

5.3 Subdivision of land into two lots - 4 Stringybark Road, Cockatoo VIC

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 T220343 for Subdivision of the land into two lots on the following grounds:

1. The proposal is not in keeping with the existing and preferred subdivision pattern of the area.
2. The proposal is inconsistent with Clause 56- Standard C6 Neighbourhood Character objective.
3. The subdivision of this site is inconsistent with the Cockatoo township strategy, not in keeping with the existing lot sizes within the surrounding neighbourhood and Clause 21.07-2 (Cockatoo).
4. The proposal does not represent the orderly planning of the area.

Attachments

1. T220343 Locality Map [5.3.1 - 1 page]
2. T220343 Plan of Sub [5.3.2 - 3 pages]
3. CONFIDENTIAL REDACTED - T220343 Objection compiled [5.3.3 - 7 pages]
4. T220343 Officer Report [5.3.4 - 15 pages]

Application Details

APPLICATION NO.:	T220343
APPLICANT:	Nilsson, Noel and Holmes Surveyors
LAND:	4 Stringybark Road, Cockatoo VIC 3781 (Lot 88 Plan of Sub 007472)
PROPOSAL:	Subdivision of land into two lots
PLANNING CONTROLS:	Zone: Neighbourhood Residential Zone, Schedule 1 (NRZ1) Overlays: Design and Development Overlay, Schedule 2 (DDO2)

	Vegetation Protection Overlay, Schedule 2 (VPO2) Bushfire Management Overlay, Schedule 1 (BMO1)
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 and placement of signage on site. Three (3) objections were received.
KEY PLANNING CONSIDERATIONS:	Subdivision is not in keeping with locality. Subdivision is at odds with Cockatoo township strategy. The subdivision does not respond to the streetscape with a narrow Lot 2
REASON FOR MEETING:	Planning officer recommendation for refusal
RECOMMENDATION:	Notice of Decision to Refuse to Grant a Permit

Executive Summary

The purpose of the report is to consider an application for the subdivision of the land into two lots as follows:

Lot 1 - 660m², rectangular in shape with a 24.61m street frontage.

Lot 2 - 564m², rectangular in shape with a 21.05m street frontage.

The proposed Lot 1 is to contain an existing dwelling while proposed lot 2 is anticipated to be developed for residential purposes in the future. Access to both new allotments will be from Stringybark Road via separate crossovers.

The site is zoned Neighbourhood Residential Zone, Schedule 1 (NRZ1).

The proposal seeks to create two smaller allotments that are at odds with the existing, uniform subdivisional characteristics of Stringybark Road and surrounds.

Furthermore, the proposed lots lack generous front boundary widths, with any future development (as anticipated) would reduce the sense of spaciousness within the street.

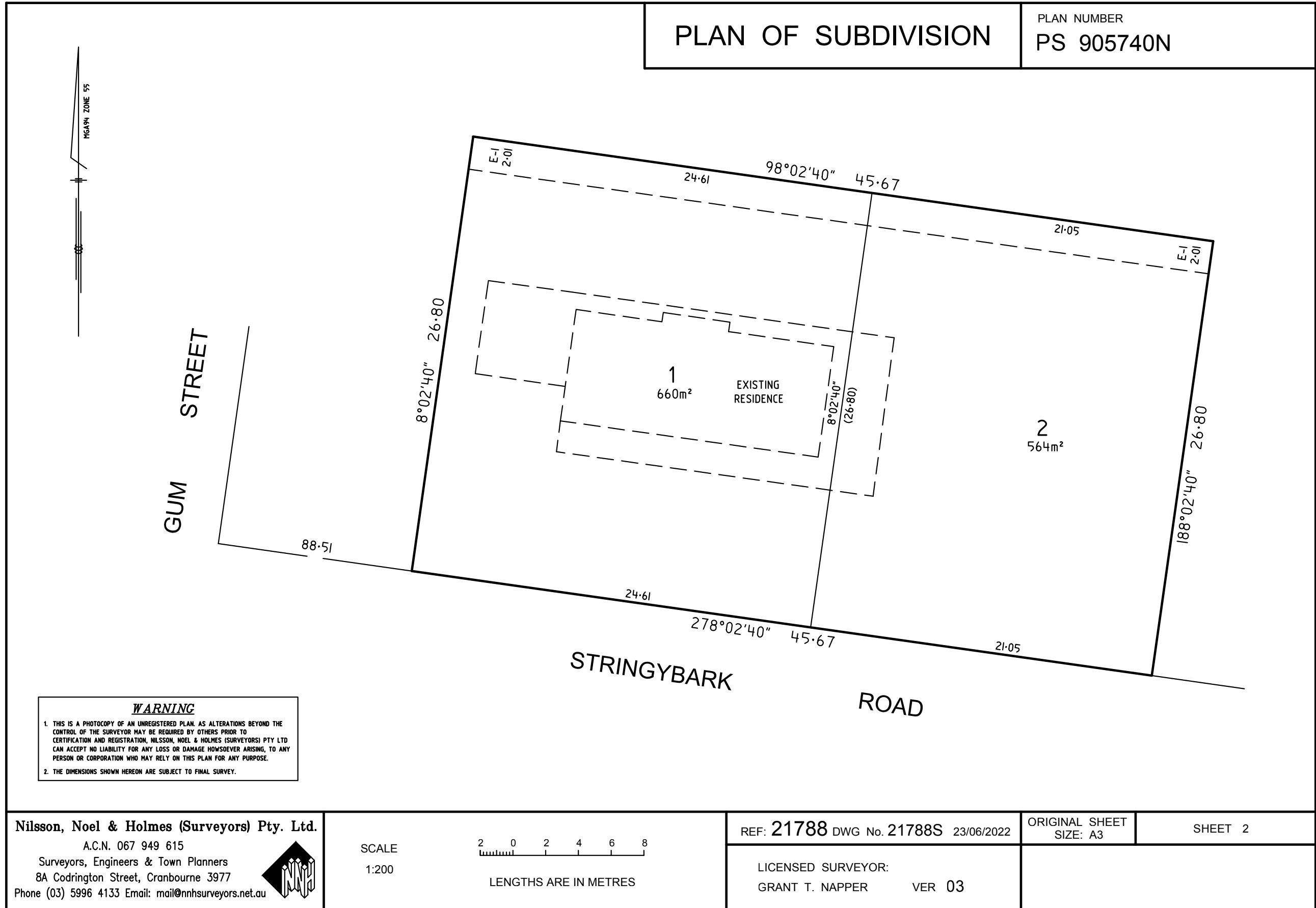
Three trees are to be removed, all identified as exotic as per supplied Arboriculture report.



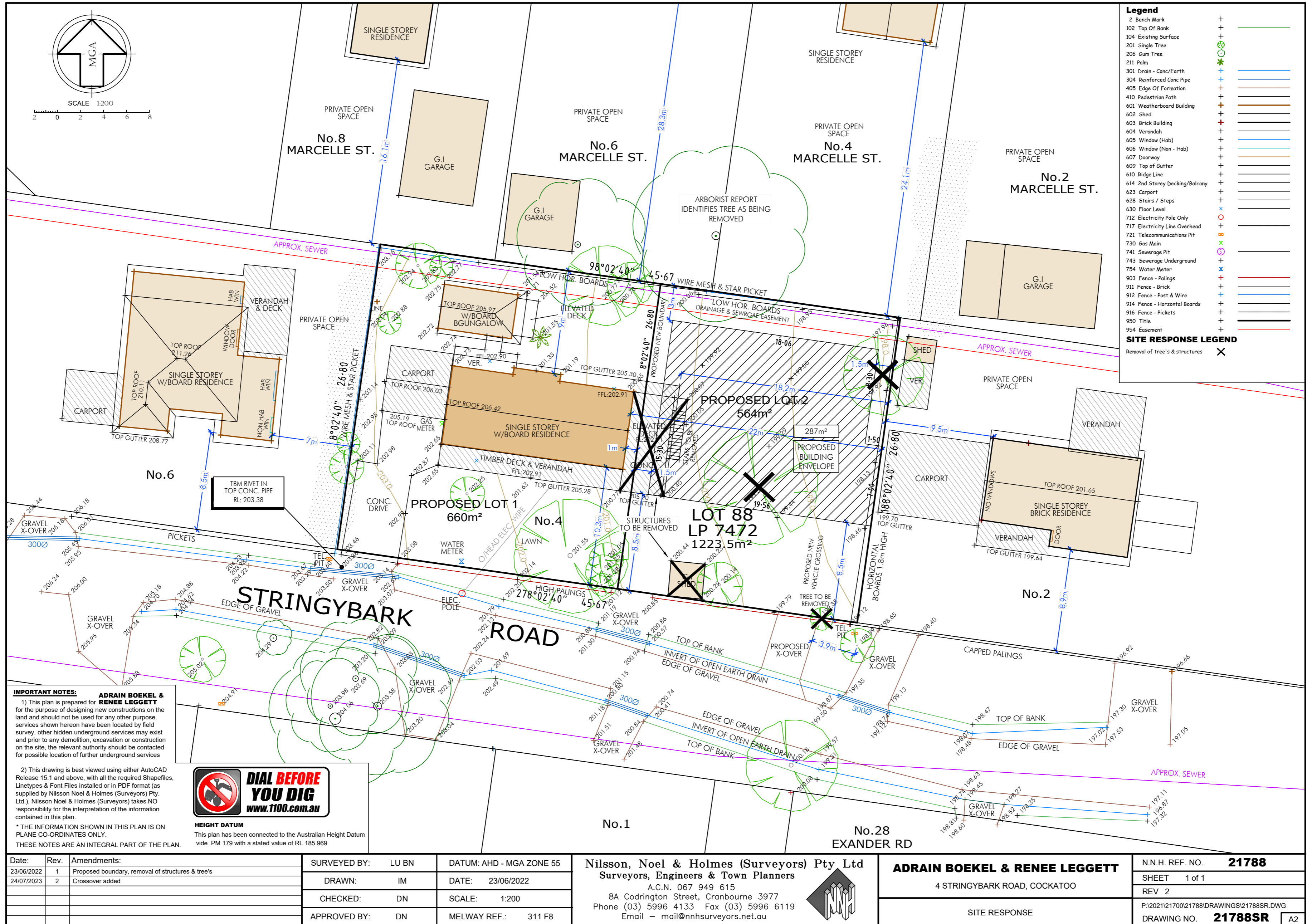
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[View map online](#)





PLAN OF SUBDIVISION		LV USE ONLY EDITION	PLAN NUMBER PS 905740N	
LOCATION OF LAND Parish: GEMBROOK Township: - Section: - Crown Allotment: B (PART) Crown Portion: - Title Reference: VOL 8082 FOL 246 Last Plan Reference: LOT 88 ON LP 7472 Postal Address: 4 STRINGYBARK ROAD, (at time of subdivision) COCKATOO 3781 MGA94 Co-ordinates: E 367 290 Zone: 55 (of approx. centre of land in plan) N 5 799 290		Council Name: CARDINIA SHIRE COUNCIL		
VESTING OF ROADS AND / OR RESERVES		NOTATIONS		
IDENTIFIER	COUNCIL / BODY / PERSON			
NIL	NIL			
NOTATIONS		<div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: 80%;"> <p style="text-align: center; margin: 0;"><i>WARNING</i></p> <p style="font-size: 8px; margin: 0;">1. THIS IS A PHOTOCOPY OF AN UNREGISTERED PLAN. AS ALTERATIONS BEYOND THE CONTROL OF THE SURVEYOR MAY BE REQUIRED BY OTHERS PRIOR TO CERTIFICATION AND REGISTRATION, NILSSON, NOEL & HOLMES (SURVEYORS) PTY LTD CAN ACCEPT NO LIABILITY FOR ANY LOSS OR DAMAGE HOWSOEVER ARISING, TO ANY PERSON OR CORPORATION WHO MAY RELY ON THIS PLAN FOR ANY PURPOSE.</p> <p style="font-size: 8px; margin: 0;">2. THE DIMENSIONS SHOWN HEREON ARE SUBJECT TO FINAL SURVEY.</p> </div>		
Depth Limitation: DOES NOT APPLY Staging: This is not a staged subdivision. Planning Permit No.				
Survey: This plan is based on survey. This survey has been connected to permanent marks no(s) In proclaimed Survey Area No. -				
EASEMENT INFORMATION				
LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)				
SECTION 12(2) OF THE SUBDIVISION ACT 1988 APPLIES TO ALL LAND IN THIS PLAN.				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited / In Favour Of
E-1 E-1	DRAINAGE SEWERAGE	2.01 2.01	LP 7472 THIS PLAN	LOTS ON LP 7472 YARRA VALLEY WATER CORPORATION
Nilsson, Noel & Holmes (Surveyors) Pty. Ltd. A.C.N. 067 949 615 Surveyors, Engineers & Town Planners 8A Codrington Street, Cranbourne 3977 Phone (03) 5996 4133 Email: mail@nnhsurveyors.net.au		REF: 21788 DWG No. 21788S 23/06/2022 LICENSED SURVEYOR: GRANT T. NAPPER VER 03		ORIGINAL SHEET SIZE: A3 Sheet 1 of 2 sheets



APPLICATION FOR CONSIDERATION
REFUSAL
OFFICER REPORT



Application Details:

Proposal	Subdivision of land into two lots		
Applicant	Linda Sahhar - Nilsson, Noel & Holmes Surveyors		
Date Received:	20 May 2022		
Statutory Days:	344 (as of August 2023)		
Section 50/50A/57A Amendment	<input type="checkbox"/> None	<input checked="" type="checkbox"/> Yes, date: August 2022. Proposed lot 1 744m ² revised to 660m ² Proposed lot 2 480m ² revised to 564m ²	
Application Number	T220343		
Planner	Tim Heffernan, Senior Planner		
Land/Address	4 Stringybark Road, Cockatoo VIC 3781 (Lot 88 Plan of Sub 007472)		
Property No.	2814500200		
Zoning	Neighbourhood Residential Zone, Schedule 1 (NRZ1)		
Overlay/s	Design and Development Overlay, Schedule 2 (DDO2) Vegetation Protection Overlay, Schedule 2 (VPO2) Bushfire Management Overlay, Schedule 1 (BM01)		
Permit Trigger(s)	<ul style="list-style-type: none"> Pursuant to Clause 32.09-3 of the Neighbourhood Residential Zone, a permit is required to subdivide land Pursuant to Clause 42.02-3 of the Design and Development Overlay, a permit is required to subdivide land Pursuant to Clause 44.06-2 of the Bushfire Management Overlay, a permit is required to subdivide land 		
Aboriginal Cultural Sensitivity	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes; a CHMP is:	
		<input type="checkbox"/> Not required <reasons>	<input type="checkbox"/> Required <CHMP no.>
Section 55 Referrals	<input type="checkbox"/> None	<input checked="" type="checkbox"/> Yes, list below:	
		<ul style="list-style-type: none"> Country Fire Authority (CFA) 	
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 <insertdate>
Documents relied on	<ul style="list-style-type: none"> ▪ Plan of Subdivision prepared by Nilsson, Noel & Holmes (Surveyors) dated June 2022 ▪ Town Planning submission prepared by Nilsson, Noel & Holmes (Surveyors) ▪ RFI response, prepared by Nilsson, Noel & Holmes (Surveyors), dated 17th August 2022 ▪ Arboricultural Impact Assessment prepared by TreeTec, dated 7 March 2022 and updated 26 July 2023 ▪ Bushfire Management Statement prepared by BAL Assessments, dated March 2022 ▪ Title Documents 	
Full plans and documents	T220343 PA - Advertising Docs.pdf	
Plans to be endorsed?	<input type="checkbox"/> Yes, <insertRMCLink>	
	<input type="checkbox"/> No, amended plans required	

Proposal

Planning permission is sought for subdivision of the land into two lots as follows:

Lot 1 - 660m², rectangular in shape with a 24.61m street frontage.

Lot 2 - 564m², rectangular in shape with a 21.05m street frontage.

The proposed Lot 1 is to contain an existing dwelling while proposed lot 2 is anticipated to be developed for residential purposes in the future.

Access to both new allotments will be from Stringybark Road via separate crossovers.

The existing 2 metre easement (along the northern boundary) is to be retained and no common property is proposed.

Bushfire Management Plan – Designed and constructed to BAL-29.

Three trees are to be removed, all identified as exotic as per supplied Arboricultural report.

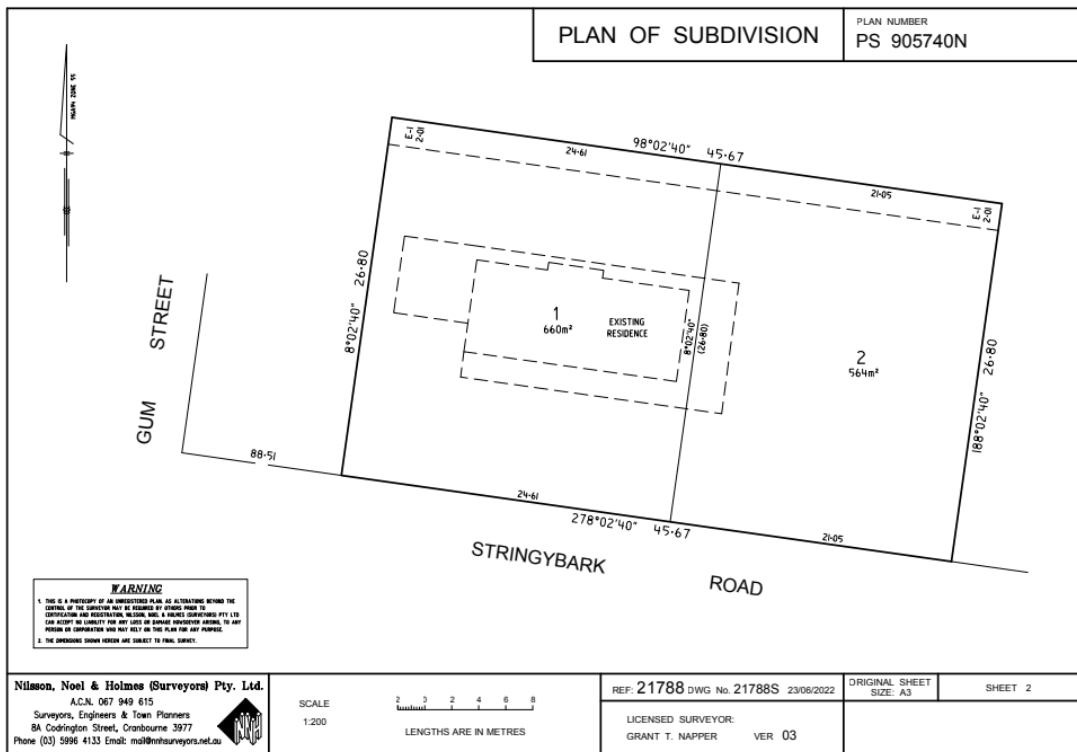


Image 1- Proposed Plan of Subdivision. Source: Nilsson, Noel & Holmes Surveyors, 2022.

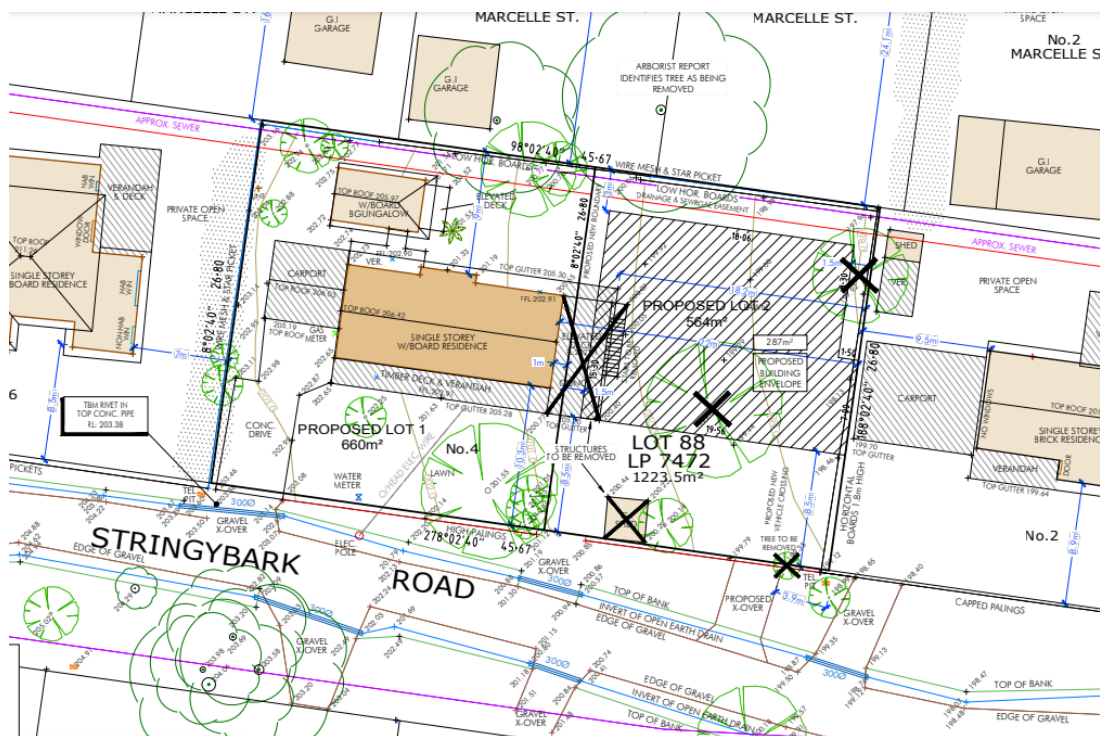


Image 2- Proposed Plan of Subdivision, also showing proposed tree removal. Source: Nilsson, Noel & Holmes Surveyors, 2023.

Subject site & locality

Image 3 – Aerial view of subject site. Source: NearMap, 2023.

An inspection of the site and the surrounding area has been undertaken.

The site is located on the northern side of Stringybark Road and has an overall site area of 1223.5m², including a 45.67m frontage.

The subject property is currently developed for residential purposes, comprising a single storey weatherboard dwelling, setback 10.3m from the road and orientated across the site in a west-to east manner. A timber deck and verandah wrap around the dwelling's front entrance with an elevated deck located to the eastern side.

A concrete crossover is located along the western boundary that leads to single carport, connected to the dwelling building envelope.

Other site features include a weatherboard bungalow to the rear of the dwelling (north) and small shed along the site's frontage (south).

Various canopy tree vegetation is located on the site boundaries, with the topography of the land sloping gently from west to east.

A 2-metre-wide sewerage easement is found along the site's northern boundary, orientated west to east.

Stringybark Road is an unsealed, gravel road with no concrete kerb and channel and no footpath.

Abutting the subject site is:

North	No. 4 and 6 Marcelle Street, Cockatoo	No.4 Single storey dwelling with hipped roof and garage positioned in front of dwelling. No.6 Single storey dwelling with hipped roof
East	No. 2 Stringybark Road, Cockatoo	Single storey brick dwelling, with hipped roof, front verandah and attached carport on corner block, with crossover off Stringybark Road
South	No. 1 and 3 Stringybark Road, Cockatoo	No.1 - Single storey dwelling with hipped roof, building envelope orientated north-west to south-east. No.3 - Single storey dwelling with hipped roof, positioned directly behind large canopy tree
West	No. 6 Stringybark Road, Cockatoo	Single storey weatherboard dwelling, with hipped roof, attached carport and rear deck/verandah. Substantial number of canopy tree on site.

The main characteristics of the surrounding area are:

- Low density residential settlement, predominately single-storey dwellings, with consistent street setbacks.
- Substantial canopy tree vegetation on both residential lots and on roadsides that contribute to bushy character.
- Mixture of lot sizes ranging from 700sqm to 4000sqm and unsealed local roads.
- Site is 420m west from Pakenham Road.



Image 4 – Aerial of surrounding area, inclusive of property boundaries. Source: NearMap, 2023.

Permit/Site History

There is no recent Planning Permit history for the subject site.

Planning Scheme Provisions

Zone

The land is subject to the following zones:

- Neighbourhood Residential Zone, Schedule 1 (NRZ1)

Overlays

The land is subject to the following overlays:

- Vegetation Protection Overlay, Schedule 2 (VPO2)
- Bushfire Management Overlay, Schedule 1 (BMO1)
- Design and Development Overlay, Schedule 2 (DDO2)

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.01-1S Settlement
- Clause 13.02 Bushfire Planning
- Clause 15.01-3S Subdivision design
- Clause 15.01-5S Neighbourhood character

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 Cardinia Shire Key Issues and Strategic Vision
- Clause 21.03-1 Settlement and Housing
- Clause 21.07-2 Cockatoo

Relevant Particular/General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 56 Residential subdivision
- Clause 65 Decision Guidelines
- Clause 66 Referral and notice provisions
- Clause 66.01 Subdivision referrals
- Clause 71.02-3 Integrated decision making
- *Cockatoo Township Strategy, 2008 (not incorporated)*

Planning Permit Triggers

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

- Pursuant to Clause 32.09-3 of the Neighbourhood Residential Zone (NRZ), a permit is required to subdivide land.
- Pursuant to Clause 42.02-3 of the Design and Development Overlay (DDO), a permit is required to subdivide land.
- Pursuant to Clause 44.06-2 of the Bushfire Management Overlay (BMO), 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 on 21st September 2022.

Council has received three (3) objections to date.

The key issues that were raised in the objections are:

- Inconsistent subdivision size
- Inconsistent with Neighbourhood character
- Impact on Cockatoo infrastructure
- Vegetation destruction
- Overshadowing / loss of solar access
- Privacy concerns
- Residential noise
- Threat to way of life

These objections are summarized within the assessment section of this report.

Referrals

External Referrals/Notices:

Referrals/ Notice	Referral Authority	Brief summary of response
Section 55 Referrals	Country Fire Authority (CFA) Recommending	Received September 2022. No objection (subject to conditions).
Section 52 Notices	n/a	n/a

Internal Referrals:

Internal Referral	Council	Advice/ Response/ Conditions
Engineering		Received September 2022. No objection (subject to conditions).

Assessment

The application has been assessed against the relevant state and local policy, as well as the decision guidelines of all relevant clauses of the Cardinia Planning Scheme with the proposal determined to be inconsistent with these requirements.

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 its context for infill sites in established residential areas.

It is concluded that the subdivision is not in keeping with the mixture of lot sizes within Stringybark Road and surrounds, a locality that is recognised as having a low-density character. The proposal seeks to create two smaller allotments that are at odds with the existing, uniform subdivisional characteristics of Stringybark Road. Furthermore, the proposed lots lack generous front boundary widths, that would reduce the sense of spaciousness within the street.

Response to Neighbourhood Residential Zone, Schedule 1

The purpose of the Neighbourhood Residential Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To recognise areas of predominantly single and double storey residential development.*
- *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

In essence, the objectives seek to implement the Metropolitan Planning Scheme and Planning Policy Framework, encourage development that respects the neighbourhood character of the area and to provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.

The relevant decision guidelines for the assessment of subdivision applications under the zone require the consideration of:

- *The pattern of subdivision and its effect on the spacing of buildings.*
- *For subdivision of land for residential development, the objectives and standards of Clause 56.*

As shown in image 5, No. 2 Stringybark Road comprises a single storey dwelling orientated to the centre of the site with an open style carport to its western boundary, shared with the subject site. No.6 Stringybark Road also comprises a single storey dwelling orientated to the centre of its site, with a number of canopy trees on its eastern boundary, shared with the subject site. In essence, the configuration of both the dwellings, carports and canopy trees creates a continuous form, with a break facilitated on the subject site east boundary. Any future development, following subdivision, is likely to be of detriment to acceptable spacing of buildings, at odds with the spaciousness and open views otherwise attributed in the wider locality.

The proposal seeks the creation of two standard size allotments that lack generous front boundary widths, that is at odds with the streetscape. As shown in image 6, the north side of Stringybark Road comprises lots orientated west to east, with generous street frontages that induce a sense of spaciousness, a key attribute valued within the locality. Any proposal to subdivide the subject land, would compromise this impression from the streetscape.



Image 5- Nos 2 to 6 Stringybark Road dwelling orientation. Source: NearMap, 2023.

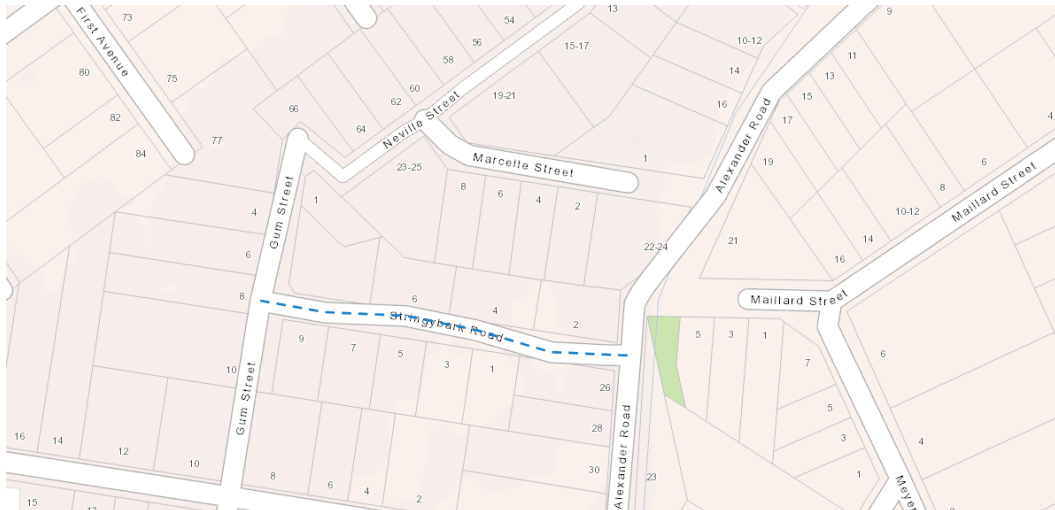


Image 6- Subject area subdivision layout/ attributes. Source: Lassi.

Inconsistency with existing pattern of subdivision

The respective frontage to the north side of the Stringybark Road are as follows:

No.2 Stringybark Road	45.19m
No.4 Stringybark Road	45.6m
No.6 Stringybark Road	42.60m

No.8 Stringybark Road (Corner allotment)	46.3m
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The respective frontage to the south side of the Stringybark Road are as follows:

No.1 Stringybark Road	26.1m
No.3 Stringybark Road	26.1m
No.5 Stringybark Road	24.92m
No.7 Stringybark Road	27.92m
No.9 Stringybark Road	24.7m

The tables above show a consistent frontage width, in uniform with one another and plays an integral role in the orderly presentation of Stringybark Road.

Further, the proposal seeks a respective street frontage/boundary width of 24.61m (Lot 1) and 21.05m (Lot 2) putting it at significant odds with the frontages to the northern side of Stringybark Road. As such, the proposed frontages, which are not generous and some 20m smaller than existing lot frontages, would create an awkward streetscape presentation that also diminishes the low-density aspect of the area. It is incumbent that the orderly presentation is maintained.

The subdivision of this site is not in keeping with the mixture of lot sizes within the surrounding neighbourhood pattern of subdivision. It is incumbent that the orderly presentation is maintained.

Inconsistency with Clause 32.09-3, 2 or more lots:

Objectives and standards of the following Clauses must be met: Clauses 56.03-5 (Neighbourhood character), 56.04-2 (Lot area and building envelope), 56.04-3 (Solar orientation), 56.04-5 (Common areas), 56.06-8 (Lot access) to 56.09-2.

As the word must is included, it is prudent on the proposal meeting all relevant Clauses. The proposal has been determined to not meet the objectives and standards of Neighbourhood Character (Standard C6), seeking a much smaller lot sizes that are not present in Stringybark Road.

The relevant Clauses are discussed in the attached Clause 56 assessment.

Response to Design and Development Overlay, Schedule 2 (DDO2)

The purpose of the Design and Development Overlay, Schedule 2 is:

- *To retain and protect the special character of the hills townships.*
- *To maintain the diversity in lot sizes and ensure that subdivision of land has regard to the existing subdivisional characteristics of the area.*
- *To ensure that the location and design of buildings protects and enhances the character and natural environment of the area and does not cause detriment to surrounding residents.*
- *To ensure that any development has regard to the environmental features and constraints of the land.*

As shown above, a key purpose of the Design and Development Overlay seeks to maintain the diversity of lot sizes while also ensuring that any subdivision of the land has proper regard to the existing subdivision characteristics.

As previously analysed, Council assessed the subdivisional characteristics of frontages along Stringybark Avenue, showing a consistency of frontage sizes. In terms of assessing the overall lot sizes, with the following findings:

North (Zoned Neighbourhood Residential)

No.2 Stringybark Road Corner block	1225m ²
No.4 Stringybark Road *Subject site	1224m ²
No.6 Stringybark Road	1235m ²
No.8 Stringybark Road Corner block	1552m ²
Average lot size	1309m ²

South (Zoned Low Density Residential)

No.1 Stringybark Road	1051.52m ²
No.3 Stringybark Road	1051.75m ²
No.5 Stringybark Road	994.5m ²
No.7 Stringybark Road	1112.14m ²
No.9 Stringybark Road	983m ²
Average lot size	1028.8m ²

It should be noted that the south side of Stringybark Road is zoned Low Density Residential Zone, which has lot sizes that, are, on average, larger, with a Neighbourhood Residential Zone applicable to the north side.

It is Council's determination that the subdivision of the site does not maintain the diversity of lot sizes, instead seeking a fragmented two lot subdivision of 564m² and 660m². In doing so, the proposal does not have proper regard to the existing subdivisional characteristics of the streetscape.

As such, the proposal is inconsistent with the objectives of the Design and Development Overlay, not orderly or in- keeping.

Cockatoo Township Strategy 2008

Although not an Incorporated document, strong consideration is given to the Cockatoo Township Strategy. Pertaining to the strategy, the subject site is located within Precinct 6, Environmental Residential areas southwest of the township. With reference to key characteristics, Precinct 6 has diverse lots ranging from 700 square metres to over 4000 square metres with the balance in favour of larger lots. This is largely reflective in the zoning of the area, much of it being Low Density Residential Zone.

The preferred character statement seeks to *maintain the low-density character of the precinct with extensive vegetation cover and retain the diversity of lot sizes while limiting further development in areas on steep slope.*

PRECINCT 6 ENVIRONMENTAL RESIDENTIAL areas south west of the township	Key characteristics: 1. Diverse lot sizes ranging from 700 square metres to over 4,000 square metres with the balance in favour of larger lots	Preferred character statement: Maintain the low density character of the precinct with extensive vegetation cover. Retain the diversity of lot sizes while limiting further development in areas on steep slope.
	2. Undulating topography 3. A mixture of larger, one or two storey dwellings of recent construction and smaller houses 4. Patches of moderate to dense vegetation with dominant understorey 5. Vegetated backdrop to the south 6. Sense of enclosure created by vegetation cover 7. Undulating terrain; 8. Unformed and irregular road layout 9. Steep, unsealed roads.	Character guidelines: 1. Maintain a minimum lot size of 4,000 square metres 2. Encourage building material and finishes that complement the bushland setting 3. Maintain unobtrusive built form 4. Maintain sufficient setback from front boundary 5. Encourage permeable fences to enhance the bushland setting 6. Retain tall canopy trees and shrub understorey, particularly native vegetation, to act as a backdrop to the south while ensuring effective wildfire management 7. Limit further development along steep roads 8. Locate building and driveway to avoid and minimise excessive earthwork.

To summarize, the proposed lot sizes, of 660m² for Lot 1 and 564m² for Lot 2, do not meet the minimum Lot size (700m²) as set out in Precinct 6 key characteristics and as such, does not maintain the current diverse range of lot sizes in-between 700m² and 4,000m². In doing so, the proposal is contrary to the preferred character statement which seeks to maintain the low-density character.

Furthermore, in considering the relatively small lot widths (24.65m & 21.05m), any future building development on proposed lot 2 would severely diminish the lots spaciousness and openness when viewed from the streetscape, contrary to the preferred character sought. In other words, any future building form on proposed Lot 2 would then mean a continuous cluster of both buildings interlined with canopy trees, when viewed from the streetscape.

The proposal, as such, fails to comply with the preferred character statement sought in the Cockatoo Township Strategy to maintain a low density character.

[Bushfire Management Overlay, Schedule 1 \(BM01\)](#)

The purpose of the Bushfire Management Overlay is:

- *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, a Bushfire Management Statement and Bushfire Management Plan have been prepared by John Bourke of BAL Assessments. The report advocates a BAL-29 rating with any application to subdivide must show that each lot is capable of supporting a dwelling.

Due to the size of the lot being less than 1000m², and together with a hydrant within 120m of the rear of the lot, a 5,000-litre tank will be required.

Pursuant to Clause 55, the proposal was referred to the CFA, who did not object, subject to the following conditions:

- Bushfire Management Plan required
- Additional matters to be set out in Section 173 Agreement

The application is deemed to comply with the objectives and design guidelines of the Bushfire Management Overlay.

Planning Policy Framework

A number of State and Local policies are relevant to this application for the subdivision of the land with an assessment determining there to be inconsistencies.

Clause 11.01-1S Settlement as the proposal does not preserve or protect features of valued locality or contribute to the settlement or landscape.

Clause 13.02 Bushfire planning - the protection of human life is fundamentally paramount within areas of bushfire risk. The proposal seeks another household within a bushfire locality and as such, an increased risk to existing residents.

Clause 15.01-5S Neighbourhood character - advocates a respectful pattern of local urban structure and subdivision. The proposed two lot subdivision is not consistent with the low-density character, seeking a much smaller lot frontage and size.

The proposal does not alleviate or appropriately respond to Clause 21.01 Cardinia Shire Key Issues and Strategic Vision, including the enhancement of places.

Clause 21.03-1 Housing - the proposed 2 lot subdivision, within a designated low-density location identified in the Cockatoo Township Strategy, is concluded to not be responsive to the existing Cockatoo urban character.

Clause 21.07-2 Cockatoo - of note, the preferred character statement aims to *maintain the low-density character of the precinct with extensive vegetation cover and retain the diversity of lot sizes, generally 700 square metres to over 4000 square metres with the balance in favour of larger lots.*

The proposal neither maintains a diverse range of lots within the township or appropriately respond to the Precinct Character Guidelines in the Cockatoo Township Strategy.

Response to Objections

Council received three objections to the proposal, with an assessment against the key concerns provided below:

<u>Objection grounds</u>	<u>Response</u>
Proposed plan of subdivision significantly reduces block size	<p>Contextually, the subject site is 1224m² in size within a Neighbourhood Residential area in very close proximity to Low Density Residential Zone (southern side).</p> <p>The proposal seeks to subdivide the land, creating lot 1 at 660m², and Lot 2 at 564m². Proposed Lot 1 is to contain an existing dwelling with proposed Lot 2 is anticipated to be developed for residential purposes in the future.</p> <p>As discussed within this report, Council surmises the proposal to be at odds with Stringybark Road and the surrounding low-density area. In essence, the proposal seeks to create a much smaller lot width, over 20m smaller to existing subdivision characteristics within the street. In terms of the overall lot sizes, the proposal is at odds with the larger lot sizes in the street.</p>
Proposal is not in keeping with the Cockatoo locality	<p>Council surmises the subdivision proposal to be at odds with both Stringybark Road and wider low-density area, as evidenced by large sections of Cockatoo being zoned Low Density Residential Zone.</p> <p>The proposal seeks to create two much smaller lots that present to Stringybark Road with widths 20m smaller than existing subdivision characteristics. Furthermore, both lots sizes are considerably smaller, in contrast to the locality.</p> <p>The proposal is concluded to be inconsistent with the existing subdivisional characteristics.</p>
Privacy concerns and vegetation destruction	<p>The subject site is encumbered by a Vegetation Protection Overlay and Bushfire Management Overlay.</p> <p>Three trees, all of which are exotic, identified as 4 (<i>Saucer Magnolia</i>), 5 (<i>Variiegated Pittosporum</i>) and 8 (<i>Photinia robusta</i>) are proposed to be removed.</p> <p>As concluded within the supplied arboricultural report, the trees are deemed to be low amenity value, with their removal unlikely to conflict with the objectives of the Vegetation Protection Overlay.</p> <p>Tree 9 can be retained to accommodate the proposed crossover.</p> <p>Pertaining to privacy concerns, again the proposal relates to a 2-lot subdivision only and therefore cannot be considered.</p>
Residential noise concerns	<p>The proposal relates to a 2-lot subdivision, not buildings and works associated with development of proposed Lot 2.</p> <p>The subject site is within an established residential area of Cockatoo, as such, residential noise as part of any future development, would be anticipated.</p>

Infrastructure concerns	<p>The subject site comprises an existing dwelling, within an established residential area, with the subject site connected to electricity, telecommunications and water. Any proposed future development on Lot 2 can be connected to electricity, telecommunication and water.</p> <p>The site contains a drainage easement to the rear of the site which ensures that a cost-effective supply of drinking water is available for both lots.</p>
Overshadowing and loss of solar access	<p>The proposal relates to a 2-lot subdivision only and therefore overshadowing and loss of solar access to neighbouring lots cannot be considered as no buildings and works are proposed.</p> <p>The proposed subdivision sees the creation of Lot 2 with a total area of 564m² orientated north to south.</p>
Threat to way of life	<p>The threat to a way of life was not expanded upon, however is not deemed to be a planning consideration.</p>

Clause 65 Decision Guidelines

As discussed above the proposal fails to comply with the Municipal Planning Strategy, the Planning Policy Framework and the purposes of the Neighbourhood Residential Zone and Design and Development Overlay. The proposed subdivision will not contribute to the orderly planning of the area, being a fragmented design that is at odds with Stringybark Road and wider Cockatoo area.

Conclusion

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

The proposal is deemed to be inconsistent with the Cockatoo area, with both proposed lots being substantially smaller in size and lot width that are not in keeping with Stringybark Road. As such, the proposed subdivision represents an unacceptable planning outcome in that the subdivision does not represent an appropriate response to the prevailing neighbourhood character and will not contribute to the orderly planning of the area.

Recommendation

Refusal to Grant a Planning Permit

That Council having caused notice of Planning Application No. T220343 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 4 Stringybark Road Cockatoo (L88 LP7472), for the Subdivision of Land into two Lots under the following grounds:

1. The proposal is not in keeping with the existing and preferred subdivision pattern of the area.
2. The proposal is inconsistent with Clause 56- Standard C6 Neighbourhood Character objective.
3. The subdivision of this site is inconsistent with the Cockatoo township strategy, not in keeping with the existing lot sizes within the surrounding neighbourhood and Clause 21.07-2 (Cockatoo).
4. The proposal does not represent the orderly planning of the area.