

5 Ordinary Business

5.1 Re-subdivision of land (house lot excision) - 4915 South Gippsland Highway, LANG LANG

Responsible GM: Lili Rosic
 Author: Tim Heffernan

Recommendation

That Council resolve to issue a Notice of Decision to Refuse to Grant a Permit for Planning Permit Application T220375 for Re-subdivision of land (house lot excision) on the following grounds:

- 1) The proposal is inconsistent with Planning Policy Framework and Local Planning Policy Framework, specifically:
 - a. Clause 11.01-1S - Settlement
 - b. Clause 11.01-1R - Green Wedges – Metropolitan Melbourne
 - c. Clause 14.01-1S - Agriculture
 - d. Clause 14.01-1S - Protection of Agricultural Land
 - e. Clause 21.04-2 – Agriculture
 - f. Clause 21.08-1 - Lang Lang
 - g. Clause 22.05 – Western Port Green Wedge Policy
- 2) The proposal is inconsistent with relevant purposes and decision guidelines of the Green Wedge Zone. with the proposal that compromises the preservation, protection or enhancement of primary production, the Green Wedge or agriculture land, while resulting in a smaller rural living lot that may conflict with existing or future large-scale farming operations.
- 3) The proposal is inconsistent with Clause 52.01 - Metropolitan Green Wedge Land: Core Planning Provisions.
- 4) The proposal is inconsistent with the relevant considerations of Clause 65 Decision Guidelines and the orderly planning of the area.

Attachments

1. T220375 Locality Map [5.1.1 - 1 page]
2. T220375 - Plan of Subdivision [5.1.2 - 3 pages]
3. T220375 Officer Report [5.1.3 - 14 pages]

Application Details

APPLICATION NO.:	T220375
APPLICANT:	Nobelius Land Surveyors

LAND:	4915 South Gippsland Highway, Lang Lang 3984 VIC (Lot 1 and 2 PS441991)
PROPOSAL:	Re-subdivision of land (house lot excision)
PLANNING CONTROLS:	Zone: Green Wedge Zone Schedule 1 (GWZS1) Overlays: Land Subject to Inundation Overlay (LSIO)
NOTIFICATION & OBJECTIONS:	Pursuant to Section 52 of the <i>Planning and Environmental Act</i> , the application was advertised by sending notices in the mail to nearby property owners. No objections were received.
KEY PLANNING CONSIDERATIONS:	Creation of fragmented agricultural land and subdivision layout Potential for land use conflicts – ‘right to farm’ impeded Inconsistent with Green Wedge provisions Protection of agricultural land
REASON FOR MEETING:	Planning officer recommendation for refusal
RECOMMENDATION:	Notice of Decision to Refuse to Grant a Permit

Executive Summary

Planning permission is sought for the re-subdivision of land, to facilitate a house lot excision.

The proposed allotments, as part of PS 907566 R, are as follows:

Lot 1- Proposed area of 121.18ha to retain the existing dwelling on Lot 2 and continue to be accessible from the South Gippsland Highway.

Lot 2 - Proposed area of 1891m², to retain the existing single storey dwelling on Lot 1 while retaining current access from Stanlakes Road.

The proposal seeks an excision of an existing dwelling, therefore, the number of dwellings will remain unchanged as a result of the subdivision.

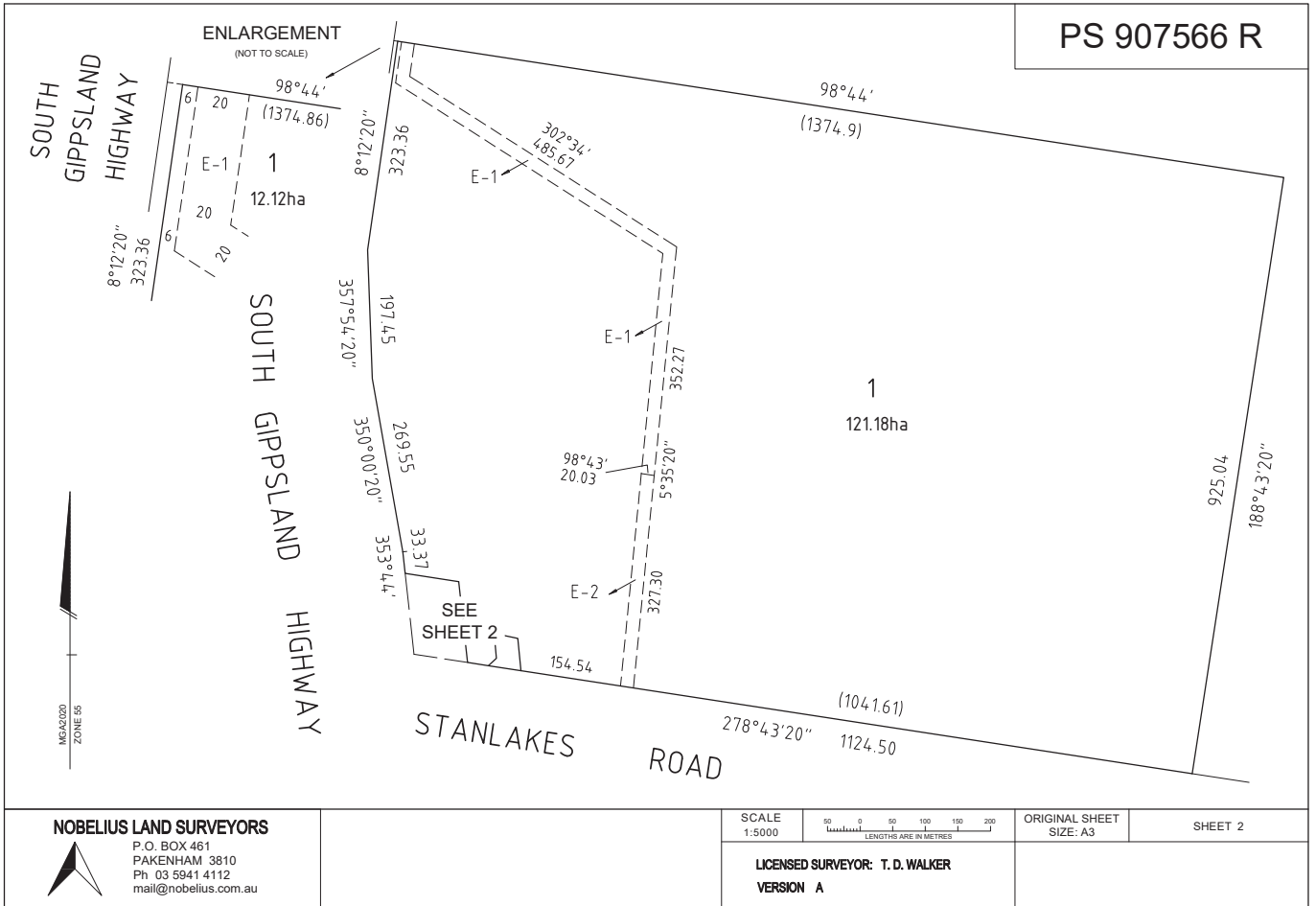
The subject site is zoned Green Wedge Schedule and a Land Subject to Inundation Overlay.

The proposal does not appropriately respond to both the site and surrounds, instead proposing a fragmented subdivision, comprising a much larger agricultural lot and very small rural residential lot, that is not orderly or in-keeping with the wider Lang Lang area. Furthermore, proposed Lot 2 is concluded to be a poor layout that increases rural residential living within a Green Wedge and adjacent Rural Conservation Zoning area, leading to potential land use conflict.

In considering the overall intent and purpose of the Green Wedge Zone, proposed Lot 1 at 121.18ha facilitates the potential for an increase in overall lots and/or dwellings, at odds with the Zoning and character of the area.



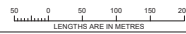
PS 907566 R



NOBELIUS LAND SURVEYORS

P.O. BOX 461
 PAKENHAM 3810
 Ph 03 5941 4112
 mail@nobellius.com.au

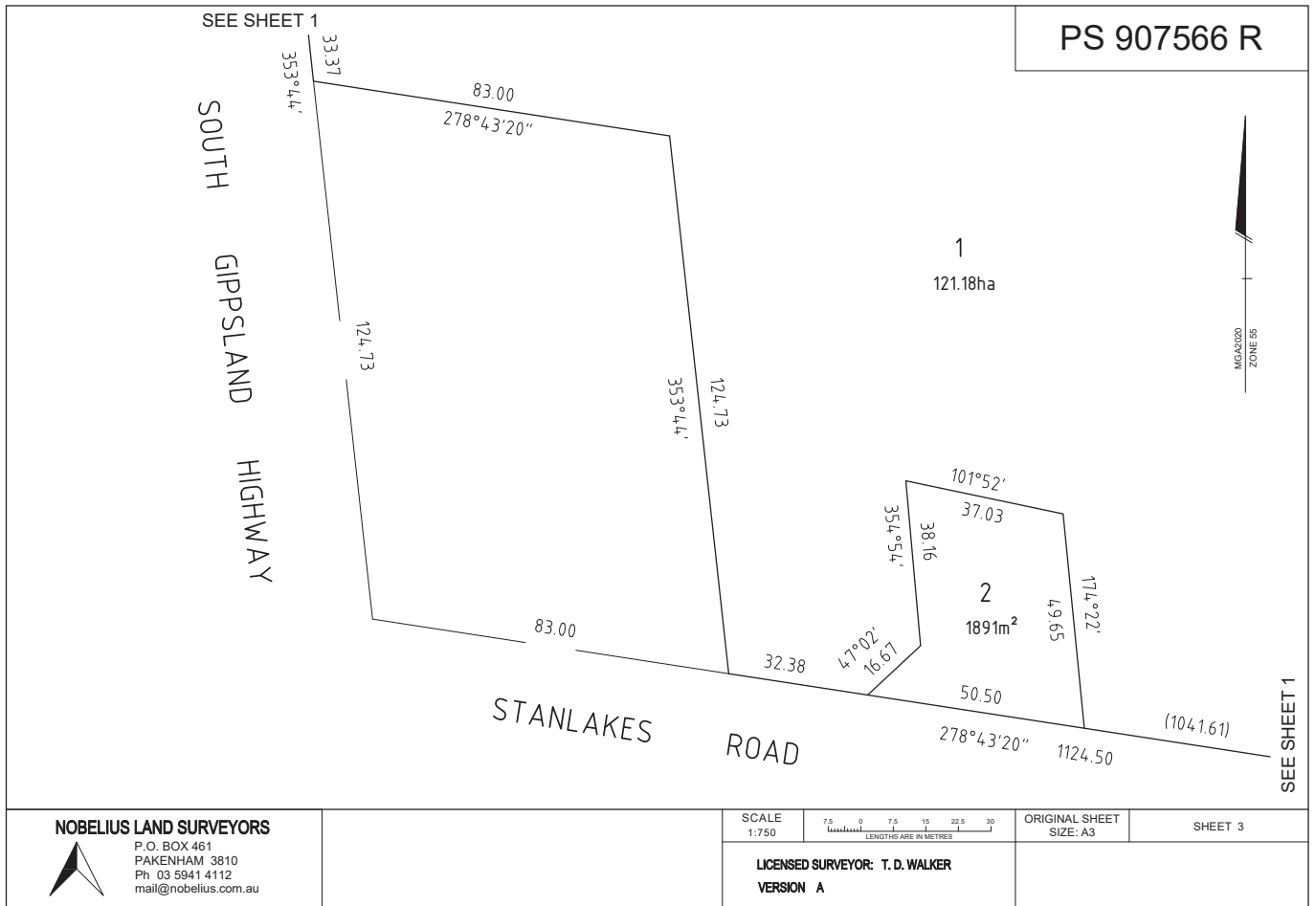
SCALE
 1:5000




ORIGINAL SHEET
 SIZE: A3

SHEET 2

LICENSED SURVEYOR: T. D. WALKER
 VERSION A



PLAN OF SUBDIVISION		EDITION 1	PS 907566 R	
<p>LOCATION OF LAND</p> <p>PARISH: Lang Lang TOWNSHIP: --- SECTION: --- CROWN ALLOTMENT: 15 (Pt) CROWN PORTION: --- TITLE REFERENCE: Vol. Fol.</p> <p>LAST PLAN REFERENCE: Lots 1 & 2 on PS 441991 U POSTAL ADDRESS: 4915 South Gippsland Highway, Lang Lang 3984 (at time of subdivision)</p> <p>MGA CO-ORDINATES: E: 373 550 ZONE: 55 (of approx centre of land N: 5 761 950 GDA 2020 in plan)</p>		<p>Council Name: Cardinia Shire Council</p>		
VESTING OF ROADS AND/OR RESERVES		NOTATIONS		
IDENTIFIER	COUNCIL/BODY/PERSON			
Nil	Nil			
NOTATIONS				
DEPTH LIMITATION: DOES NOT APPLY				
<p>SURVEY: This plan is based on survey.</p> <p>STAGING: This is not a staged subdivision. Planning Permit No.</p> <p>This survey has been connected to permanent marks No(s). 20 & 97 In Proclaimed Survey Area No. ---</p>				
EASEMENT INFORMATION				
LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				
Easements and rights implied by Section 12(2) of the Subdivision Act 1988 apply to all of the land in this plan.				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	Water supply & rights in connection therewith set out in MCP AA1353	20	Land Acquisition & Compensation Act 1986 & Section 130 Water Act 1989 See Notification AG839989P	Melbourne Water Corporation
E-2	Water supply & rights in connection therewith set out in MCP AA1353	20	Land Acquisition & Compensation Act 1986 & Section 130 Water Act 1989 See Notification AG839994W	Melbourne Water Corporation
 NOBELIUS LAND SURVEYORS P.O. BOX 461 PAKENHAM 3810 Ph 03 5941 4112 mail@nobelius.com.au		SURVEYORS FILE REF: 20534 LICENSED SURVEYOR: T. D. WALKER VERSION A		ORIGINAL SHEET SIZE: A3 SHEET 1 OF 3

APPLICATION FOR CONSIDERATION
 PLANNING REFUSAL
 OFFICER REPORT



Application Details:

Proposal	Re-subdivision of land (house lot excision)		
Applicant	Nobelius Land Surveyors		
Date Received:	31 May 2022		
Statutory Days:	377 (as of mid June 2023)		
Section 50/50A/57A Amendment	<input checked="" type="checkbox"/> None	<input checked="" type="checkbox"/> Yes, date:	
Application Number	T220375		
Planner	Tim Heffernan		
Land/Address	4915 South Gippsland Highway, Lang Lang 3984 VIC (Lot 1 and 2 PS441991)		
Property No.	4784801600		
Zoning	Green Wedge Zone Schedule 1 (GWZS1)		
Overlay/s	Land Subject to Inundation Overlay (LSIO)		
Permit Trigger(s)	<ul style="list-style-type: none"> Pursuant to Clause 35.04-3 of the Green Wedge Zone, a permit is required to subdivide land. Pursuant to Clause 44.04-3 of the Land Subject to Inundation Overlay, a permit is required to subdivide land. 		
Aboriginal Cultural Sensitivity	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes; a CHMP is:	
		<input checked="" type="checkbox"/> Not required	<input type="checkbox"/> Required
Section 55 Referrals	<input type="checkbox"/> None	<input checked="" type="checkbox"/> Yes, list below:	
		<ul style="list-style-type: none"> AusNet Electricity Services Department of Environment, Land, Water and Planning (DEWLP) Melbourne Water <p><u>Note:</u> Notice provided to DEWLP and MW due to major desalination pipeline to the north of subject site.</p>	
Registered restrictions on Title	<input checked="" type="checkbox"/> None	<input type="checkbox"/> Yes, list below:	
Recommendation	<input type="checkbox"/> Permit <input type="checkbox"/> NOD		

	<input checked="" type="checkbox"/> Refusal	
Ward Councillor communications	<input checked="" type="checkbox"/> None	<input type="checkbox"/> Yes , item in Councillor Bulletin
Documents relied on	<ul style="list-style-type: none"> • Application form • Proposed Plan of Subdivision prepared by Nobelius Land Surveyors • Town Planning Report prepared by Nobelius Land Surveyors • Title documents • Melbourne Water referral response 	
Full plans and documents	T220375 - Application Package.pdf	
Plans to be endorsed?	<input type="checkbox"/> Yes , <insertRMClick>	
	<input type="checkbox"/> No , amended plans required	

Proposal

Planning permission is sought for the re-subdivision of land, to facilitate a house lot excision.

The proposed allotments, as part of PS 907566 R, are as follows:

- Lot 1- Proposed area of 121.18ha to retain the existing dwelling on Lot 2 and continue to be accessible from the South Gippsland Highway.
- Lot 2 - Proposed area of 1891m2, to retain the existing single storey dwelling on Lot 1 while retaining current access from Stanlakes Road.

The proposal seeks a re-subdivision of two lots to facilitate an excision of an existing dwelling, therefore, the number of dwellings will remain unchanged as a result of the subdivision.

Lot 1, at 121.18ha will support the existing agricultural activities undertaken on the site.

Proposed lot 1- mostly regular in shape with a 1041.6m Stanlakes Road frontage and 823.5m South Gippsland Highway frontage

Proposed lot 2 – irregular in shape, with a 50.5m Stanlakes Road frontage

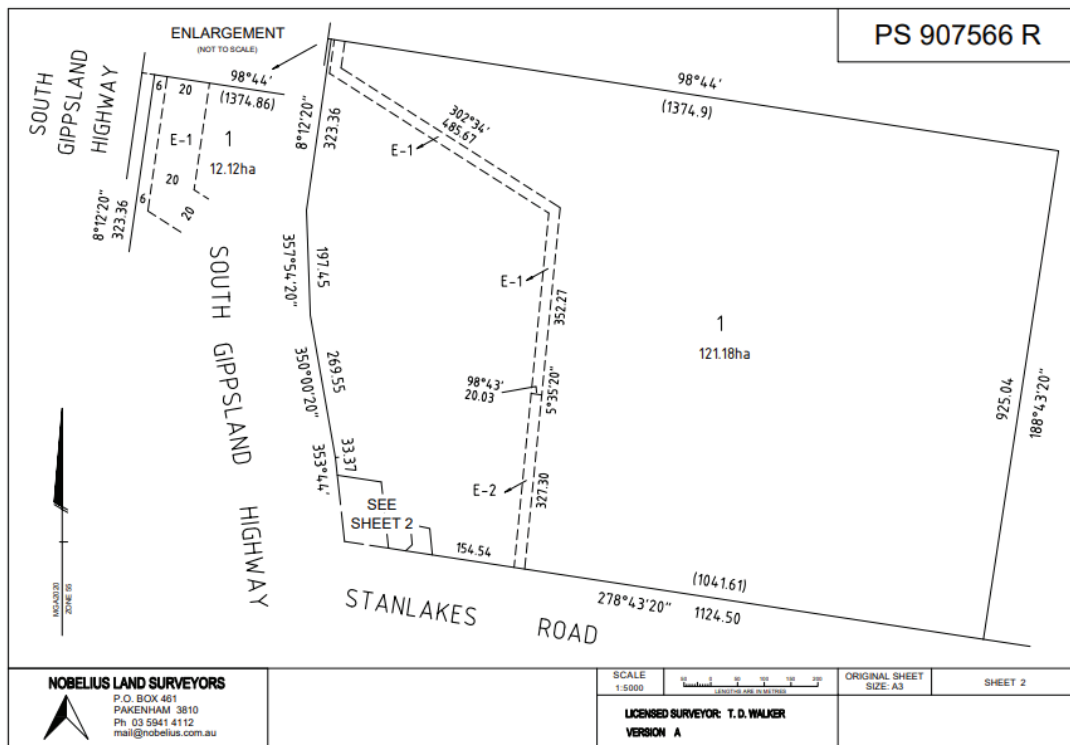


Figure 1 - Proposed Plan of Subdivision. Source: Nobelius Land Surveyors.

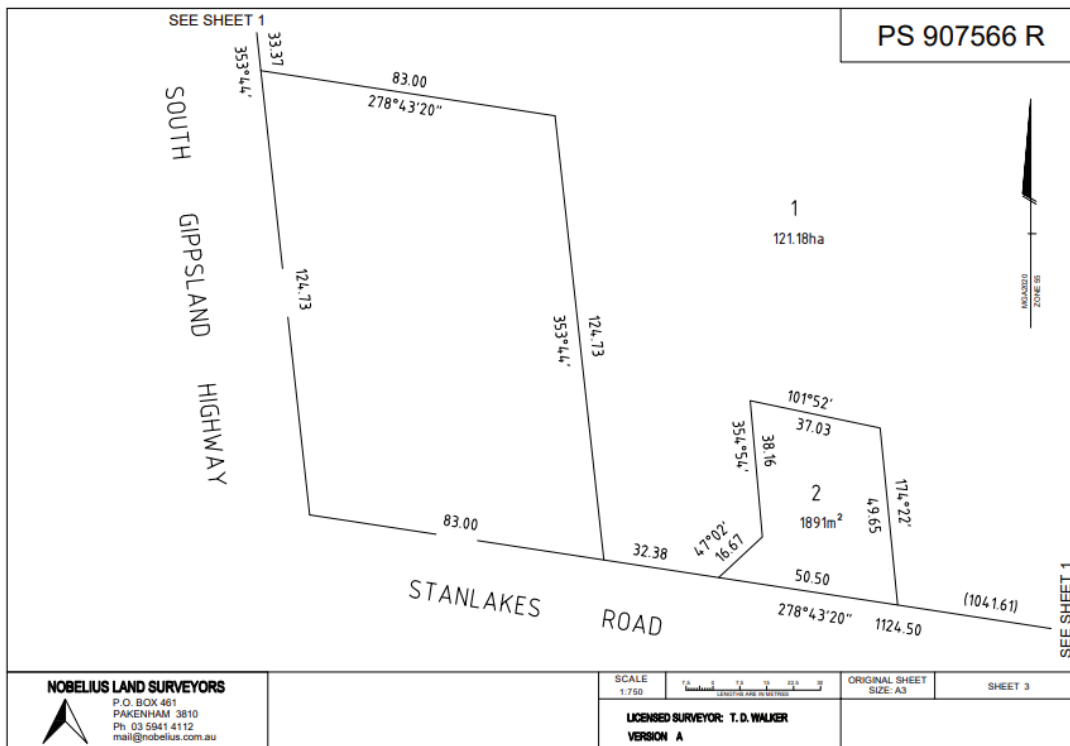


Figure 2 - Proposed Plan of Subdivision. Source: Nobelius Land Surveyors.

Subject site & locality

An inspection of the site (December 2022) and the surrounding area has been undertaken.

The site is located on the eastern side of South Gippsland Highway and is formally described as Lots 1 & 2 on PS441991, 4915 South Gippsland Highway, Lang Lang, and is a large land holding encompassing 121.4 hectares.

The land holding is mostly linear in shape with a 344m frontage to South Gippsland Highway. The land holding is located to the southwest of the Lang Lang township and is accessible from the South Gippsland Highway to the west, and Stanlakes Road to the south. The site comprises two dwellings (one on each lot), two small dams, and is used for agriculture and farming practices. Dwelling one is a double-storey brick dwelling fronting the South Gippsland Highway, while dwelling two is a brick veneer single storey accessed off Stanlakes Road.

As shown on the existing Plan of Subdivision, the subject site is encumbered by a large easement (South-east Water pipeline), orientated north to south. A tributary of Adams Creek also dissects the lot in a north to south alignment.

Topographically, the land gently falls from west to east, while vegetation is generally confined to areas near to the dwelling and along the boundaries.

The main characteristics of the surrounding area are:

- Large agricultural lots
- Some smaller excised dwelling lots, used for hobby farming / rural lifestyle lots
- Southeast water treatment plant on land abutting north
- Conventional residential development within the Lang township boundary, to the north-east.
- Winding Lang River to the west and Adams Creek Nature Conservation Reserve south-east

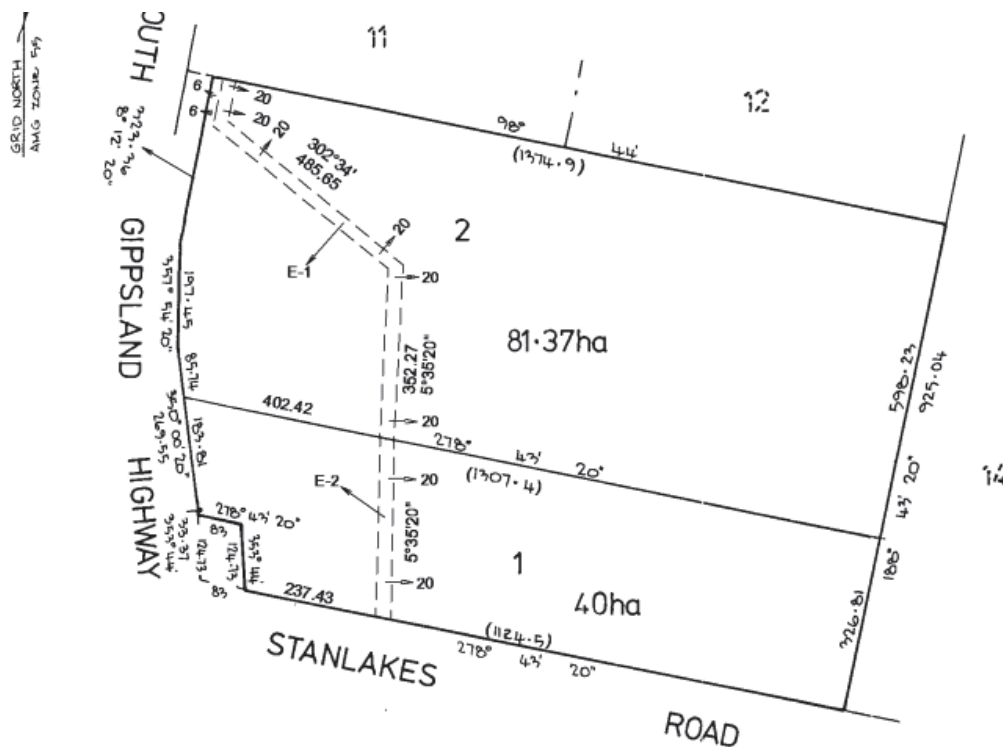


Figure 3 - Existing Plan of Subdivision identifying Lot 1 and Lot 2 PS441991U.



Figure 4 - Aerial imagery of the subject site. Source: Nearmap 2023.



Figure 5: Dwelling one, accessed off South Gippsland Hwy



Figure 5a: Dwelling two, accessed off Stanlakes Road



Figure 6 - Aerial imagery of the site and wider surrounds. Source: Nearmap 2023.

Permit/Site History

The history of the site includes:

- T010034 - 2001 - Issued - Subdivision of the land
- T030578 - 2003 - Lapsed - Construction of a Machinery Shed
- T040145 - 2004- Issued- Construction of a dwelling
- T040777- 2004 - Issued- Construction of a shed
- T090165 - 2009 – Issued - Creation of an access into a Road Zone 1 and the removal of roadside vegetation
- T100279 - 2010 – Issued - The development of the land for a rural store
- T100821- 2010 – Issued - Use and development of the land for a dwelling and two sheds

Planning Scheme Provisions

Zone

The land is subject to the following zones:

- Green Wedge Zone - Schedule 1 (GZS1)

Overlays

The land is subject to the following overlays:

- Land Subject to Inundation Overlay (LSIO)

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.01-1S Settlement
- Clause 11.01-1R Green Wedges - Metropolitan Melbourne
- Clause 13.03 Floodplains
- Clause 13.07-1S Land use compatibility
- Clause 14.01-1S Protection of agricultural land

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 Cardinia Shire Key Issues and Strategic Vision
- Clause 21.01-3 Key Issues
- Clause 21.02 Environment
- Clause 21.04-2 Agricultural
- Clause 21.08 Local Areas – Western Port Region
- Clause 22.05 Western Port Green Wedge Policy

Relevant Particular/General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 51.02 Metropolitan Green Wedge Land: Core Planning Provisions
- Clause 65 Decision Guidelines
- Clause 66 Referral and notice provisions
- Clause 66.01 Subdivision referrals
- Clause 71.02-3 Integrated decision making
- *Lang Lang Township Strategy (2009)*
- *Cardinia Western Port Green Wedge Management Plan*

Planning Permit Triggers

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

- Pursuant to Clause 35.04-3 of the Green Wedge Zone, a permit is required to subdivide land.
- Pursuant to Clause 44.04-3 of the Land Subject to Inundation Overlay, a permit is required to subdivide land.

Public Notification

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

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

The notification has been carried out and the statutory declaration has been submitted to Council in October 2022.

No objections have been received at the time of writing this report.

Referrals

External Referrals/Notices:

Referrals/ Notice	Referral Authority	Brief summary of response
Section 55 Referrals	Melbourne Water AusNet	No objection (subject to conditions) No response provided (as of June 2023)
Section 52 Notices	DELWP	No response provided (as of June 2023)

Internal Referrals:

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

Assessment

The application for a permit to re-subdivide land (house lot excision) has been assessed against relevant state and local policy, as well as the decision guidelines of all relevant clauses of the Cardinia Planning Scheme. The proposal has been determined to provide an inappropriate response and is recommended for refusal.

It is the role of the planning scheme to ensure that subdivisions create liveable and sustainable neighbourhoods and urban places with character and identity, as well as achieve outcomes that appropriately respond to the site and policy direction. In this instance, the proposal does not appropriately respond to both the site and surrounds, instead proposing a fragmented subdivision, comprising a much larger agricultural lot and very small rural residential lot, that is not orderly or in-keeping with the wider Lang Lang area. Furthermore, proposed Lot 2 will create a permanent change in land use from agriculture to residential and is concluded to be a poor layout that increases rural residential living within a Green Wedge and adjacent to Rural Conservation Zoning area.

Green Wedge minimum subdivision requirement

Prior to detailing the inconsistency and policy failures of the proposal, it is pertinent to acknowledge and consider both the existing and proposed lot sizes.

Lot #	Existing Lot Sizes	*Further Subdivision Potential (40ha lots)	Proposed Lot Size	*Further Subdivision Potential (40ha lots)
1	40 ha	No	121.18 ha	Yes, 3 x lots
2	81.37 ha	Yes, 2 x lots	1,891m ² (0.08 ha)	No

* Subdivision potential equates to number of lots possible pursuant to the GWZ 40ha minimum.

Pursuant to Clause 35.04-3, a permit may be granted to create smaller lots if any of the following apply:

- *The subdivision is the re-subdivision of existing lots, the number of lots is not increased, and the number of dwellings that the land could be used for does not increase.*

In considering the proposal, Council takes heed pertaining to “*the number of lots is not increased*”. The proposed re-subdivision seeks to create a significantly larger Lot 1, with a total area of 121.18ha, with Lot 2, for the existing dwelling, comprising a total area of 1891 square metres.

Schedule 1 of the Green Wedge Zone (Clause 35.04) stipulates a minimum 40ha subdivision area, thereby allowing the opportunity for Lot 1 to be further subdivided (based on 121ha, a maximum of 3 lots), increasing the number of lots and/or dwellings. In this instance, Council considers such a proposal an unacceptable and very real risk, within an important Green Wedge and Rural Conservation setting (see below), that is an important strategic asset to Cardinia Council. Further, in examining the surrounding lot sizes, determined to be large and generally lineal, proposed Lot 2, seeks a small, fragmented re-subdivision layout, which is surrounded by agricultural use on three boundaries, that is in stark contrast. This equates to a re-subdivision proposal that is not orderly planning.



Figure 7 - Subject site & area Zoning controls. Source: VicMaps, 2023.



Figure 8 - Aerial imagery of surrounding lots with respective boundaries shown. Source: Nearmap 2023.

Green Wedge Zone (GWZ)

The site is subject to the Green Wedge Zone which includes the following purposes:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources.*
- *To encourage use and development that is consistent with sustainable land management practices.*
- *To encourage sustainable farming activities and provide opportunity for a variety of productive agricultural uses.*
- *To protect, conserve and enhance the cultural heritage significance and the character of open rural and scenic non-urban landscapes.*
- *To protect and enhance the biodiversity of the area.*

Further, relevant decision guidelines for subdivision include:

Rural Issues

- *The maintenance of agricultural production and the impact on the rural economy.*
- *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 rural infrastructure.*
- *The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agriculture and other land uses.*
- *The protection and retention of land for future sustainable agricultural activities.*

Environmental Issues

- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *How the use or development relates to sustainable land management and the need to prepare an integrated land management plan.*
- *The location of on-site effluent disposal areas to minimise impact of nutrient loads on waterways and native vegetation.*

The proposed subdivision seeks to create a significantly larger lot at 121.18ha (Lot 1) and a much smaller lot at 1891m² (Lot 2) along the proposed southern boundary with the configuration deemed to be at odds with the wider area. As demonstrated on figure 8, the presiding lot sizes for the area are very large and reflect agricultural/ pastoral land uses. Proposed lot 2, at 1891 square metres is diminutive in size, and in stark contrast to the presiding lot size of the area. As such, the proposal is not site responsive and does not achieve key objectives.

Any approval of a dwelling in the proposed location may create future land use conflicts between land uses and developments and therefore, its siting must be carefully considered. In factoring typical day to day farming practices on pastoral land, including chemical drift, noise and odours, that are conducted near any residential use will induce amenity concerns. Council surmises that the re-subdivision proposal increases the chances of 'right to farm' conflict, thus compromising the landowner's ability to manage their farmland without impositions. Such an effect would be detrimental to achieving the outcomes sought by the GWZ and policy framework.

Lastly, in considering the intent and purpose of the Green Wedge Zone, proposed Lot 1 at 121.18ha facilitates the potential for an increase in overall lots and/or dwellings, at odds with the Zoning and character of the area. No suitable justification has been provided as to the need for the boundary realignment, and in essence eliminates the farming viability of one of the two lots. Furthermore, any re-subdivision approval may perpetuate the land use for residential purposes.

Land Subject to Inundation Overlay (LSIO)

The purpose of the Land Subject to Inundation (LSIO) Overlay is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) year flood or any other area determined by the floodplain management authority.*
- *To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*
- *To minimise the potential flood risk to life, health and safety associated with development.*
- *To reflect a declaration under Division 4 of Part 10 of the Water Act, 1989.*
- *To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.*
- *To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.*

Pursuant to Clause 44.04-7 the application was referred to Melbourne Water who had no objection to the proposal, subject to conditions.

As the application was approved by Melbourne Water it is considered to comply with the purpose and decision guidelines of the overlay. Compliance with the conditions will minimise the potential flood risk to life, health and safety and minimise damage to the building.

Planning Policy Framework

Several State and Local policies are relevant to this application for the re-subdivision of the land with an assessment determining there to be inconsistencies. When considering these various policies, the proposal alters the farming and agricultural use and potential of the site without suitable merit or justification.

Clause 11.01-1S Settlement seeks to “deliver networks of high-quality integrated settlements that have a strong identity and sense of place” whilst “balancing strategic objectives to achieve improved land use and development outcomes” and “preserving and protecting features of rural land and natural resources and features to enhance their contribution to settlements and landscapes.” The proposal does not preserve or protect features of valued rural land and natural resources or contribute to the settlement or landscape, instead, creating a much larger lot at the expense of a much smaller lot. The proposed re-subdivision is not orderly or in keeping with the wider area.

Clause 11.01-1R Green Wedges – Metropolitan Melbourne seeks to “protect the green wedges of Metropolitan Melbourne from inappropriate development” by protecting important productive land and supporting existing and potential agribusiness activities. The proposed re-subdivision does not protect the highly valued green wedge zone controls, appropriately support, or protect productive land with potential for farming conflict significantly increased.

Clause 14.01-1S Agriculture: The proposal has not provided justification regarding productive agricultural outcomes on either lot. The proposal creates a smaller, isolated lot with the remaining lot capable of further subdivision and dwelling opportunities which compromises any future agricultural activity potential.

Clause 14.01-1S Protection of Agricultural Land seeks “to protect the state’s agricultural base by preserving productive farmland” via a number of strategies including (as relevant):

- *Protect productive agricultural land from unplanned loss due to permanent changes in land use.*
- *Limit new housing development in rural areas by:*
 - *Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.*
 - *Encouraging consolidation of existing isolated small lots in rural zones.*
- *In considering a proposal to use, subdivide or develop agricultural land, consider the:*
 - *Desirability and impacts of removing the land from primary production, given its agricultural productivity.*
 - *Impacts on the continuation of primary production on adjacent land, regarding land values and the viability of infrastructure for such production.*
 - *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
- *Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.*

The proposal is considered to be inconsistent with the strategies listed above with the proposal seeking an isolated small lot, measuring 1891m² in isolation to a significantly larger 121ha lot within a Green Wedge zone. Therefore, the proposed re-subdivision seeks to create a rural residential use within an agricultural area that may conflict with existing or future large-scale farming operations. The proposal does not protect the productive agricultural land of the area.

Furthermore, the proposal fails to appropriately respond to local planning policy *Clause 21.04-2 Agriculture* as the proposal creates a rural lifestyle lot while reducing opportunity for appropriate farming on two separate appropriately sized lots. The application provides no information as to the productivity or protection of agricultural land (noting the site has designated ‘good agricultural significance’).

Clause 21.08-1 Lang Lang seeks to implement the Lang Lang Township Strategy, July 2009. Whilst the site is located outside of the township boundary, the strategy identifies a need to consolidate development within core townships and avoiding the scattering and increased density of residential development and character outside of the township core that can impact on the important green wedge and agricultural area. The proposed re-subdivision is contrary to these aims being seeking an incompatible use (farming conflict) located within an important Green Wedge setting.

The proposal has not identified how State significant Green Wedge and agricultural land is supported or enhanced as part of the proposed boundary realignment which creates a rural-residential / lifestyle lot and increases future opportunity for additional subdivision and dwellings and as such, does not appropriately respond to Clause 22.05 Western Port Green Wedge Policy.

The proposal compromises the purpose of the *Metropolitan Green Wedge Land: Core Planning Provisions (Clause 52.01)* which seeks to protect productive agricultural land from incompatible uses and development by creating a rural residential lot amongst an active agricultural use.

Clause 65 Decision Guidelines

As discussed above the proposal fails to comply with the Municipal Planning Strategy, the Planning Policy Framework, the purpose of the Green Wedge zone and Clause 51.02 of the Cardinia Planning Scheme. The proposed subdivision and boundary realignment will not contribute to the orderly planning of the area, being a fragmented design, with a much larger lot at the expense of a smaller lot.

Conclusion

As discussed above, the application fails to comply with key planning policies set out in the Cardinia Planning Scheme.

The proposal represents a fragmented subdivision, comprising a much larger agricultural lot and exceedingly small rural residential lot, not orderly or in-keeping with the wider Lang Lang area.

Whilst the number of lots is not increased through this proposal, the increased size of proposed Lot 1 means that further subdivision could occur, potentially creating an additional two lots and two further dwellings a decision that compromises the orderly planning of the area.

Proposed Lot 2 is concluded to be a poor layout that increases rural residential living within a Green Wedge and adjacent Rural Conservation Zoning area. As such, the proposal compromises the preservation, protection or enhancement of primary production, the Green Wedge or agriculture land.

In considering the relevant State and Local Policy Framework, the Green Wedge Zone, the proposal represents a poor outcome and is not supported.

Recommendation



Refusal to Grant a Planning Permit

That Council having caused notice of Planning Application No. T220375 to be given under Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Refuse to Grant a Permit in respect of the land known and described as 4915 South Gippsland Highway Lang Lang (L2 PS441991) for the subdivision of the land 2(boundary realignment) under the following grounds:

- 1) The proposal is contrary to Clause 35.04-3 of the Green Wedge Zone, with the proposed re-subdivision being fragmented in design, comprising a much larger lot and smaller residential lot that is not in keeping with the locality and is capable of further subdivision and potential dwellings, something that the Green Wedge Zone seeks to avoid.
- 2) The proposal is inconsistent with State planning policy, specifically, Clause 11.01-1R Green Wedges – Metropolitan Melbourne, Clause 14.01-1S Agriculture, Clause 14.01-1S Protection of Agricultural Land with the proposal that compromises the preservation, protection or

enhancement of primary production, the Green Wedge or agriculture land, while resulting in a smaller rural living lot that may conflict with existing or future large-scale farming operations.

- 3) The proposal is inconsistent with local planning policy specifically, Clause 21.04-2 Agriculture, *Clause 21.08-1 Lang Lang* and Clause 52.01 *Metropolitan Green Wedge Land: Core Planning Provisions*.
- 4) The proposal is inconsistent with the relevant considerations of Clause 65 Decision Guidelines and the orderly planning of the area.

Planner Responsible:	Tim Heffernan	Team Leader / Coordinator	Rachael Blandthorn
Signature:		Signature:	
Date:	3 July 2023	Date:	5 July 2023