housing Supply and Clause 16.01-3S Rural Residential Development.

Local Planning Policy Framework (LPPF)

The relevant provision of the LPPF include:

- Clause 21.01 Cardinia Shire Key Issues and Strategic Vision
- Clause 21.02 Environment, inclusive of Clause 21.02-2 Landscape, Clause 21.02-3 Biodiversity and Clause 21.02-4 Bushfire Management
- Clause 21.03 Settlement and Housing, including Clause 21.03-1 Housing, Clause 21.03-4 Rural Townships, Clause 21.03-5 Rural Residential and Rural Living Development
- Clause 21.07 Local Areas – Hills Region

Particular / General Provisions and Incorporated / Reference Documents

The relevant provisions and documents are:

- Clause 52.12 Bushfire Protection Exemptions
- Clause 52.17 Native Vegetation
- Clause 53.02 Bushfire Planning
- Clause 65 Decision Guidelines

Planning Permit Triggers

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

- Pursuant to Clause 35.06-1 of the Rural Conservation Zone, a planning permit is required to use the land for the purpose of a dwelling.
- Pursuant to Clause 35.06-5 of the Rural Conservation Zone a planning permit is required to construct buildings associated with a section 2 use (dwelling) and earthworks.
- Pursuant to Clause 44.06-2 of the Bushfire Management Overlay, a planning permit is required for buildings and works associated with a dwelling.
- Pursuant to Clause 42.01-2 of the Environmental Significance Overlay a permit is required to construct a building or carry out works (to construct a building exceeding 7 metres in height, to construct an outbuilding exceeding 120 square metres, earthworks exceeding 1 metre and removal of vegetation);
- Pursuant to Clause 52.17 Native Vegetation, a permit is required to lop, destroy or remove native vegetation.

Public Notification

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

- Sending notices to the owners and occupiers of adjoining and nearby land; and
- Placing a sign on site.

The notification has been carried out correctly, and the statutory declaration has been submitted to Council on 25th May 2022.

Council has received no submissions at the time of writing this report.

Referrals

External Referrals

Referrals/ Notice	Referral Authority	Brief summary of response
S.55	Fire Rescue Victoria (Country Fire Authority)	No objection, subject to conditions.
S.55	DELWP	No objection, subject to conditions

Internal Referrals

Internal Council Referral	Advice/ Response/ Conditions
Environment	Unsupportive of the proposal.
Engineering	No objection, subject to conditions

Discussion

The application has been assessed against the guidelines and strategies of the relevant state and local policy, the applicable zones and overlays, as well as the relevant particular and general provisions of the Cardinia Planning Scheme.

On balance, the proposal does not appropriately respond to the decision making considerations of the Cardinia Planning Scheme, and as such it is recommended that the application be refused.

In coming to this decision, Council Officers have used the decision making tools available by identifying and then assessing the main considerations for an application of this nature as follows:

- How does the proposal respond to the Rural Conservation Zone?
- How does the proposal respond to bushfire risk and the Bushfire Management Overlay?
- How does the proposal respond to Environmental Significance Overlay, and is the proposed vegetation impact acceptable?
- Is the application supported by Planning Policy Framework and Local Planning Policy Framework provisions?
- Is the application supported by any other relevant General / Particular provisions of the Cardinia Planning Scheme that apply to the proposal?
- How does the proposal respond to the Decision Guidelines of the Cardinia Planning Scheme?

As a number of these considerations have overlapping metrics, this assessment should be read in full as not all matters are repeated under every relevant section.

Rural Conservation Zone

The need for a planning permit is triggered and needed to both use the land, as well as to undertake works for this application. As such, alignment with the purposes and decision guidelines of the Rural Conservation Zone (RCZ) is a critical element in determining the suitability of this proposal as there is no 'as of right' permissions allowing the land to be used for residential purposes.

Use of land is guided by the purposes of the RCZ, which are:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To conserve the values specified in a schedule to this zone.*
- *To protect and enhance the natural environment and natural processes for their historic, archaeological and scientific interest, landscape, faunal habitat and cultural values.*
- *To protect and enhance natural resources and the biodiversity of the area.*
- *To encourage development and use of land which is consistent with sustainable land management and land capability practices, and which takes into account the conservation values and environmental sensitivity of the locality.*
- *To provide for agricultural use consistent with the conservation of environmental and landscape values of the area.*
- *To conserve and enhance the cultural significance and character of open rural and scenic non urban landscapes.*

Additionally, Schedule 2 to the RCZ has listed 'Conservation Values' for the:

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

To summarise and paraphrase the relevant purposes and values, the core reason to identify areas as RCZ land is to protect and enhance the natural environment from unnecessary impacts, and to ensure that any development proposed has merit to allow for continued environmental protection and enhancement.

Whilst a single dwelling on a lot can be considered a relatively 'minor' use, it is more so important to consider the impact upon the land to allow for the dwelling to be constructed and then used on an ongoing, permanent basis.

The dwelling, outbuilding, accessways and effluent area will remove or modify a total of 1.024ha of land, with a minimum of 92 trees to be removed and an unknown quantity of groundcovers, herbs and flowers to be removed.

The level of removal needed to allow for the use and development of the land for a dwelling – at a simplistic level – does not then seek to conserve or protect the vegetation on the site. Any argument or consideration as to the percentage amount of vegetation to be impacted is not overly relevant when the amount to be lost is so substantial.

Council Officers have raised concerns with the amount of vegetation to be impacted (tied to the purposed of the RCZ) and recommended alternate locations for the dwelling, outbuilding and effluent area be explored, however the applicant has chosen to proceed as per the plan set and documentation subject to this assessment.

Further, the application is not supported by any Land Management Plan or similar which would otherwise potentially identify the landowners intentions to sustainably manage the land moving forward. Based on the material submitted, the application merely seems to provide for a rural living / hobby farm development within an area that seeks to protect, enhance and conserve the environment. These two elements do not necessarily mix.

Upon determining that the application does not appropriately respond to the purposes and values sought for the RCZ and the subject site, Council is required to consider the decision guidelines as listed within Clause 35.06-6 of the RCZ. These decision guidelines are categorised under a number of sub-headings including General Issues, Rural Issues, Environmental Issues, Accommodation Issues and Design and Siting Issues. An assessment of these themes is provided below:

General issues

- The Municipal Planning Strategy and the Planning Policy Framework.
- Any Regional Catchment Strategy and associated plan applying to the land.
- The capability of the land to accommodate the proposed use or development.
- How the use or development conserves the values identified for the land in a schedule.
- Whether use or development protects and enhances the environmental, agricultural and landscape qualities of the site and its surrounds.
- Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses.

Assessment: The Land Capability Assessment provided with the application identifies that the land is capable of handling an effluent system, however a 540m² area of dense vegetation is required to be cleared (with the under story significantly modified) to accommodate the system. The application material submitted does not identify any proposed enhancements to the environment, and as such results in net negative impacts.

Rural issues

- The environmental capacity of the site to sustain the rural enterprise.

- The need to prepare an integrated land management plan.
- The impact on the existing and proposed infrastructure.
- Whether the use or development will have an adverse impact on surrounding land uses.

Assessment: Whilst a number of surrounding lots are subject to dwellings and/or farming/agricultural pursuits, these sites have been subject to historical partial clearing to allow for such developments. The key difference with the proposal at hand is that permission is required to further alter over 1ha of diverse indigenous vegetation.

The proposed single dwelling is unlikely to adversely impact surrounding land uses.

Environmental issues

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

Assessment: The provided Biodiversity Impact Assessment prepared on behalf of the applicant identifies that the site is rich in biodiversity and environmental value, highlighting that the majority of the canopy vegetation is *Eucalyptus fulgens* (Green Scentbark) and *Eucalyptus radiata* (Narrow-Leaved Peppermint), with a 'diverse' understory dominated by native grasses, herbs and groundcovers. Further, the report identifies it likely that the site is home to a number of protected floral species and that the site is suitable habitat to a number of indigenous faunal species.

The report concludes (in summary) that:

- The site has not been subject to development, and has generally been maintained as native vegetation
- The surrounds include a mosaic of farmland and retained vegetation
- The proposal will *"result in the loss of a total extent of 1.024 hectares of native vegetation"*
- Whilst the development results in the loss of vegetation and habitat, connectivity for species will remain
- The removal of vegetation is required to achieve the required defensible space for the dwelling, however it is unlikely that the development would result in the loss of any ecological communities

Accommodation issues

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.
- The potential for accommodation to be adversely affected by vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the Mineral Resources (Sustainable Development) Act 1990.

Assessment: The proposed dwelling will not fragment agricultural land as the site is heavily covered by indigenous flora, making it unviable for productive agricultural practices. It is also unlikely that the single dwelling will impact upon adjoining or nearby land uses due to the existing mosaic of farm land intermixed with dwellings and dense vegetation.

Design and siting issues

- The need to minimise any adverse impacts of siting, design, height, bulk, and colours and materials to be used, on landscape features, major roads and vistas.
- The location and design of existing and proposed infrastructure services which minimises the visual impact on the landscape.
- The need to minimise adverse impacts on the character and appearance of the area or features of archaeological, historic or scientific significance or of natural scenic beauty or importance.
- The location and design of roads and existing and proposed infrastructure services to minimise the visual impact on the landscape.
- The need to locate and design buildings used for accommodation to avoid or reduce the impact from vehicular traffic, noise, blasting, dust and vibration from an existing or proposed extractive industry operation if it is located within 500 metres from the nearest title boundary of land on which a work authority has been applied for or granted under the Mineral Resources (Sustainable Development) Act 1990.

Assessment: Whilst the dwelling has a relatively large footprint, it is of an appropriate design seeking to minimise any perceived impact to the public realm or adjoining properties as it will be screened appropriately due to required cut/fill and vegetation screening.

The extensive vegetation removal required to facilitate for the effluent envelope is of concern, lending an argument to the consideration that not every site is suitable for appropriate development.

In short, the above assessment identifies that the proposal will negatively impact on the environment. If the site was set aside for residential purposes such as a residential zone, the impact may be assessed differently. However the assessment before Council is for a site within the Rural Conservation Zone which first and foremost seeks to protect and enhance vegetation and landscape.

It is considered that more appropriate designs or siting of built form are possible on the site which may reduce the scar upon the landscape compared with this proposal. However, Council are not assessing a site within a different zone, or a differing design or siting. Council are required to form a position on the application at hand, and in this instance the proposal does not appropriately respond to the purposes or decision guidelines of the Rural Conservation Zone.

Bushfire Risk and the Bushfire Management Overlay

Prior to assessing bushfire particulars in detail, it is noted that Fire Rescue Victoria (formally Country Fire Authority) has been referred the application and provided consent, subject to conditions to be placed on any permit issued. This consent indicates that Fire Rescue Victoria has assessed the Bushfire Management Plan provided by the applicant which is deemed to be appropriate and meets the numerical and policy requirements to provide defensible space and ensure risk to life is deemed 'acceptable'.

However, it is important to balance this response against the wider policy provisions associated with bushfire risk.

The Bushfire Management Overlay includes the following purposes:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*

- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
- *To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.*
- *To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.*

In response to some of these purposes, it is noted that subject to the removal of vegetation the risk to life and property can be deemed acceptable. However, this must be balanced versus the value of the vegetation to be removed, as well as the zoning of the land as assessed above.

There are vast opportunities to use and/or develop land for a dwelling within the Cardinia municipality, and it not deemed appropriate to subject existing, valued vegetation to removal to justify/quantify 'acceptable' levels of risk for a dwelling when it is likely there are other opportunities to site the dwelling to a) reduce vegetation removal and b) result in lesser bushfire risk. This 'balance' is specifically stated at Clause 71.02-3 which states:

Planning authorities and responsible authorities should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However in bushfire affected areas, planning authorities and responsible authorities must prioritise the protection of human life over all other policy considerations.

In consideration of bushfire risk, there is no 'net community benefit' as a result of the proposal, as the only evident benefit is to that of the applicant being able to develop the land for a dwelling. Further, whilst the application is able to meet distance and vegetation thresholds to reach the relevant bushfire attack level rating, the application fails to respond appropriately to supporting Planning Policy Framework such as Clause 13.02-1S which seeks *"to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life."* This is expanded on at the Local Planning Policy Framework level, noting that the objective of Clause 21.02-4 Bushfire Management is *"to recognise that areas in the municipality are prone to bushfire and to minimise the potential risk to life, property and the environment."*

The area is subject to well-known bushfire events (Ash Wednesday, 1983), and a number of 'credible bushfire scenarios' are discussed at length within the provided Bushfire Management Assessment. It is additionally concerning that the closest Neighbourhood Safer Place is the Mountain Road Reserve Indoor Sports Complex, which is located 16km / 20 minute drive (in 'normal' conditions) and the report identifies it may be safer to exit the site in the opposite direction of the designated Safer Place.

Provision of a dwelling in this location results in an additional risk to life and property, regardless as to whether the threshold requirements are met in relation to a bushfire attack level rating. Compounding the fact that substantial vegetation is proposed to be removed to accommodate the development, it is considered the proposal fails to appropriately minimise bushfire risk as the risk is unnecessary when considering and balancing the sites existing ecological benefits and purposes of the zone.

Vegetation and environmental impacts and the Environmental Significance Overlay

Please refer to the response and assessment to the Rural Conservation Zone, which discusses a number of environmental matters at length. In addition, consideration of environmental impacts is assessed under the Environmental Significance Overlay.

Prior to discussing these matters further, it is noted that DELWP have consented to the proposal, noting the application has *'satisfied the information requirements of Clause 52.17 Native Vegetation.'* It is noted the DELWP referral response highlights that *"the proposed development and use may reasonably satisfy the objectives of this clause subject to the implementation of a CEMP and ILMP (or equivalent) that ensures the protection and enhancement of retained native vegetation, faunal habitats, and waterways across the property"* however no Land Management Plan has been provided as part of the application to assess or rely on. Notwithstanding, a wider assessment of vegetation and biodiversity matters is required.

The purposes of the Environmental Significance Overlay (ESO) are:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify areas where the development of land may be affected by environmental constraints.*
- *To ensure that development is compatible with identified environmental values.*

Schedule 1 to the ESO regards "Northern Hills" and provides the following statement and objectives:

Statement: *The hills to the northern part of the municipality (generally to the north of the Princes Highway) is an area with significant landscape and environmental values. The area is characterised by a geology of Devonian Granitic and Sulrian Sediment origin, moderate to steep slopes, and areas of remnant vegetation. These characteristics contribute to environmental values including landscape quality, water quality, and habitat of botanical and zoological significance. These characteristics are also a significant factor in terms of environmental hazards including erosion and fire risk.*

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

Environmental Objectives:

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

It is therefore determined by the ESO1 that:

- The site is within a location of significant landscape and environmental value
- The site is subject to slope and areas of remnant vegetation, contributing to the environmental value
- The slope and vegetation presents fire risk, yet supports ecological processes, habitat and biodiversity
- Development should protect, enhance and maintain the ecological processes, habitat and biodiversity
- Use and development should be supported where the environmental significance is protected and enhanced.

Noting the proposal seeks to remove 92 trees and modify over one hectare of land inclusive of canopy vegetation and groundcovers, the proposal does not appropriately respond to the relevant purposes and decision guidelines.

Council's Environmental Department is also unsupportive of the proposed level of removal and associated environmental impacts. Reasons for concern regard:

- Throughout the application process and concerns being raised from Council's initial assessment, there has not been any reduction in the defensible space area and associated vegetation impacts. This could/should have been investigated and addressed to respond appropriately to the need to seek to avoid and minimise removal.
- The extent of vegetation removal remains an unacceptable loss of biodiversity in a Rural Conservation Zone that prioritises the retention of conservation values and does not have an inherent right to construct a dwelling.
- There has not been any reduction in the impacts to *Eucalyptus fulgens*, a listed threatened species under the Flora and Fauna Guarantee Act that is protected under ESO1.
- The Environment Unit query and disagree with the low habitat hectare score of 56/100 allocated to the high-quality vegetation present on this property.
- Some of the characteristic species of the EVC benchmark were missed in the initial flora survey, which could be influencing the outcome of some habitat hectare scores.
- The slashed area along the western boundary includes native vegetation over 25% cover (definition of a patch) and must therefore be included in the extent of native vegetation.
- Environment considers that the fragmentation impacts to landscape connectivity are significant.

No specific protection measures or ongoing enhancement of the site has been proposed, and no other development exist on site that would result in a more negligible impact.

Response to Planning Policy Framework and Local Planning Policy Framework

The proposal responds appropriately to some relevant policies, however does not appropriately respond to all relevant policies.

Clause 11.01-1S Settlement seeks to facilitate for sustainable growth and development, to deliver choice and opportunity through a network of settlements. Specific strategies expand on this objective further, highlighting main considerations to provide for settlement opportunities in appropriate locations within settlement boundaries or well serviced areas, to result in balanced land use and development outcomes that enhance and contribute to settlements and landscapes, to limit urban sprawl among other things.

Clause 12.01 Environment states that *“planning should help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity) and conserve areas with identified environmental and landscape values.”* Clause 12.01-1S Protection of Biodiversity expands on this, with an objective *“to protect and enhance Victoria’s biodiversity”* with associated strategies to take into account cumulative environmental impacts and support development that actively enhances habitat. Clause 12.01-2S Native Vegetation Management also seeks to *“ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation”* supported by strategies to seek to avoid or minimise removal of native vegetation. These clauses link to Clause 12.05-2S Landscapes which seeks to *“protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments”* with identified strategies to ensure development does not detract from significant landscapes, improve landscape qualities and environmental performance, and to recognise the landscape as a fully functioning system.

Clause 13 Environmental Risks and Amenity identifies that Planning should identify, prevent and minimise risk to the environmental and human life via land use compatibility and effective controls to prevent and mitigate risk, and that any development or mitigation is not to the detriment of the environmental and natural processes. Additionally, Clause 13.02-1S Bushfire Planning seeks to *“strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life”* as identified within the ‘bushfire’ assessment section of this report.

Clause 15 Built Environment seeks for planning to promote excellence in the built environment, and ensuring that built form minimises detrimental impacts on the built and natural environment. Clause 15.01 Built Environment expands in greater detail, noting an objective to *“create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity”* with a number of supporting strategies such as seeking for development to respond to the surrounding natural features and landscape and to avoid detrimental impacts to the natural and built form. Clause 15.01-6S Design for Rural Areas also seeks for development to respect “valued areas” and rural character.

Clause 16 Housing identifies that *“planning should provide for housing diversity, and ensure the efficient provision of supporting infrastructure”* in appropriate locations. This is further substantiated at Clause 16.01 which discusses housing supply and the need to provide for diverse, well serviced and located residential housing, as well as rural residential development and the need to *“identify land suitable for rural residential development”* that does not result in environmental impacts to *“existing landscape values.”*

Many Local Planning Policy Framework considerations expand on the above.

Clause 21.02 Environment is expanded upon at Clause 21.02-2 Landscape which identifies key issues as the need to protect significant landscapes, and noting the pressures to develop land in locations of high value. Additionally, Clause 21.02-3 Biodiversity acknowledges that the municipality is known to contain state and nationally significant species, and that:

The decline and fragmentation of habitats resulting in the loss of biodiversity is a key issue. Over 75% of the native vegetation in Cardinia Shire has been cleared leaving those areas of remnant vegetation of particular significance and value in terms of maintaining biodiversity within the Municipality.

Supporting objectives to ensure appropriate maintenance of biodiversity in areas of significance include seeking to achieve no net less on quantity and quality of vegetation, as well the need to maintain and enhance the diversity of indigenous habitats and species.

Additionally, Clause 21.02-4 regards bushfire management which has been assessed within the 'bushfire' assessment section of this report.

Clause 21.03-4 Rural Townships identifies the need to appropriately plan housing and development having regard to environmental and servicing constraints with a number of strategies listed. Additionally, Clause 21.03-5 Rural Residential and Rural Living Development further seeks to ensure that environmental impacts of rural residential and rural living developments are considered.

Clause 21.07 Local Areas also includes an assessment of Beaconsfield Upper, however it is noted the site is not located within the township boundary.

In response to the Planning Policy Framework, it is considered that:

- The site is not located in an existing serviced settlement, which by itself does not mean a permit could not be granted, however layered with other policy considerations (bushfire, environment impacts) is not appropriate in this instance
- A substantial impact to the environment is a result of the proposal in an area with identified significant values as per the applicable ESO. Whilst offsets would apply for removal of some vegetation, consideration as to whether the proposal has sought to 'avoid' or 'minimise' vegetation impacts must be applied. The application does not seek to protect, nor enhance the landscape. The provided Biodiversity Report identifies a rich, diverse landscape which is to be unnecessarily impacted within a Rural Conservation Zone for the purpose of a dwelling.
- Further to the previous sections of this report relating to bushfire, it is considered the proposal presents an unnecessary risk and that mitigation measures are to the detriment of the environment.
- The proposed dwelling and outbuilding are appropriately designed from a built form perspective, providing attractive built form with materials and styles not uncommon for the area. However, the siting of the built form (and associated need to remove over 1ha of vegetation) does not avoid detrimental impacts to natural systems.
- The dwelling results in environmental impacts to an existing valued landscape, and on balance it is considered that this particular site is not suitable for rural residential development due to the required environmental impacts resulting from the proposed dwelling.

Based on the above, it is determined that the proposal does not appropriately respond to a number of policies.

Response to General and Particular Provisions

Three provisions apply which are all intrinsically linked, being Clause 52.12 Bushfire Protection Exemptions, Clause 52.17 Native Vegetation and Clause 53.02 Bushfire Planning.

Clause 52.12 Bushfire Protection Exemptions provides relevant exemptions for vegetation removal (except for canopy trees) within 50m of a dwelling. As such, vegetation removal requirements regard the large scattered trees which have a modelled Strategic Biodiversity Score of 0.401.

Clause 52.17 Native Vegetation seeks to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017)*. Pursuant to Clause 52.17-1, **a permit is required** to remove, destroy or lop native vegetation.

A total of 1.019ha is proposed to be disturbed, including the removal of 92 trees. The application material includes a Native Vegetation Removal Report for the 1.019ha of disturbed land via the

Detailed Assessment Pathway. The resulting offset is 0.642 general habitat units within a minimum strategic biodiversity score of 0.401.

Clause 53.02 Bushfire Planning is also relevant which seeks to ensure that “the development of land prioritises the protection of human life and strengthens community resilience to bushfire.” The Clause provided a number of measures and guidelines to meet, which the application material has suitably responded to.

Clause 65 Decision Guidelines

The Decision Guidelines at Clause 65 of the Cardinia Planning Scheme have been captured at various chapters of this report. The proposal is not deemed to result in an appropriate response.

The proposal has similar traits to recent VCAT determinations such as *Bucci v Cardinia SC [2022, VCAT113]* for 369 Paternoster Road, Cockatoo which regarded the development of land for a dwelling within a Rural Conservation Zone, Environmental Significance Overlay and Bushfire Management Overlay on a heavily vegetated site.

Whilst each site and proposal should be assessed on its merits, policy considerations are similar to the application at hand.

In the instance of *Bucci V Cardinia SC*, the vegetation to be removed regarded 0.542 hectares.



Figure 7 - Aerial imagery of the site subject to VCAT determination Bucci v Cardinia SC

In coming to the determination to affirm Council’s decision to refuse the planning application, the Member stated:

33 I note that there is no permit trigger in the RCZ1 for vegetation removal but the purpose and decision guidelines of the RCZ refer to how a proposal will impact on the natural environment and landscape. A permit for vegetation removal is required under other provisions but there is an obvious interrelationship between those and the purpose and decision guidelines of the RCZ.

34 Even if a permit was not required for vegetation removal under any provision of the planning scheme, but vegetation removal was still required in order to establish the dwelling, the impact of vegetation removal would still be a relevant consideration under the RCZ1, given its purposes and decision guidelines.

35 The applicant said that there are competing policies at play but that the weighting lands on the side of an acceptable outcome being achieved.

36 The fact that a dwelling is a section 2, or permit required, use, does not imply that a permit will or should be granted. Further, the inclusion of decision guidelines in the RCZ specifically relating to dwellings is not affirmation of any encouragement for a dwelling on this site.

37 The applicant also relied on the circumstances of the surrounding area, and in particular the existence of dwellings on at least 8 of the other 9 lots in the original subdivision through which this site was created, as support for the proposition it put forward that the establishment of a dwelling on the review site is “the missing tooth in the smile” and would have negligible impact on the character of the area. It was also submitted that the proposed is classified as ‘rural living’ which is recognised as being an in-demand type of housing that is to be provided for.

38 In my view, there is very limited weighing of so-called ‘competing policies’ required. The provision of diverse and affordable housing as one of the factors weighing in favour of the proposal is quite a stretch in my view. The diverse and affordable housing policies of the planning scheme also have to be viewed through the lens of accompanying policy, such as those relating to establishment of housing in existing or identified settlements. Further, the provision of rural living housing is something which the planning scheme seeks to provide in a coordinated and planned manner, rather than through provision of dwellings on individual vacant lots, in non-urban areas.

39 Alternatively, there is little in the planning scheme that lends support to a proposal for a dwelling on this land, where such a large extent of the existing vegetation on the land is required to be removed to facilitate it.

40 I am not persuaded that the removal of such a large extent of vegetation is an acceptable outcome in the RCZ. The RCZ seeks to retain and enhance the natural qualities of the land and the review site is in an area of identified significant landscape and environmental qualities, owing to the fact that the ESO1 wholly affects the site.

41 Whilst the proposed dwelling is to be located in an area of the review site that is somewhat cleared of vegetation, the proposal still necessitates a substantial amount of the on-site vegetation to be removed.

42 Although when viewed on a broader scale the loss of the vegetation proposed to be removed may be relatively minimal, in my view what the planning scheme is seeking is to avoid these types of outcomes, given cumulative impacts are to be considered and vegetation and areas of biodiversity are sought to be protected, conserved and enhanced. The proposed loss of the vegetation, which is necessitated by the establishment of a dwelling, in my view, is inconsistent with what the planning scheme is seeking to achieve.

43 The RCZ and accompanying policy seek that land within the RCZ be conserved, protected and enhanced in terms of environmental, landscape and biodiversity outcomes. This proposal does not achieve those outcomes due to the extent of vegetation removal and including the impact this would have on the landscape and visibility of that in the surrounding area. I find that the proposal is in fact an adverse outcome when tested against the relevant considerations. The proposed removal of vegetation from the site does not protect and enhance natural resources and the biodiversity or the landscape qualities of the area.

44 Whilst I have some sympathy for the applicant with respect to the argument that this is the last lot of the original subdivision to remain vacant and most others contain a dwelling, to give this argument any weight would be to ignore the role of the decision maker in administering the planning scheme. I find that there is no part of the planning scheme that I can give any weight to in support of the proposal on such grounds. This may seem unfair and unjust; however, it also has to be recognised that this is not residentially zoned land, where a substantial amount of vegetation needs to be removed for the proposed dwelling and the other existing dwellings referred to have existed for many years.

45 For these reasons I find that the proposal is not an acceptable outcome on this site under the provisions of the RCZ1.

This decision provides guidance and confirmation as to the assessing Officer's position on the application.

Conclusion

Not every site is appropriate for development. The site is heavily constrained, and the proposal greatly impacts vegetation on the site to an unacceptable level which does not accord with the relevant Planning Policy.

As such, the application should be refused.

Reasons for Refusal

1. The proposal does not respond to the purposes or decision guidelines of Clause 35.06 Rural Conservation Zone and Schedule 2 – Conservation Values.
2. The proposal results in unnecessary bushfire risk, pursuant to Clause 44.06 Bushfire Management Overlay and associated Planning Policy and Local Planning Policy Framework provisions and is not a solely appropriate planning justification for the required vegetation removal.
3. The proposal does not respond to the statement of significance, environmental objectives or decision guidelines of Clause 42.01 Environmental Significance Overlay and Schedule 1 – Northern Hills.
4. The proposal does not adequately respond to the decision guidelines of Clause 52.17 Native Vegetation (and results in significant habitat destruction of an endangered species (Eucalyptus Fulgens), registered under the Flora and Fauna Guarantee Act 1988 threatened species list).
5. The proposal does not appropriately respond to a number of visions, strategies and objectives of Clause 11 Settlement, Clause 12 Environmental and Landscape Values, Clause 13 Environmental Risks and Amenity, Clause 15 Built Environment and Heritage, Clause 16 Housing, Clause 21.02 Environment, Clause 21.03 Settlement and Housing and Clause 21.07 Local Areas – Hills Region.

Resolution

Moved Cr Brett Owen, seconded Cr Kaye Cameron.

That Council defer consideration of this application until the Town Planning Committee Meeting to be held on 6 March 2023 to allow further discussion with the applicants.

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. The below is for the period 3 November 2022 to 8 January 2023.

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 Number	Address	Proposal	Decision	Date Lodged
4/11/2022	T220102	28 Beaconsfield-Emerald Road, Beaconsfield Upper VIC 3808	Extension to redline plan	Application Withdrawn (replaced by s72 amendment)	17/02/2022
14/11/2022	T220534	89 St Georges Road, Beaconsfield Upper VIC 3808	Development of the land for an extension to an existing dwelling	Issued	6/08/2022
15/11/2022	T110435 - 1	230 Army Road, Pakenham VIC 3810	The use and development of land for a dwelling, three (3) outbuildings (shed, carport and pavilion), to build outside the registered waste disposal envelope and excavation and fill of land in excess of 1m	Issued	19/06/2022
15/11/2022	T220597	1 McKenzie Road, Beaconsfield Upper VIC 3808	Development of the land for an extension to an existing dwelling (deck)	Issued	5/09/2022
16/11/2022	T220356	47 Split Rock Road, Beaconsfield Upper VIC 3808	Buildings and works associated with the construction of a dwelling	Issued	24/05/2022
17/11/2022	T220675	110 A'Beckett Road, Beaconsfield Upper VIC 3808	Buildings and works for an outbuilding	Issued	7/10/2022
18/11/2022	T210857	115 Mount Burnett Road, Mount Burnett VIC 3781	Use and development of the land for a replacement dwelling	Issued	17/11/2021
21/11/2022	T170298 - 2	381 Paternoster Road, Cockatoo VIC 3781	Use of the land for home based business (exceeding 100 square metres) and buildings and works associated with outbuildings	Issued	15/10/2021
21/11/2022	T220263	965 Toomuc Valley Road, Pakenham Upper VIC 3810	Use and development of land for a dependent person's unit and removal of vegetation	Issued	14/04/2021
21/11/2022	T220373	78 Manestar Road, Beaconsfield Upper VIC 3808	Alterations and additions to existing dwelling	Issued	30/05/2022

12/12/2022	T220426	285 Beaconsfield-Emerald Road, Beaconsfield VIC 3807	Construction and display of a home based business sign	NOD	22/06/2022
12/12/2022	T220694	53 Cooinda Road, Beaconsfield VIC 3807	Alterations and additions to an existing dwelling comprising a verandah and deck	Issued	16/10/2022
13/12/2022	T210210	A 215A & 215 Princes Highway, Beaconsfield VIC 3807	Use and development of the land for dwellings in stages, reduction of visitor car parking requirements and subdivision of the land in stages	Failure	17/03/2021
15/12/2022	T210780	28 Beaconsfield-Emerald Road, Beaconsfield Upper VIC 3808	Subdivision of the land into three (3) lots and removal of vegetation	NOD	12/10/2021
16/12/2022	T220276	30 Boyd Road, Gembrook VIC 3783	Alterations and additions to an existing dwelling and development of the land for an outbuilding (carport)	Issued	24/04/2022
20/12/2022	T210527 - 1	28 Beaconsfield-Emerald Road, Beaconsfield Upper VIC 3808	Use of the land for the sale and consumption of liquor	Issued	28/10/2022
22/12/2022	T210500	9 Mahon Avenue, Beaconsfield VIC 3807	2 Lot Subdivision	Issued	5/07/2021

Bunyip Ward

Date Issued	Permit Number	Address	Proposal	Decision	Date Lodged
4/11/2022	T220061	14 Petty Road, Bunyip VIC 3815	Staged subdivision of land into twelve (12) lots and removal of native vegetation	NOD	2/02/2022
7/11/2022	T220380	585 Bald Hill Road, Nar Nar Goon VIC 3812	Stage 2 of VCE centre on existing school site	Application Withdrawn	1/06/2022
8/11/2022	T210476	14 Oaktree Drive, Pakenham VIC 3810	Development of land for One Dwelling and associated Vegetation Removal	NOD	26/07/2021
9/11/2022	T210881	9 Kingston Avenue, Pakenham VIC 3810	Development of the land for a second dwelling and alterations to the existing dwelling (carport)	Issued	24/11/2021
16/11/2022	T220171	5 Barrington Drive, Pakenham VIC 3810	Construction of a Second Dwelling on a Lot	Issued	24/02/2022
21/11/2022	T220561	1530 Princes Highway, Nar Nar Goon VIC 3812	Removal of easements	Lapsed	18/08/2022
23/11/2022	T210870 - 1	40 Dore Road, Nar Nar Goon North VIC 3812	T210870-1 CP - (DELWP) - Corrected Planning Permit Application Native vegetation removal, generally in accordance with the approved plans	Issued	18/11/2022
28/11/2022	T220137	10 Canty Lane, Pakenham VIC 3810	Subdivision of land in stages adjacent to a Road in a Transport zone 2, creation of restrictions and reserves, removal of native vegetation and works on land affected by the Land Subject to Inundation Overlay.	Issued	28/02/2022
28/11/2022	T220425	20 Granite Lane, Tynong VIC 3813	Buildings and works (Stables) associated with horse husbandry	Issued	21/06/2022
28/11/2022	T220457	9-10 Main Street, Bunyip VIC 3815	Sale and Consumption of Liquor (in association with use of land as a Food & Drink Premise/Bar)	Application Withdrawn	28/06/2022
7/12/2022	T220577	11 Sweeney Court, Tynong VIC 3813	Buildings and works associated with a horse training facility (horse stables, shed and walker/round yard)	Issued	26/08/2022
8/12/2022	T200150 - 1	11 Kevis Court, Garfield VIC 3814	Subdivision of land into two (2) lots	Issued	18/11/2022
13/12/2022	T220251	1410 Nar Nar Goon-Longwarry Road, Bunyip VIC 3815	Use of land for a store	Application Withdrawn	8/04/2022
15/12/2022	T210894	29 Mary Street, Bunyip VIC 3815	Buildings and works associated with a single dwelling and outbuilding	Issued	29/11/2021

15/12/2022	T220483	7 Nar Nar Goon-Longwarry Road, Garfield VIC 3814	Development of the land for an outbuilding (garage)	Issued	14/07/2022
16/12/2022	T210686	28 Nash Road, Bunyip VIC 3815	Subdivision of the land into two (2) lots	Issued	6/09/2021
20/12/2022	T220397	35 Cameron Way, Pakenham VIC 3810	Development of the land for a second dwelling and associated works	Application Withdrawn	7/06/2022
20/12/2022	T220669	314 Snell Road, Maryknoll VIC 3812	Buildings and works associated with an outbuilding	Issued	5/10/2022
21/12/2022	T220176	7 Fairway Court, Pakenham VIC 3810	Subdivision of Land into Two Lots and Variation to a Restrictive Covenant P289510Y	Issued	9/03/2022
21/12/2022	T220328	40 Dore Road, Nar Nar Goon North VIC 3812	- Use of land for display village - To display or construct a sign - Waiver of car parking requirements - Hoarding signage	Issued	6/05/2022

Central Ward

Date Issued	Permit Number	Address	Proposal	Decision	Date Lodged
22/11/2022	T220439	6-14 Swan Street, Pakenham VIC 3810	Development of the land for sixteen (16) dwellings and removal of easements	Issued	27/06/2022

Henty Ward

Date Issued	Permit Number	Address	Proposal	Decision	Date Lodged
8/11/2022	T220138	44 James Street, Pakenham VIC 3810	Buildings and works associated with a Medical Centre (building extension)	Issued	22/02/2022
24/11/2022	T210839	7 Leonard Court, Pakenham VIC 3810	Development of the land for a second dwelling, outbuilding (carport) and fence	NOD	9/11/2021
1/12/2022	T150296 - 1	29 James Street, Pakenham VIC 3810	Development of the land for an office building, associated works and a reduction in the car parking requirements of Clause 52.06	Issued	30/05/2022
8/12/2022	T220309	126 Princes Highway, Pakenham VIC 3810	Use of the land for an Education Centre (Secondary School), the construction of a car parking area and alteration of access to a road in TRZ2.	Issued	12/05/2022
8/12/2022	T220453	172 Princes Highway, Pakenham VIC 3810	Subdivision of land into two (2) lots	Issued	30/06/2022
20/12/2022	T210850	32 Princes Highway, Pakenham VIC 3810	Buildings and works associated with the construction of three (3) dwellings and creation and alteration of access to a Transport Zone 2	NOD	13/11/2021
20/12/2022	T220530	25 Princes Highway, Pakenham VIC 3810	Subdivision of land into eight (8) lots	Issued	5/08/2022
9/11/2022	T160672 - 1	71 Racecourse Road & 77 Racecourse Road, Pakenham VIC 3810	Amendment to Planning Permit T160672 to allow for the Sale and Consumption of Liquor in association with use of land for the purpose of a Motel	Issued	20/03/2022

Officer Ward

Date Issued	Permit Number	Address	Proposal	Decision	Date Lodged
16/11/2022	T220629	90 McMullen Road, Officer VIC 3809	Display of Advertising Signage	Application Withdrawn	15/09/2022
17/11/2022	T220642	20 Brunt Road, Beaconsfield VIC 3807	Installation of an unregistered movable dwelling and associated carport on Site 11 which is currently vacant	Issued	21/09/2022
18/11/2022	T220628	27 Golden Banksia Drive, Officer VIC 3809	Use of land for sale and consumption of liquor	Issued	15/09/2022
25/11/2022	T210824	Bridge Road, Officer VIC 3809	Staged multi-lot residential subdivision (Lot BC on Plan of Subdivision 731532N)	Issued	29/10/2021
20/12/2022	T220072	3 Campanella Avenue, Officer VIC 3809	Use of the land and buildings and works associated with a restricted recreation facility (gymnasium); buildings and works associated with a medical centre, food and drink premises and shops; and reduction in car parking.	Issued	9/02/2022
4/01/2023	T220281	433-435 Princes Highway, Officer VIC 3809	Development of the land for offices, display of signage, alteration of access to a road in a Transport Zone 2, reduction in car parking and creation of easement	Issued	19/04/2022
20/12/2022	T220427	63 Officer South Road, OFFICER VIC 3809	Use and development of an Emergency Services Facility within a Land Subject to Inundation Overlay	Issued	20/06/2022

Pakenham Hills Ward

Date Issued	Permit Number	Address	Proposal	Decision	Date Lodged
15/11/2022	T220173	4 Tribuzi Close, Pakenham VIC 3810	Construction of a Second Dwelling on a Lot	Issued	28/02/2022
15/11/2022	T220303	28 Blessing Rise, Pakenham VIC 3810	Development of the land for a dwelling and associated works	Lapsed	9/05/2022
7/12/2022	T220326	29 Oskar Court, Pakenham VIC 3810	Buildings and works associated with Community Care Accommodation	Issued	3/05/2022
19/12/2022	T210797	23C Tuscany Rise, Pakenham VIC 3810	Construction of One (1) Dwelling on a Lot Less than 300sqm	NOD	18/10/2021

Ranges Ward

Date Issued	Permit Number	Address	Proposal	Decision	Date Lodged
3/11/2022	T220510	48 Avon Road, Avonsleigh VIC 3782	Use and development of the land for a Dependent Persons Unit, associated earthworks and removal of vegetation	Lapsed	26/07/2022
7/11/2022	T170015 - 1	3 Carawa Street, Cockatoo VIC 3781	Construct a second dwelling on the site and apply for a 2-lot subdivision	Application Withdrawn	13/08/2022
9/11/2022	T220122	2 Redwood Road, Gembrook VIC 3783	Subdivision of land into two (2) lots	Issued	23/02/2022
9/11/2022	T220275	4 Ogilvy Road & 4 Clematis Park Road, Clematis VIC 3782	Two (2) lot boundary realignment	Issued	22/04/2022
14/11/2022	T220042	6 Isaac Street, Cockatoo VIC 3781	Development of land for an outbuilding (shed) and vegetation removal	Issued	26/01/2022
14/11/2022	T220603	280 Mountain Road, Gembrook VIC 3783	Buildings and works associated with the construction of an outbuilding (shed)	Issued	7/09/2022
16/11/2022	T220175	35 Sunnyside Terrace, Emerald VIC 3782	Alterations and Additions to a Single Dwelling	Issued	3/03/2022
16/11/2022	T220188	40 Beaconsfield-Emerald Road, Emerald VIC 3782	Buildings and Works (Construction of an Outbuilding)	Issued	18/03/2022
16/11/2022	T220213	34-36 Belgrave-Gembrook Road, Cockatoo VIC 3781	Boundary realignment, vegetation removal & access to a Road Zone Category 1.	Application Withdrawn	25/03/2022
16/11/2022	T220254	3 Emerald-Monbulk Road, Emerald VIC 3782	Use of land for a Take Away Food Premises (food truck) and alteration of access to a road in a Transport Zone 2	NOD	12/04/2022
16/11/2022	T220639	2097 Wellington Road, Clematis VIC 3782	Buildings and works associated with the construction of an outbuilding (shed)	Issued	19/09/2022
17/11/2022	T220402	6 Mackenzie Street, Cockatoo VIC 3781	Buildings and Works (Construction of an Outbuilding)	Lapsed	10/06/2022
18/11/2022	T220157	510 Ure Road, Gembrook VIC 3783	Construction of a Replacement Dwelling	Issued	6/03/2022
21/11/2022	T220709	23 Second Avenue, Cockatoo VIC 3781	Buildings and works for an outbuilding	Issued	21/10/2022
22/11/2022	T210830	58 Woori Yallock Road, Cockatoo VIC 3781	Additions and alterations to a dwelling and associated works	Issued	5/11/2021
7/12/2022	T220347	77 Emerald-Monbulk Road, Emerald VIC 3782	Buildings and Works (Construction of a Carport)	Issued	23/05/2022
12/12/2022	T180156 - 1	2 Seaview Road, Cockatoo VIC 3781	Development of the land for a dwelling and associated earthworks	Issued	29/06/2022

12/12/2022	T210093	335 Evans Road, Cockatoo VIC 3781	Buildings and works associated with a dwelling (replacement) and vegetation removal.	Issued	11/02/2021
12/12/2022	T220533	9 Caroline Crescent, Emerald VIC 3782	Buildings and works for a non-habitable outbuilding	Issued	5/08/2022
12/12/2022	T220674	32 Fairway Road, Emerald VIC 3782	Development of the land for an outbuilding (garage) and associated earthworks	Issued	7/10/2022
22/12/2022	T220497	85 Collie Road, Gembrook VIC 3783	Development of the land for an outbuilding (garage)	Issued	23/07/2022

Toomuc Ward

Date Issued	Permit Number	Address	Proposal	Decision	Date Lodged
28/11/2022	T220504	135 Mulcahy Road, Pakenham VIC 3810	Buildings and works associated with stores (self-storage units)	Issued	25/07/2022
7/12/2022	T180718 - 1	80 Thewlis Road, Pakenham VIC 3810	We are applying for a minor Section 72 amendment to introduce a small staging component into the permitted subdivision (T180718)	Issued	11/10/2022
13/12/2022	T220592	Princes Highway Road Reserve adjoining 551, 565, 585 Princes Highway, Officer VIC 3809	Removal of native vegetation	Issued	2/09/2022
13/12/2022	T220719	17 Avondale Street, Officer VIC 3809	Applying for a double storey dwelling in Urban Growth Zone with Significant landscape overlay schedule 6.	Issued	26/10/2022
16/11/2022	T220551	115 Timberline Parkway, Pakenham VIC 3810	Construction of a single storey dwelling & garage on a Lot affected by the Significant Landscape Overlay – Schedule 6 (SLO6)	Issued	15/08/2022
23/11/2022	T220620 - 1	6 Sundance Promenade, Pakenham VIC 3810	Dwelling has moved 1 metre forward (from 6m to 5m) and is still within the permitted building envelope. No other changes. Already got developer to approve and stamp plans again.	Issued	7/11/2022

Westernport Ward

Date Issued	Permit Number	Address	Proposal	Decision	Date Lodged
9/11/2022	T180617 - 1	Koo Wee Rup Road, Pakenham VIC 3810	Use of land for a Convenience Restaurant, construct and carry out works for Service Station and associated buildings and Convenience Restaurants, to display advertising signage, to create or alter access to a road in a Road Zone (Category 1), the subdivision of the land into two (2) lots and creation of easements and reserves)	Issued	21/12/2021
14/11/2022	T220372	650 Seven Mile Road, Nar Nar Goon VIC 3812	Use and Development of Land for a Dependent Person's Unit	Issued	30/05/2022
14/11/2022	T220429	107 Nar Nar Goon-Longwarry Road, Garfield VIC 3814	Building and works associated with the construction of a non-habitable outbuilding (shed)	NOD	23/06/2022
17/11/2022	T220730	2 Silver Way, Koo Wee Rup VIC 3981	Development of the land for an extension to an existing outbuilding (carport)	Issued	2/11/2022
21/11/2022	T220209	455 Westernport Road, Lang Lang VIC 3984	Development of the land for an agricultural building (hay shed)	Issued	23/03/2022
21/11/2022	T220461	6 Link Road, Lang Lang VIC 3984	Development of a crossover	Issued	4/07/2022
21/11/2022	T220700	2 Corey Court, Koo Wee Rup VIC 3981	Buildings and works for a carport	Issued	17/10/2022
28/11/2022	T210425 - 1	66 Sette Circuit, Pakenham VIC 3810	Amendment to planning permit T210425 (approved for display of signage (externally illuminated, major promotion and sky signage)) to include electronic signage.	Issued	28/04/2022
28/11/2022	T220591	1 Corporate Terrace, Pakenham VIC 3810	Buildings and works associated with alterations and extensions to a building	Application Withdrawn	1/09/2022
29/11/2022	T220562	4 O'Sullivan Street, Pakenham VIC 3810	Building and works associated with the construction of a warehouse and reduction in one (1) parking space	Issued	12/09/2022
1/12/2022	T210817	6 Trinity Way, Pakenham VIC 3810	Use of the land for a Place of Assembly and associated reduction in the car parking requirement and the sale and consumption of liquor	Issued	28/10/2021
1/12/2022	T220495	8 John Street, Koo Wee Rup VIC 3981	Subdivision of the Land into Two (2) Lots.	Issued	21/07/2022
5/12/2022	T220205	Manks Road, Koo Wee Rup VIC 3981	Use of land for a Place of Assembly	Application Withdrawn	24/03/2022
7/12/2022	T220468	305 Jeffers Road, Cora Lynn VIC 3814	Buildings and works for one (1) agricultural building associated with Crop Raising	Issued	1/07/2022

12/12/2022	T200536	We 4/40 Bate Close, Pakenham VIC 3810	Use of the land for a restricted retail premises (art supplies), alterations and additions to the existing building and reduction in on-site carparking	Issued	9/10/2020
12/12/2022	T220747	17 Sette Circuit, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued	14/11/2022
12/12/2022	T220773	12 Industrial Drive, Pakenham VIC 3810	Building and works associated with industry (warehouse with ancillary office)	Issued	23/11/2022
14/12/2022	T220507	30 Bourke Road, Pakenham VIC 3810	Development of the land for an agricultural building (shed)	Issued	21/07/2022
15/12/2022	T220307	710 Westernport Road, Lang Lang VIC 3984	Buildings and Works (Construction of a Farm Shed)	Issued	11/05/2022
15/12/2022	T220417	9 Administration Drive, Pakenham VIC 3810	Building and works for warehouse development with ancillary office and associated car parking	Issued	17/06/2022
15/12/2022	T220766	7 Tarmac Way, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued	21/11/2022
20/12/2022	T220361	50 Southeast Boulevard, Pakenham VIC 3810	Subdivision of land into two (2) lots	Issued	26/05/2022
23/12/2022	T220027	20 Hill Street, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued	19/01/2022
3/01/2023	T200827 - 1	5 Administration Drive, Pakenham VIC 3810	Buildings and works for three (3) warehouses and industry, associated works and a reduction in the car parking requirements of Clause 52.06	Issued	20/01/2022

Resolution

Moved Cr Jeff Springfield, seconded Cr Graeme Moore.

That Council note the report.

Carried

5.4 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	App. No.	Address	Proposal	Council Decision	Appealed By	Outcome
14/02/2023 (2 days)	GE210868	610 Westernport Road, Lang Lang	Application about interpretation of planning scheme or a permit in relation to land or a particular use or development of land (s149A(1))	N/A	Applicant	Awaiting hearing
30/03/2023	GE220792	565 Murray Road, Vervale	Review of refusal to issue certificate (s97P(1))	Refusal	Applicant	Awaiting hearing
16/06/2023	T210567	28 Hill Street, Pakenham	Use and development of the land for a place of worship	Refusal	Applicant	Awaiting hearing
TBD	T220316	3 Cambridge Street, Lang Lang	Use and development of the land for a medical centre and the construction and display of one (1) business identification sign	Notice of Decision to Grant a Permit	Objector	Awaiting hearing
18/07/2023	T210643	44 Paternoster Road, Cockatoo	Use and Development of the Land for a Telecommunications facility	Notice of Decision to Grant a Permit	Objector	Awaiting hearing
11/05/2023 (2 days)	T210968	1-3 Savage Street, Pakenham	Use and Development of Land for a Child Care Centre	Refusal	Applicant	Awaiting hearing

Matters Recently Decided at VCAT

App. No.	Address	Proposal	Council Decision	Appealed By	Outcome	Decision Date
T190126	35 McDonalds Track, Lang Lang	Multi-lot subdivision, creation of access to a Road Zone Category 1 and the creation of reserves	Permit	Multiple parties	Consent Order – amended permit granted	8/12/2022
T210346	55 Southeast Boulevard Pakenham	Use of the land for an Education Centre (Adult Training Centre) and Food and Drink Premises and associated buildings and works	Refusal	Applicant	Consent Order – permit granted	15/11/2022
T220013	Tomer Place, Pakenham	Subdivision of land into four (4) lots and the creation of a reserve	FTD*	Applicant	Consent Order - permit granted	19/10/2022

*FTD denotes an application for review of Council's failure to issue a decision within the prescribed timeframe.

Matters Currently the Subject of VCAT Appeal

Hearing Date	App. No.	Address	Proposal	Council Decision	Appealed By
24/11/2022 (3 days)	T210902	13-15 Mahon Avenue Beaconsfield	Buildings and works associated with the construction of thirty-one (31) dwellings	FTD*	Applicant
16/12/2022	T200173-2	Centenary Boulevard, Officer South	Amendments to subdivision to allow staging	FTD*	Applicant
TBD	T110588	Centenary Boulevard, Officer South	Declaration and failure to determine two secondary consent applications	FTD*	Applicant
31/01/2023	T210333	14 A'Beckett Road, Bunyip	Subdivision of land into six (6) lots	FTD*	Applicant
9/03/2023	T210210	215A & 215 Princes Highway, Beaconsfield	Use and Development of the land for residential dwellings in stages, reduction of car parking and subdivision of land	FTD*	Applicant
20/06/2023	T210885	4 Ann Crescent, Pakenham	Development of the land for four (4) dwellings	Notice of Decision to Grant a Permit	Objector

*FTD denotes an application for review of Council's failure to issue a decision within the prescribed timeframe.

Resolution

Moved Cr Jack Kowarzik, seconded Cr Jeff Springfield.

That Council note the report.

Carried

5.5 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.

Relevance to Council Plan

Nil.

Status of Active Amendments

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

A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C238	Cardinia Shire Council	Beaconsfield Precinct - Glismann Road and Old Princes Highway.	Amendment C238 proposes to: <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	Approved with changes by the Minister for Planning and gazetted on 18 November 2022.
C262	XWB Consulting	11 Thom Road, Lang Lang	Rezone part of land from Farming Zone - Schedule 1 (FZ1) to Neighbourhood Residential Zone - Schedule 1 (NRZ1) and consider Planning Permit Application No. T190728 for: <ul style="list-style-type: none"> - 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 the amendment.	Thu 10/03/2022	Mon 11/04/2022	A Directions Hearing for the Panel was held on 27 September 2022 and the Panel Hearing the week beginning 31 October. The Panel Report was received on 6

A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
						December 2022 and is currently being considered.
C265	Cardinia Shire Council	Pakenham South Employment Precinct	Incorporate the Pakenham South Employment Precinct Structure Plan into the Cardinia Planning Scheme.	Thu 15/10/2020	Thu 26/11/2020	Adopted by Council on 19 July 2021. An Infrastructure Contributions Plan (ICP) is currently being prepared. Officers are currently getting the ICP documentation reviewed by an independent expert.
C266	Three Thirds Consulting	39 Wattletree Road, Bunyip	Section 96A amendment to rezone the land from Low Density Residential Zone - Schedule 2 (LDRZ2) to Low Density Residential Zone - Schedule 3 (LDRZ3) and consider Planning Application No. T200105 for: - subdivision of the subject land into two (2) lots; - removal of vegetation; and, - creation of restrictions on the plan of subdivision; concurrently with the amendment.	Thu 05/05/2022	Mon 06/06/2022	Approved by the Minister for Planning and gazetted on 25 November 2022.

A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C268	NBA Group Pty Ltd.	49 Garfield Road, Garfield	The Amendment applies to 49 Garfield Road, Garfield (Lot 1 PS436250 and Lot 1 PS531590). The Amendment is a combined planning permit application and planning scheme amendment under section 96A of the Act. The amendment proposes to rezone the majority of the area of the site currently identified as Low Density Residential – Schedule 2 to Low Density Residential – Schedule 3. The proposed zone boundary aligns with a 30m setback from the Ti-Tree Creek. The Urban Growth Boundary (UGB) remains unchanged.	Thu 13/10/2022	Mon 14/11/2022	Exhibition completed 14 November 2022. A report will be put to the February Council meeting outlining the next steps for the amendment.
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.	Thu 17/03/2022	Thu 21/04/2022	Adopted by Council on 20 June 2022. Lodged with the Minister for Planning on 22 June 2022. Currently waiting on approval by the Minister for Planning.

Resolution

Moved Cr Stephanie Davies, seconded Cr Collin Ross.

That Council note the report.

Carried

6 Meeting Closure

Meeting closed at 7:18pm.

Minutes confirmed
Chairman