



Cardinia

MINUTES OF TOWN PLANNING COMMITTEE

MONDAY, 5 JUNE 2017

MINUTES OF TOWN PLANNING COMMITTEE

held in the Council Chambers, 20 Siding Avenue, Officer
on Monday, 5 June 2017

The meeting commenced at 7pm

PRESENT:

Mayor, Brett Owen, Chairman

Councillors Michael Schilling, Collin Ross, Jodie Owen, Graeme Moore, Ray Brown, Jeff Springfield,

Messrs Andrew Paxton (GMPD), Doug Evans (MG)

Minutes Silence

Before moving to the agenda items The Mayor asked all those present to pause for a minutes silence to reflect on those innocent persons across the world that have suffered as a result of recent terrorist attacks.

The Mayor thanked those in attendance and noted that all of our thoughts are with those affected persons

APOLOGIES:

Crs Leticia Wilmot and Carol Ryan

DECLARATION OF PECUNIARY AND OTHER INTERESTS

Nil.

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1 EXTENSION TO AN EXISTING RESIDENTIAL AGED CARE FACILITY AT 5-9 SALISBURY ROAD BEACONSFIELD UPPER

FILE REFERENCE INT1734599

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Hugh Pierce

RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T160025 be issued for a 30 bedroom addition to an existing residential aged care facility, vegetation removal and associated works at 5-9 Salisbury Road, Beaconsfield Upper Victoria 3808 subject to the conditions attached to this report.

Attachments

1	Locality map	1 Page
2	Development plans	10 Pages
3	List of objectors circulated to councillors only	26 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T160025
APPLICANT:	Roy Hodgson
LAND:	5-9 Salisbury Road, Beaconsfield Upper Victoria 3808
PROPOSAL:	30 bedroom addition to an existing aged care facility, vegetation removal and associated works
PLANNING CONTROLS:	NRZ1, RCZ2 BMO, DDO2, HO110, HO71, ES01, VPO2
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the <i>Planning and Environment Act 1987</i> , by sending notices to adjoining land owners and occupiers and placing a sign on site. A total of nine objections were received.
KEY PLANNING CONSIDERATIONS:	Visual scale and mass, heritage, vegetation removal, bushfire risk
RECOMMENDATION:	Approval

BACKGROUND:

The only recent planning decisions relevant to the subject site regards Planning Permit T120408 issued 4 March 2013 for the 'use of the land for animal keeping and associated vegetation removal generally in accordance with the approved plans'.

SUBJECT SITE

The site is located on the south side of Salisbury Road and features three crossovers. The site currently contains the existing 60 bed residential aged care facility the majority of which is contained within 'Salisbury House' a former nineteenth century resort building with historic significance to Cardinia.

The topography of the land exhibits a rapid downward slope from the rear of the existing building to the south boundary of approximately 24 metres.

There are 151 trees on the subject site which the majority of these contained in the southern half.

The main characteristics of the surrounding area are:

- Residential allotments varying between 900 and 2, 900 square metres featuring single detached dwellings and associated outbuildings. Vegetation on these allotments varies between predominantly cleared and very dense coverage.
- Larger residential allotments varying between 8, 000 and 57, 000 square metres featuring single detached dwellings and associated outbuildings. These lots feature extensive vegetation coverage.
- Immediately north of the site also fronting Salisbury Road is the Ash Wednesday Memorial Park, Keith Emerson Park and the Upper Beaconsfield Community Centre.

PROPOSAL

The applicant is seeking planning approval for the development of a 30 bedroom addition to the existing residential aged care facility on the site to western side of the existing building. The additions will comprise of three levels, a basement car park featuring 27 bedrooms and 15 bedrooms including sitting and dining each at the ground and first floors. The addition will stand at a maximum height of 9 metres above natural ground level require 3 metres of earthworks and extensive vegetation removal.

The addition will require the demolition of sections of handrail and a window along the west side of the existing Salisbury Road. Extensive vegetation removal and earthworks is also required.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11 Settlement
- Clause 12.01 Native vegetation management
- Clause 12.04-2 Landscapes
- Clause 13.05 Bushfire
- Clause 15.01 Urban environment
- Clause 15.03 Heritage conservation
- Clause 16.02-3 Residential aged care facilities

- Clause 16.02-4 Design and location of residential aged care facilities

Local Planning Policy Framework (LPPF)

The relevant clauses of the SPPF are:

- Clause 21.01 Cardinia Shire Key Issues and Strategic Vision
- Clause 21.02-2 Landscapes
- Clause 21.02-3 Biodiversity
- Clause 21.02-4 Wildfire management
- Clause 21.02-6 Post-contact heritage
- Clause 21.03-3 Rural townships
- Clause 21.06 Particular Uses and Development
- Clause 21.07-5 Upper Beaconsfield

Relevant particular/general provisions and relevant incorporated or reference documents

The relevant provisions/documents are:

- Clause 52.06 Car Parking
- Clause 52.17 Native Vegetation
- Clause 52.48 Bushfire Protection: Exemptions
- Clause 55 Two or more Dwellings on a Lot and Residential Building
- Upper Beaconsfield Township Strategy

Zone

The land is subject to Clause 32.09 Neighbourhood Residential Zone – Schedule 1 and Clause 35.06 Rural Conservation Zone – Schedule 2.

Overlays

The land is subject to the following overlays:

- Clause 32.05 Bushfire Management Overlay
- Clause 42.01 Environmental Significance Overlay – Schedule 1
- Clause 43.01 Heritage Overlay – Schedule 71 and 110
- Clause 43.02 Design and Development Overlay – Schedule 2

PLANNING PERMIT TRIGGERS

The proposal for development of an addition to an existing residential aged care facility, vegetation removal and associated works requires a planning permit under the following clauses of the Cardinia Planning Scheme:

Pursuant to Clause 32.09 Neighbourhood Residential Zone – Schedule 1 a planning permit is required to construct or extend a residential building.

Pursuant to Clause 32.05 Bushfire Management Overlay a planning permit is required to construct a building or construct or carry out works associated with accommodation.

Pursuant to Clause 42.01 Environmental Significance Overlay – Schedule 1 a planning permit is required to construct a building or construct or carry out works and to remove destroy or lop any vegetation.

Pursuant to Clause 42.02 Vegetation Protection Overlay – Schedule 2 a planning permit is required to remove destroy or lop and vegetation.

Pursuant to Clause 43.01 Heritage Overlay a planning permit is required to construct a building or construct or carry out works.

Pursuant to Clause 43.02 Design and Development Overlay Schedule 2 a planning permit is required to construct a building or construct or carry out works.

Pursuant to Clause 52.17 Native Vegetation a planning permit is required to remove destroy or lop and vegetation that is not native to Victoria.

Clause 35.06 Rural Conservation Zone – Schedule 2 is applicable to the southern half of the subject site and is outside of the area of buildings and works associated with the proposed addition.

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 correctly, and Council has received nine objections to date. The key issues that were raised in the objections are:

- Out of character development
- Car parking/traffic movement along Salisbury Road
- Fire risk
- Drainage concerns
- Excavation
- Vegetation removal
- Overlooking of adjoining allotments
- Adverse impact on existing heritage building
- Noise

REFERRALS

Country Fire Authority

The application was referred to the Country Fire Authority as a statutory referral. They had no objection to the proposal subject to conditions

Department of Environment, Land, Water and Planning

The application was referred to the Department of Environment, Land, Water and Planning as a statutory referral. They had no objection to the proposal subject to conditions.

DISCUSSION

It is noted that following notification of the application the applicant submitted plans to Council without formally amending the application. These submitted plans have formed the basis of this assessment and subject to approval conditions would require plans to be formally submitted for endorsement in accordance with their specifications.

State and Local Planning Scheme

Pursuant to Clause 21.07-5 'Upper Beaconsfield' is characterised as a unique hill-top town nestled within a rural landscape featuring a combination of housing, native bushland and open recreational spaces. It emphasises that the country atmosphere and unique environment should be actively protected.

Clause 16.02-3 'Residential aged care facilities' emphasise the need to facilitate development of residential aged care facilities to meet existing and future needs. The Upper Beaconsfield Township Strategy highlights that there will be an increased need for suitable residential accommodation for older people in Upper Beaconsfield as the population ages. The proposed addition to the existing residential aged care facility on the subject site will enable a greater amount of older people to be accommodated within the Beaconsfield Upper community both within the short and long term future and contribute to wider housing diversity.

Clause 16.02-4 'Design and location of residential aged care facilities' recognises that residential aged care facilities should be well designed and appropriately located. Importantly it notes that such facilities by way of their purpose and function are different from dwellings and therefore will require a different built form in scale and mass. The proposed addition therefore should not be explicitly restricted by the character of the existing residential dwelling development that comprises the majority of the immediate neighbourhood.

Clause 12.04-2 'Landscapes' and Clause 21.02-2 'Landscape' advise that landscapes that contribute to the character, identity and sustainable environments should be protected. Likewise, Clause 21.02-3 'Biodiversity' highlights that biodiversity should be maintained in areas of significance and Clause 21.02-4 'Wildfire management' notes that balancing the protection of native vegetation with wildfire management is a key issue. However, Clause 13.05-1 'Bushfire planning strategies and principles' emphasises that the protection of human life over other policy considerations in areas at risk from bushfire should be prioritised.

Clause 15.01-1 'Urban design' highlights strategies to promote good urban design, require development to respond to its context and encourage retention of existing vegetation amongst other things. Both Clause 15.03-2 'Heritage' and Clause 21.02-6 'Post-contact heritage' encourage the retention, protection and conservation of sites of heritage significance whilst Clause 15.01-2 'Urban

design principles' advises that new development should respect, but not simply copy, historic precedents.

Neighbourhood character

The subject site is located within 'Precinct 3 - Garden Estate Residential' of the Upper Beaconsfield Township Strategy which features the following preferred character:

The semi-treed, compact character of the settlement and the diversity of the lot sizes will be maintained.

The layout and design of dwellings will maximize the retention of vegetation. The built form will be unobtrusive so as to appear as a forested hillside from the town centre. There will be gardens with primarily native vegetation. A network of paths will connect the different areas of this precinct.

The proposed addition in scale is a departure from the existing character exhibited in the predominantly residential context of the immediate area. However, as previously highlighted in Clause 16.02-3 a residential aged care facility has different functions and needs to a dwelling and therefore should not be expected to reflect the same parameters as one in relation to built form. The subject site is significantly constrained by the rapid slope the land experiences to the rear boundary. The most appropriate location for any addition is on the comparatively flat land immediately west of the existing facility. The proposed addition complies with the relevant requirements regarding maximum building height and setbacks and its overall external appearance is a reflection of the need to respond to the high fire risk posed within the area and to not detract from the existing heritage building by replicating its form. Furthermore, in order to follow the slope of the landscape the form of the building will have a stepped down design which will assist in further integrating it into the landscape. The bushfire risk requires a significant amount of vegetation to be removed from the site, however, where possible significant vegetation has been retained to maintain the treed character of the area.

Built form

Front setback

The front wall of the proposed addition is setback 9.02 metres from the front boundary with Salisbury Road. Pursuant to Standard B6 of Clause 55.03-1 'Street setback objective' states that the front walls of the building should be setback 5.05 metres as a consequence of this being the average of the front setbacks of the dwellings fronting Salisbury Road either side of the subject site. Furthermore, it is noted that the existing building features a minimum setback of 5.735 metres from Salisbury Road. The proposed addition is therefore considered to be suitably well setback from Salisbury Road.

Side and rear setbacks

The south (rear) and west (side) elevations of the proposed addition front common boundaries to adjoining allotments.

At ground level a minimum setback of 1 metre would be required between the proposed wall and the adjacent boundary pursuant to Standard B17 of Clause 55.04-1 'Side and rear setbacks objective'. The south boundary is in excess of 40 metres from this boundary whilst the west wall is setback between 3.94 metres and 4.88 metres.

At first floor level the south elevation features maximum heights of between 8.3 metres and 9 metres. Pursuant to Standard B17, a minimum setback of between 3.91 metres and 4.44 metres. The proposed walls are setback in excess of 40 metres from this boundary.

The proposed west wall of the addition varies between a maximum height of 7.74 metres and 9 metres above natural ground level. Pursuant to Standard B17, walls of this height would be required to be setback from a common boundary a minimum of 3.574 metres and 4.44 metres. The proposed walls are setback between 5.3 metres and 8.76 metres.

As demonstrated the proposed development complies with the relevant side and rear setback requirements. Furthermore, it would be noted that the elevations feature multiple recessed elements and a mixture of exterior finishes that will provide additional articulation to mitigate against adverse visual bulk.

Building height

The proposed addition was lodged as an application and not formally amended prior to Amendment VC110, which changed the maximum building height requirements within the residential zones. As a consequence, the application can take advantage of the transitional provisions contained with the Neighbourhood Residential Zone – Schedule 1 that enable the application to be assessed against the previous provisions prior to the amendment. The proposed addition therefore can be no higher 8 metres or 9 metres where the slope of the natural ground level at any cross section wider than 8 metres is 2.5 degrees or more. The proposed addition does not exceed a maximum height of 9 metres which is allowable to the slope of the land. Where the slope is not applicable the addition will not exceed a maximum height of 7.74 metres which demonstrates compliance. It should be noted that while the maximum height of the building is 9 metres the slope of the land will mean that the majority of the addition is less than 9 metres.

There was no limitation on the number of storeys that can be proposed within the Neighbourhood Residential Zone prior to Amendment VC110. As previously noted the proposed addition will be, albeit for a small extent and predominantly no more than two storeys, at maximum a three storey building.

Site coverage

Pursuant to Standard B8 of Clause 55.03-3 'Site coverage objective' the area of the subject site covered by buildings should not exceed 60%. The site coverage of the proposed addition when combined with the existing is 31.94%. The proposed development is therefore compliant

Permeability

Pursuant to Standard B9 of Clause 55.03-4 'Permeability objective' the area of the subject site covered by pervious surfaces should be at least 20% of the subject site. The per cent of pervious surfaces proposed addition when combined with the existing is 72.97%. The proposed development is therefore compliant.

Overlooking

The proposed addition features windows and balconies within 9 metres of the habitable room windows and secluded private open space of adjoining 1 Salisbury Road. The balconies and windows at first floor include a notation to screening these areas up to 1.7 metres above floor level to comply with Standard B22 of Clause 55.04-6 'Overlooking objective'. The ground level windows and balcony do not include any screening as there is a 1.8 metre fence along the common boundary between the subject site and 1 Salisbury Road. However, it is noted that due to the slope of the land the windows

and balcony to the rear of this west wall will be elevated above this 1.8 metre boundary fence and therefore could result in adverse overlooking. A condition of approval would therefore require that all balconies and windows demonstrate compliance with B22 of Clause 55.04-6 'Overlooking objective' to ensure that any potential overlooking that is not in accordance with this standard is appropriately treated to screen non-compliant views.

Overshadowing

The proposed addition was submitted with plans demonstrating that between 9AM and 3PM sunlight to adjoining allotments secluded private open space will not be significantly reduced in a manner that would be non-compliant with Standard B21 'Overshadowing open space objective'.

Design detail

The proposed addition will feature articulated exterior walls along all elevations what will aid in minimising the visual impact of the structure. The roof form whilst predominantly flat will include a pitched element to the ground floor at the front of the building to complement the established pitched rooves that characterise the majority of the dwellings in the immediate area. The exterior colours will be conditioned to be darker muted tones that are consistent with the natural colours present in the surrounding environmental landscape.

Vegetation removal

As noted within Clause 42.01 Environmental Significance Overlay – Schedule 1 the northern hills of the municipality are an area with significant landscape and environmental values. The proposed additions require significant vegetation removal. This removal is not required due to being in the same location as that of the proposed additions but is instead necessary in order to provide suitable defensible space both around the proposed addition and existing aged care facility pursuant to CFA requirements. In this instance given the fire risk, the defensible space extends from the building to the boundaries of the subject site. Within the southern half of the subject site 94 tree would be required to be removed due to the requirement to provide the required 5 metre separation between trees as specified within the CFA conditions. The applicant has provided a biodiversity assessment prepared by Ecolink consulting that advised 14 trees would remain in the southern half but that they are healthy and mature examples which will help to maintain the aesthetics of the study area and retain the maximum ecological value within this area. This assessment also concluded that it is unlikely that any threatened flora species are within the subject site and that none will be impacted by the proposed additions. Furthermore, the application was referred to the Department of Environment, Land, Water and Planning pursuant to Clause 52.17 'Native Vegetation' who did not object to the proposed extent of removal subject to conditions in relation to offsetting the vegetation lost.

Further vegetation removal within closer proximity to the existing residential aged care facility will also be exempt from requiring a planning permit pursuant to Clause 52.48 'Bushfire Protection: Exemptions'.

As previously noted, Clause 13.05-1 'Bushfire planning strategies and principles' emphasises that the protection of human life over other policy considerations in areas at risk from bushfire should be prioritised.

Bushfire Risk

The proposed additions were referred to the CFA for comment pursuant to Clause 44.06 'Bushfire Management Overlay'. The CFA responded with no objection to the proposal subject to the inclusion of conditions relevant to a Bushfire Management Plan, Development Plans and Fire Engineering Report and Bushfire Emergency Management Plan being submitted and endorsed. As a consequence of this it is considered that the proposed additions demonstrate compliance with Clause 44.06 'Bushfire Management Overlay' by prioritising the protection of human life, identifying bushfire protection measures and ensuring that development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

Car parking and waste collection

Pursuant to Clause 52.05 'Car Parking' a residential aged care facility should provide 0.3 car spaces per lodging room. The existing 45 lodging rooms combined with the 30 bedrooms proposed within the addition would take the overall number of lodging rooms to 90 which equates to a minimum car parking requirement of 27 spaces. The proposed addition includes car parking for 27 car spaces demonstrating compliance with this requirement. Council's traffic engineers have reviewed the car parking on site and have advised of no objection.

Council's traffic engineers have raised concern in relation to the waste collection from the existing residential aged care facility, specifically in relation to the waste vehicle moderately overhanging Salisbury Road during collections. These concerns relate to the pre-existing long term operation of the established aged care facility and it is noted that the proposed additions do not intend to alter this arrangement.

Whilst it is acknowledged that the proposed development would ultimately result in an increase in the volume of waste likely to be generated in association with the use, it is not considered appropriate to seek to retrofit a design solution to overcome this issue as part of this application. Therefore, any existing waste collection issues are a matter for Council to consider separately to this application

Heritage

The subject site is covered by Heritage Overlay Schedule 71 'Charing Cross Civic and Commercial Precinct' and Schedule 110 'Kincraik'.

Council's heritage advisor has reviewed the application and advised of their general satisfaction with the proposal in relation to the heritage significance of both the existing building and in the wider Charing Cross Civic and Commercial Precinct'. It is highlighted that Clause 15.01-2 'Urban design principles' advises that new development should respect, but not simply copy, historic precedents. It is considered that the notable contrast in scale and design of the proposed addition to that of the existing building will ensure that the heritage significance of the existing building is not diluted by way of mimicking its style on the addition. The proposed addition will therefore provide a clear difference between the old and new that will respect the heritage significance of the established building.

Objections

The objections lodged against the application include the following concerns:

- Out of character development.
- Car parking/traffic movement along Salisbury Road.
- Fire risk.
- Drainage concerns.
- Excavation.

- Vegetation removal.
- Overlooking of adjoining allotments.
- Adverse impact on existing heritage building.
- Noise

The following provides a response to these concerns that have not already been addressed previously within the assessment:

- *Out of character development*

It is noted that the proposed addition is a departure from the established built form character dominated by dwellings and the existing heritage building, however, Clause 16.02-4 'Design and location of residential aged care facilities' highlights that an aged care facility should not be expected to have the same built form as that of a dwelling due to their different purposes. Furthermore, the existing heritage building of 'Salisbury House' was constructed in the nineteenth century with the intention of being a resort as opposed to specifically being an aged care facility of which it was converted into at a later date. Due to the existing heritage significance of the established building on the subject site the different design of the propose addition provides a direct contrast to that of the existing building as opposed derivatively copying its style.

Taking the above into consideration it is also noted that the subject site poses significant constraints in relation to topography and bushfire risk. Where possible the proposed addition has attempted to retain as much vegetation as possible and the design will feature elements like a pitched roof to the ground floor that responds to the pitched roof forms characteristic of the majority of development in the area. The proposed addition will also be finished in muted tones that will further aid in integrating the building into the landscape.

- *Drainage concerns*

Council's engineers have reviewed the application and advised no concerns with drainage subject to conditions.

- *Excavation*

Council's engineers have reviewed the application and have provide conditions to appropriately manage excavation and earthworks.

- *Noise*

It is inevitable that noise will be generated by proposed addition during its construction. However, the majority of construction will generate noise of some kind and this in isolation does not merit grounds for refusal of an application. Conditions will require that the construction of the development does not detrimentally affect the amenity of the area.

When constructed the car park will be predominantly underground with the remaining area enclosed which will minimise noise emissions.

CONCLUSION

The proposed addition to the existing residential aged care facility will provide for additional housing diversity for the increasing number of elderly people within the Upper Beaconsfield area. The proposed design will respect the existing heritage building on site and respond to the characteristics of the surrounding area where possible. At the same time, it is also noted that the planning scheme recognises that residential aged care facilities should not be considered like a dwelling due to their varying purposes and that therefore their scale and mass will be different.

It is acknowledged that a significant amount of vegetation will require removal but that this will enable both the proposed and existing buildings to provide suitable defensible space to mitigate bushfire risk as per the requirements of the CFA.

It is recommended that a Notice of Decision to Grant Planning Permit T160025 be issued for a 30 bedroom addition to an existing residential aged care facility, vegetation removal and associated works at 5-9 Salisbury Road, Beaconsfield Upper Victoria 3808 subject to the following conditions:

CONDITIONS

1. Before 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) All of the changes shown on plans TP.07, TP.08, TP.09, TP.10 dated 23 June 2015, Project No. 150034, but modified to show:
 - i. Compliance with Standard B22 of Clause 55.04-6 'Overlooking objective'.
 - ii. Compliance with Standard B23 of Clause 55.04-7 'Internal views objective'
 - iii. A colour and materials schedule consistent with plan TP.14, dated 23 June 2015, Project No. 150034, but modified to include the west facing wall to the corridor and staircase finished in a darker muted tone.
 - iv. Compliance with Condition 1b).
 - v. The 'Section Through Ramp Basement' on plan TP.10 consistent with the gradients of the ramp as demonstrated on plan TP.08
 - vi. The continuation of the existing front fence along the frontage adjacent to the proposed additions where proposed.
 - b) A plan specifically demonstrating all vegetation to be removed from and retained on the subject site in accordance with Condition 19 (a) and Biodiversity Assessment, 3-9 Salisbury Road, Beaconsfield Upper dated April 2017, Project No. 1396.
 - c) A minimum of 1 car space must be provided for the exclusive use of disabled persons. The car space must be provided as close as practicable to a suitable entrance of the building and must be clearly marked with a sign to indicate that the space must only be utilised by disabled persons. The dimensions and layout of the car space must be in accordance with Australian Standard AS2890.6-2009 (disabled) and the Building Code of Australia.
2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. All pipes, fixtures, fittings and vents servicing any building on the subject land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

4. All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise to a level satisfactory to the Responsible Authority.
5. All security alarms or similar devices installed on the subject land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service.
6. 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.
7. Before the development is occupied, the concrete footpath must be constructed along the adjacent road reserve for the full length of the subject site's front boundary and no cost to and to the satisfaction of the Responsible Authority.
8. Before the development is occupied, all proposed areas set aside on the approved plans for access, circulation and car parking must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated to the satisfaction of the Responsible Authority. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority.
9. Before the development is occupied a commercial/industrial standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
10. Before the development is occupied any redundant existing vehicle crossing must be removed and the nature strip and kerb and channel reinstated at the cost of the owner and to the satisfaction of the Responsible Authority.
11. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
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.
13. The slope of batters, both cut and fill, must not exceed 2:1 (horizontal: vertical) or, where this is not practicable, batters must be stabilised by other means to the satisfaction of the Responsible Authority.

DEPARTMENT OF ENVIRONMENT, LAND, WATER AND PLANNING

14. Before works start, the permit holder must advise all persons undertaking the vegetation removal and works on site of all relevant conditions of this permit.
15. Before works start, native vegetation protection fencing must be erected around all patches of native vegetation and scattered trees to be retained on site. This fencing must be erected around the patches at a minimum distance of 2 metres from retained native vegetation and at a radius of 12x the diameter at breast height (DBH) to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the scattered trees.

The protection fencing must be constructed to the satisfaction of the responsible authority. The protection fencing must remain in place at least until all works are completed to the satisfaction of the responsible authority. Except with the written consent of the responsible authority, within this area;

- a) no vehicular or pedestrian access, trenching or soil excavation is to occur
 - b) no storage or dumping of tools, equipment or waste is to occur
 - c) no entry and exit pits for underground services are to be constructed
16. In order to offset the removal of 0.487 hectares of native vegetation approved as part of this permit, the applicant must provide a native vegetation offset that meets the following requirements and is in accordance with the Permitted clearing of native vegetation – Biodiversity assessment guidelines and the Native vegetation gain scoring manual:

The general offset must:

 - a) contribute gain of 0.053 general biodiversity equivalence units
 - b) be located within the Port Phillip and Westernport Catchment Management Authority boundary or Cardinia Shire Council municipal district
 - c) have a strategic biodiversity score of at least 0.175
 17. Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the Responsible Authority. This offset must meet the offset requirements set out in this permit and be in accordance with the requirements of Permitted clearing of native vegetation – Biodiversity assessment guidelines and the Native vegetation gain scoring manual. Offset evidence can be either:
 - a) a security agreement, to the required standard, for the offset site or sites, including a 10 year offset management plan, which is to include the ongoing management regime in perpetuity. Every year, for ten years, after the responsible authority has approved the offset management plan, the applicant must provide notification to the responsible authority of the management actions undertaken towards the implementation of the offset management plan. An offset site condition statement, including photographs must be included in this notification
 - b) a credit register extract from the Native Vegetation Credit Register

COUNTRY FIRE AUTHORITY

18. Before the development starts, a stand – alone Bushfire Management Plan must be prepared to the satisfaction of CFA and submitted to and endorsed by the Responsible Authority.
19. The Bushfire Management Plan must show the following bushfire mitigation measures relied upon for the development:

Defendable Space

- a) The plan must show all the land to the property boundary as the area of defendable space, where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:
 - i. Grass must be short cropped and maintained during the declared fire danger period.
 - ii. All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
 - iii. Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
 - iv. Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
 - v. Shrubs must not be located under the canopy of trees.
 - vi. Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
 - vii. Trees must not overhang or touch any elements of the building.
 - viii. The canopy of trees must be separated by at least 5 metres.
 - ix. There must be a clearance of at least 2 metres between the lowest tree branches and ground level.
- b) There must be notation for defendable space requirements that specifies that the requirements included under Condition 19 (a) must be undertaken at the site on an ongoing basis for the life of the associated use of the property as an aged care facility.
- c) The Bushfire Management Plan must not be amended, unless otherwise agreed in writing by CFA and the Responsible Authority.

Construction standards

- d) The plan must nominate that the design and construction of the extension as shown on the plan must be undertaken in accordance with the Fire Engineering Report prepared by Omnii Consulting Fire Engineers, dated 30th January 2017, Project No. 5952100, Revision B and any approved changes to this report.
- e) The plan must identify the extent of the existing building that is not subject to any proposed buildings and works.
- f) The plan must identify the extent of any new buildings and works to the site, including the proposed alterations and additions to the existing building.

Water supply

- g) The fire fighting water supply must be in accordance with s5.5.4 of the endorsed Fire Engineering Report (prepared by Omnii Consulting Fire Engineers, 30th January 2017, Project No. 5952100, Revision B) and the Bushfire Emergency Management Plan 21 December 2016:
 - i. The refuge must be provided with an independent water supply of 80,000 litres as a fire fighting supply for the automatic sprinkler system, charged by a diesel pump as specified in the Salisbury House Bushfire Emergency Management Plan (21 December 2016) prepared by Terramatrix
 - ii. There must be a 10,000 litre water supply to supply for firefighting purposes which meets the following requirements:
 - ai. Is stored in an above ground water tank constructed of concrete or metal.

- iii. All fixed above-ground water pipes and fittings required for firefighting purposes must be made of corrosive resistant metal.
- iiii. Incorporate a ball or gate valve (British Standard Pipe (BSP) 65mm) and coupling (64 mm CFA 3 thread per inch male fitting).
- iv. The outlet/s of the water tank must be within 4m of the accessway and be unobstructed.
- av. Be readily identifiable from the building or appropriate identification signage to the satisfaction of CFA must be provided
- avi. Any pipework and fittings must be a minimum of 65 mm (excluding the CFA coupling).

Access

- h) The plan must show the access for fire fighting purposes which meets the following requirements:
 - i. The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50m.
 - ii. Have a minimum trafficable width of 3.5m of all- weather construction.
 - iii. Be clear of encroachments for at least 0.5m on each side and 4m above the accessway.
 - iv. Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.

Bushfire Emergency Management Plan

- i) The plan must nominate that a Bushfire Emergency Management Plan version 3.0 (Terramatrix, 21 December 2016) has been developed for this site on behalf of Menarock Aged Care Services and should be used in a bushfire emergency event.

Development Plans

20. Before the development starts and the stipulated plans are endorsed by the Responsible Authority, the following plans must be amended to ensure that they reflect the requirements of the Bushfire Emergency Management Plan and Fire Engineering Report associated with this permit:
- a) Proposed Site Plan (Date: 23 June 2015, Project No. 150034, Sheet TP.07, Issue F – 27/09/2016)
 - b) Proposed Floor Plans (Date: 23 June 2015 , Project No. 150034, Sheet TP.08, Issue F – 27/09/2016)
 - c) Proposed Elevations N/W (Date: 23 June 2015, Project No. 150034, Sheet TP.09, Issue F – 27/09/2016)
 - d) Proposed Elevations S/E (Date: 23 June 2015, Project No. 150034, Sheet TP.10, Issue F – 27/09/2016)

The proposed floor plans and elevations should show the location of the bushfire shutters and viewing panels in accordance with the submitted Fire Engineering Report.

Fire Engineering Report

21. The submitted Fire Engineering Report (prepared by Omnii Consulting Fire Engineers, 30th January 2017, Project No. 5952100, Revision B) must be endorsed and form part of this permit.
22. Any buildings and works approved under this permit must be undertaken and carried out in accordance with the Fire Engineering Report endorsed under this permit.
23. Any amendment to the Fire Engineering Report and subsequent construction must:
 - a) Be designed and engineered to a standard that is equal to or exceeds the design standards/parameters shown in the current report to be endorsed under this permit (Prepared by Omnii Consulting Fire Engineers, 30th January 2017, Project No. 5952100, Revision B).
 - b) Maintain at least the same high level of safety to the occupants of the building in the event of a bushfire as the current Fire Engineering Report.
 - c) Include a peer review and certification by a suitably qualified person that states that the change is acceptable and will meet relevant fire safety standards and maintain an appropriate level of safety in the building.
 - d) A copy of any amended fire engineering report must be provided to the Responsible Authority and CFA.

Bushfire Emergency Management Plan

24. A copy of any amended fire engineering report must be provided to the Responsible Authority and CFA.
25. The Bushfire Emergency Management Plan must be reviewed and updated a minimum of every year close to 30th September, as prescribed in this plan. A version Control Table must be included in any future versions of the plan.
26. A copy of the updated Bushfire Emergency Management Plan must be provided annually to the Responsible Authority and CFA District 8 Headquarters for distribution to the relevant responding brigades.
27. This permit will expire if one of the following circumstances applies:
 - a. The development is not started within two years of the date of this permit.
 - b. The development is not completed within four years of the date of this permit.The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

Permit Notes:

- Prior to commencement of the proposed use a Building Permit must be obtained for any retaining wall exceeding 1.0 metres in height.
- A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.

1 EXTENSION TO AN EXISTING RESIDENTIAL AGED CARE FACILITY AT 5-9 SALISBURY ROAD BEACONSFIELD UPPER

Moved Cr J Springfield Seconded Cr M Schilling

That a Refusal to Grant Planning Permit T160025 be issued for a 30 bedroom addition to an existing aged care facility, vegetation removal and associated works at 5-9 Salisbury Road, Beaconsfield Upper on the following grounds:

1. The siting, considerable scale and visual bulk associated with the proposed addition will not enable the development to appropriately integrate into the established 'hill-top bushland character' of Beaconsfield Upper or have regard to existing vegetation as emphasised within the following:
 - Clause 12.04-2 Landscapes
 - Clause 21.02-2 Landscapes
 - Clause 21.03-3 Rural townships
 - Clause 21.07-5 Upper Beaconsfield
 - Clause 42.01 Environmental Significance Overlay – Schedule 1
 - Clause 43.02 Design and Development Overlay – Schedule 2
 - Clause 32.09 Neighbourhood Residential Zone – Schedule 1
 - Clause 55.02-1 Neighbourhood character objectives
2. The significant vegetation removal required to accommodate the proposed addition will diminish the environmental and landscape values within the subject site and surrounding area sought to be maintained and enhanced by Clause 42.01 Environmental Significance Overlay – Schedule 1.
3. Waste collection from the subject site with the proposed additions will be unsafe and potentially hazardous to both vehicle and pedestrian movement along Salisbury Road due the inability for the waste vehicle to undertaken collections within the subject site's boundaries without protruding into the road reserve.

Cd.

2 TWO LOT SUBDIVISION, 515 DESSERT ROAD, CORA LYNN

FILE REFERENCE INT1734673

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Mary Rush

RECOMMENDATION

That a Refusal to Grant Planning Permit T160787 be issued for A Two Lot Subdivision (boundary re-alignment) at 515 Dessent Road, Cora Lynn VIC 3814 for reasons set out in this report.

Attachments

- 1 Locality plan 1 Page
- 2 Proposed layout plans 2 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T160787
APPLICANT:	Nobelius Land Surveyors P/L
LAND:	515 Dessent Road, Cora Lynn VIC 3814
PROPOSAL:	Two lot subdivision (boundary re-alignment)
PLANNING CONTROLS:	Special Use Zone-Schedule 1 Land Subject to Inundation Overlay
NOTIFICATION & OBJECTIONS:	Advertising not undertaken
KEY PLANNING CONSIDERATIONS:	Protection of agricultural land uses
RECOMMENDATION:	Refusal

BACKGROUND:

There is no relevant planning history subject to this site.

SUBJECT SITE

The subject sites are located on the south western corner of Murray Road and Dessent Road, Cora Lynn.

A crossover is located midway along the frontage to Dessent Road with a 28 metre wide water supply easement running east west along the current boundary between the two subject lots.

The site currently contains a dwelling and several farm buildings, the topography is flat and the land is used for growing asparagus.

The main characteristics of the surrounding area are:

The area surrounding subject site is characterized as large rural allotments mainly used for agricultural and horticulture activities.

PROPOSAL

The proposal is re-subdivide two (2) existing lots.

The existing lots consist of:

- Lot 1 - being 28.34 hectares, containing an existing house, with frontage to Dessent Road.
- Lot 2 - being 25.68 hectares, the land is vacant and is located on the south western corner of Dessent and Murray Road.

The current application seeks to re-subdivide the two lots by the way of a boundary re-alignment resulting in the below configuration:

- Proposed Lot 1: being 1 hectare. The lot is located mid-way along the frontage of the land to Dessent Road and will include the existing dwelling and garden.
- Proposed Lot 2: being 52.5 hectares, irregularly in shaped lot with frontages to both Dessent and Murray Roads.

This arrangement results in an increase in one of the allotment being a large rural lot and a smaller rural/residential scaled lot.

Under the zone the minimum lot size for subdivision is 25 hectares, as the proposed lot will result in being 52 hectares, the proposed Lot 2 could potentially be further subdivided in to two more lots.

In relation to dwellings, the minimum lot size allowable for a dwelling is 10 hectares, if proposed Lot 2 was further subdivided this could potentially allow two more dwellings in this farming area.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 14.01-1 Protection of agricultural land

Local Planning Policy Framework (LPPF)

The relevant clauses of the SPPF are:

- Clause 21.04-2 Agriculture

Zone

The land is subject to the Special Use Zone Schedule 1.

Overlays

The land is subject to the following overlays:

- Land Subject to Inundation Overlay

Clause 57- Metropolitan Green Wedge

Clause 57.01-2 Subdivision states:

'The subdivision of land to create a lot that is smaller in area than the minimum area specified for the land in the zone is prohibited unless:

- 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.'

The proposal can be considered under this Clause as it complies with the application requirements i.e., as the proposal itself does not increase the number of lots or the number of dwellings that the land could be used for. The Clause does not refer to the 'potential' of the proposal to increase the number of lots or dwellings.

Relevant Particular/ General Provisions and relevant incorporated or reference documents

- Clause 65 – Decision Guidelines

PLANNING PERMIT TRIGGERS

The proposal for (*detail the description of the proposal*) requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause (*detail the description of the proposal*) a planning permit is required for (*detail reasoning for permit required*)
- Pursuant to Clause (*detail clause number and name*) a planning permit is required for (*detail reasoning for permit required*).

PUBLIC NOTIFICATION

The application was not required to be advertised.

REFERRALS

Melbourne Water

The application was referred to Melbourne Water as a Determining Referral. Melbourne Water has no objection to the proposal subject to conditions.

DISCUSSION

The applicant is seeking to re-subdivide land in an area of significant soil quality, and as such the following clauses contained within the SPPF, LPPF, Schedule 1 of the Special Use Zone, and Clause 57- Metropolitan Green Wedge must be considered:

- Clause 14.01-1 Protection of agricultural land
- Clause 21.04-2 Agriculture
- Clause 37.01-3 Schedule 1 of the Special Use Zone
- Clause 44.04-3 of the Land Subject to Inundation Overlay
- Clause 57- Metropolitan Green Wedge Land

State Planning Policy Framework (SPPF)

The objective of Clause 14.01-1 – 'Protection of agricultural land' of the State Planning Policy Framework is to protect productive farmland which has strategic significance in the local and regional context. In considering a proposal for subdivision, the following must points must be considered:

- *The desirability and impacts of removing the land from primary production, given its agricultural productivity.*
- *The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.*
- *The compatibility between the proposed or likely development and the existing uses of the surrounding land.*
- *Assessment of the land capability.*

The proposed re-subdivision effectively removes around 0.9 hectare from agricultural production (the dwelling, and garden area would occupy around 1000m²). The creation of a primarily rural/residential lot will impact on the continuation of primary production and the viability of certain uses, such as intensive animal husbandry, which would have the potential to impact on a residential use. The creation of a rural/residential lot is not compatible with farming activities in relation to noise, agricultural sprays, and odour associated with farming. Allowing a small residential lot may have potential to have a significant impact on farming activities and the productivity in the future. The viability of the farm due to modification of their activities because of an abutting residential use can be reduced (see discussion under the Special Use Zone for further detail).

Local Planning Policy Framework (LPPF)

The objective Clause 21.04-2 'Agriculture' of the Local Planning Policy Framework reiterates the key points listed above and identifies issues in regards to proposals for subdivision. The key issues identified, among others, are as follows:

- *Maintaining and protecting high value of agricultural land within the municipality.*
- *Protecting productive agricultural land from incompatible uses and inappropriate development and subdivision, including non-soil based farming on lands with high soil quality.*

As discussed above, the proposed subdivision is inappropriate as it creates a small rural residential lot in a farming area and adds the potential to increase the number of dwellings in the future. The proposal is not supported by the LPPF.

Special Use Zone – Schedule 1

Subdivision of land within the Special Use Zone can be considered under Clause 37.01-3 which states:

3.0 Subdivision

Each lot must be at least 25 hectares.

A permit may be granted to create smaller lots if the subdivision is the re-subdivision of existing lots provided:

- No additional lots are created.
- The potential to create new lots is not increased.
- The potential for the number of dwellings is not increased.
- The proposed lots do not compromise the purpose of the zone.

The current proposal would allow the potential for the number of lots to increase as the proposed Lot 2 is 52.5 hectares in area, and would therefore be capable being subdivided into two lots, given that the minimum lot size in the zone is 25 hectares. This does not meet the test of the second dot point which does not support a boundary realignment which would create the potential for an additional lot.

The applicant has proposed that they would enter into a Section 173 Agreement which would prohibit the further subdivision of the land. However, it is not considered that the agreement will ensure that the site would not be subdivided in the future if this landowner or a new purchaser successfully applied for a planning permit to remove the agreement from the title.

The proposal does not meet the requirement of the third dot point as the potential for the creation of an additional lot would also increase the potential for an additional dwelling. If the Agreement was removed from the title, then it would be difficult for Council to prevent an additional dwelling. The proposal does not meet the test of the fourth dot point as it will compromise the purposes of the zone.

The purposes of schedule 1 of the Special Use Zone are as follows:

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

The current proposal is not consistent with the third dot point as the proposal does not protect the area from the encroachment of urban and rural residential type development.

The proposed 1 hectare lot with the existing dwelling, will result in the site being used for a rural/residential style use given that 1 hectares is not large enough to be used for an agricultural activity. The site is most likely to be used for hobbies such as the keeping of horses.

The creation of a 1 hectare lot around the existing dwelling is not consistent with the fourth dot point as it will not minimise the potential for conflict between residents and normal farming practices that are related to the conduct of agricultural activities.

The use of the 1 Hectare lot for a primarily rural/residential use means that there is significant potential for there to be conflict between residents and normal farming activities.

The potential for noise issues associated with farm machinery being operated before 7am means that the use of farm machinery before this time, which may be optimal for harvesting, spraying or other activities, could be restricted, thereby reducing the efficiency and productivity of the agricultural activity.

Under the Agricultural and Veterinary Chemical (Control of use) Act 1992, there is no requirement of a farmer to notify adjoining landowners of spraying activities. A resident of the smaller lot may attempt to modify the farmers spraying activities by lodging a complaint against the property owner. It is very difficult to control and minimise spray drift and attempts to minimise drift may impact on the optimal timing of spraying for disease and insect control. This would have a direct impact on the quality and quantity of crop produced and therefore the productivity of the land.

Over time, the occupants of the dwelling on proposed lot 1 will experience incidental exposure to agricultural spray drift which can lead to ill health effects. Even if spraying is done when there is no wind, the spray drift can take a long time to dissipate and could increase the risk of exposure. If the proposed lot were of a larger scale that supported agricultural activity, then the occupants of the

dwelling would be aware of their own spraying activities and take appropriate action to minimise health risks.

The applicant has volunteered to enter into a Section 173 Agreement which would highlight that the 1 hectare site is located within an area used for farming and acknowledging that noise, smell, and agricultural spraying would be carried out on the larger adjoining lot. This would not remove the potential for conflict altogether and could still result in difficulties associated with these issues which could impact on the productivity of the land.

Clause 44.04-3-Land Subject to Inundation Overlay

In approving the proposed subdivision, Melbourne Water have determined that the proposal will not redirect or obstruct floodwater, stormwater or drainage water and will not have any significant impact on flood storage or increase flood levels or the flow velocities. The proposed boundary realignment will not have an impact on river health values including wetlands, natural habitat, stream stability, erosion, environmental flows, water quality and sites of scientific significance as it does not involve any physical change to the property.

CONCLUSION

As detailed above, the relevant provisions of the Planning Scheme seek to preserve the agricultural values of this site, particularly given the high quality soils which are required for horticultural activities. It is likely that the 1 hectare lot would primarily be used for residential purposes, potentially as a hobby farm. This is not the purpose of this Special Use Zone, the zone and policies seek to prevent these type of uses.

The resultant subdivision proposal would further fragment the horticultural land, assuring two lots of high quality soil land are limited in their capacity to be effectively farmed, potentially resulting in a loss of productivity and employment. This is contrary to the strategic direction of the area.

Council recognised the value of this area within the municipality in relation to the agricultural quality for horticulture and it is considered that this application is against the intention of the Cardinia Planning Scheme.

It is recommended that a Refusal to Grant Planning Permit T160787 be issued for a Two Lot Subdivision (boundary re-alignment) at 515 Dessent Road, Cora Lynn on the following grounds:

1. The proposal is inconsistent with Clause 14.01-1 "Protection of agricultural land" of the State Planning Policy Framework (SPPF),
2. The proposal is inconsistent with Clause 21.06-2 "Agriculture" of the Municipal Strategic Statement (LPPF),
3. The proposal is inconsistent with the purposes of Clause 37.01 of the Special Use Zone - Schedule 1, which aim to protect agricultural land from the intrusion of urban uses, inappropriate development and fragmentation.

2 TWO LOT SUBDIVISION, 515 DESSERT ROAD, CORA LYNN

Moved Cr G Moore Seconded Cr R Brown

That a Refusal to Grant Planning Permit T160787 be issued for a Two Lot Subdivision (boundary re-alignment) at 515 Dessent Road, Cora Lynn on the following grounds:

1. The proposal is inconsistent with Clause 14.01-1 "Protection of agricultural land" of the State Planning Policy Framework (SPPF),
2. The proposal is inconsistent with Clause 21.06-2 "Agriculture" of the Municipal Strategic Statement (LPPF),
3. The proposal is inconsistent with the purposes of Clause 37.01 of the Special Use Zone - Schedule 1, which aim to protect agricultural land from the intrusion of urban uses, inappropriate development and fragmentation.

Cd.

3 CHILDCARE CENTRE AT CURRAN DRIVE, OFFICER

FILE REFERENCE INT1734705

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Emily Cook

RECOMMENDATION

That planning permit T160868 be issued for use and development of the land for a childcare centre and reduction in the car parking requirements of Clause 52.06 at Curran Drive, Officer subject to the conditions attached to this report.

Attachments

1	Locality plan	1 Page
2	Plans for endorsement	5 Pages
3	For context - plans approved under T150374	1 Page

EXECUTIVE SUMMARY:

APPLICATION NO.:	T160868
APPLICANT:	Bosco Jonson, CC/Guillermo Cabala
LAND:	Lot A, PS711335D, Curran Drive, Officer
PROPOSAL:	Use and development of the land for a childcare centre and reduction in the car parking requirements of Clause 52.06
PLANNING CONTROLS:	Urban Growth Zone – Schedule 1 Development Contribution Plan Overlay – Schedule 2 Cardinia Road Precinct Structure Plan (September 2008) Cardinia Road Development Contribution Plan (September 2008) Cardinia Road North Neighbourhood Activity Centre Urban Design Framework Clause 52.06 Car Parking
NOTIFICATION & OBJECTIONS:	The application is exempt from advertising under Clause 37.07-13 of the Planning Scheme
KEY PLANNING CONSIDERATIONS:	Clause 52.06 Car Parking Cardinia Road Precinct Structure Plan (September 2008) Cardinia Road North Neighbourhood Activity Centre Urban Design Framework
RECOMMENDATION:	Approval

BACKGROUND:

The site forms part of the Cardinia Road North Neighbourhood Activity Centre known as the Arena Shopping Centre. Planning permit T160470 issued on the of 3rd March 2017 granted permission

to subdivide the subject land into two parcels being proposed Lot 1 (2400sqm) and proposed Lot 2 (5785sqm). Planning permit T150374 issued on the 22nd of December 2015 granted permission for the use and development of shops on proposed Lot 2. This current application for a childcare centre is for proposed Lot 1.

It is noted that the site adjoins the Arena Child and Family Centre to the south. The cumulative impact of the existing and proposed uses has been assessed in relation to traffic/car parking. However, potential competition with two similar centres is beyond the considerations of the Planning and Environment Act 1987 and have not be assessed.

SUBJECT SITE

The subject site forms part of the Arena Shopping Centre precinct. The development site is a vacant 2400sqm irregular shaped parcel located on the southern side of Damon Street and the eastern side of Curran Drive. The site slopes gently from north-west to south-east and contains a proposed carriageway easement to ultimately provide vehicular from Curran Drive to Damon Street. As highlighted above land to the north contains the Arena Shopping Centre and land to the south contains the Arena Child and Family Centre.

PROPOSAL

The proposal is for the use and development of the land for a childcare centre and reduction in the car parking requirements of Clause 52.06.

Site Layout

The proposal includes a single storey childcare centre catering for 130 children with a total building area of 789sqm. The building is to be located along the northern boundary fronting Damon Street, with children's outdoor play space in the centre of the site and car parking to the rear (south). A total of 930sqm of outdoor play space is proposed, including an 11sqm store shed. External fencing is to be 1.8m high timber batten fencing which is 50% transparent. Two timber seating areas are proposed on Damon Street and the corner of Curran Drive. Retaining walls with a maximum height of 1.4m are proposed between the new footpath and outdoor play space.

Building Design

The building is designed to front Damon Street with access to the building via this frontage. The single storey building increases in height towards Damon Street and presents secondary frontages to Curran Drive. An office, reception, kitchen, staff room, staff bathroom, laundry, store room and seven childcare rooms are proposed to be serviced via a central corridor. External materials include glazing, render in various neutral colours, brickwork and timber finishes with a maximum building height of 4.9m.

Vehicular access and car parking

A total of 21 car parking spaces are proposed on site (including 1 disabled space) and 2 indented spaces within Curran Drive. A 6.4m wide vehicular accessway is proposed from Curran Drive running east-west through the site. This accessway connects to a north-south carriageway easement (being created as part of 2 lot subdivision T160470) through the adjoining development to Damon Street. This easement will be in favour of both Lot 1 & Lot 2. A 1.2m footpath is shown connecting the proposed car parking to the building entrance on Damon Street and the existing footpath along Curran Drive.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- 15.01-5 Cultural identity and neighbourhood character
- 11.06-5 Neighbourhoods
- 15.01-1 Urban design

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.06-2 Community Safety
- 21.06-1 Design and built form.
- 21.03-2 Urban growth area
- 21.04-1 Employment

Relevant particular/general provisions and relevant incorporated or reference documents

The relevant provisions/documents are:

- Clause 65 Decision Guidelines
- Clause 52.06 Car Parking
- Cardinia Road Precinct Structure Plan (September 2008)
- Cardinia Road Precinct Development Contributions Plan (September 2008)
- Cardinia Road North Neighbourhood Activity Centre Urban Design Framework

Zone

The land is subject to the Urban Growth Zone – Schedule 1.

Overlays

The land is subject to the Development Contribution Plan Overlay – Schedule 2.

PLANNING PERMIT TRIGGERS

The proposal for the use and development of the land for a childcare centre and reduction in the car parking requirements of Clause 52.06 requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 2.3 of Schedule 1 to the Urban Growth Zone a planning permit is required for the use of a childcare centre.
- Pursuant to Clause 2.5 of Schedule 1 to the Urban Growth Zone a planning permit is required to construct a building or construct or carry out works for a non-residential use (childcare centre).
- Pursuant to Clause 52.06 Car Parking a planning permit is required to reduce the number of car parking spaces required under Clause 52.06-5.

PUBLIC NOTIFICATION

Pursuant to Clause 37.07-13 any provision of this scheme which is generally in accordance with the precinct structure plan applying to the land is exempt from the notice requirements of section 52(1)(a), (b) and (d) of the Planning and Environment Act 1987.

DISCUSSION

The proposed use and development of the land for a childcare centre and reduction in the car parking requirements of Clause 52.06 is consistent with the aims and objectives of the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement as well as zones and overlays which apply to the subject site.

Clause 52.06 Car Parking

Pursuant to Clause 52.06-5 a childcare centre is required to provide 0.22 car parking spaces per child. The proposed centre will accommodate 130 children and therefore requires 28 car parking spaces. The proposal includes the construction of 21 car parking spaces (including 1 disabled space) within the subject site. A reduction of 7 car parking spaces is therefore sought. However, the applicant is also proposing to construct two (2) new indented car parking spaces within Curran Drive adjacent to the site.

It is noted that an additional indented car parking space has the potential to be accommodated within Curran Drive however, this would result in the loss of an established street tree and as such is not supported.

The applicant has provided a Traffic Engineering Assessment (TraffixGroup, April 2017) in support of the application and the proposed reduction in car parking. This assessment includes a car parking demand assessment of the immediate area and finds that:

- *'The level of traffic generated as a result of this proposal will be moderate and will not have a detrimental impact on Damon Street and Curran Drive (and this intersection) or the surrounding road network'.*

The proposal adjoins an approved development to the east (planning permit T150374) for the extension of the Arena Shops. These plans include an integrated accessway connecting the developments through a future accessway (and carriageway easement in favour of both developments) from Damon Street to Curran Drive.

The eastern development (as approved) provides for a surplus of 28 car parking spaces which will be easily accessible and within close proximity to the proposed childcare centre. The adjoining development may not be in same ownership or constructed simultaneously with the childcare centre. However, the applicant has demonstrated the childcare car parking is functional in isolation and will adequately service the site prior to completion of the adjoining development. The proposed reduction in car parking is therefore considered to be acceptable and is not expected to detrimentally affect the functionality of the immediate area.

Cardinia Road Precinct Structure Plan (September 2008)

The subject site forms part of the Cardinia Road North Neighbourhood Activity Centre (NAC), known as the Arena Shopping Centre. The PSP identifies the centre as having a neighbourhood retail and commercial role; comprising of a supermarket, shops and services.

The PSP encourages local employment through community services (public and private). This includes other activities (such as childcare centres and nursing homes) which not only service the local community but provide jobs. The proposed childcare centre is therefore in accordance with the employment objectives of the PSP and is considered to be an appropriate land use for the site.

The proposal also provides for the objectives and design principles for Activity Centres outlined in the PSP. The building contributes to the 'main street' design of Damon Street by providing a continuous building along the northern boundary. Visual interest is achieved through the glass entry (reception) and windows of varying sizes, heights and locations. Furthermore, the variety of materials and landscaping elements break up the built form and provide for an active interface to Damon Street.

The building has been designed to address the residential development along Curran Drive and provide for passive surveillance opportunities to this street through large windows and transparent fencing. The proposed location of the car parking is logical given it abuts an existing 1.8m solid colourbond fence, (separating the site from the adjoining Council facility) and, will allow for the accessway to ultimately connect to Damon Street through the adjoining development.

The proposal includes a pedestrian path which wraps around the building connecting the site to the existing footpath network on Curran Drive and Damon Street. These paths will allow pedestrians to move safely from the proposed car parking to the buildings entry on Damon Street.

Cardinia Road North Neighbourhood Activity Centre Urban Design Framework

The proposal is considered to be generally in accordance with the Cardinia Road North Neighbourhood Activity Centre Urban Design Framework (UDF) which applies to the site. The variations in windows and materials 'break up' the façade and mimic multiple shop frontages. Furthermore, the bench-seating in Damon Street and Curran Drive contribute to the functionality of the street by providing pedestrians places to sit.

The proposed façades to Damon Street and Curran Drive are visually interesting and positively contribute to the streetscapes. Blank walls have been broken up by windows and landscaping as well as varied external materials. The building has been designed to overlook the road network (and the future north-south accessway within the adjoining development) thereby providing for passive surveillance and an increased perception of safety.

CPTED Principles

The proposed childcare centre has been designed to maximise opportunities for natural surveillance throughout the site and wider area. The building addresses Damon Street while providing active frontages to Curran Drive and the future accessway within the adjoining development. Clear glazing at eye-level has been incorporated within all three frontages. In particular, the southern elevation largely consists of windows: overlooks the proposed car parking. Transparent fencing delineates the child-caring areas from car parking while allowing for passive surveillance of these spaces.

Pedestrian pathways clearly guide people to the singular entrance on Damon Street. These paths allow for the safe and efficient movement of people through the site and provide connections to the surrounding area. Appropriate conditions are to be included on the permit to ensure the proper maintenance of landscaping visible from the public realm.

Neighbourhood

The proposal is located within the Arena Neighbourhood Convenience Centre which includes an existing kindergarten, shops and medical suites. Development as approved by T150374 will see the further expansion of this precinct to include food & drink premises and additional shops. This centre is also located within close proximity to the Arena residential housing estate and St Francis Xavier College. The proposed childcare centre will therefore be well located to service the surrounding community and, easily accessible via the existing public transport routes along Cardinia Road and the Princes Freeway.

CONCLUSION

The proposed use and development of the land for a childcare centre and reduction in the car parking requirements of Clause 52.06 is consistent with the purpose and objectives of the Urban Growth Zone – Schedule 1, Cardinia Road Precinct Structure Plan, The Cardinia Road Development Contribution's Plan & the Cardinia Road North Neighbourhood Activity Centre Urban Design Framework which apply to the subject property.

It is recommended that planning permit T160868 be issued for use and development of the land for a childcare centre and reduction in the car parking requirements of Clause 52.06 at Curran Drive, Officer subject to the following conditions:

CONDITIONS

1. The layout of the site and the size of the proposed buildings and works, as shown on the approved plans, must not be altered or modified without the consent in writing of the Responsible Authority.
2. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
3. No more than one hundred and thirty (130) children may be cared for on the premises at any time without the prior written consent of the Responsible Authority.
4. Except with the written consent of the Responsible Authority, the use may only operate Monday to Friday between 6.30am - 6.30pm.
5. Before an Occupancy Permit is issued under the *Building Act 1993*, for any part of the development, unless some other time has been agreed with the Collecting Agency, a Development Infrastructure Levy must be paid to the Collecting Agency, Cardinia Shire Council in accordance with the provisions of the approved Cardinia Road Development Contributions Plan (2008).
6. Before the use starts and/or the building is occupied, unless with the prior written consent of the Responsible Authority, the premises must be connected to reticulated water supply, sewerage, drainage and underground electricity to the requirements of the relevant servicing authority.
7. Before the use starts and/or the building is occupied, all proposed areas set aside on the approved plans for access, circulation, car parking and pedestrian paths must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated, to the satisfaction of the Responsible Authority:
8. Before the development starts, landscape plans prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The landscaping plans must be generally in accordance with the submitted landscape plan prepared by Memla except that the plan must show:
 - a) Locations and names of existing street trees on Curran Drive and Damon Street, including location of garden beds.
 - b) Proposed layout of the future connection to the east of the site, with relevant landscape treatments.
 - c) Details of surface finishes of pathways and driveways.
 - d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant for all interfaces to the public realm.

9. Before the development is occupied or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
10. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
11. Before the development starts a fee of \$375.00 per tree must be paid to the Responsible Authority for the replacement of the existing street trees nominated for removal on Curran Drive.
12. Unless with the prior written consent of the Responsible Authority, all rooftop plant and equipment (including air conditioning units, heating units and hot water systems) must be concealed from general view to the satisfaction of the Responsible Authority.
13. Unless with the prior written consent of the Responsible Authority, the area/s shown on the approved plan for access, car parking and landscaping must not be used for any other purpose and must be maintained to the satisfaction of the Responsible Authority.
14. Unless with the prior written consent of the Responsible Authority, the exterior colour and cladding of the building(s) must be of a non-reflective nature to the satisfaction of the Responsible Authority.
15. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - a) Transport of materials, goods or commodities to or from the land.
 - b) Appearance of any building, works or materials.
 - c) Emission of noise, artificial light, vibration, smell, flumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - d) Presence of vermin.To the satisfaction of the Responsible Authority.
16. External lighting of the areas set aside for car parking, access lanes and driveways must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land
17. The site including all buildings and works must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance to the satisfaction of the Responsible Authority.
18. Before the development is occupied, all proposed areas set aside on the approved plan/s for access, circulation and car parking (including indented car parking spaces within Curran Drive and all footpaths) must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated to the satisfaction of the Responsible Authority. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority.
19. Before the development is occupied a commercial/industrial standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
20. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in

such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.

21. Before the development starts, a stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted for the approval of the Responsible Authority. The stormwater management plan must be prepared by a suitably qualified person and show details of the proposed stormwater works including all existing and proposed features that may have impact (including trees to be retained, crossings, services, fences, abutting buildings, existing boundary levels etc). All works must be undertaken in accordance with the approved stormwater management plan.
22. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
23. 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.
24. Before an Occupancy Permit is issued under the Building Act 1993, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority which includes or demonstrates:
 - a. How bins are to be serviced, including collection and storage points to be shown on a plan.
 - b. Waste generation calculations to determine the capacity and number of bins required.
 - c. Bin numbers and capacities (size).
 - d. Details of bin storage and the location.
 - e. Details of access arrangements (if required).
 - f. Odour control from bin storage areas.
25. All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes shall be kept in a storage area screened from view to the satisfaction of the Responsible Authority.
26. All waste must be stored effectively to prevent odours from affecting neighbouring properties.

Expiry:

27. This permit will expire if one of the following circumstances applies:

- a) The development does not start within two (2) years of the date of this permit.
- b) The development is not completed within four (4) years of the date of this permit.
- c) The use does not start within one (1) year of the completion of the development; or
- d) The use is discontinued for a period of two (2) years.

The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the *Planning and Environment Act 1987*.

Notes

A Building Permit may be required for this development. To obtain a building permit you will need to contact a registered building surveyor.

Before the commencement of the proposed development a Building Permit must be obtained for any retaining wall exceeding 1.0 metres in height.

A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.

3 CHILDCARE CENTRE AT CURRAN DRIVE, OFFICER

Moved Cr G Moore Seconded Cr R Brown

That planning permit T160868 be issued for use and development of the land for a childcare centre and reduction in the car parking requirements of Clause 52.06 at Curran Drive, Officer subject to the following conditions:

1. The layout of the site and the size of the proposed buildings and works, as shown on the approved plans, must not be altered or modified without the consent in writing of the Responsible Authority.
2. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
3. No more than one hundred and thirty (130) children may be cared for on the premises at any time without the prior written consent of the Responsible Authority.
4. Except with the written consent of the Responsible Authority, the use may only operate Monday to Friday between 6.30am - 6.30pm.
5. Before an Occupancy Permit is issued under the *Building Act 1993*, for any part of the development, unless some other time has been agreed with the Collecting Agency, a Development Infrastructure Levy must be paid to the Collecting Agency, Cardinia Shire Council in accordance with the provisions of the approved Cardinia Road Development Contributions Plan (2008).
6. Before the use starts and/or the building is occupied, unless with the prior written consent of the Responsible Authority, the premises must be connected to reticulated water supply, sewerage, drainage and underground electricity to the requirements of the relevant servicing authority.
7. Before the use starts and/or the building is occupied, all proposed areas set aside on the approved plans for access, circulation, car parking and pedestrian paths must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated, to the satisfaction of the Responsible Authority:
8. Before the development starts, landscape plans prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The landscaping plans must be generally in accordance with the submitted landscape plan prepared by Memla except that the plan must show:
 - a) Locations and names of existing street trees on Curran Drive and Damon Street, including location of garden beds.
 - b) Proposed layout of the future connection to the east of the site, with relevant landscape treatments.
 - c) Details of surface finishes of pathways and driveways.
 - d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant for all interfaces to the public realm.
9. Before the development is occupied or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

10. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
11. Before the development starts a fee of \$375.00 per tree must be paid to the Responsible Authority for the replacement of the existing street trees nominated for removal on Curran Drive.
12. Unless with the prior written consent of the Responsible Authority, all rooftop plant and equipment (including air conditioning units, heating units and hot water systems) must be concealed from general view to the satisfaction of the Responsible Authority.
13. Unless with the prior written consent of the Responsible Authority, the area/s shown on the approved plan for access, car parking and landscaping must not be used for any other purpose and must be maintained to the satisfaction of the Responsible Authority.
14. Unless with the prior written consent of the Responsible Authority, the exterior colour and cladding of the building(s) must be of a non-reflective nature to the satisfaction of the Responsible Authority.
15. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - a) Transport of materials, goods or commodities to or from the land.
 - b) Appearance of any building, works or materials.
 - c) Emission of noise, artificial light, vibration, smell, flumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - d) Presence of vermin.

To the satisfaction of the Responsible Authority.
16. External lighting of the areas set aside for car parking, access lanes and driveways must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land
17. The site including all buildings and works must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance to the satisfaction of the Responsible Authority.
18. Before the development is occupied, all proposed areas set aside on the approved plan/s for access, circulation and car parking (including indented car parking spaces within Curran Drive and all footpaths) must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated to the satisfaction of the Responsible Authority. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority.
19. Before the development is occupied a commercial/industrial standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
20. Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.
21. Before the development starts, a stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted for the approval of the Responsible Authority. The stormwater management plan must be prepared by a suitably

qualified person and show details of the proposed stormwater works including all existing and proposed features that may have impact (including trees to be retained, crossings, services, fences, abutting buildings, existing boundary levels etc). All works must be undertaken in accordance with the approved stormwater management plan.

22. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
23. 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.
24. Before an Occupancy Permit is issued under the Building Act 1993, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority which includes or demonstrates:
 - a. How bins are to be serviced, including collection and storage points to be shown on a plan.
 - b. Waste generation calculations to determine the capacity and number of bins required.
 - c. Bin numbers and capacities (size).
 - d. Details of bin storage and the location.
 - e. Details of access arrangements (if required).
 - f. Odour control from bin storage areas.
25. All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes shall be kept in a storage area screened from view to the satisfaction of the Responsible Authority.
26. All waste must be stored effectively to prevent odours from affecting neighbouring properties.

Expiry:

27. This permit will expire if one of the following circumstances applies:
 - a) The development does not start within two (2) years of the date of this permit.
 - b) The development is not completed within four (4) years of the date of this permit.
 - c) The use does not start within one (1) year of the completion of the development; or
 - d) The use is discontinued for a period of two (2) years.

The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the *Planning and Environment Act 1987*.

Notes

A Building Permit may be required for this development. To obtain a building permit you will need to contact a registered building surveyor.

Before the commencement of the proposed development a Building Permit must be obtained for any retaining wall exceeding 1.0 metres in height.

A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.

4 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

FILE REFERENCE INT1734544

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Tracey Parker

RECOMMENDATION

That the report be noted.

Attachments

Nil.

EXECUTIVE SUMMARY

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

Status of active amendments

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

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C205	EDM Group	80 McDonalds Track Lang Lang.	Rezone part of the land at 80 McDonalds Track, Lang Lang (Lot 3 on PS542732), and Lots 1 and 2 (PS542732) Westernport Road, Lang Lang, from Farming Zone to Industrial 1 Zone, apply Schedule 20 to the Development Plan Overlay to this land and concurrently consider, under Section 96A of the Planning and Environment Act 1987, a planning permit application to subdivide the land at 80 McDonalds Track, Lang Lang into two (2) lots.			On 20/06/2016 Council adopted that authorisation be sought from the Minister for Planning to prepare the amendment.
C206	Cardinia Shire Council	16 Beaconsfield-Emerald Road Emerald	Rezone 16 Beaconsfield-Emerald Road Emerald from Rural Conservation Zone 2 to Public Park and Recreation Zone.	Thu 07/01/2016	Mon 08/02/2016	Amendment submitted to the Minister for approval on 04/10/2016. Awaiting approval.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C208	Cardinia Shire Council	Cardinia Shire	Updates the Local Planning Policy Framework (LPPF) to make reference to relevant policy direction outlined in Plan Melbourne. Airport Policy and Healthy By Design.	Thu 21/07/2016	Mon 22/08/2016	Approval documents re-submitted on 17/03/2017 in light of the release of Plan Melbourne refresh.
C209	Cardinia Shire Council	Pakenham Golf Course	Apply the Low Density Residential Zone 3, a Vegetation Protection Overlay 1 and Development Design Overlay 1 to land within the Deep Creek Master Plan area, and consider a planning permit for a two lot subdivision to allow for the land to be zoned Low Density Residential Zone 3 and Public Park and Recreation Zone.	Fri 24/06/2016	Wed 31/08/2016	On 20/03/2017 Council adopted to split the amendment into two parts with Part A to be resubmitted to the Minister for Planning for approval and Part B to be abandoned.
C211	Cardinia Shire Council	Pakenham Structure Plan area	The Amendment adds the Pakenham Activity Centre Incorporated Provisions (March 2017) as an Incorporated document in the Schedule to Clause 81.01 and the Pakenham Structure Plan (March 2017) as a Reference document in Clauses 21.03-2, 21.04-1, 21.04-3 and 21.04-4. The Amendment revises the Local Planning Policy Framework (LPPF) to make reference to 'Activity Centre Structure Plans' in various Clauses.	Thu 12/05/2016	Tue 14/06/2016	Amendment submitted to the Minister for approval on 24/03/2017. Awaiting approval.
C214	Pakenham Racing Club Inc.	71 and 77 Racecourse Road, Pakenham (Lot 1 on PS63208 7K)	Rezone land from Special Use Zone 2 (SUZ2) to General Residential Zone (GRZ).	Thu 13/10/2016	Mon 14/11/2016	Amendment submitted to the Minister for approval on 11/01/2017. Awaiting approval.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C215	Cardinia Shire Council	Green Wedge land	Implement the key recommendations of the Cardinia Western Port Green Wedge Management Plan (July 2016). Amends the Municipal Strategic Statement to remove reference to matters that are now proposed to be addressed in the Western Port Green Wedge Local Planning Policy & include the Cardinia Western Port Green Wedge Management Plan (July 2016) as a reference document.	Thu 01/09/2016	Mon 03/10/2016	Report going to Council on 15/05/2017 recommending the amendment be adopted.
C221	Villaworld Developments Pty Ltd Group	27-39 Vantage Drive Pakenham	The amendment proposes to rezone the part of residential lots 27-39 Vantage Drive, Pakenham that are covered by the Urban Floodway Zone (UFZ) to General Residential Zone Schedule 1 (GRZ1).	Thu 15/12/2016	Fri 06/01/2017	Amendment submitted to the Minister for approval on 03/04/2017. Awaiting approval.
C225	Cardinia Shire Council	270 Cardinia Road Officer South	To amend Clause 37.07 to the Urban Growth Zone Schedule 2 to: - Insert a new plan 1 showing the change of designation of the land from service business to commercial to facilitate a health precinct and change a portion of land designated for service business to residential to increase the amount of residential land in the Cardinia Road Precinct Structure Plan. - Include residential aged care facility and retirement villages as section 2 uses.			14/02/2017: Process commenced to seek amendment authorization from the Minister for Planning.

4 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

Moved Cr G Moore Seconded Cr R Brown

That the report be noted.

Cd.

5 PLANNING MATTERS CURRENTLY THE SUBJECT OF APPEAL AT THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL & THEIR OUTCOMES

FILE REFERENCE INT1734577

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted.

Attachments

Nil.

EXECUTIVE SUMMARY

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

Hearing Date	App No.	Address	Proposal	Council Decision	Appealed By	Current Status
5/09/17	T160026	44 Ambrose St, Emerald	The subdivision of land into six (6) lots in three (3) stages and creation of a road	NOD - Approval	Objector	Awaiting hearing
17/07/17	T140337	65 Pioneer Road, Lang Lang	Use and development of the land for extractive industry (sand quarry) removal of vegetation and alter access to a road in a Road Zone, Category 1	Failure to determine	Applicant	Awaiting hearing
24/04/17	T130758-2	5 & 6 Spencer Place, Pakenham	The development of the land for the purpose of five (5) dwellings, generally in accordance with the approved plans	Refusal	Applicant	Awaiting Decision
20/03/17	T160196	Timbertop Blvd, Officer	Multi lot subdivision of the land and the removal of one native tree	Refusal	Applicant	Applicant withdrawn appeal

20/03/17	T160150	70 Croft Road, Nar Nar Goon North	Development of the land a dwelling extension (pergola) and outbuilding (shed)	NOD - Approval	Objector	Awaiting decision
22/02/17	T150734	7 Henry Street Koo Wee Rup	Subdivision of land into two (2) lots and creation of an easement	Refusal	Applicant	Awaiting Decision - Further submission sought
22/04/2016 Hearing 5/10/16 Compulsory Conference - 10/08/16	T080447-1	11-15 Vista Court Gembrook	The use and development of land for the purpose of twenty (20) dwellings, of which ten (10) are to be used as a retirement village (over 55's) and associated earthworks exceeding one (1) metre. - amend to delete retirement village requirement	Refusal	Applicant	Council Decision Upheld - amendment refused.

5 PLANNING MATTERS CURRENTLY THE SUBJECT OF APPEAL AT THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL & THEIR OUTCOMES

Moved Cr G Moore Seconded Cr R Brown

That the report be noted.

Cd.

6 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATED AUTHORITY

FILE REFERENCE INT1734542

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted.

Attachments

Nil.

EXECUTIVE SUMMARY

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

Central Ward				
Date	Permit No	Location	The Proposal	The Decision
13/04/2017	T160370 - PC2	30-34 Toomuc Valley Road, Pakenham VIC 3810	Condition 1 - Buildings and works associated with a vehicle accessway and car parking and creation of an access to a road in a Road Zone Category 1	Issued
18/04/2017	T170014	29 Davidson Street, Pakenham VIC 3810	Buildings and works (retaining wall) within the Significant Landscape Overlay – Schedule 6	Issued
24/04/2017	T160657	12-14 John Street, Pakenham VIC 3810	Development of seven (7) single-storey dwellings	Issued
24/04/2017	T170054	39 Windermere Boulevard, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued
24/04/2017	T170079	Shop 3/114 Princes Highway, Pakenham VIC 3810	Use of the land for an indoor recreation facility (fitness training)	Issued
27/04/2017	T160027 - 1	9-25 Swan Street, Pakenham Victoria 3810	Subdivision of the land in accordance with the endorsed plans.	Issued
27/04/2017	T160114 - PC2	71-77 Racecourse Road, Pakenham VIC 3810	PC - Landscape Plans - Condition 2 - Use and development of the land for twenty-six (26) dwellings, creation of access to a Road Zone	Issued

			Category 1 and removal of native vegetation	
2/05/2017	T160482	4 Hosking Court, Pakenham VIC 3810	The subdivision of the land into two (2) lots	Issued
3/05/2017	T150581 - PC1	61 Ryan Road, Pakenham Victoria 3810	Section 173 Agreement - Subdivision of the land into two (2) lots	Issued
3/05/2017	T170135	70 Skyline Drive, Officer VIC 3809	Buildings and works (dwelling) within a Significant Landscape Overlay SLO6	Lapsed
2/05/2017	T160709 - PC1	5 Corporate Terrace, Pakenham VIC 3810	Construction of two (2) warehouses and associated works	Issued
5/05/2017	T170131	18 Sharnet Circuit, Pakenham VIC 3810	Building and works associated with warehouses and ancillary offices	Issued
8/05/2017	T090167 - 1	Lot A Southeast Boulevard, Pakenham Victoria 3810	The development of the land for the purpose of an electronic major promotions sign generally in accordance with the approved plans	Issued
8/05/2017	T160815	31 Kingston Avenue, Pakenham VIC 3810	Development of a second dwelling to the rear of the existing dwelling and alterations and additions to the existing dwelling	Issued
8/05/2017	T160577	Ascot Park Drive, Pakenham VIC 3810	The use and development of a supermarket, service station, 7 food and drink premises, 3 convenience restaurants, 6 offices, development of buildings and works including 37 dwellings and 3 convenience shops, variation to car parking, access to a Road Zone, Category 1 and Advertising Signage	Refused
10/05/2017	T170044	Caversham Drive (proposed Lot 421 Garland Street), Pakenham VIC 3810	Development of the land for three (3) dwellings and associated works in accordance with the endorsed plans.	Issued
11/05/2017	T160682	28 Commercial Drive, Pakenham VIC 3810	Staged subdivision of the land into two (2) lots	Issued

11/05/2017	T160683	2 Southeast Boulevard, Pakenham VIC 3810	Re-subdivision of land into three (3) lots and variation of an easement	Issued
11/05/2017	T170137	Corporate Terrace, Pakenham VIC 3810	Construction of two (2) warehouses and associated buildings and works	Issued
11/05/2017	T170138	Lot A PS721508 (proposed Lot 3 PS735759L), Corporate Terrace, Pakenham VIC 3810	Construction of one (1) warehouse and associated buildings and works	Issued
11/05/2017	T160631 - PC1	5 Wadsley Avenue, Pakenham VIC 3810	Condition 1 - Development of a second dwelling to the rear of the existing dwelling and alterations and additions to the existing dwelling	Issued
12/05/2017	T160706	6 Kingston Avenue, Pakenham VIC 3810	The subdivision of the land into two (2) lots	Issued
12/05/2017	T170210	76 Skyline Drive, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued
15/05/2017	T160790	11 Industrial Drive, Pakenham VIC 3810	Development of the land for Industry (pre-cast concrete manufacturing), ancillary offices, associated display area, display of advertising signage and reduction in on-site car parking (61 spaces)	Issued
15/05/2017	T160081 - PC1	116 Toomuc Valley Road, Pakenham Victoria 3810	Plans to Comply - Landscape Plans Condition 1 - Development of the land for seventeen (17) dwellings and associated earthworks and native vegetation removal	Issued
15/05/2017	T160737	1 Priscilla Place, Pakenham VIC 3810	Development of the land for three (3) dwellings	Issued
15/05/2017	T170165	41 Highland Drive, Pakenham VIC 3810	Subdivision of the land	Issued
15/05/2017	T170193	19 Skyline Drive, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued
15/05/2017	T170219	29 Skyline Drive, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued

16/05/2017	T170231	14 Edan Court, Pakenham VIC 3810	Garage	Withdrawn
18/05/2017	T170169	104-106 Princes Highway, Pakenham VIC 3810	Buildings and works associated with existing food and drink premises and alteration to existing advertising signage.	Issued
19/05/2017	T160235 - PC1	7 Thomas Street, Pakenham VIC 3810	Condition 1 - Development of the land for three (3) dwellings on a lot	Issued
Port Ward				
Date	Permit No	Location	The Proposal	The Decision
13/04/2017	T160385	6 Carnarvon Street, Lang Lang VIC 3984	Subdivision of the land into two (2) lots	Issued
13/04/2017	T160551	31 Home Road, Nar Nar Goon VIC 3812	Subdivision of the land into two (2) lots	Issued
13/04/2017	T160719	35 Mulcare Street, Nar Nar Goon VIC 3812	Development of the land for an outbuilding (shed)	NOD
13/04/2017	T160803	15 Baranbali Road, Maryknoll VIC 3812	Extensions to an existing dwelling	Issued
13/04/2017	T170001	75 Nine Mile Road, Tynong VIC 3813	Development of the land for an extension to an existing store and a canopy over the car park.	Issued
20/04/2017	T160287	50 Wallaby Court, Garfield North VIC 3814	The development of the land for a dwelling and outbuilding	Withdrawn
20/04/2017	T160583	70 Trevor Road, Nar Nar Goon North VIC 3812	Earthworks for a dam and associated removal of eight (8) native trees	Issued
26/04/2017	T160130	46 Ryan Road, Pakenham VIC 3810	Subdivision of the land into two (2) lots and variation of a restrictive covenant	Issued
27/04/2017	T150142 - PC3	34 A` Beckett Road, Bunyip Victoria 3815	Plans to Comply - Condition 10 of the Planning Permit - T150142-1 - Subdivision of the land into two (2) lots and vegetation removal.	Issued
27/04/2017	T150173 - PC2	7 Nar Nar Goon- Longwarry Road, Garfield Victoria 3814	Plans to Comply - Landscape Plans Construction of a second dwelling on a lot within the General Residential Zone and building and works within the Land Subject to Inundation Overlay	Issued
28/04/2017	T150603	49 Tynong Road, Tynong Victoria 3813	Earthworks associated with agriculture and the construction of a dam and	Issued

			removal of native vegetation	
1/05/2017	T160279 - PC1	2A Latta Road, Nar Nar Goon VIC 3812	Section 173 Agreement - Subdivision of the land into two (2) lots and associated vegetation removal/lopping	Issued
2/05/2017	T110133 - PC1	75 Island Road, Kooweerup Victoria 3981	Use & development of the land for constructing a dwelling & two (2) outbuilding, one to be used as stables & one (1) to be used as machinery storage	Issued
2/05/2017	T130739 - PC1	1735 Gembrook- Tonimbuk Road, Tonimbuk VIC 3815	T130739 PC - Plans to Comply for Condition 11	Issued
2/05/2017	T160474 - PC1	494 Eleven Mile Road, Cora Lynn VIC 3814	Use and development of the land for a dwelling and outbuilding for rural industry (Artisan Distillery) and associated works.	Issued
2/05/2017	T160665 - PC1	38 James Street, Lang Lang VIC 3984	Condition 1 - Development of a dwelling to the rear of the existing dwelling and alterations and additions to the existing dwelling	Issued
2/05/2017	T160717 - PC1	175 Fechner Road, Koo Wee Rup VIC 3981	Plans to Comply - Development of the land for a building associated with agriculture (hay store)	Issued
3/05/2017	T110712 - PC2	555 Railway Avenue, Garfield Victoria 3814	Section 173 Agreement - Multi lot residential subdivision and removal of native vegetation and the approval of a development plan - Part schedule 6.	Issued
4/05/2017	T170149	7-9 Nar Nar Goon Road, Nar Nar Goon VIC 3812	Boundary Realignment to give access to Lot 1.	Withdrawn
8/05/2017	T160687	18 Dixons Road, Cardinia VIC 3978	Development of the land for a dwelling extension and removal of (1) one tree	Issued
9/05/2017	T140745 - PC3	14 Barker Road, Garfield Victoria 3814	Plans to Comply - PC - Condition 10 and Condition 32 of T140745 - Restriction for approval (S16/169) Multi lot subdivision, creation of easement and the removal of native vegetation	Issued
9/05/2017	T170134	Corporate Terrace, Pakenham VIC 3810	Construction of six (6) warehouses and	Issued

			associated buildings and works	
10/05/2017	T170089	675 Bessie Creek Road, Nar Nar Goon North VIC 3812	Alterations and additions to an existing dwelling	Issued
11/05/2017	T970402 - 1	455 Westernport Rd, Lang Lang Victoria 3984	Amendments to planning permit T970402 and the endorsed plans to allow for the use and development of a dwelling and the deletion of condition 5	Refused
12/05/2017	T160728	2485 Ballarto Road, Cardinia VIC 3978	Restricted Place of Assembly with Dwelling and B&B	Issued
12/05/2017	T170062	2 Ravendene Court, Maryknoll VIC 3812	Construction of an outbuilding	Issued
12/05/2017	T170204	270 Cardinia Road, Officer South VIC 3809	Buildings and works (shed) associated with agriculture within 100m of a waterway	Issued
15/05/2017	T150180 - PC2	170 McDonalds Track, Lang Lang Victoria 3984	Subdivision of the land	Issued
15/05/2017	T160493 - PC1	4 Kerry Place, Garfield VIC 3814	Subdivision of the land into six (6) lots and creation of common property	Issued
15/05/2017	T160831	1115 Manks Road, Dalmore VIC 3981	Construction of a building associated with agriculture (crop raising)	Issued
16/05/2017	T110314 - 1	36 Bunyip-Modella Rd, Bunyip Victoria 3815	The development of the land for a self storage facility and native vegetation removal	NOD
16/05/2017	T170091	330 Garfield North Road, Garfield North VIC 3814	Construction of an outbuilding and associated earthworks	Issued
17/05/2017	T160829	39 Cameron Way, Pakenham VIC 3810	Construction of a second dwelling at the rear of the existing dwelling and alterations and additions to the existing dwelling	Issued
18/05/2017	T160244 - PC1	24 Hope Street, Bunyip VIC 3815	Plans to Comply - Landscape Plans - Condition 1 - Development of the land for an additional dwelling	Issued
18/05/2017	T160446	69 Nar Nar Goon Road, Nar Nar Goon VIC 3812	Use of the land for Industry (manufacturing of portable buildings) and manufacturing sales, display of business identification signage and	Issued

			altering access to a road in a Road Zone Category 1.	
18/05/2017	T160845 - PC1	109 Hall Road, Pakenham South VIC 3810	Use and development of the land for a dwelling and outbuilding	Issued
19/05/2017	T170136	180 Monomeith Road, Monomeith VIC 3984	Use and development of the land for a dwelling and horse stables and earthworks	Issued
Ranges Ward				
Date	Permit No	Location	The Proposal	The Decision
13/04/2017	T160219 - 1	26 Whiteside Road, Officer VIC 3809	Subdivision of the land into two (2) lots	Issued
13/04/2017	T160791	28 Kings Road, Emerald VIC 3782	Development of the land for a dwelling	Issued
13/04/2017	T160788	Beenak East Road, Gembrook VIC 3783	Development of a minor utility installation and associated works	Issued
13/04/2017	T160798	20 St Georges Road, Beaconsfield Upper VIC 3808	Subdivision of the land in to two (2) lots	Issued
18/04/2017	T160806	9 Paternoster Road, Cockatoo VIC 3781	Construction of an Outbuilding	Lapsed
19/04/2017	T160298	25 Maisey Road, Gembrook VIC 3783	Development of the land for a dwelling extension and outbuilding	Issued
20/04/2017	T160579 - PC1	Clematis Park Road, CLEMATIS VIC 3782	Section 173 Agreement - Buildings and works for the construction of a covered horse arena	Issued
20/04/2017	T170214	46 Springs Street, Cockatoo VIC 3781	Amendment to T160730	Withdrawn
24/04/2017	T140045 - 1	155 Thewlis Road, Pakenham VIC 3810	Development of the land for an outbuilding	Issued
24/04/2017	T160822	205 Huxtable Road, Pakenham Upper VIC 3810	Development of the land for an outbuilding and associated earthworks	Issued
24/04/2017	T170042	115-117 Old Princes Highway, Beaconsfield VIC 3807	Construction of an outbuilding	Issued
24/04/2017	T170158	21 Fulton Street, Officer VIC 3809	Development of a single dwelling on a lot less than 300 square metres	Issued
26/04/2017	T160751	38 Portchester Boulevard, Beaconsfield VIC 3807	Subdivision of the land into two (2) lots	Issued

26/04/2017	T170029	7 Eastbourne Crescent, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued
26/04/2017	T170155	130 Kenilworth Avenue, Beaconsfield VIC 3807	Development of the land for an outbuilding (garage) outside the building envelope	Issued
26/04/2017	T170172	69 Skyline Drive, Officer VIC 3809	Buildings and works (dwelling) within a Significant Landscape Overlay SLO6	Issued
27/04/2017	T160747 - PC1	519 O`Neil Road, Beaconsfield VIC 3807	Condition 1 - Construction of an Outbuilding	Issued
27/04/2017	T170100	8 Beaconsfield Avenue, Beaconsfield VIC 3807	Development of the land for a verandah	Issued
28/04/2017	T170028	16 Haylock Avenue, Cockatoo VIC 3781	Development of the land for a dwelling and vegetation removal	Issued
2/05/2017	T120304 - PC1	20 Margaret Rd, Avonsleigh Victoria 3782	Plans to Comply - Planting Plan - The development of the land for an outbuilding with a reduced setback, and the removal of native vegetation	Issued
2/05/2017	T140546 - PC2	74 Marks Lane, Emerald Victoria 3782	Plans to Comply - Offset Management Plan - Removal of one (1) tree	Issued
2/05/2017	T160605	19 Station Road, Gembrook VIC 3783	Three (3) lot subdivision	NOD
2/05/2017	T160651 - PC1	54 Fairway Road, Emerald VIC 3782	Construction of an outbuilding	Issued
2/05/2017	T160713	335 Beaconsfield-Emerald Road, Guys Hill VIC 3807	Use and development of the land for a Telecommunications Facility	Issued
2/05/2017	T160796	74-76 Main Street, Gembrook VIC 3783	Use of the land for a restricted recreation facility (Gym)	Issued
2/05/2017	T160798 - PC1	20 St Georges Road, Beaconsfield Upper VIC 3808	Subdivision of the land in to two (2) lots	Issued
3/05/2017	T160720	15 Belgrave Avenue, Cockatoo VIC 3781	Development of the land for a dwelling and associated earthworks, and vegetation removal	Issued
4/05/2017	T150760 - PC2	2973 Gembrook-Launching Place Road, Gembrook Victoria 3783	Plans to Comply - Sec 173 - Two (2) lot subdivision	Issued

4/05/2017	T160600	360 Princes Highway, Officer VIC 3809	Development of the land for twenty-one (21) dwellings and associated works	Refused
8/05/2017	T160289	432 Princes Highway, Officer VIC 3809	Development of the land for a commercial building with on site car parking	Lapsed
8/05/2017	T160291	68-72 Main Street, Gembrook VIC 3783	Construction of two (2) shops and associated car parking; Use and construction of six (6) dwellings and associated earthworks; Re-subdivision of the land into two (2) lots; Creation of access to a Road Zone Category 1; Waiver of requirements of Clause 52.07	NOD
8/05/2017	T160541	Brisbanes Road, COCKATOO VIC 3781	Re-subdivision of land in to two (2) lots (boundary re-alignment)	Issued
8/05/2017	T160638 - PC1	2 Sutherland Road, Beaconsfield Upper VIC 3808	Condition 1 - Development of the land for an outbuilding, vegetation removal and associated works	Issued
8/05/2017	T160826	5 Boyd Road, Gembrook VIC 3783	Development of the land for an outbuilding	Issued
8/05/2017	T170016	20 Stone Road North, Gembrook VIC 3783	The development of the land for alteration and additions to an existing dwelling	Issued
8/05/2017	T170121	9 Turquoise Walk, Officer VIC 3809	Construction of a dwelling on a lot less than 300sqm	Issued
8/05/2017	T170122	7 Turquoise Walk, Officer VIC 3809	Construction of a dwelling on a lot less than 300sqm	Issued
8/05/2017	T170123	13 Turquoise Walk, Officer VIC 3809	Construction of a dwelling on a lot less than 300sqm.	Issued
8/05/2017	T170124	3 Turquoise Walk, Officer VIC 3809	Construction of a dwelling on a lot less than 300sqm.	Issued
9/05/2017	T160856	8 Westlands Road, Emerald VIC 3782	Development of the land for a replacement dwelling	Issued
9/05/2017	T170140	73 First Avenue, Cockatoo VIC 3781	Buildings and works associated with an outbuilding (within 5 metres of a side boundary)	Issued
9/05/2017	T170190	368 O`Neil Road, Officer VIC 3809	Addition to existing single storey dwelling.	Withdrawn
11/05/2017	T160568 - 1	40 Ure Road, Gembrook VIC 3783	Use and development of the land for a dwelling, carport and outbuilding	Withdrawn

11/05/2017	T160730 - 1	46 Springs Street, Cockatoo VIC 3781	Amendment to Planning Permit T160730 (deletion of conditions 3 and 4) and Corrections to Planning Permit T160730 (deletion of condition 2 and corrections to permit preamble and condition 9)	Issued
11/05/2017	T170083	161-163 Stoney Creek Road, Beaconsfield Upper VIC 3808	Alterations and Additions to an existing dwelling	Issued
11/05/2017	T170212	15 Station Road, Gembrook VIC 3783	Buildings and works for a dwelling within the Significant Landscape Overlay - Schedule 1 and outside of the building envelope	Withdrawn
12/05/2017	T140627 - PC5	70 Whiteside Road, Officer Victoria 3809	Subdivision of the land and removal of native vegetation	Issued
12/05/2017	T160782 - PC1	1475 Pakenham Road, Mount Burnett VIC 3781	Condition 1 - Alterations and additions to an existing dwelling, relocation of an existing outbuilding and removal of vegetation	Issued
12/05/2017	T160844	6 Gum Street, Cockatoo VIC 3781	Construction of an outbuilding, associated earthworks and removal of one (1) tree	Issued
15/05/2017	T160180 - 1	13 Goff Street, Beaconsfield VIC 3807	Subdivision of the land into two (2) lots	Issued
15/05/2017	T170104	32 McMullen Road, Officer VIC 3809	Two lot subdivision, removal of supply of water and drainage easements, creation of drainage reserve and creation of carriageway easements	Issued
15/05/2017	T170117	10 Valley Drive, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding	Issued
15/05/2017	T170154	10 Gum Street, Cockatoo VIC 3781	Alterations and additions to an existing dwelling	Issued
16/05/2017	T160345 - 2	23-25 Salisbury Road, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding, retaining walls, associated earthworks and vegetation removal	Issued
16/05/2017	T160741	230 Telegraph Road, Beaconsfield Upper VIC 3808	Alterations and additions to the existing dwelling and	Issued

			construction of an outbuilding	
18/05/2017	T170070	855 Pakenham Road, Pakenham Upper VIC 3810	Alterations and additions to an existing dwelling	Issued
18/05/2017	T170263	50 Hopetoun Road, DROUIN VIC 3818	Not within Cardinia. Boundary Re-alignment	Withdrawn
19/05/2017	T150829	41 Burton Road, Beaconsfield Upper Victoria 3808	Use of land for grazing of two (2) horses and for one (1) shipping container	Lapsed

6 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATED AUTHORITY

Moved Cr G Moore Seconded Cr R Brown

That the report be noted.

Cd.

7 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)

FILE REFERENCE INT1734565

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Owen Hardidge

RECOMMENDATION

That the list of enforcement matters currently before VCAT and the Magistrates' Court (and the County Court) be noted.

EXECUTIVE SUMMARY

The following list of enforcement matters currently before VCAT and the Magistrates' Court is submitted for Councillors information.

Where breaches of the Planning Scheme are detected that cannot be satisfactorily resolved Council undertakes enforcement action at the Victorian Civil and Administrative Tribunal (VCAT).

These matters can take several forms and the following are the usual steps in the enforcement process.

Where breaches are sufficiently serious, criminal proceedings in the Magistrates' Court will be commenced, and if so, the successful criminal proceedings will usually be followed by VCAT proceedings (criminal proceedings taking precedence over "civil" proceedings).

1). Multi-purpose Hearing

This is the first stage of the VCAT process, and is held shortly after the application is lodged. It is used to assess the future path of the case, and determine if the case can be settled, or will need to proceed to a full hearing.

2). Admin Mention

Administrative Mention is a hearing held without the parties in attendance and requires written correspondence from both parties to update the Member on the process of the matter.

3). Adjournment

An adjournment will be asked for where there has been some discussion between Council and the Respondent, and more time is to be allowed for the Respondent (or Council as the Applicant) for a variety of reasons.

4). Offset plan

An Offset Plan goes by a few different names, including a Property Management Plan or a Property Remediation Plan. These plans are used when a Respondent has removed vegetation or otherwise damaged vegetation on the Land and Council is seeking a remedy for this removal, normally requiring replanting to occur on the Land. This plan is what Council will seek in the shape of an Enforcement Order, and the contents of the Plan will be decided by Council's Environment Team.

5). Full hearing

A full hearing is a hearing which is to be contested by the Respondent.

6). Consent Orders

Consent Orders are an agreement between Council and the Respondents to, in most cases, create an Enforcement Order with conditions that are agreed to by both Parties. This is done where a Respondent has accepted there has been a breach of the Act and wants to comply with Council's proposed Enforcement Order. This saves on time and money by avoiding a hearing or lengthy VCAT processes.

The following list indicates such enforcement activities that are currently before VCAT or the Magistrates' Court.

Property Address	Nature of Contravention	Status
715 Gembrook Rd, Pakenham Upper (ref: OH:AB:14130, OH:SMAY:15227 OH:OH:16295)	Alleged land use (burning off) and building breaches, that relates to extensive and complex planning history of the site.	<p>Magistrates' Court proceedings further adjourned to 30 May 2017 for further mention. The Court will rule on constitutional arguments raised by the accused, then proceed to contested hearing if appropriate.</p> <p>The accused has filed application in VCAT for declaration as to existing use rights, which relates to Burning Off waste timber on the land.</p> <p>The owner asserts that burning off activities are protected by the planning scheme. The owner now asserts a broader range of activities attract Existing Use Rights, and this contested proceeding will seek to clarify land use rights.</p> <p>This VCAT application will be listed for a 2-day hearing in 14-15 June 2017.</p> <p>Magistrates' Court proceeding may be delayed pending determination of this issue.</p> <p>The property has a 17 yr history of litigated planning disputes between 1997 and 2015.</p>
765 Gembrook Rd, Pakenham Upper (OH:LK:16299)	Native vegetation removal, and earthworks creating driveway and hardstand, in breach of Rural Conservation Zone – Schedule 2, Environmental Significance Overlay Schedule 1, and Clause 52.17	<p>New Magistrates' Court proceeding, alleging that the owner has conducted earthworks that require a permit, and cleared native vegetation, both without a permit.</p> <p>As the owner has other Magistrates Court & VCAT proceedings ongoing, the first listing of the matter has been listed on the 30 May 2017, to coincide with the next scheduled hearing.</p>
555 Back Creek Rd, Gembrook EH:LK:16272)	Native vegetation removal, and earthworks creating a dam, in breach of Section 173 agreement and the scheme.	Magistrates' Court prosecution arising from the creation of a large dam (by earthworks and vegetation removal), contrary to strict environmental controls

	Rural Conservation Zone – Sch 1, Environmental Significance Overlay – Sch 1, Bushfire Management Overlay, and Clause 52.17	and Section 173 agreement protecting vegetation on the land. On 15th September 2016 the Court issued a Warrant for arrest to compel the attendance of the accused. The accused has recently re-located, and we are investigating options to locate him.

CONCLUSION

The list of current enforcement activities is presented for information.

7 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)

Moved Cr G Moore Seconded Cr R Brown

That the list of enforcement matters currently before VCAT and the Magistrates' Court (and the County Court) be noted.

Cd.

Meeting closed at 7.15pm

Minutes Confirmed
Chairman