



Cardinia

MINUTES OF TOWN PLANNING COMMITTEE

MONDAY, 2 OCTOBER 2017

MINUTES OF TOWN PLANNING COMMITTEE

held in the Council Chambers, 20 Siding Avenue, Officer
on Monday, 2 October 2017
The meeting commenced at 7pm

PRESENT:

Mayor, Brett Owen, Chairman

Councillors Michael Schilling, Carol Ryan, Collin Ross, Jodie Owen, Graeme Moore, Ray Brown, Jeff Springfield, Leticia Wilmot

Messrs Garry McQuillan (CEO), Mike Ellis (GMAS), Derek Madden (GMCS), Debbie Tyson (A/GMPD), Jenny Scicluna (GMCWB), Doug Evans (MG)

APOLOGIES:

Andrew Paxton (GMPD)

DECLARATION OF PECUNIARY AND OTHER INTERESTS

Cr Graeme Moore declared an indirect conflict of interest in Items 3 and 4 being subdivision applications in Wattletree Road, Bunyip in accordance with the provisions of Section 78 of the Local Government Act as there is a reasonable likelihood that the developments will alter the residential amenity of his daughter who lives in close proximity to these properties.

Cr Brett Owen declared an indirect conflict of interest in the application for 33 Officer Road in accordance with the provisions of Section 78 of the Local Government Act as there is a reasonable likelihood that the development will alter the residential amenity of his parents who live in close proximity to this property.

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1 SUBDIVISION - 46 TIVENDALE ROAD - DEFERRED ITEM

FILE REFERENCE INT1764302

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Angela Gleeson

RECOMMENDATION

That a Refusal to Grant Planning Permit T160693 be issued for a subdivision and associated works at 46 Tivendale Road, Officer for reasons in this report.

Attachments

- | | | |
|---|------------------|---------|
| 1 | Locality map | 1 Page |
| 2 | Officer PSP maps | 5 Pages |
| 3 | Subdivision plan | 3 Pages |

EXECUTIVE SUMMARY:

This application was listed for consideration at the September Town Planning Committee and was deferred at the request of the applicant to allow further discussions between the applicant, Council and Melbourne Water in relation to the concerns and objections raised in regard to the development and the application.

The applicant is continuing to have discussions with Melbourne Water and Council however at this stage no resolution has been achieved. A further deferral may be requested.

APPLICATION NO:	T160693
APPLICANT:	Calibre Consulting for Sweet 46 Property Developments Pty Ltd
LAND:	Lot 6 PS66670, 46 Tivendale Road, Officer
PROPOSAL:	Staged subdivision and associated works
PLANNING CONTROLS:	Urban Growth Zone Schedule 3 Development Contributions Overlay Schedule 4 Clause 52.01 Public Open Space Clause 52.16 Native Vegetation Precinct Plan Clause 52.36 Integrated Public Transport Planning Clause 56 Residential Subdivision Clause 65 Decision Guidelines Officer Precinct Structure Plan September 2011 Cardinia Creek Conservation Management Plan Officer Native Vegetation Precinct Plan September 2011, Officer Development Contributions Plan and Conservation Management Plan 15 September 2011.
NOTIFICATION & OBJECTIONS:	The application was not required to be advertised under Clause 37.07-13 of the Urban Growth Zone.

KEY PLANNING CONSIDERATIONS: Urban Growth Zone Schedule 3
Land Subject to Inundation Overlay
Officer Precinct Structure Plan September 2011

RECOMMENDATION: Refusal

BACKGROUND:

The planning permit application is to develop a 4.0 ha parcel of land for a residential subdivision into 56 lots. A summary of the proposal is as follows:

- The lot size range is from 355sqm to 475sqm,
- A 33 metre wide east-west connector road runs through the north of the site,
- The lots predominately run in an east west direction,
- A drainage reserve is proposed along the entire length of the southern boundary and is shared between the subject site and southern property. The plan shows a total reserve width of 30 metres between the subject site and the southern site (60 Tivendale Road).
- Plan revision C, and notes that the developable area of 3.61 hectares and a lot density of 15.5 dwellings per hectare,
- The encumbered drainage reserve between the two properties is approximately 15.45 metres wide with an additional 14.55 metre wide unencumbered reserve and two adjacent 15 metre wide road reserves.
- The drainage reserve connects to a proposed sediment pond on the adjoining site to the east.
- The proposed reserve has a total area of 0.437ha.

The proposed subdivision layout differs from the Officer PSP in the south of the site. The PSP identifies a drainage corridor along an open drain running in an east-west direction along the boundary. The drainage corridor / linear reserve has been significantly reduced in width, along with no consideration being given to the drainage corridors and sediment pond immediately abutting the subject site to the east.

There is currently a planning application for a medium density development at Lot 5 Starling Road, Officer that is immediately abutting the site to the east with Council. The applicant for the proposed development at Lot 5 Starling Road is currently working on providing a drainage strategy for the site to Council and Melbourne Water, however it is difficult for the applicant of Lot 5 Starling Road to obtain appropriate information in order to align their drainage corridor and sediment pond with the subject site as it is inconsistent with the PSP.

The proposed development at Lot 5 Starling Road, provided a plan that complies with the Officer PSP and shows the sediment pond and drainage corridor in the correct locations and correct widths. The proposed subdivision plan for the subject site at 46 Tivendale Road shows a row of lots immediately located along the east boundary of the site, which subsequently turns its back to the proposed drainage corridor that is located between the two boundaries on Lot 5 Starling Road. Furthermore, the plan shows lots that will have back fences facing the future sediment pond, which has been incorporated within drainage corridor as a feature to the area.

As stated above, the drainage corridor and sediment pond areas do not align with each other, which results in an inconsistency with the PSP and does not allow for the appropriate integration between the two sites.

The applicant is proposing that the drainage corridor should be piped to allow for an adequately sized pipe to accommodate flows, rather than creating an open drainage corridor in this location in accordance with the PSP. It is further proposed by the applicant that the 15 metre wide road reserve, 10 metre wide Council reserve and 15.45 metre wide encumbered drainage reserve will adequately provide for a suitable drainage / linear reserve solution.

The PSP shows a total drainage and open space corridor of 100 metres which includes 20 metres of Council reserve on either side of an 80 metre encumbered drainage corridor. The subject site has a 10 metre wide un-encumbered open space Council reserve and an approximately 57.62 metre wide encumbered drainage reserve which equates to 1.19ha which is consistent with the land budget totals of the PSP. The remaining approximately 32.38 metre wide drainage and open space reserve is located within the adjoining site at 60 Tivendale Road.

Whilst the applicant provided a drainage report to Council that specifies how the reserve can be reduced and still function as a drainage reserve, however the reserve serves a greater purpose to the community as an aesthetic linear walking / cycling trail and biodiversity habitat and that this should not be reduced. It is concluded that whilst drainage solutions could be achieved, this is essentially not the argument in this instance. The issue is that the reserve has been reduced to the point it has no regard for its broader purpose for passive open space use and for adjoining sites connecting to this network.

Whilst the drainage report takes into consideration upstream matters, there is no guarantee that all developers upstream will provide similar solutions. As demonstrated above, engineering solutions are not the only consideration in this instance and there must be regard for planning which takes into consideration environmental and community benefit which aligns with planning policy and Council's Plans and strategies for healthy living.

Melbourne Water have objected to the proposal based on not having enough information to make an informed assessment of the proposal, with consideration to the broader impacts on other areas and Melbourne Water's waterway corridors.

It is worthy to note that Council Officers have tried to work with the applicant over an extended period of time to achieve an appropriate outcome that complies with the Officer PSP, however the applicant wishes to proceed with the proposal in its current form.

SUBJECT SITE:

The site is located on the east side of Tivendale Road in Officer.

The land is 4.047ha in size and is rectangular in shape.

An existing driveway is located toward the southern end of the land.

The site currently an existing brick veneer dwelling with a number of ancillary outbuildings. A watercourse traverses the property along the southern edge of the land, which is identified as Officer Creek.

The topography of the land has a combined fall of approximately 4 metres from the north west corner of the site and slopes to the south east corner of the site adjacent to the Officer Creek channel.

The subject site and surrounding area are included within the Officer Precinct Structure Plan area. The immediate surrounds have been nominated for residential development with the exception of

land to the north which contain two existing private schools being Berwick Grammar School which is abutting the land to the north and Minaret School which is located north west of the site.

To the south west of the site are similar sized allotments containing single dwellings along Tivendale Road. St Brigids Primary School and D'Angelo Estate Winery with cellar door are located further west of the site.

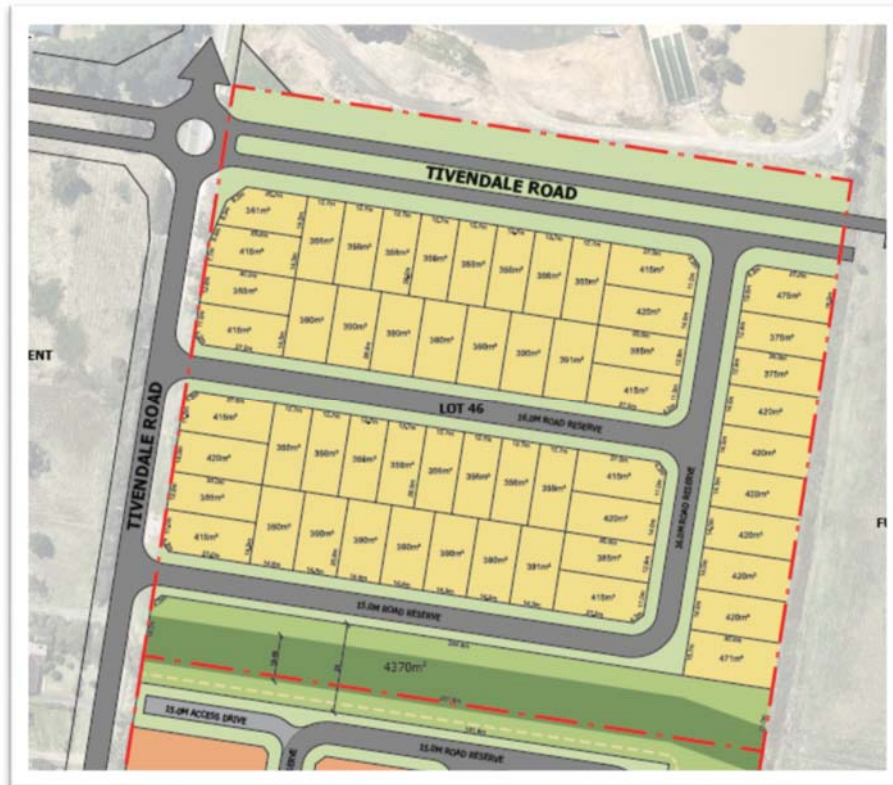
Two residential estates known as Timbertop and Potters Northside are located further west.

PROPOSAL:

The application is summarised as follows:

- Subdivision for 56 residential lots,
- Provides for a range of lots sizes from 340sqm to 455sqm and are designed to accommodate a single dwelling,
- A 33 metre wide east-west connector street boulevard is proposed within the north of the site,
- The road reservation is to accommodate a divided carriageway with a centre median, indented parking, 3 metre wide bikeway and 1.5 metre wide footpaths.
- There are two additional access roads proposed from Tivendale Road. The central road is proposed to have a width of 16 metres and the southern road is proposed to be 15 metres wide as it is abutting the reserve.
- All existing vegetation is proposed to be removed from the site and some within the road reserve and is exempt from planning approval as the vegetation is not identified for retention within the Officer NVPP.
- A 30 metre wide reserve is proposed to be located within the southern portion of the land and runs east west along the southern boundary. The reserve is also located partially over the southern property 60 Tivendale Road, however the extent of the reserve is less than at the subject site.

Figure 1 – Proposed plan



PLANNING SCHEME PROVISIONS:

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- 10 Operation of the State Planning Policy Framework
- 11 Settlement
- 11.02 Urban Growth
- 11.02-2 Planning of growth areas
- 11.04-2 Housing choice and affordability
- 12.04-2 Landscapes
- 13 Environmental Risks
- 15.01-1 Urban design
- 15.01-3 Neighborhood and Subdivision Design
- 15.01-4 Design for Safety
- 15.01-5 Cultural Identity and Neighborhood Character
- 15.03-1 Heritage conservation
- 16 Housing
- 16.01-2 Location of residential development
- 16.01-4 Housing diversity
- 16.01-5 Housing affordability
- 18.01-1 Land use and transport planning
- 18.02-3 Principal Public Transport Network
- 19 Infrastructure

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.02 Environment
- 21.02-7 Aboriginal cultural heritage
- 21.03-1 Housing
- 21.03-2 Urban growth area
- 21.05 Infrastructure provision
- 21.06-1 Design and built form
- 22.02 Interim Telecommunications Conduit Policy

Relevant Particular / General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.01 Public Open Space
- Clause 52.16 Native Vegetation Precinct Plan
- Clause 52.36 Integrated Public Transport Planning
- Clause 56 Residential Subdivision
- Clause 65 Decision Guidelines
- Officer Precinct Structure Plan September 2011
- Officer Native Vegetation Precinct Plan September 2011, Officer Development Contributions Plan and Conservation Management Plan 15 September 2011.

Zone

The land is subject to the Urban Growth Zone Schedule 3. The applied zone is General Residential (Clause 32.08).

Overlays

The land is subject to the Land Subject to Inundation Overlay (LSIO) which applies to the south-west corner of the site and the Development Contributions Plan Overlay Schedule 4 (DCPO4).

PLANNING PERMIT TRIGGERS

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

- Clause 37.07 Urban Growth Zone - Part B where a structure plan applies (Officer Precinct Structure Plan approved September 2011 and incorporated into the scheme), the provisions clauses 37.07-9 to 37.07-16 apply.
- Clause 37.07-10 Urban Growth Zone, a permit is required to subdivide the land. Any requirement in the schedule to this zone or the precinct structure plan must be met. A permit granted must be generally in accordance with the precinct structure plan applying to the land and include any conditions or requirements specified in the schedule to this zone or the precinct structure plan.
- Under the Schedule 3 of the Urban Growth Zone, sub-clause 2.1 refers to applied zones that apply within the Officer Precinct Structure Plan. The subject site is located and zoned within the

General Residential Zone, therefore pursuant to Clause 32.08-2 of the General Residential Zone a planning permit is required to subdivide land. The proposed development must meet the requirements of Clause 56.

A permit must include any conditions or requirements specified in the schedule to this zone or the precinct structure plan.

- Clause 44.04-2 Land Subject to Inundation Overlay, a planning permit is required to subdivide land. Part of the land is located within the overlay.
- Clause 45.06 Development Contributions Overlay, Schedule 4 applies to the land. Clause 45.06-1 states that a permit must not be granted to subdivide the land until a development contributions overlay has been incorporated into the scheme. The Officer Development Contributions Plan has been incorporated into the scheme and in this instance, it does not apply as this report is for refusal of the subdivision application.

PUBLIC NOTIFICATION

An application under 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), the decision requirements of section 64 (1), (2) and (3) and the review rights of section 82(1) of the *Planning and Environment Act 1987* unless the schedule to this zone specifies otherwise. In this instance the schedule to the zone does not list anything otherwise that above.

REFERRALS

The application was referred to Melbourne Water as a statutory referral, who have objected to the proposed subdivision. The grounds of refusal are referred to below:

- The project proponent has not provided sufficient information for how Melbourne Water's proposed assets will integrate with Council's assets within the reserve.
- An ANCOLD assessment of the upstream dam and future retarding basin, behind Minarets College, by an expert dams engineer has not been undertaken.
- The permit application has not taken into account Melbourne Water's waterway corridors development guidelines.

DISCUSSION

The proposed subdivision is not consistent with the provisions of the Cardinia Planning Scheme and the Officer Precinct Structure Plan (PSP). This section highlights the relevant sections of the Cardinia Planning Scheme, Officer PSP and other relevant strategies that the proposal is not in accordance with.

The key issues are as follows:

- The PSP identifies a drainage corridor along an open drain running in an east-west direction along the boundary. The drainage corridor has been significantly reduced in width with no consideration of the drainage corridors and sediment pond immediately abutting the subject site to the east.

- Lack of integration with the adjoining sites by changing the width of the drainage corridor,
- Proposing that the drainage corridor should be piped within the road reserve,
- The proposed plan creates a 40.45 metre wide drainage corridor which includes a 15 metre wide road reserve and a significantly reduced drainage and open space corridor to act as the drainage corridor and open space. Furthermore, the plan shows a significant reduced drainage and open space corridor between the subject site and 60 Tivendale Road to the south of the subject site.
- Diminish the capacity for the reserve that serves a greater purpose to the community as an aesthetic linear walking/cycling trail and biodiversity habitat and that this should not be reduced. It is concluded that whilst drainage solutions could be achieved, this is essentially not the argument in this instance. The issue is that the reserve has been reduced to the point it has no regard for its broader purpose for passive open space use and for adjoining sites connecting to this network.
- Whilst the drainage report takes into consideration upstream matters, there is no guarantee that all developers upstream will provide similar solutions. Engineering solutions are not the only consideration in this instance and there must be regard for planning which takes into consideration environmental and community benefit which aligns with planning policy and Council's Plans and strategies for healthy living.
- Inadequate assessment and consideration of the upstream dam and future retarding basin, behind Minarets College.
- Lack of consideration of Melbourne Water's waterway corridors development guidelines.

Cardinia Planning Scheme:

State Planning Policy Framework

Clause 15.01-2 Urban Environment, the objective is to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

The policy guidelines for planning to consider are the Safer Design Guidelines for Victoria in assessing the design and built form of new development.

Relevant strategies include:

The public realm, which includes main pedestrian spaces, streets, squares, parks and walkways, should be protected and enhanced.

Safety, new development should create urban environments that enhance personal safety and property security and where people feel safe to live, work and move in at any time.

Landmarks, views and vistas, landmarks, views and vistas should be protected and enhanced or, where appropriate, created by new additions to the built environment.

Pedestrian spaces, design of interfaces between buildings and public spaces, including the arrangement of adjoining activities, entrances, windows, and architectural detailing, should enhance the visual and social experience of the user.

Clause 15.01-3 Neighbourhood and subdivision design, the objective is to ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods.

Strategy is that the development of new residential areas and in the redevelopment of existing areas, subdivision should be designed to create liveable and sustainable communities by:

- Creating compact neighbourhoods that have walkable distances between activities and where neighbourhood centres provide access to services and facilities to meet day to day needs.
- Creating a range of open spaces to meet a variety of needs with links to open space networks and regional parks where possible.
- Contributing to reducing car dependence by allowing for:
 - Convenient and safe public transport.
 - Safe and attractive spaces and networks for walking and cycling.
 - Subdivision layouts that allow easy movement within and between neighbourhoods.
 - A convenient and safe road network.

In response to the above, the Cardinia Planning Scheme and Officer PSP takes into consideration the way in which the drainage reserve and passive open space can function and ultimately be co-located within an urban context to benefit the community. The benefit to the community being that an appropriately sized drainage and open space corridor will provide the walking and cycling network in a linear park setting that people desire in their neighbourhoods.

Clause 18.02 Movement networks to promote the use of sustainable personal transport.

Relevant strategies include:

- Encourage the use of walking and cycling by creating environments that are safe and attractive.
- Develop high quality pedestrian environments that are accessible to footpath-bound vehicles such as wheelchairs, prams and scooters.
- Ensure development provides opportunities to create more sustainable transport options such as walking, cycling and public transport.
- Ensure cycling routes and infrastructure are constructed early in new developments.

Local Planning Policy Framework

Clause 21.05-5 Pedestrian Bicycle Networks objective, is to develop well-located, safe and interconnected pedestrian and bicycle networks within the municipality.

Relevant strategies include:

- A high level of connectivity to provide for safe and efficient pedestrian and bicycle movements to connect railway stations, bus stops, activity centres and major community facilities within the urban growth area and in rural townships.
- Ensure connectivity between new and existing development including pedestrian and bicycle paths.

Design and safety aims to:

- Ensure that new development does not compromise existing and future pedestrian and bicycle networks.
- Encourage passive surveillance over pedestrian and bicycle paths through appropriate siting and design.

In response to the above, the reduction of the drainage and open space corridor compromises the future pedestrian and bicycle networks by providing a reduced linear reserve that does not appropriately flow from property to property. Should the width be reduced in this section of land, this will make the reserve size inconsistent with adjoining land that contain the same reserve, at the same width and not provide for adequate connectivity between new and existing development including pedestrian and bicycle paths of the broader area.

Clause 21.06-1 Design and built form, relevant objectives:

Objective 1 is to promote a high standard of design which creates a strong character and identity for the area, provides for a functional built environment, and promotes community and personal safety.

Strategies that are relevant include taking into account the character and constraints of the site and wider area whilst encouraging new development to achieve best practice in design that promotes social wellbeing, economic development and environmental sustainability.

Objective 2 is to provide equity of access for people with disabilities to publicly accessible premises.

Strategies that are relevant is to ensure development is designed to support access for people with disabilities in accordance with Australian Standards, including AS 1428 (Parts 1-4).

In response to the above, the Officer PSP has taken into account the character and constraints of the area, outlining the way in which the area is to be developed, by providing a drainage reserve to provide for the stormwater function, as well as incorporating a linear open space network for this area. As a result, this provides for a multi functional built environment, that promotes community health and safety.

By reducing the width of the corridor, it fails to achieve best practice design and social wellbeing for all within the community.

Clause 21.06-2 Community safety, relevant objectives:

Objective 1 to improve community safety and the perception of safety in the municipality.

Relevant strategies encouraging development that is consistent with safer design principles, by maximising activity, visibility and surveillance of the public environment by providing safe movement through good connections and access. Private and public spaces should be clearly defined and appropriate management of public spaces to ensure that it is attractive and well used.

In response to the above objective, the reduction of the width of the drainage and open space corridor, does not achieve the objective in that the activity in public spaces and provision of safe movement through good connections is not maximised. The reduced corridor does not provide for an aesthetic and functional corridor that seamlessly transitions from adjoining properties, rather it provides for a narrow and fragmented corridor that leads to reduced pathways and reduced landscape and biodiversity opportunities.

Relevant Policies and Strategies:

The following planning policies are relevant to the assessment of this application. The policies and strategies further support and build on the importance of creating neighbourhoods that support safe communities and healthy lifestyles, by taking a whole of population approach to health planning, particularly through municipal public health and wellbeing plans. A summary of each relevant strategy is provided below.

- *Plan Melbourne 2017-2050 (Metropolitan Planning Strategy)*.
 - Direction 5.2 Create neighbourhoods that support safe communities and healthy lifestyles (includes applying CEPTED principles in design of public spaces)
 - Policy 5.2.1 Improve neighbourhoods to enable walking and cycling as a part of daily life, the National Heart Foundation has also developed tools to help local governments plan for better health and community wellbeing across a range of local government policy areas, including the Healthy by Design guidelines, discussed within this report.
- *Council's Pedestrian and Bicycle Strategy August 2017* which is yet to be adopted by Council this year, further builds on the importance and emphasis that is placed on providing suitable areas to be used by the community for fitness and recreational activity.
- *Councils Healthy By Design, January 2017*, seeks to plan and build environments to support healthy living and integrate health into planning to allow people to be able to choose to be active in an environment that is convenient, safe and pleasant.

Council provides significance emphasis on health and recreation and the above strategies are reflective in this, as they share similar principles and guidelines. The strategies seek to promote healthy living through appropriate planning, by ensuring that walking, cycling through providing good footpaths and connectivity, opportunities for physical activity, neighbourhood amenity, accessibility and community safety.

Barriers to walking and cycling often include an incomplete or inadequate footpath network and limited dedicated shared paths which reduces opportunities for recreational walking and cycling. As a result of new residential areas not being developed in sequence, significant gaps can occur in the shared path network. The delivery and the quality of infrastructure should not be compromised and these elements are critical in the successful provision of walking and cycling paths within the Shire.

The drainage corridor has an important role and function and must be used and developed in this manner to its full potential. The overarching purpose of the drainage corridor is to transform an existing drainage line to serve as an important drainage function and key landmark for pedestrians. Pedestrians can choose to use this linear trail that subsequently connects into a series of shared paths within the area, that also connect seamlessly to key places such as schools, parks, Officer Town Centre, public transport and the Officer Railway Station.

The PSP identified what is called the existing Officer Drain that runs from the north to the south extents of the PSP boundary. The drain enters into some existing dams as it meanders through a number of properties that have been subsequently identified within the PSP of containing this important lineal drainage corridor and pedestrian trail. The drainage corridor is approximately 1.98km from the north of the PSP to Princes Highway.

To reduce the width of the drainage corridor will undermine the intention and purpose of the above.

Officer Precinct Structure Plan/Urban Growth Zone

The application has been assessed against the provisions and requirements of the Officer Precinct Structure Plan (PSP) and Urban Growth Zone. Please refer to the overview summarised below.

The proposed layout differs from what is shown within the Officer PSP within the southern part of the land. The PSP identifies a drainage corridor, which runs along an open drain in an east west direction. The outcome once developed is to provide for the existing open drain, which is to be further embellished to provide for the drainage function, in addition to appropriate landscaping, linear park and pedestrian pathways.

The subject site is located within the centre of this broader multifunctional drainage corridor, which begins at the northern side of the Officer PSP boundary and proceeds to the south whilst taking some slight east west deviations along the way to the southern side of the Officer PSP boundary. In addition, a series of wetlands/retarding basins are proposed to be constructed within key locations which are a culmination of existing dams and drainage lines.

The applicant proposes a piped drainage solution within the road reserve, rather than creating a piped drainage corridor. The result of this is a significantly reduced drainage corridor that will subsequently provide for an undesirable narrow corridor that reduces the capacity of a multifunctional corridor as described above in this report. This is inconsistent with the intended open drainage solution within a linear park setting.

Rather, it provides the developer with the opportunity to create more small lot product rather than a larger diverse lot mix for the area that provides a range of housing type opportunities for people. However, in saying this, the density of the proposal is 15.5 dwellings per hectare, which is the dwellings per hectare that is to be achieved within the Officer PSP.

Council considers that the reduction of the drainage corridor from what the PSP shows, would create an undesirable outcome and that the wider corridor as proposed in the PSP allows for multiple functions such as overland flows, stormwater retention, wildlife corridors, visual buffers and movement corridors for pedestrians and cyclists.

The proposed drainage and open space corridor is one of many open space areas ranging from local open space, passive open space (conservation/restoration areas and linear open space to cater for a variety of interest and ages within the community.

In addition, the Officer and Gum Scrub Creek Development Services Scheme (DSS), which has been approved by Melbourne Water, have been prepared for the precinct. The DSS includes culverts and a network of channels ranging from 16 metres to over 80 metres in width and retarding basins. Under the DSS, the precinct will principally be drained to the east to Officer South Road Drain and Gum Scrub Creeks providing the main connections for drainage to areas south of the Princes Freeway.

As part of the preparation of the Officer PSP, the DSS has been partially reviewed, enabling the remodelling of the Officer South Road Drain upstream of the railway into a series of retarding basins, incorporating some wetland systems.

Officer Precinct Structure Plan (PSP):

Plan 5 Future Urban Structure, describes how the PSP delivers the vision. It is considered that the proposed subdivision is not generally in accordance with plan 5 as the drainage corridor has been substantially reduced in size.

The reduction of the drainage corridor further inhibits the ability for the corridor to become a highly permeable and walkable open space trail network that the PSP envisages it to be.

Plan 6 Officer Land Use Budget, the site is shown as property number 349.

- Local Roads Including Boulevard Connector - 0.69ha (not included in the net developable area - NDA)
- Drainage easement/WSUD/Wetland/Retarding Basin – 1.19ha (not included in the NDA or OS%)
- Local Open Space – 0.21ha (not included in the NDA or OS%)
- Total property area 4.02h and total NDA – 1.93ha

In response to the above, the proposal does not comply with the land use budget as the areas as described above have not been achieved within the proposed plan. The most concerning figure is the applicant is proposing to only deliver 4,370sqm of drainage easement/WSUD/wetland/Retarding Basin land instead of the approximately required 11,190sqm required by the PSP

4.1 Image and Character:

The relevant objectives of this section are to:

- Create a strong sense of place that is functional safe and aesthetically pleasing.
- Create a distinctive character for different neighbourhoods, through the treatments of streets and public spaces.
- Preserve and capitalise on view corridors to and from significant landscape features and to ensure development does not detract from the visual amenity of the area.

4.1.3 Planning and design guidelines, relevant guidelines to be met.

- Create compact neighbourhoods that:
 - Are pedestrian friendly;
 - Have a permeable street network;
 - Emphasise the landscape character, creek network and topographical features of the precinct.

In response to the above, by reducing the size of the drainage corridor the proposal fails to meet the above design guidelines to be met. Specifically, the proposal fails to achieve a pedestrian friendly trail network that also provides for landscape character, well connected creek network and takes advantage of the topographical features of the precinct. The plans provided with the application make no provision for the above.

4.2 Housing:

The relevant objectives of this section are to provide residential neighbourhoods with attractive streetscapes and a high quality urban design and distinct urban character with a variety of housing types and density at key amenity areas such as creek corridors, the pedestrian network and public open space.

Plan 8: Housing, shows the extent of open space with a major drainage line within the subject site.

4.2.3 Planning and design guidelines, relevant guidelines to be met:

- The following relevant planning and design guidelines for subdivision design must be met:
 - Provide a high quality urban environment with a sense of identity;

- Seek to ensure subdivision and lot layout provides creative and innovative design solutions for fragmented lot ownership in order to facilitate integration of development with adjoining properties.

Public Open Space, planning and design guidelines that must be met:

- Provide active frontages that address all public open space areas;
- Ensure lots with an interface with public open space:
 - Take advantage of views/aspect over open space by orienting lots to face towards the open space area;
 - Overlook open space to increase the sense of safety/surveillance.

In response to the above, by reducing the width of the drainage corridor it subsequently creates a space that is less aesthetically appealing to the residents who have viewlines to the drainage corridor as it is proposed to be a grassed area with a shared path rather than an open drain with landscaping elements through it along with the shared path which is considered to be far more appealing than grass and a path.

Furthermore, lots with back fences are proposed along the extent of the south east corner boundary which affects the ability to provide for overlooking of the open space to increase the sense of safety/surveillance. This is inconsistent with the principles of Crime Prevention through Environmental design by having rear fences onto reserves rather than active frontages. It is considered that the proposal does not meet this provision of the PSP.

4.5 Open Space and Natural Systems, the relevant objectives of this section are to:

- Provide and develop a network of quality, well distributed, multi-functional and appropriate sized open space areas that are well connected to meet the active and passive needs of the community.
- Protect and enhance areas of environmental significance and integrate these areas with open space systems where practicable.
- Create an attractive urban environment with a strong sense of place through the provision of well designed landscaping of open space and roads.
- Maximise the integration and sharing of space with publicly accessible encumbered land. This parkland is to be suitable for the intended open space function/s including maintenance.
- Implement open space development standards which provide for a sustainable future maintenance regime.
- Incorporate pedestrian and bicycle paths through the open space network.

Plan 11 Open Space Network identifies the site as being partly encumbered and encumbered public open space with a major drainage line.

Plan 12 Integrated Water Management identifies the site as being part of a wider drainage corridor and having a retarding basin within it. The south west corner of the land is identified within the land subject to inundation overlay over it.

The area subject to inundation and drainage corridor extends from the north to the south of the Officer PSP boundary. The drainage corridor follows a specific drainage line that meets with retarding basins and open space. The role of encumbered land is to provide for overland flows and stormwater retention and to maintain access to services.

The role of linear open space is to serve a variety of purposes including:

- Drainage and water management.
- Wildlife corridors,
- Visual buffers and
- Movement corridors (for pedestrians, cyclists)
- Includes both encumbered and unencumbered land.

4.5.3 Planning and design guidelines, relevant guidelines to be met:

Water Sensitive Urban Design:

- Design and layout of open space areas is to maximise efficient water use, stormwater quality and the viability of vegetation through use of Water Sensitive Urban Design (WSUD) initiatives.
- Incorporate stormwater management and techniques to improve stormwater quality, particularly along drainage lines.

Integrated Open Space Network:

- Consider significant view lines to and within the precinct to enhance open space opportunities within the urban area.
- Ensure pedestrian and bicycle routes are provided with good surveillance.
- Design streetscape planning, pedestrian/bicycle paths and landscaping of adjoining development to compliment and integrate with the adjoining parkland design.
- Ensure the design of drainage reserves, retarding basins and wetlands are integrated with the open space network.

In response to the above, it is considered that the proposal fails to meet the relevant planning and design guidelines to be met as the reduction of the drainage corridor does not allow for the adjoining retarding basins to be well aligned and integrated into the broader open space network. The network is intended to be consistent through each site as shown within the PSP.

4.6 Transport and Movement, the relevant objectives of this section are to:

- Create an attractive and safe interface with arterial roads.
- Provide for landscaping of roads and streets to create key public spaces, landscape corridors and contribute to an attractive urban environment.

Plan 17 Walking and Trails shows a shared path within Tivendale Road and within the drainage corridor.

Walking trails relevant planning and design guidelines that must be met:

- Provide a 2.5 metre wide shared path along and within the open space network, in particular along the creek/drainage network.

In response to the above, a 2.5 metre wide shared path along and within the open space network, in particular along the drainage network and provision of landscaping must be provided to achieve the objectives of the PSP, at present the reduction of the drainage corridor fails to achieve these outcomes.

4.7 Utilities, Energy & Sustainability, the relevant objectives of this section are to:

- Provide all developed lots in the Officer Precinct with drainage.
- Implement the Development Services Scheme for Officer Precinct and Gum Scrub Creek.
- Manage the quantity and quality of stormwater runoff and improve downstream water quality flows into Western Port.

- Ensure that Water Sensitive Urban Design treatment measures are provided in both the main and local drainage systems.
- Ensure development is not unduly susceptible to flooding by providing peak overland flow paths connected to creeks and rivers.

4.7.3 Table 18: Utilities and Energy Planning and Design Guidelines that must be met.

General:

- Requirements of the relevant authority or provider are to be met.
- The location of services are:
 - Not to impede future road alignments;
 - To be located along the edges of open space/waterway corridors, ideally within abutting road reserves;
 - Have regard to the requirements for the location of stormwater wetlands, frog ponds and native vegetation to be retained, so as not to compromise biodiversity outcomes;
 - To be located on private land adjacent to the Princes Freeway, not within the freeway reservation.

Drainage:

- Underground drainage is to be designed to convey storm events to discharge into open drainage channel or waterways in the Precinct, accommodating:
 - 1 in 10 year flows for commercial uses; and
 - 1 in 5 year flows for residential uses.
- Provide a drainage network that is designed and constructed in accordance with the requirements of relevant Development Services Scheme, Melbourne Water and Cardinia Shire.

In response to the above the Officer PSP is consistent with the Melbourne Water Officer Drainage Scheme.

However, the broader issue is with the north west properties which are within the same drainage catchment. Until each landowner makes an application to subdivide their land it is difficult to ascertain whether a piped drainage solution is practical for the area. It is premature to approve of this type of outcome for a development that is located approximately within the centre of this drainage corridor without understanding the broader impacts.

CONCLUSION

The Officer Precinct Structure Plan sets out clear objectives that require drainage reserves to also serve as linear parks connecting the community to places of interest. The Precinct Structure Plan identifies the need for a consistent approach to be applied across the fragmented land ownership in this area as it develops.

Significant opportunities exist across the Cardinia Shire to improve walking and cycling networks and create a well connected municipality. As demonstrated through the assessment of this report, it is clear that the proposal has fundamental issues with the subdivision layout in relation to the width of the drainage corridor and is not generally in accordance with the Officer PSP.

The proposed subdivision also will introduce rear fences onto adjoining retarding basins and linear reserves inconsistent with Crime Prevention through Environmental Design Principles.

As such, it is recommended that a Refusal to Grant Planning Permit T160693 be issued for a subdivision and associated works at 46 Tivendale Road, Officer on the following grounds:

1. The proposal is not generally in accordance with the incorporated Officer Precinct Structure Plan (September 2011).
2. The proposal is not generally in accordance with the future urban structure shown in Map 1 to Schedule 3 of Clause 37.07 of the Urban Growth Zone.
3. The proposal is not generally in accordance with Plan 5 Future Urban Structure, Plan 6 Land Use Budget, Plan 11 Open Space Network and Plan 12 Integrated Water Management of the Officer Precinct Structure Plan (September 2011).
4. The grant of the permit will diminish the ability ensure that the required drainage reserve and passive open space will be delivered in a manner that benefits the broader community which will prejudice the orderly and proper planning of the area.

Melbourne Water grounds of refusal:

5. The project proponent has not provided sufficient information for how Melbourne Water's proposed assets will integrate with Council's assets within the reserve.
6. An ANCOLD assessment of the upstream dam and future retarding basin, behind Minarets College, by an expert dams engineer has not been undertaken.
7. The permit application has not taken into account Melbourne Water's waterway corridors development guidelines.

1 SUBDIVISION - 46 TIVENDALE ROAD - DEFERRED ITEM

Moved Cr B Owen Seconded Cr L Wilmot

That consideration of this application be further deferred to allow further discussions between the applicant, Council and Melbourne Water in relation to the concerns and objections raised in regard to the development and the application be reconsidered at the November Council Meeting.

Cd.

The Mayor, Cr Brett Owen, declared an indirect conflict of interest in this application for 33 Officer Road in accordance with the provisions of Section 78 of the Local Government Act as there is a reasonable likelihood that the development will alter the residential amenity of his parents who live in close proximity to this property.

Before leaving the Chamber the Mayor called for nominations for the appointment of a Temporary Chairperson

Cr Brown nominated Cr Jodie Owen as Temporary Chairperson, seconded by Cr Springfield, There being no further nominations Cr Jodie Owen was duly elected Temporary Chairperson.

The Mayor left the Chamber and Cr Jodie Owen took the Chair.

2 PLACE OF WORSHIP AND REMOVAL OF NATIVE VEGETATION AT 33 OFFICER ROAD, OFFICER

FILE REFERENCE INT1764375

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Samantha Zimbler

RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T170376 be issued for the Use and Development of the Land for a Place of Worship and the Removal of Native Vegetation at 33 Officer Road, Officer subject to the conditions attached to this report.

Attachments

- | | | |
|---|---|----------|
| 1 | Locality plan | 1 Page |
| 2 | Development plans | 4 Pages |
| 3 | Copies of objections circulated to councillors only | 38 Pages |

EXECUTIVE SUMMARY:

APPLICATION NO.:	T170376
APPLICANT:	Officer Property Trust and Sri Guru Nanak Darbar
LAND:	33 Officer Road, Officer VIC 3809
PROPOSAL:	Use and development of the land for a place of worship and the removal of native vegetation
PLANNING CONTROLS:	Green Wedge Zone - Schedule 1 Environmental Significance Overlay Schedule 1 Land Subject to Inundation Overlay (in part- not in development area) Bushfire Management Overlay (in part- not in development area)

NOTIFICATION & OBJECTIONS: The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by sending notices to adjoining land owners and occupiers and placing a sign on site.

A total of twenty-four (24) objections were received.

KEY PLANNING CONSIDERATIONS: Consistency with the Green Wedge Zone and location of the site
Environmental Impacts
Impact on amenity of surrounds

RECOMMENDATION: Approval

BACKGROUND:

There is no recent Planning Permit history for the subject site

SUBJECT SITE:

The site is located on the west side of Officer Road approximately 300 metres north of Brown Road and the urban growth boundary.

The site currently contains a dwelling and surrounding outbuildings in the south east corner of the site with access provided in the southern portion of the site frontage.

The topography of the land is undulating with the north portion of the site dissected by a watercourse and dam located centrally. Some vegetation lines the watercourse with remaining areas throughout the property open grazing land

The immediate site context includes rural residential properties with some farming activities, some stands of remnant vegetation and the urban growth boundary within close proximity to the south of the site.

PROPOSAL:

A summary of the use and development proposal includes:

Use

The proposal is to use the existing building and small addition on the site for a place of worship with a maximum 100 patrons. The facility will operate Monday-Sunday- 6am-10pm. The peak times for the proposed use have been noted as Sunday morning and Wednesday night. The use will include community garden and will house 2-3 Priests to live in the existing dwelling.

Site Layout

The proposal includes the retention of the existing dwelling with a minor extension on the north side of the dwelling, amenities and parking to the west and north of the existing buildings, located in the south east portion of the site. The proposal will require modifications be made to the existing crossover and driveway. All works are surrounding the existing buildings located in the southern portion of the site.

Building Form

The proposal includes the retention of existing dwelling with a minor single storey extension to the north of the dwelling to provide a prayer room with the provision of a separate amenities building which is single storey with flat roof form and located to the north of the existing building in the southern portion of the site.

Access and Parking

The proposal includes the use of existing crossover although will be widened with the provision of a thirty-eight (38) on-site parking spaces including two disabled parking spaces provided within the gravel car park located to the north and west of the existing building on the site.

Vegetation Removal

The proposal includes the removal of twenty-eight (28) trees, which spans for approximately 35 meters along the sites frontage. Trees to be removed in a remnant vegetation patch within the road reserve and will create a safe sight line to the sites access.

PLANNING SCHEME PROVISIONS:

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11 Settlement
- Clause 11.06-7 Green Wedges
- Clause 12.01-2 Native Vegetation
- Clause 12.04-1 Environmental sensitive areas
- Clause 12.04-2 Landscapes
- Clause 13.02 Floodplains
- Clause 13.05-1 Bushfire planning strategies and principles
- Clause 14.01-1 Protection of agricultural land
- Clause 18.02-5 Car Parking
- Clause 19.02-4 Distribution of social and cultural infrastructure
- Clause 19.03-2 Water supply, sewerage and drainage

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.02 Cardinia Shire Key Issues and Strategic Vision
- Clause 21.01-2 Key influences
- Clause 21.01-3 Key issues
- Clause 21.02 Environment
- Clause 21.02-3 Biodiversity
- Clause 21.02-4 Wildfire management
- Clause 21.04-2 Agriculture
- Clause 21.05-3 Local roads
- Clause 21.05-6 Community services and facilities
- Clause 21.06-1 Design and built form
- Clause 22.05 Western Port Green Wedge Policy

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 57 Metropolitan Green Wedge Land

Zone

The land is subject to the Green Wedge Zone – Schedule 1 (GWZ1)

Overlays

The land is subject to the following overlays:

- Environmental Significance Overlay – Schedule 1
- Land Subject to Inundation Overlay (in part)
- Bushfire Management Overlay (in part)

PLANNING PERMIT TRIGGERS

The proposal for a place of worship and native vegetation removal requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.04 Schedule 1 of the Green Wedge Zone a planning permit is required for a Section 2 use (Place of Worship).
- Pursuant to Clause 35.04 Schedule 1 of the Green Wedge Zone a planning permit is required to construct or carry out buildings and works associated with a Section 2 use (Place of Worship).
- Pursuant to Clause 42.01 Schedule 1 of the Environmental Significance Overlay a planning permit is required for buildings and works and vegetation removal (building exceeding 4 metres above natural ground level)
- Pursuant to Clause 52.17 a permit is required for the removal of native vegetation

PUBLIC NOTIFICATION

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

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

Council has received 24 objections to date.

The key issues that were raised in the objections are:

- Contrary to the Green Wedge Zone
- Impacts on the quiet country serene area, loss of the semi-rural identity and is not in keeping with the area.
- Use inappropriate and effectively a commercial development and should be a farm, concerns that this use can even be considered. Use should be located in a commercial or industrial area.

- Conflicts with surrounding agricultural uses, disturbance of use of machinery for agriculture during worship times.
- Precedent for similar developments in the future.
- Need to retain as a residential area.
- Increased traffic with impacts on the road capacity that struggles to cope with local traffic and will impact on cyclists and pedestrians that use this road.
- Location near a blind corner on Officer Road will impact on traffic safety with no street lights along Officer Road.
- Application does not include the number of worship meetings, or hours of operations of festival days
- Visual impact on adjoining properties with extensive gravel parking spaces and toilet block visible from adjoining property and will be an eyesore and visual impact on the wider landscape
- Loss of privacy
- Increased noise from traffic and people, including singing chanting and playing instruments, PA systems in outside business hours (late at night and Sunday mornings).
- Impact of lights from the premises on the area
- Potential for expansion of the use with bigger buildings and growth in numbers or the subdivision of the land given the size of the site.
- Environmental impacts in an environmentally significant area including extensive removal of native vegetation in a conservation area inappropriate and extensive impact on surrounding fauna.
- A number of objectors suggested improvements to the creek.
- If use changes the control of weeds is a concern
- Disposal of effluent/sewerage - impacts on the surrounds for 100 patrons could result in a septic tank that could contaminate the local water course given part of the site is in land subject to inundation. Secondary building for amenities inappropriate and appears to be temporary.
- Stormwater runoff from the car parking areas will impact on the creek and potential impact on adjoining properties.
- No details of the overall land management of the site
- High heritage values of the Haunted Gully Creek and potential contamination.
- Fencing around the property needs to be maintained.
- Raised concerns with the placement of an advertising sign
- Values of surrounding properties

REFERRALS

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

The application was also referred to internal Council Departments, Health, Traffic and Engineering, who consented and provided conditions to the application. Council's Environment Department were also referred the application and raised objection to the proposal due to its failure to seek to minimise vegetation removal which is required to create a safe site line for the access way to Officer Road. Environment cited the proposals inability to respond the objectives of the Environmental Significance Overlay (ESO) as its main reason for opposition. This concern was noted, and considered with the approval from DELWP, the statutory referral requirement.

The advice of the Strategic Planning Department was also sort in relation to the proposals compliance with the newly implemented Western Port Green Wedge Management Plan (Clause

22.05). Strategic Planning stated that the proposal was close to the UGB, was appropriately serviced and could be supported in this case.

DISCUSSION

Use

A place of worship is an allowable use within the Green Wedge Zone. While not a typical use within the Green Wedge Zone, given the small scale and large capacity of the site, the proposal is considered to be in keeping with the purpose of this zone. The area of the site to be used as a place of worship and associated car parking area will be constrained to a small section of the 8.05 hectares' site ensuring the majority of the site is conserved to contribute to the environmentally significant landscape in which it sits.

Council's Westernport Green Wedge Management Plan acknowledges that there are broader activities and uses encroaching into the GWZ which has increased the amount of urban uses, such as place of worships, being proposed in the zone. If inappropriately located, these uses can detrimentally impact the rural character of these landscapes and fragment agricultural land. The site is not situated within the designated Precincts identified in this plan but the overarching principals are relevant in the assessment of this proposal. The policy notes (across all 3 precincts) that a place of worship should therefore be located, subject to strategic justification, closer to the urban growth boundary (UGB) or within existing townships. The site sits on the future urban fringe, located 300 metres from the urban growth area and future residential prescient of Officer. It is for this reason that the application was supported given the recent adoption of Clause 22.05 which specifies that non-rural uses should not be supported in the Green Wedge apart from land that adjoins the UGB.

The use on the subject site can also be justified given the transition that the surrounding area in the coming years will experience. Once the residential precinct is developed to the south the proposed use will sit more comfortably within its surrounds.

Clause 21.05-6 Community services faculties, encourages the provision of a reasonable level of access to a range of community services and facilities to rural townships in response to community needs. The use will provide a central hub to a small local religion and is easily accessible from the Princes Highway and hilltop towns. It is therefore considered that the facility will be providing a needed community facility.

The permit will restrict the hours of operation and number of worshipers allowed on the site at any one time to ensure the use operates appropriately within the rural environment it sits and is as undistruptive as possible to neighbouring properties. A substantial part of existing dwelling will be retained for its residential use.

The proposal aligns with Clause 57- Metropolitan Green Wedge Land. No limitations have been placed on a 'place of worship' use.

Built form

The development of a prayer room is modest in form and in keeping with the development objectives of the Rural Conservation Zone and Environmental Significance Overlay and well as local policy.

Clause 21.02 'Landscape' in general aims to protect the significant landscapes within the municipality in order to maintain scenic corridors, landscape values, biodiversity and tourism. The site is not situated within a significant landscape corridor, though the design is sympathetic to the

surrounding rural landscape. The prayer room will adjoin the northern elevation of the existing dwelling and will be predominately screened from the road by the existing dwelling. The amenity block will also have a small visual impact and will be located well within the property boundaries. Both the amenity block and the prayer room will be constructed of muted tones and non-reflective materials to blend with the existing development on site and the surrounding rural environment. A permit condition will require the car parking and access ways to be sealed and screened from the road way by native plantings. In order to reinstate the some of the habitat and biodiversity value lost by the vegetation removal, a permit condition will also require the revegetation and management of the section of Haunted Gully Creek located on site as well as offsetting to be completed elsewhere.

Environmental Impacts and Access

The vegetation to be removed is located along the sites frontage and is located either side of the existing crossover. Due to the high speed of Officer Road, the location of the crossover on a crest and the outside curve in a bend in the road, a substantial amount of vegetation is to be removed.

The applicant has prepared a Preliminary Arboricultural Assessment in order to justify the vegetation removal. The report concluded that 17 of the trees to be removed are due to poor health or structure. A further 11 trees are proposed for removal for sightlines. The proposed vegetation loss does not constitute a proportional loss to rare or threatened species. The offsets required to mitigate the permitted clearing of native vegetation in accordance with Permitted clearing of native vegetation – Biodiversity assessment Guidelines (DEPI 2013) are General Offsets, with a biodiversity equivalence unit of 0.005, this has been identified in the offset strategy. The offset strategy identifies that the offset will be secured via third party and they are currently available through a broker.

The application was referred to DELWP and Councils Environment Department who recommended that it might not be necessary to removing all of the trees proposed for sightlines, especially those that are not currently in poor health, alternatively prune branches and clear understorey to maintain some continuity of vegetation in the corridor. In consultation with Councils Traffic Department, it has been determined that this will not create a safe access arrangement given the curve, speed and incline of the road. Traffic also confirmed that the existing location of the cross over is the safest option for the site. Offsetting required to be completed by the applicant will ensure the biodiversity value lost will be instated elsewhere within Port Phillip and Westernport Catchment Management Authority boundary or Cardinia Municipal district.

Such a high portion of vegetation removal contravenes the purposes of the Environmental Significance Overlay and Clause 52.17. Though the net loss has been justified by the creation of a safe access for the site. The vegetation has not been identified as being significant and has a low biodiversity value. Clause 21.02 encourage the re-establishment of native vegetation to protect areas of habitat and landscape value. A permit condition will require vegetation and habitat corridors to established along the creek located in the northern section of the site.

Car Parking

A 38 space car park is proposed to be constructed to the north west of the place of worship with two disabled car parking spaces. A permit condition will require the sealing of this car park. Clause 52.06 requires that a place of assembly (inclusive of place of worship) is required to provide 0.3 spaces per patron permit and therefore the use generates a car parking requirement of 30 car spaces.

The provision of 38 on site car spaces exceeds the Clause 52.06 requirements. The site is not serviced by public transport or within a walkable catchment and therefore, the provision of 38 car spaces for a maximum of 100 patrons is considered suitable. There is also ample space

surrounding the dwelling and stables to be used for overflow car parking during peak times without impacting on the road network. The car parking area will be located at well within the property boundaries and ample circulation and queueing areas have been accounted for to ensue minimal disruptions to the flow of traffic along Officer Road.

Objectors Concerns

Below summarises the main themes raised in the objections received:

- **Inappropriate development in the Green Wedge/Rural Environment**

A common theme within the objections raised was the suitability of the use within the rural environment in which the site sits. As discussed above, the use is allowable under the provisions of the zone as well as Clause 57. The use is further supported in this location by local policy Clause 22.05. Conditions on the permit will insure the impacts to the level of amenity are minimal. It is not foreseen that the use will have any impact on the farming and agricultural uses surrounding the site, given the small size of the congregation and isolated area that the use will be contained. Concern was raised about a precedent being set and potential expansion of use. Any similar uses or expansion of the facility will require planning permission to determine its suitability.

- **Traffic & Parking**

The proposal exceeds the requirements of the Planning Scheme regarding the provision of car parking. Council officers are satisfied that the impact of car parking will be negligible as cars will not be able to park on the Officer Road verge given its limited width. Ample space is provided on site for overflow car parking. Councils Engineering and Traffic Departments are satisfied that the existing road pavement can accommodate the increased traffic volumes. Safety of the access arrangements will be improved by the proposed vegetation removal and slicing of verge.

- **Amenity**

Potential impacts to the level of amenity caused by noise and light will be controlled by permit conditions. Hours of operation and patron numbers will be limited by the permit to ensure the sites operations are respectful to the amenity of nearby residence. Out of usual working hours, the site will only be able to operate at a limited capacity, with the exemption of Wednesday night. The site is well setback from any nearby dwellings with the closest neighbours being 220 metres to the west, 170 metres to the north and 195 metres to the south and therefore Council are satisfied that the potential impacts to amenity or privacy caused by the place of worship will be minimal.

CONCLUSION

It is considered that the proposal meets the requirements of the planning scheme and that a Notice of Decision to Grant Planning Permit T170376 be issued for the Use and Development of the Land for a Place of Worship and the Removal of Native Vegetation at 33 Officer Road, Officer subject to the below conditions.

CONDITIONS

1. Before the development starts, 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. The plans must show:

- a. Sealing of the car park access, circulation and car parking areas concrete, asphalt or other approved hard surfacing material
- b. Landscape plan
 - i. Screen planting surrounding the entirety of the car parking area.
 - ii. Mature native trees to be located in between the car parking area and Officer Road at a rate of 1 per 3 metres.
 - iii. A survey (including botanical names) of all existing vegetation to be retained and/or removed including street trees.
 - iv. Buildings and trees (including botanical names) on neighbouring properties, including the road reservation within three metres of the boundary.
 - v. 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 the common property throughout the site.
 - vi. Details of surface finishes of pathways for the property throughout the site including a pedestrian path from the front of the site to the entrance of the building.
 - vii. Details of Tree protection measures if required, to ensure the health of the trees on the site and any adjoining properties.All species selected must be drought tolerant and selected to the satisfaction of the Responsible Authority.
2. Prior to the commencement of native vegetation removal, the owner must submit a property management plan to the satisfaction of the Responsible Authority along the Haunted Gully Creek. When approved, the property management plan will be endorsed and will form a part of this permit. The plan will define this conservation zone to include;
 - a. primary objective of conservation and enhancement of biodiversity
 - b. not less than 20 metre setback from either side of the creek
 - c. details of stock fencing, weed control and revegetation works along the conservation zone
 - d. timeframes and key performance standards for each action
 - e. nursery source for indigenous plant stock
 - f. wildlife friendly animal fencing
 - g. scale map that shows the location and boundaries of the management works.
3. 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.
4. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
5. The use of the premises must not be changed without the written consent of the Responsible Authority
6. The place of worship must operate within the following operation hours and patron numbers (maximums numbers at any one time):
 - a. Monday- Friday 6am-9am- 12 people
 - b. Monday, Tuesday, Thursday and Friday 9am-8pm- 100 people
 - c. Monday, Tuesday, Thursday and Friday 8pm-10pm- 12 people
 - d. Wednesday 9am-10pm – 100 people
 - e. Saturday and Sunday 6am-9am- 12 people

- f. Saturday and Sunday- 9am-8pm -100 people
7. Prior to the commencement of the use the permit holder must:
- Provide access, circulation and car parking areas constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated, with installation of direction signs and/or direction pavement markings included to the satisfaction of the Responsible Authority. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority.
 - Before the use commences safe access arrangements including vegetation removal and slicing to be completed (Traffix Group- Site Distance Plan- Dwg No- G22567-01, 25.05.17)
 - Complete the landscaping in accordance with the approved landscape plan to the satisfaction of the Responsible Authority.
 - The access to the site must be constructed to the standards consistent with Traffic Engineering Assessment – Traffic Group, Ref G22567R-01C Version C- Figure 5 ‘Desirable Access Treatment’
8. Before the use commences, a Management Plan prepared by a suitably qualified person, to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the Management Plan will be endorsed and will then form part of the permit. All activities forming part of the use must comply with the endorsed Management Plan. The plan must include but not be limited to:
- A mechanism to record attendance numbers at the site. This record must be made available to be viewed by the Council upon request.
 - Traffic management and car parking management arrangements during peak usage time.
 - Staffing and other measures to ensure the orderly departure and arrival of people especially any large groups departing at the end of peak usage time.
 - Specific amenity management arrangements to be put in place during peak usage time, morning and evening prayer sessions.
 - Measures to control noise emissions from the premises.
 - Ongoing communication methods (including the provision of signage) advising the users of the premises to respect the amenity of adjoining neighbours.
 - Any other matter that is relevant to the conduct of the use in accordance with the conditions of this permit
- When the plan is approved by the responsible authority, the use must be conducted in accordance with the approved Management Plan. The Management Plan may be amended by the responsible authority after written request by the owner or the operator of the land.
9. 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.
10. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose, including that any dead, diseased or damaged plants are to be replaced.

11. Vehicles under the control of the operator of the building, including staff vehicles, must not be parked in any nearby road.
12. The areas shown on the approved plan for car parking, access and landscaping must not be used for any other purpose and maintained to the satisfaction of the responsible authority.
13. The dimensions and layout of the proposed access and parking areas for cars must be in accordance with the requirements of Clause 52.06 of the Cardinia Planning Scheme. And all parking bays must be line marked including disabled pavement marking.
14. 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.
15. 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 unstabilised must be minimised to the satisfaction of the Responsible Authority.
16. The exterior colour and cladding of the building must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building must be of a non-reflective nature to the satisfaction of the Responsible Authority.
17. 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.
18. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
19. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes.
20. The use, development and the occupation of the development must be managed so that the amenity of the area is not detrimentally affected through the:
 - a. transportation of materials, goods or commodities to or from the subject land;
 - b. appearance of any building, works or materials;
 - c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - d. presence of vermin; or
 - e. in any other way.
21. Adequate lighting at driveways and throughout the car park must be provided for safe night time traffic movement. Such lighting must be located and designed with suitable baffles so as to prevent any adverse effect on the adjoining land to the satisfaction of the responsible authority.
22. ***Creek management plan***
23. Except where specified on the endorsed plan, no vegetation may be removed, destroyed or lopped without the written consent of the Responsible Authority.
24. Vegetation removal and disposal must not cause damage to vegetation stands to be retained or to drainage lines *or watercourses*.
25. All wastewater from proposed development must be treated and contained within the property boundaries in accordance with the current EPA Code of Practice – Onsite Wastewater Management: Guidelines for Environmental Management, Australian Standards 1547 and Council requirements.

26. No part of the septic tank system may be located within a fill pad.
27. All wastewater from the facilities must be discharged into the reticulated sewerage system, to the satisfaction of the responsible authority, within 3 months of the sewerage system becoming available to the property.
28. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.

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29. 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.
30. 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.
31. 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
32. In order to offset the removal of 0.060 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:

 - contribute gain of 0.005 general biodiversity equivalence units,
 - be located within the Port Phillip and Westernport Catchment Management Authority boundary or Cardinia municipal district,
 - have a strategic biodiversity score of at least 0.111
33. 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 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,
 - a credit register extract from the Native Vegetation Credit Register.

Expiry:

A permit for the development and use of land expires if—

- a) the development does not start within **two (2) years** after the issue of the permit; or
- b) the development is not completed within **four (4) years** after the issue of the permit; or
- c) the use does not start within **two (2) years** after the completion of the development; or
- d) the use is discontinued for a period of **two (2) years**.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

Permit Notes

Any proposed advertising signs must comply with the provisions of the Cardinia Planning Scheme. Advertising signs which do not comply with the provisions of the Cardinia Planning Scheme will require a planning permit.

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

Any commercial enterprise involving handling of food or drink must contact the Environmental Health Department for further advice concerning legislative requirements.

Department of Environment, Water, Land and Planning

Prior to the commencement of works, a Protected Flora Permit must be obtained from DELWP to remove protected flora during works within the public road reserve. Please contact Sue Hadden on 9450 8746 for further information.

2 PLACE OF WORSHIP AND REMOVAL OF NATIVE VEGETATION AT 33 OFFICER ROAD, OFFICER

Moved Cr C Ross Seconded Cr M Schilling

That a Notice of Decision to Grant Planning Permit T170376 be issued for the Use and Development of the Land for a Place of Worship and the Removal of Native Vegetation at 33 Officer Road, Officer subject to the following conditions

1. Before the development starts, 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. The plans must show:
 - a. Sealing of the car park access, circulation and car parking areas concrete, asphalt or other approved hard surfacing material
 - b. Landscape plan
 - i. Screen planting surrounding the entirety of the car parking area.
 - ii. Mature native trees to be located in between the car parking area and Officer Road at a rate of 1 per 3 metres.
 - iii. A survey (including botanical names) of all existing vegetation to be retained and/or removed including street trees.
 - iv. Buildings and trees (including botanical names) on neighbouring properties, including the road reservation within three metres of the boundary.
 - v. 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 the common property throughout the site.
 - vi. Details of surface finishes of pathways for the property throughout the site including a pedestrian path from the front of the site to the entrance of the building.
 - vii. Details of Tree protection measures if required, to ensure the health of the trees on the site and any adjoining properties.All species selected must be drought tolerant and selected to the satisfaction of the Responsible Authority.
2. Prior to the commencement of native vegetation removal, the owner must submit a property management plan to the satisfaction of the Responsible Authority along the Haunted Gully Creek. When approved, the property management plan will be endorsed and will form a part of this permit. The plan will define this conservation zone to include;
 - a. primary objective of conservation and enhancement of biodiversity
 - b. not less than 20 metre setback from either side of the creek
 - c. details of stock fencing, weed control and revegetation works along the conservation zone
 - d. timeframes and key performance standards for each action
 - e. nursery source for indigenous plant stock
 - f. wildlife friendly animal fencing
 - g. scale map that shows the location and boundaries of the management works.
3. 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.

4. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
5. The use of the premises must not be changed without the written consent of the Responsible Authority
6. The place of worship must operate within the following operation hours and patron numbers (maximums numbers at any one time):
 - a. Monday- Friday 6am-9am- 12 people
 - b. Monday, Tuesday, Thursday and Friday 9am-8pm- 100 people
 - c. Monday, Tuesday, Thursday and Friday 8pm-10pm- 12 people
 - d. Wednesday 9am-10pm – 100 people
 - e. Saturday and Sunday 6am-9am- 12 people
 - f. Saturday and Sunday- 9am-8pm -100 people
7. Prior to the commencement of the use the permit holder must:
 - a. Provide access, circulation and car parking areas constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated, with installation of direction signs and/or direction pavement markings included to the satisfaction of the Responsible Authority. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority.
 - b. Before the use commences safe access arrangements including vegetation removal and slicing to be completed (Traffix Group- Site Distance Plan- Dwg No- G22567-01, 25.05.17)
 - c. Complete the landscaping in accordance with the approved landscape plan to the satisfaction of the Responsible Authority.
 - d. The access to the site must be constructed to the standards consistent with Traffic Engineering Assessment – Traffic Group, Ref G22567R-01C Version C- Figure 5 ‘Desirable Access Treatment’
8. Before the use commences, a Management Plan prepared by a suitably qualified person, to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the Management Plan will be endorsed and will then form part of the permit. All activities forming part of the use must comply with the endorsed Management Plan. The plan must include but not be limited to:
 - a. A mechanism to record attendance numbers at the site. This record must be made available to be viewed by the Council upon request.
 - b. Traffic management and car parking management arrangements during peak usage time.
 - c. Staffing and other measures to ensure the orderly departure and arrival of people especially any large groups departing at the end of peak usage time.
 - d. Specific amenity management arrangements to be put in place during peak usage time, morning and evening prayer sessions.
 - e. Measures to control noise emissions from the premises.
 - f. Ongoing communication methods (including the provision of signage) advising the users of the premises to respect the amenity of adjoining neighbours.
 - g. Any other matter that is relevant to the conduct of the use in accordance with the conditions of this permit

When the plan is approved by the responsible authority, the use must be conducted in accordance with the approved Management Plan. The Management Plan may be amended by the responsible authority after written request by the owner or the operator of the land.

9. 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.
10. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose, including that any dead, diseased or damaged plants are to be replaced.
11. Vehicles under the control of the operator of the building, including staff vehicles, must not be parked in any nearby road.
12. The areas shown on the approved plan for car parking, access and landscaping must not be used for any other purpose and maintained to the satisfaction of the responsible authority.
13. The dimensions and layout of the proposed access and parking areas for cars must be in accordance with the requirements of Clause 52.06 of the Cardinia Planning Scheme. And all parking bays must be line marked including disabled pavement marking.
14. 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.
15. 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 unstabilised must be minimised to the satisfaction of the Responsible Authority.
16. The exterior colour and cladding of the building must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building must be of a non-reflective nature to the satisfaction of the Responsible Authority.
17. 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.
18. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
19. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes.
20. The use, development and the occupation of the development must be managed so that the amenity of the area is not detrimentally affected through the:
 - a. transportation of materials, goods or commodities to or from the subject land;
 - b. appearance of any building, works or materials;
 - c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - d. presence of vermin; or
 - e. in any other way.
21. Adequate lighting at driveways and throughout the car park must be provided for safe night

time traffic movement. Such lighting must be located and designed with suitable baffles so as to prevent any adverse effect on the adjoining land to the satisfaction of the responsible authority.

22. ***Creek management plan***

23. Except where specified on the endorsed plan, no vegetation may be removed, destroyed or lopped without the written consent of the Responsible Authority.
24. Vegetation removal and disposal must not cause damage to vegetation stands to be retained or to drainage lines or watercourses.
25. All wastewater from proposed development must be treated and contained within the property boundaries in accordance with the current EPA Code of Practice – Onsite Wastewater Management: Guidelines for Environmental Management, Australian Standards 1547 and Council requirements.
26. No part of the septic tank system may be located within a fill pad.
27. All wastewater from the facilities must be discharged into the reticulated sewerage system, to the satisfaction of the responsible authority, within 3 months of the sewerage system becoming available to the property.
28. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.

Department of Environment, Water, Land and Planning

29. 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.
30. 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.
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 - 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
32. In order to offset the removal of 0.060 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:

 - contribute gain of 0.005 general biodiversity equivalence units,
 - be located within the Port Phillip and Westernport Catchment Management Authority boundary or Cardinia municipal district,
 - have a strategic biodiversity score of at least 0.111
33. 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 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,
- a credit register extract from the Native Vegetation Credit Register.

Expiry:

A permit for the development and use of land expires if—

- a) the development does not start within **two (2) years** after the issue of the permit; or
- b) the development is not completed within **four (4) years** after the issue of the permit; or
- c) the use does not start within **two (2) years** after the completion of the development; or
- d) the use is discontinued for a period of **two (2) years**.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

Permit Notes

Any proposed advertising signs must comply with the provisions of the Cardinia Planning Scheme. Advertising signs which do not comply with the provisions of the Cardinia Planning Scheme will require a planning permit.

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Any commercial enterprise involving handling of food or drink must contact the Environmental Health Department for further advice concerning legislative requirements.

Department of Environment, Water, Land and Planning

Prior to the commencement of works, a Protected Flora Permit must be obtained from DELWP to remove protected flora during works within the public road reserve. Please contact Sue Hadden on 9450 8746 for further information.

Cd.

The Mayor Cr Brett Owen returned to the Council Chamber at this stage having taken no part in the discussion or voting on this matter and resumed in the Chair.

Cr Graeme Moore having declared an indirect conflict of interest in Items 3 and 4 being subdivision applications in Wattletree Road, Bunyip in accordance with the provisions of Section 78 of the Local Government Act as there is a reasonable likelihood that the developments will alter the residential amenity of his daughter who lives in close proximity to these properties and left the Council Chamber at this stage.

3 TWENTY SIX (26) LOT SUBDIVISION AND VEGETATION REMOVAL AT 43 WATTLETREE ROAD, BUNYIP

FILE REFERENCE INT1764846

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Jason Gilbert

RECOMMENDATION

That a Notice of Decision to Amend Planning Permit T140555 be issued. The Amended Permit will allow for the subdivision of the land into twenty-six (26) lots, vegetation removal and removal of an easement at 43 Wattletree Road, Bunyip subject to the revised conditions attached to this report.

Attachments

- | | | |
|---|---|----------|
| 1 | Locality map | 1 Page |
| 2 | Development plans | 2 Pages |
| 3 | Copies of objections circulated to councillors only | 21 Pages |

EXECUTIVE SUMMARY:

APPLICATION NO.:	T140555 - 2
APPLICANT:	Parklea Pty Ltd
LAND:	43 Wattletree Road, Bunyip Victoria 3815
PROPOSAL:	Subdivision of the land into twenty-six (26) lots and vegetation removal
PLANNING CONTROLS:	Low Density Residential Zone – Schedule 3 (LDRZ3), Design and Development Overlay - Schedule 1 (DDO1) and Vegetation Protection Overlay - Schedule 1 (VPO1)
NOTIFICATION & OBJECTIONS:	The application has been advertised by sending notices to the owners and occupiers of adjoining land and placing two (2) signs on site. Ten (10) objections have been received to date.
KEY PLANNING CONSIDERATIONS:	Neighbourhood Character, environmental impacts
RECOMMENDATION:	Approval

BACKGROUND:

- Planning Permit T040236 to subdivide the land into two lots.
- Planning Permit Application T130691 for the multi-lot subdivision and removal of vegetation was lodged on 25 November 2013 and lapsed on 23 January 2014
- Planning Permit T140555 was issued on 17 June 2015 for the subdivision of the land into fourteen (14) lots and vegetation removal, generally in accordance with the approved plans
- Amended Planning Permit Application T140555-1 was lodged on 19 November 2015 and withdrawn on 20 November 2015.
- Amendment C188 to the Cardinia Planning Scheme was gazetted on 27 October 2016. The amendment introduced Schedules 2 and 3 to the Low Density Residential Zone and numbered the previously unnumbered schedule to the Low Density Residential Zone to Schedule 1. The new Schedule 3 to the Low Density Residential Zone specifies a minimum lot size of 0.2 hectares and applies to land at 35 McDonalds Track, Lang Lang and 43 Wattletree Road, Bunyip (the subject site), and 94 Wattletree Road, Bunyip.
- An extension of time application for Planning Permit T140555 was lodged on 18 April 2017 and is under consideration by Council.

SUBJECT SITE:

The site is located on the north-west corner of Wattletree Road and Nash Road in Bunyip. The overall site has an area of 6.011 hectares and consists of three properties described as:

- Lot 1 TP874771F is the eastern most property with frontage to Nash Road and south boundary abutting Wattletree Road. The lot has a width of 631.5 metres and length of 246.35 metres with an overall area of 1.556 hectares.
- Lot 2 PS 0101918 is the central portion of the overall lot with a width of 63.15 metres and length of 256.35 metres and overall 1.62 hectares. This lot is burdened by a drainage easement running along the north boundary and dissecting the eastern portion of the lot.
- Lot 2 PS 525720M is the western most portion of the site with a frontage of 63.14 metres to Wattletree Road north boundary of 126.28 metres with an overall area of 2.837 hectares.

The site is developed with a dwelling in the south-east corner of the site with surrounding vegetation with existing access at the eastern end on the Wattletree Road frontage. The remainder of the site consists of established vegetation along the north boundary of the site and patches of remnant vegetation in the western portion of the site.

The main characteristics of the surrounding area are:

- North:* 95 Nash Road abuts the north boundary of the site. This property is land within a Farming Zone and is developed with a dwelling with outbuildings and open grassed areas and scattered vegetation throughout the site.
- South:* Wattletree Road abuts the south boundary of the site including roadside vegetation and a two-way sealed road reserve with residential properties in a General Residential Zone to the south. The site surrounds 39 Wattletree Road which is a low density residential property developed with a dwelling setback 10 to 15 metres from the site frontage.

East: Nash Road abuts the east boundary of the site including established roadside vegetation and a gravel road surface with low density residential properties located further east

West: 35, 35A & 35B Wattletree Road is low density residential development with 35 Wattletree Road developed with a dwelling setback approximately 35 metres from the site frontage with the remaining properties being battle-axed low density allotments with one developed with a dwelling and the remaining lot vacant.

The subject site is located within a Low Density Residential Zone that abuts the Farming zone to the north and General Residential Zone to the south.

PROPOSAL:

The proposal includes the amendment to the existing permit to increase the lots from fourteen (14) to twenty-six (26) lots. The amendment also proposes changes to the extent of vegetation removal.

A summary of the proposal includes:

Subdivision:

- Four new lots on the Wattletree Road frontage with a width of 31.6 metres length of 63.4 metres and areas of 0.2 hectares. These lots include a 10 metre landscape buffer along the Wattletree Road frontage with a building envelope with setback of 15 metres from Wattletree Road and between 2 – 5 metres from common boundaries.
- Existing dwelling lot will provide an area of 0.4 hectares and will retain vegetation within the lot with a building envelop including a setback of 15 metres from Nash Road and 12 metres from common boundaries.
- Twenty one (21) lots varying between 0.2 hectares and 0.36 hectares with access from a new road reserve noted as Agnoletto Court. These lots vary in width and length with building envelopes that provide minimum 10 metre setbacks from the road frontage and rear boundaries with side setbacks of between 2 – 5 metres. The building envelopes for lots 14 – 18 have been designed to retain vegetation on the site.
- Road reserve includes a road width of 16 metres with access provided from Nash Road.

Vegetation Removal:

- The proposal includes the removal of a number of trees within the Nash Road road-reserve with 8 scattered trees on the site to be removed.
- The proposal includes the removal of 0.172 hectares of remnant patches of vegetation.

PLANNING SCHEME PROVISIONS:

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- 12.01-1 Protection of biodiversity;
- 12.01-2 Native vegetation management;
- 12.04-2 Landscapes;
- 15.01-3 Neighbourhood and subdivision design;

- 15.01-5 Cultural identity and neighbourhood character;
- 15.01-6 Healthy neighbourhoods; and
- 19.03 Development infrastructure.

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.02-2 Landscape;
- 21.02-3 Biodiversity;
- 21.03-3 Rural townships;
- 21.03-4 Rural residential and rural living development;
- 21.05-1 Infrastructure provision;
- 21.05-3 Local roads; and
- 21.07-6 Bunyip.

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/documents are:

- Clause 52.01 Public Open Space;
- Clause 52.17 Native Vegetation;
- Clause 65 Decision Guidelines;
- Clause 66 Referral and Notice Provisions; and
- Bunyip Township Strategy (2009) (Incorporated Document).

Zone

The land is subject to the **Low Density Residential Zone – Schedule 3 (LDRZ3)**.

Overlays

The land is subject to the following overlays:

- Design and Development Overlay – Schedule 1 (DDO1); and
- Vegetation Protection Overlay – Schedule 1 (VPO1).

PLANNING PERMIT TRIGGERS

The proposal for the subdivision of the land into twenty-six (26) lots and vegetation removal requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.03-3 of the Low Density Residential Zone, a permit is required to subdivide land;
- Pursuant to Clause 42.02-2 of the Vegetation Protection Overlay, a permit is required to remove, destroy or lop any vegetation;
- Pursuant to Clause 43.02-3 of the Design and Development Overlay, a permit is required to subdivide land; and
- Pursuant to Clause 52.17 Native Vegetation, a permit is required to remove, destroy or lop native vegetation.

PUBLIC NOTIFICATION

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

- Sending notices to the owners and occupiers of adjoining land; and
- Placing two (2) signs on site.

Council has received ten (10) objections to date.

The key issues that were raised in the objections are:

- Proposal is not consistent with the Bunyip Township Strategy and is inconsistent with the established built form and character of the area;
- Lot sizes not in keeping with the area, will not maintain the country feel and is an overdevelopment of the site;
- The proposal inconsistent with the Panel Report;
- Vegetation removal uncharacteristic of the area and will impact on fauna;
- Increased traffic through increased traffic numbers will reduce safety in the area;
- No footpath is located on the north side of Wattletree Road;
- Amenity impacts for Nash Road residents;
- Stormwater run off will impact on adjoining properties and the wider area; and
- Impact on sewerage for the area.

REFERRALS

The application was referred to the following authorities, and a summary of each response is provided.

Referral Authority	Response
AusNet	Approval subject to conditions
APA Group	Approval subject to conditions
Country Fire Authority	Approval subject to conditions
Department of Environment, Land, Water and Planning	Approval subject to conditions
Melbourne Water	The original conditions provided by Melbourne Water are to remain on the permit
South East Water	Approval subject to conditions
Telstra	No response. Standard telecommunications conditions will be placed on the permit

DISCUSSION

State & Local Planning Policy Framework

There is support in the Planning Scheme for the growth and development of Bunyip, with Clause 21.07-6 (Bunyip) recognising the potential for substantial growth within the township. At the same time, state and local policies also recognise the need for any development to respond to key natural features, the surrounding landscape and the existing and preferred character of an area.

Relevant state policies such as clauses 12.04-2 (Landscapes), 15.01-3 (Neighbourhood and subdivision design) and 15.01-5 (Cultural identity and neighbourhood character) encourage development to respond to its context and special characteristics of the local environment and protect and enhance native habitat. The protection of natural environment is reinforced by clauses 12.01-1 (Protection of biodiversity) and 12.01-2 (Native vegetation management), which aim to ensure that native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.

Local policies serve to reinforce these themes, with Clause 21.02-3 (Biodiversity) aiming to achieve a net gain in the quantity and quality of native vegetation in the municipality and maintain and enhance the diversity of indigenous habitats and species. Clause 21.03-3 (Rural townships) identifies Bunyip as a 'large rural township' and seeks to maintain and enhance the distinct character and environmental qualities of each township within the Shire, with further guidance provided in Clause 22.07-6 (Bunyip). In particular, Clause 22.07-6 provides the following objectives relating to residential development:

- Accommodate the growth of Bunyip within the current urban growth boundary;
- Retain wide road verges in the approach to the township;
- Maintain generous street, footpath and easement widths in new developments;
- Ensure the protection and conservation of native vegetation including street trees and roadside vegetation; and
- Consider as appropriate the Precinct Character Guidelines set out in the Bunyip Township Strategy (September 2009).

Bunyip is recognised for its rural character and natural landscape and the subject site and surrounding area reinforce this character, with open and spacious landscapes that support low density and rural residential uses. While the proposed amendments intensify the already-approved subdivision of the site, the layout provides an appropriate transition from the General Residential Zoned-land to the south, to the surrounding Low Density Residential-zoned areas. It is considered the natural environment and landscape character will be enhanced through the landscaping buffer areas along the Wattletree and Nash road boundaries, which will be reinforced via appropriate conditions and restrictions.

The increase in the number of lots does result in an increase in the extent of vegetation removal. However, the vegetation removal has been minimised through the appropriate placement of lot boundaries and building envelopes. The vegetation removal will also be appropriate offset via permit conditions to ensure no net loss of in the contribution made by native vegetation to Victoria's biodiversity.

The proposal demonstrates a strong response to the residential development objectives of Clause 22.07-6 (Bunyip), as the site is located well within the urban growth boundary and protects the majority of vegetation on the site. The provision of landscape buffer areas will allow for revegetation while also providing habitat for the threatened Southern Brown Bandicoot and enhancing the natural streetscape character.

Low Density Residential Zone

The purpose of the Low Density Residential Zone is to provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater. Schedule 3 to the zone allows for subdivision of land into 0.2 hectare allotments if connected to reticulated sewerage. The relevant decision guidelines of the zone include:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries; and
- The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications

While the proposal exceeds the minimum lot size requirements of the zone, it should be noted that simply meeting these requirements does not necessarily equate to compliance with the zone; a number of other factors must be taken into account.

In this case, the proposal is considered consistent with purpose and objectives of the zone as the subdivision layout will ensure minimal impact on the native vegetation within the site and surrounding roadside while facilitating low density residential growth within Bunyip. The layout of the subdivision generally matches the surrounding pattern of subdivision to the east and south, with long rectangular-shaped lots that incorporate building envelopes to maintain the existing sense of openness and spaciousness. The landscape buffers within the setbacks of Wattletree and Nash roads will make an additional contribution to the character of the township by providing opportunities for re-vegetation and landscaping in areas that are currently devoid of any vegetation. These requirements for landscaping and appropriate building setbacks are included for the internal lots that have frontage to the proposed new road known as Agnoletto Court.

The site has access to utility serves and it is considered that utility services can be provided within the lot. The proposed subdivision will be connected to sewerage with no objection from South East Water subject to appropriate permit conditions.

Vegetation Protection Overlay (VPO1) & Clause 52.17 Native Vegetation

The Vegetation Protection Overlay has a number of purposes, including to protect areas of significant vegetation, ensure that development minimises loss of vegetation, preserve existing trees and other vegetation, and maintain and enhance habitat and habitat corridors for indigenous fauna. It also aims to encourage the regeneration of native vegetation.

These purposes are reinforced by Schedule 1 to the Vegetation Protection Overlay, which also seeks to ensure that vegetation remains a significant part of the character and visual amenity of these areas, with the built form being located within a landscape, and vegetation being the predominant feature.

While the loss of any vegetation is generally contrary to the purpose of the overlay, it is noted that the vegetation to be removed generally consists of scattered trees that have not been individually recognised as having any particular importance in terms of cultural or heritage significance, conservation of flora and fauna, or management of erosion and ground water.

The proposed vegetation removal has been restricted to the western portion of the site and to provide access off Nash Road, with building envelopes to help ensure the retention of the surrounding vegetation. The removal of this tree will not detrimentally impact on the character of the area and landscape plan to provide landscape buffers on Wattletree Road and Nash Road will ensure minimal impact on the surrounds.

Clause 52.17 (Native Vegetation) provides further protection of vegetation, with an objective to ensure that the permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. This is achieved through the following approach:

- Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.
- Minimise impacts on Victoria's biodiversity from the removal of native vegetation.
- Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed.

As detailed by the vegetation assessment and confirmed by the Department of Environment, Land, Water and Planning, the development is a low risk pathway with the following an assessment of the proposal;

- *Biodiversity Considerations:* The proposed vegetation to be removed has been restricted to the west portion of the site and the Nash Road frontage, which has minimised the impact of the removal of native vegetation from the site. As detailed by the applicant's vegetation assessment submitted and subject to permit conditions requiring offset management will ensure a minimal impact on biodiversity for the site and is consistent with the requirements of this clause.
- *Offset Requirements:* The submitted information has provided clear indication of the proposed offset requirement of 0.035 general units with a minimum biodiversity score of 0.170. As noted by DELWP the provision of offsets can be provided through permit conditions and must be in accordance *Permitted clearing of native vegetation – Biodiversity assessment guidelines* (Department of Environment and Primary Industries, September 2013).

It is considered that the proposal has avoided vegetation removal where possible, and has implemented measures such as building envelopes to minimise vegetation removal. The proposed tree removal is also not expected to compromise the environmental outcome for the area given the vegetation to be removed is relatively well separated from any stands of significant vegetation.

The landscaping buffers areas will help to provide for re-vegetation and habitat corridors, and appropriate conditions as recommended by the Department of Environment, Land, Water and Planning and Council's Environment Department will provide appropriate offsets for the vegetation loss.

While Council's Environment noted concerns about the ability of the proposal to meet the requirements of the Vegetation Protection Overlay, based on the above discussion and consideration of other state and local policies, it is considered that the proposal is appropriate with the implementation of appropriate conditions.

Design and Development Overlay – Schedule 1

The Design and Development Overlay – Schedule 1 applies to low density residential areas of the Shire, with objectives that aim to ensure that the subdivision of land has regard to the existing pattern of subdivision in the area, respond to the environmental features and constraints of the land and encourage development to create an attractive low density residential environment.

The relevant decision guidelines of the overlay include:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The provisions of any relevant policies and urban design guidelines.

- Whether the bulk, location and appearance of any proposed buildings and works will be in keeping with the character and appearance of adjacent buildings, the streetscape or the area.
- Whether any proposed landscaping or removal of vegetation will be in keeping with the character and appearance of adjacent buildings, the streetscape or the area.
- Whether subdivision will result in development which is not in keeping with the character and appearance of adjacent buildings, the streetscape or the area.
- The protection and enhancement of the natural environment and character of the area including the retention of remnant vegetation and habitat, and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.
- The impact of any buildings and works on areas of remnant vegetation, and habitat of botanical and zoological significance.
- The impact of proposed buildings and works on the landscape character of the area, including prominent ridgelines and significant views.
- Measures to address environmental hazards or constraints including slope, erosion, drainage, salinity and fire.

A response to the key themes of the objectives and decision guidelines of the overlay is provided below:

Natural Environment

The proposed subdivision is located on a lot which is mostly cleared of vegetation and the proposed layout of the lots and building envelopes helps to minimise any further vegetation loss. The vegetation that is proposed to be removed will be appropriately offset via permit conditions and vegetation will also be established elsewhere throughout the site as a result of the conditions requiring landscaping within the proposed new road reserve and along the Wattletree and Nash road boundaries.

Character of the Area:

The layout of the proposed lots generally matches the surrounding pattern of subdivision to the east and south, with long rectangular-shaped lots. The proposed lots exceed 0.2 hectares in area and therefore are considered to provide an appropriate transition from smaller General Residential Zoned allotments to the south to the larger allotments low density residential allotments to the east and west.

While no buildings are proposed as part of this application, it is expected that the proposed subdivision will facilitate future residential development. In response, building envelopes are proposed for all lots with minimum 10 metre front setbacks (or 5 metres for the proposed lot with the existing dwelling) and 2 metre side setbacks. These setbacks will help to ensure appropriate separation between buildings and reinforce the open and spacious character of the area.

Environmental Hazards:

The proposed subdivision will not add to or increase the risk in terms of environmental hazards with the proposed building envelopes to minimise impact on the surrounding environment.

Clause 52.01 Public Open Space Contribution and Subdivision

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of

such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the *Subdivision Act 1988*.

Schedule to Clause 52.01 specifies an amount of 8 per cent for the subdivision of land in a Residential 1 Zone, or for urban resident purposes. The subject land is within the urban growth boundary of Bunyip and is considered to create urban residential type allotments, and as such, the amount specified in the schedule is considered applicable to this proposal.

Bunyip Township Strategy

The Bunyip Township Strategy was adopted by Council in 2009 and introduced as an incorporated document to the Cardinia Planning Scheme via Amendment C124 in 2012. The Strategy sets out the key issues facing the Bunyip Township and outlines a range of policies and actions to achieve the desired vision for Bunyip:

- A rural township with extensive recreational opportunities, potential for substantial growth and a commercial and retail centre providing an extensive range of services to the township and nearby residents.
- The Bunyip Township will contain a range of housing types that respect the rural character of the town and the natural landscape. Open space areas will be diverse, to allow access for active and passive recreation while ensuring the protection of remnant vegetation and wildlife corridors to allow the movement of species throughout the landscape.

The subject land forms part of the strategy area, and more specifically, forms part of Residential Precinct 3 – Low Density Residential Area, which identifies the important of maintain ad enhancing Bunyip's rural character through the retention of existing indigenous trees and vegetation, the provision of very large allotments with wide frontages and considerable garden area.

The strategy includes the following guidelines for land within Precinct 3:

- Minimum lot size of 4,000 square metres;
- Minimum front setback of 10 metres;
- Minimum side boundary setback of 5 metres
- Ensure protection and conservation of native vegetation across the landscape.
- Encourage the inclusion of native vegetation and garden space for private and commercial development.
- Maintain generous street, footpath and easement widths in new development.

It is noted that while the proposal does not meet the minimum lot size of 4,000 square metres, the Bunyip Township Strategy was prepared prior to the rezoning of the land to Schedule 3 of the Low Density Residential Zone in 2016, which allows minimum lot sizes of 2,000 square metres. Due to this change, the lot size requirements of the guidelines are not considered applicable to this site.

The proposal is considered to meet all other relevant guidelines for precinct 3, with building envelopes to provide minimum 10 metre front setbacks (or 15 metres in the case of Wattletree Road) and minimum 5 metre side and rear setbacks. As discussed previously, vegetation removal has been minimised and the landscape buffers will make a positive contribution to the area.

The setbacks are generally consistent with the original permit, with the following key exceptions:

- The building envelope setbacks along Wattletree Road have been increased from 10 metres to 15 metres, which results in an improved outcome; and
- The building envelope setbacks along the western boundary have been partially reduced from 10 metres to 5 metres, which is considered appropriate given the recent three lot subdivision of the property and the presence of vegetation along this boundary.

In conclusion, the proposal contributes to the vision for Bunyip by supporting growth while including measures such as building envelopes and landscaping to reinforce the rural character of the area and provide an improved outcome for key fauna habitats.

Objections

A response to the key themes of the objections is provided below.

Character of the area and lot sizes

The objectors raised concerns that the proposal is not consistent with the Bunyip Township Strategy and is inconsistent with the established built form and character of the area with the lot sizes not in keeping with the area, will not maintain the country feel and is an overdevelopment of the site. One objector raised concerns with the rezoning and panel process.

While the proposal does involve a significant change to the number of lots approved by Planning Permit T140555, the increase is supported by the recent rezoning of the land to Schedule 3 of the Low Density Residential Zone, which went through public exhibition and planning panel process, and responds to the character with the area through the provision of landscaping, appropriately setback building envelopes and retention of vegetation where possible.

Vegetation removal

The objectors noted that the proposal results in vegetation removal uncharacteristic of the area and will impact on fauna. The majority of vegetation on the site is located along the boundaries of the site, and the proposed lot boundaries and building envelopes minimise the loss of any vegetation. The permit conditions requiring offsets and landscaping elsewhere on the site are expected to provide a net benefit.

Increased traffic and reduced safety for the area

A number of objectors raised concerns with increased traffic through increased density of the site and will result in reduce traffic and pedestrian safety in the area. The application has been referred to Council's Engineering and Traffic Departments, who had no objection to the proposal subject to conditions that will be placed on any planning permit. These conditions include a new footpath along Wattletree Road on the south side of the site, and improvements to Nash Road.

Stormwater and Sewerage Infrastructure

A number of objectors raised concerns that the intensity of the subdivision will have on stormwater run off impacts on adjoining properties and the wider area, with some objectors raising concerns with the impact on sewerage for the area. The application has been referred to Council's Engineering Department and South East Water, who both provided no objection to the proposal, stating these issues can be dealt with conditions that will be placed on any planning permit.

Amenity impacts

The objections raised concerns that the increased density will result in amenity impacts for Nash Road residents. It is considered the proposal will not have any unreasonable amenity impacts for residents of Nash Road as the subdivision has been designed with a lot layout that responds to the zone and surrounding pattern of subdivision. It will incorporate additional measures such as landscaping and building envelopes to manage the future outcomes. The conditions of any planning permit will help to manage any negative impacts of the development.

Clause 65 Decision Guidelines

Clause 65 requires the consideration of a range of matters, including the State Planning Policy Framework and the Local Planning Policy Framework and the purpose and decision guidelines of the relevant zone, overlay or other provisions. Other relevant guidelines of Clause 65 include the orderly planning of the area, the effect on the amenity of the area, and the matters set out in Section 60 of the Act.

The proposal is considered consistent with Clause 65 and will deliver an orderly planning outcome with minimal impact on the amenity of the area.

CONCLUSION

The proposed subdivision is consistent with the strategic direction for the site and surrounds as such is consistent with both the State and Local Planning Policy Framework. The subdivision is consistent with planning scheme requirements and will not detrimentally impact on surrounding properties subject to appropriate permit conditions. Overall it is considered that the proposed subdivision is consistent with the orderly and proper planning of the area.

It is recommended that a Notice of Decision to Amend Planning Permit **T140555** at **43 Wattletree Road, Bunyip** be issued so that the planning permit description be amended to read "The subdivision of land into twenty-six (26) lots and removal of vegetation" and condition replaced and updated as below:

CONDITIONS

1. The layout of the subdivision, and access as shown on the endorsed plan/s, may not be altered or modified without the prior written consent of the Responsible Authority.
2. Before the plan of subdivision is certified, 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 bearings, distances, levels, street names, lot numbers, lot sizes, reserves and easements.
 - b) Details of measures, including design specifications, to facilitate the movement of the Southern Brown Bandicoot along vehicle crossovers to Wattletree Road and under the new Nash Road entrance road.
 - c) Identify all vegetation including trees to be retained or removed along the extent of both Wattletree Road and Nash Road.
 - d) Add a note to the key/legend advising to refer to approved landscaping plan for landscaping requirements within the vegetation planting buffer.
 - e) Provide vehicle crossover envelopes for vehicle access to each lot.

- f) Delete the text relating to the assumed removal of easement E-1.
- g) Add a restriction to provide for the following:
 - i. No buildings or works may be carried out outside the area denoted as the building envelope without further consent from the Responsible Authority.
 - ii. No buildings may be constructed and no earthworks other than required for landscaping may be undertaken within the vegetation planting buffer.
 - iii. Landscaping within the vegetation planting buffer must be in accordance with the approved landscape plan.
 - iv. Fencing must not be constructed within the vegetation planting buffer area or within 10 metres of the Wattle tree Road boundary or within 5 metres of the Nash Road boundary and fencing adjacent to these roads must meet the following requirements:
 - 1. The fence must have a gap of at least 10cm between the ground and the first strand/rail or bottom of the fence;
 - 2. The fence must be of permeable design and construction;
 - 3. The posts must be spaced at least 20cm apart;
 - 4. At least 90% of the fence line must be open at ground level; and
 - 5. Barbed wire must not be used.
- 3. Before the plan of subdivision is certified, a detailed landscape plan for the vegetation planting buffer areas along Wattle tree Road and Nash Road must be submitted to and approved by the Responsible Authority. The detailed landscape works plan must be prepared by a person suitably qualified or experienced in landscape design to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and one (1) copy must be provided in an approved electronic format (PDF and CAD). The plan must be show and include to the satisfaction of the Responsible Authority.
 - a. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - b. 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.
 - c. Landscaping and planting must be in accordance with the species (Lowland Forest EVC 16) and density of the Southern Brown Bandicoot Habitat Protection Strategy and Environmental Significance Overlay, prepared by Ecology Australia (14 July 2017) to the satisfaction of the Responsible Authority.
- 4. Before the plan of subdivision is certified, a detailed road reserve landscape plan must be submitted to and approved by the Responsible Authority. The detailed landscape works plan must be prepared by a person suitably qualified or experienced in landscape design to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and one (1) copy must be provided in an approved electronic format (PDF and CAD). The plan must be show and include to the satisfaction of the Responsible Authority:
 - a. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - b. A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant. Indigenous plant species must be used. Minimum installation size of 45L for street trees

- c. The proposed road reservation widths and the treatment of interfaces with surrounding road reserves, including areas within the road reserves set aside for the retention of existing vegetation.
- 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.

All species selected must be to the satisfaction of the Responsible Authority.

- 5. Before the plan of subdivision is certified, the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the *Planning and Environment Act 1987*:
 - a) The landscaping as shown on the approved landscape plan for the vegetation planting buffers is to be maintained, including weed control, to the satisfaction of the Responsible Authority and any dead or diseased plants replaced as soon as practicable.
 - b) Any re-vegetation must be undertaken in accordance with the landscape plan approved under planning permit T140555 or as amended.
 - c) Fencing must not be constructed within the vegetation planting buffer area or within 10 metres of the Wattletree Road boundary or 5 metres of the Nash Road boundary and fencing adjacent to these roads must meet the following requirements:
 - i. The fence must have a gap of at least 10cm between the ground and the first strand/rail or bottom of the fence;
 - ii. The fence must be of permeable design and construction;
 - iii. The posts must be spaced at least 20cm apart;
 - iv. At least 90% of the fence line must be open at ground level; and
 - v. Barbed wire must not be used.
 - d) No buildings may be constructed and no earthworks other than required for landscaping may be undertaken within the vegetation planting buffer.

The owner must pay the reasonable costs of preparation, execution and registration of the agreement.

- 6. Before the plan of subdivision is certified, the owner must prepare and submit a waste management plan to the Responsible Authority, to the satisfaction of the Responsible Authority. The waste management plan must:
 - a) Be prepared by a suitably qualified expert;
 - b) Provide detail of the proposed arrangements for collection of waste for the proposed lots 13, 14, 15, 16, 17, 18 and 19; and
 - c) Be consistent with relevant guidelines prepared by Cardinia Shire Council with respect to waste management for new residential developments.
- 7. The owner of the land must enter into an agreement with:
 - a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

8. Before the submission and approval of detailed design construction plans (engineering plans) and the certification of the relevant plan of subdivision for each stage, a *functional layout plan* for the subdivision or stage of subdivision, generally in accordance with the standards nominated in the Cardinia Shire Council “Guidelines for the Development & Subdivision of Land”, “Development Construction Specification” and the Water Sensitive Urban Design (WSUD) Guidelines, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority.

When approved, the *functional layout plan* will be endorsed and will then form part of the permit. Three copies of the *functional layout plan* must be drawn to a scale of 1:500 to acceptable drafting standards and an electronic copy (pdf) must be provided.

The *functional layout plan* must show:

- a) A fully dimensioned subdivision layout, including proposed street names, approximate lot areas, lot numbers and widths of street reservations,
- b) Topography and existing features, including contours for the subject land and any affected adjacent land,
- c) Identification by survey of all trees (or group of trees) existing on the subject land, including dead trees and those that overhang the subject land from adjoining land,
- d) Details of tree protection zones (TPZs) for all trees to be retained on the subject land,
- e) All trees proposed for removal from the subject land clearly designated,
- f) Typical cross-sections for each street type, dimensioning individual elements, services offsets and any other spatial requirements identified in the Development Plan,
- g) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls,
- h) The proposed minor drainage network and any spatial features requiring access,
- i) The major drainage system, including any watercourse, lake, wetland, sediment pond rain gardens, bio-infiltration system and/or piped elements showing preliminary sizing,
- j) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination,
- k) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for the construction and maintenance,
- l) A table of offsets for all utility services and street trees,
- m) Preliminary location of reserves for electrical kiosks and
- n) Traffic management plan showing sufficient notional (unmarked) on-street car parking spaces, at the rate of one space per lot, traffic control devices and large vehicle turning overlays.

Sites that are not adjacent to existing or approved infrastructure will be required to show the following information in addition to the above standard requirements:

- a) The relationship between the subject subdivision stage and surrounding land,
- b) Proposed linkages to future streets, open space, regional path network and upstream drainage,
- c) Works external to the subdivision, including both interim and ultimate access requirements,
- d) Intersections with Category 1 roads showing interim and ultimate treatments,

- e) Drainage and sewerage outfalls including any easements required over other property.
9. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
10. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
11. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.

Before Statement of Compliance

12. Prior to issue of a Statement of Compliance, the permit holder must:
- a) Design and construct Nash Road from the Nash Road / Wattletree Road intersection to the northern boundary of the site, including a fully sealed pavement with, 6.5m wide from back of kerb to edge of seal, kerb and channel, concrete footpath and associated underground drainage along the west side for the full frontage Nash Road of the site, in accordance with plans and specifications approved by and to the satisfaction of the Responsible Authority.
 - b) Design and construct Wattletree Road with kerb and channel, sealed road widening, concrete footpath and associated underground drainage for the full Wattletree Road frontage of the site, in accordance with plans and specifications approved by and to the satisfaction of the Responsible Authority.
 - c) Provide construct concrete vehicle crossings to service all lots to the satisfaction of the Responsible Authority and in accordance with any specifications as per Condition 2b.
 - d) Provide appropriate driveway access and drainage connection points to all lots to the satisfaction of the Responsible Authority and in accordance with any specifications as per Condition 2b.
 - e) Outfall drainage for the subdivision must be designed and constructed to a satisfactory point of discharge in accordance with plans and specifications approved by the Responsible Authority and Melbourne Water.
 - f) All road and drainage infrastructure must be designed and constructed in accordance with plans and specifications approved by the Responsible Authority. The works must comply with the standards nominated in the Cardinia Shire Council "*Guidelines for the Development & Subdivision of Land*", "*Development Construction Specification*" and the "*Water Sensitive Urban Design (WSUD) Guidelines*".
13. Prior to issue of a Statement of Compliance, the building envelopes, vegetation planting buffers and fencing restrictions must be created as a restriction on the Plan of Subdivision submitted to the Responsible Authority for certification and lodged with the Titles Office for registration.
14. Prior to issue of a Statement of Compliance, the landscape works shown on the approved landscape plans must be carried out and completed to the satisfaction of the Responsible Authority or by agreement with the Responsible Authority, bond landscaping works incomplete at the completion of civil works. Payment can be made in the form of a cash bond or bank guarantee. Refer to the Cardinia Shire Council developer landscape guidelines (as amended from time to time) for bond calculation details.

Please note - At Practical Completion the outstanding landscape works bond will be released and only a landscape maintenance bond will be retained.

15. Prior to issue of a Statement of Compliance, bonding must be provided to the Responsible Authority to cover all landscaping works within the road reserve for a twenty-four (24) month maintenance period. Payment can be made in the form of a cash bond or bank guarantee. Refer to the Cardinia Shire Council developer landscape guidelines (as amended from time to time) for bond calculation details. A Certificate of Final Completion will be issued by the Responsible Authority and the bond released, less any moneys retained for imperfect works, following the satisfactory completion and satisfactory maintenance of the landscaping for a minimum of 24 months. Final completion will not be granted between 1 November and 31 March.

Please contact Council's Open Space Department in relation to the costs of the cash bond or bank guarantee.

16. Prior to issue of a Statement of Compliance, the applicant or owner of the land must pay to the Responsible Authority a cash payment equivalent to the value of 8 per cent of Net Developable Area of the land in lieu of the provision of land for Public Open Space in accordance with the Schedule to Clause 52.01 of the Cardinia Planning Scheme.

17. Before a statement of compliance is issued for the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:

- a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

18. Before the installation of trees to be planted within the road reserve, an inspection of the plant stock must be undertaken by Council's Landscape Development unit. Any trees deemed unsuitable must not be planted within the streetscape.

19. The permit holder must notify Council's Landscape Development unit a minimum of seven (7) days before commencing street tree planting and landscaping within the road reserve so that surveillance of the works can be undertaken.

20. The landscaping shown on the endorsed landscape plans must be maintained to the satisfaction of the Responsible Authority for a minimum of 24 months from the date of practical completion of the landscaping. All maintenance activities are to be undertaken until a Certificate of Final Completion is issued by the Responsible Authority. During this period:

- a) any dead, diseased or damaged plants or landscaped areas must be repaired or replaced except for within the final 12 months of the maintenance period whereby trees must not be replaced. In accordance with the Cardinia Shire Council developer landscape guidelines (as amended from time to time) funds will be retained from the landscape maintenance bond for the works to be undertaken by Council following issuing of final completion.; and
- b) the Responsible Authority may direct maintenance activities to be undertaken.

The direction to undertake maintenance activities must be completed within 14 days of the written notification being received from the Responsible Authority.

21. Lighting of streets and pedestrian/cycle paths must be designed and provided (prior to the issue of a Statement of Compliance for the relevant stage) in accordance with Australian Standard 1158.1 to the satisfaction of the Responsible Authority.

22. At least 14 days before any works start, a site specific Construction Environmental Management Plan (CEMP) to the satisfaction of the Responsible Authority must be submitted to and approved

by the Responsible Authority. When approved the CEMP will be endorsed and will then form part of the permit. All works must be undertaken in accordance with the approved CEMP.

The CEMP must address all environmental risks and include:

- a) Temporary stormwater management including sedimentation control;
- b) Provision of pollution and contamination controls including noise and dust;
- c) Location of stockpiles and stockpile management;
- d) Location of site office and facilities;
- e) Equipment, materials and goods management; and
- f) Tree protection zones, trees to be retained and trees to be removed.

23. No fill or excavated material for or from this development is to be carted/hailed into or from the site without first obtaining the further written consent from Council's Engineering Department at least seven (7) days prior to the cartage/haulage works commencing to the satisfaction of the Responsible Authority.

24. All roads used for the purpose of haulage of imported or exported materials for construction must be:

- a) Approved in writing by the Responsible Authority for the submitted haulage strategy, at least seven days prior to the commencement of use,
- b) Maintained in accordance with the Responsible Authority's maintenance intervention levels, or as requested by the Responsible Authority if the road deteriorates during the haulage period, and
- c) Reinstated to the satisfaction of the Responsible Authority.

25. Erosion must be controlled during construction in accordance with the Environment Protection Authority Guideline TG208/90 (as amended) or in accordance with such guideline, policy or role that replaces TG 208/90.

26. Before a certificate of practical completion is issued, "as constructed" digital road and drainage information in AutoCAD format with all Xrefs binded into the drawings and showing any amendments during construction, must be submitted for all civil works where Council is the Responsibility Authority.

27. Before a certificate of practical completion is issued, CCTV results for the full length of all stormwater drainage pipes where Council is the Responsible Authority, must be submitted for assessment. The submitted information is to be to the satisfaction of the Responsible Authority.

28. Before the responsibility for the future care and maintenance of the works is transferred to Council, the developer must provide to the Responsible Authority:

- a) Survey enhanced "as constructed" GIS data for the drainage, road and footpath information components of the subdivision, in accordance with the current version of D-SPEC and R-SPEC. Council's preferred format for the submission of the graphical data is in "MapInfo Native Format". A secondary format is "MapInfo MID/MIF". Grid Co-ordinates must be MGA zone 55 (GDA 94). Please refer to the A-SPEC website for further information: www.dspeg.com.au.

Sketches of the details of the permanent survey marks.

Department of Environment, Land, Water and Planning Conditions:

29. 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.

30. 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; and
- c) No entry and exit pits for underground services are to be constructed.

31. In order to offset the removal of 0.172 hectares of native vegetation and 8 scattered trees, with a total extent of 0.735 hectares 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 0.035 general biodiversity equivalence units be located within the Port Phillip and Westernport Catchment Management Authority boundary or Cardinia municipal district have a strategic biodiversity score of at least 0.136.

32. 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

33. A suitably qualified wildlife handler is to be present when felling trees, to ensure all affected wildlife is not harmed, and is removed from the subject land to an appropriate relocation site or relocated onsite to an appropriate location away from the construction footprint.

CFA Conditions:

34. Prior to the issue of a Statement of Compliance under the *Subdivision Act 1988* the following requirements must be met to the satisfaction of the CFA:

- a) Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
- b) The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority

Note – CFA’s requirements for identification of hydrants are specified in ‘Identification of Street Hydrants for Firefighting Purposes’ available under publications on the CFA web site (www.cfa.vic.gov.au)

35. Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.

36. The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 meters. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.

APA Group Conditions:

37. Easements in favour of “Australian Gas Networks (VIC) Pty Ltd” must be created on the plan to the satisfaction of APT.

38. The plan of subdivision submitted for certification must be referred to APT O&M Services Pty Ltd, in accordance with Section 8 of the *Subdivision Act 1988*.

AusNet Services Conditions:

39. The Plan of Subdivision submitted for certification must be referred to AUSNET ELECTRICITY SERVICES PTY LTD in accordance with Section 8 of the *Subdivision Act 1988*.

40. The applicant must –

- a) Enter in an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for supply of electricity to each lot on the endorsed plan.
- b) Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for the rearrangement of the existing electricity supply system.
- c) Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by AUSNET ELECTRICITY SERVICES PTY LTD.
- d) Provide easements satisfactory to AUSNET ELECTRICITY SERVICES PTY LTD for the purpose of “Power Line” in the favour of “AUSNET ELECTRICITY SERVICES PTY LTD” pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing AUSNET ELECTRICITY SERVICES PTY LTD electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
- e) Obtain for the use of AUSNET ELECTRICITY SERVICES PTY LTD any other easement required to service the lots.
- f) Adjust the position of any existing AUSNET ELECTRICITY SERVICES PTY LTD easement to accord with the position of the electricity line(s) as determined by survey.
- g) Set aside on the plan of subdivision Reserves for the use of AUSNET ELECTRICITY SERVICES PTY LTD for electric substations.
- h) Provide survey plans for any electric substations required by AUSNET ELECTRICITY SERVICES PTY LTD and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. AUSNET ELECTRICITY SERVICES PTY LTD requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
- i) Provide to AUSNET ELECTRICITY SERVICES PTY LTD a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.

- j) Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by AUSNET ELECTRICITY SERVICES PTY LTD. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998.
- k) Ensure that all necessary auditing is completed to the satisfaction of AUSNET ELECTRICITY SERVICES PTY LTD to allow the new network assets to be safely connected to the distribution network.

Melbourne Water conditions:

- 41. Prior to the commencement of works the owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
- 42. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
- 43. Prior to commencement of any works or certification of any stage detailed engineering drawings and a concise report must be submitted to Melbourne Water and Council, demonstrating the proposed alignment for the 1 in 5 year drainage infrastructure and the overland flow paths directions for the 1 in 100 year ARI flood event. The report must include details of any temporary outfall arrangements and relevant storage calculations. Approvals from any affected downstream landowners must also be submitted.
- 44. Engineering plans of the subdivision (in electronic format) are to be forwarded to Melbourne Water for comment/approval.
- 45. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water's Land Development Manual.
- 46. All local drainage must be to Council's satisfaction.
- 47. All new lots must achieve appropriate freeboard in relation to local overland flow paths to Council's satisfaction.
- 48. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the *Subdivision Act 1988*.

South East Water Conditions:

- 49. The owner of the subject land must enter into an agreement with South East Water for the provision of potable water supply and fulfil all requirements to its satisfaction.
- 50. The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.
- 51. Prior to certification, the Plan of Subdivision must be referred to South East Water, in accordance with Section 8 of the *Subdivision Act 1988*.

Permit Expiry

This permit will expire if:

- a) The subdivision is not commenced within **two (2) years** of the date of this permit; or
- b) The subdivision is not completed within **five (5) years** of the date of commencement.

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*.

(Note: The starting of the subdivision is regarded by Section 68(3A) of the *Planning and Environment Act 1987* as the certification of a plan, and completion is regarded as the registration of the plan.)

Department of Environment, Land, Water and Planning Notes:

Prior to the commencement of works, a Protected Flora Permit must be obtained from DELWP to remove protected flora during road widening works. Please contact Sue Hadden on 9450 8746 for further information.

Melbourne Water Notes:

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 249067.

AusNet Services Notes:

It is recommended that, at an early date the applicant commences negotiations with AUSNET ELECTRICITY SERVICES PTY LTD for a supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay (the release to the municipality enabling a Statement of Compliance with the conditions to be issued).

Arrangements for the supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing.

Prospective purchasers of lots on this plan should contact this office to determine the availability of a supply of electricity. Financial contributions may be required.

South East Water Notes:

The owner of the subject land is required to obtain a 'Notice of Agreement' from South East Water. All requirements must be fulfilled to its satisfaction prior to South East Water consenting to the issuing of a Statement of Compliance.

The following South East Water agreement options are available:

- 1) Application to enter into a Development Agreement-Works – If South East Water reticulated sewer/water/recycled water (as applicable) is required to be extended to service lots within the development
- 2) Application For Notice of Agreement Subdivision-Non Works – If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner only requires Statement of Compliance to release the titles (i.e. subdivision prior to building)
- 3) Plumbing Industrial, Commercial, Units & Private Water application – If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner wishes to commence construction of the building/s (i.e. building prior to subdivision)

To lodge an application please visit our website: www.southeastwater.com.au.

3 TWENTY SIX (26) LOT SUBDIVISION AND VEGETATION REMOVAL AT 43 WATTLETREE ROAD, BUNYIP

Moved Cr R Brown Seconded Cr C Ross

That a Notice of Decision to Amend Planning Permit T140555 be issued. The Amended Permit will allow for the subdivision of the land into twenty-six (26) lots, vegetation removal and removal of an easement at 43 Wattletree Road, Bunyip subject to the following revised conditions:

1. The layout of the subdivision, and access as shown on the endorsed plan/s, may not be altered or modified without the prior written consent of the Responsible Authority.
2. Before the plan of subdivision is certified, 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 bearings, distances, levels, street names, lot numbers, lot sizes, reserves and easements.
 - b) Details of measures, including design specifications, to facilitate the movement of the Southern Brown Bandicoot along vehicle crossovers to Wattletree Road and under the new Nash Road entrance road.
 - c) Identify all vegetation including trees to be retained or removed along the extent of both Wattletree Road and Nash Road.
 - d) Add a note to the key/legend advising to refer to approved landscaping plan for landscaping requirements within the vegetation planting buffer.
 - e) Provide vehicle crossover envelopes for vehicle access to each lot.
 - f) Delete the text relating to the assumed removal of easement E-1.
 - g) Add a restriction to provide for the following:
 - i. No buildings or works may be carried out outside the area denoted as the building envelope without further consent from the Responsible Authority.
 - ii. No buildings may be constructed and no earthworks other than required for landscaping may be undertaken within the vegetation planting buffer.
 - iii. Landscaping within the vegetation planting buffer must be in accordance with the approved landscape plan.
 - iv. Fencing must not be constructed within the vegetation planting buffer area or within 10 metres of the Wattletree Road boundary or within 5 metres of the Nash Road boundary and fencing adjacent to these roads must meet the following requirements:
 1. The fence must have a gap of at least 10cm between the ground and the first strand/rail or bottom of the fence;
 2. The fence must be of permeable design and construction;
 3. The posts must be spaced at least 20cm apart;
 4. At least 90% of the fence line must be open at ground level; and
 5. Barbed wire must not be used.

3. Before the plan of subdivision is certified, a detailed landscape plan for the vegetation planting buffer areas along Wattletree Road and Nash Road must be submitted to and approved by the Responsible Authority. The detailed landscape works plan must be prepared by a person suitably qualified or experienced in landscape design to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and one (1) copy must be provided in an approved electronic format (PDF and CAD). The plan must be show and include to the satisfaction of the Responsible Authority.
 - a. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - b. 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.
 - c. Landscaping and planting must be in accordance with the species (Lowland Forest EVC 16) and density of the Southern Brown Bandicoot Habitat Protection Strategy and Environmental Significance Overlay, prepared by Ecology Australia (14 July 2017) to the satisfaction of the Responsible Authority.
4. Before the plan of subdivision is certified, a detailed road reserve landscape plan must be submitted to and approved by the Responsible Authority. The detailed landscape works plan must be prepared by a person suitably qualified or experienced in landscape design to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and one (1) copy must be provided in an approved electronic format (PDF and CAD). The plan must be show and include to the satisfaction of the Responsible Authority:
 - a. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - b. A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant. Indigenous plant species must be used. Minimum installation size of 45L for street trees
 - c. The proposed road reservation widths and the treatment of interfaces with surrounding road reserves, including areas within the road reserves set aside for the retention of existing vegetation.
 - 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.All species selected must be to the satisfaction of the Responsible Authority.
5. Before the plan of subdivision is certified, the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the *Planning and Environment Act 1987*:
 - a) The landscaping as shown on the approved landscape plan for the vegetation planting buffers is to be maintained, including weed control, to the satisfaction of the Responsible Authority and any dead or diseased plants replaced as soon as practicable.
 - b) Any re-vegetation must be undertaken in accordance with the landscape plan approved under planning permit T140555 or as amended.
 - c) Fencing must not be constructed within the vegetation planting buffer area or within 10 metres of the Wattletree Road boundary or 5 metres of the Nash Road boundary and fencing adjacent to these roads must meet the following requirements:
 - i. The fence must have a gap of at least 10cm between the ground and the first strand/rail or bottom of the fence;
 - ii. The fence must be of permeable design and construction;
 - iii. The posts must be spaced at least 20cm apart;
 - iv. At least 90% of the fence line must be open at ground level; and

v. Barbed wire must not be used.

d) No buildings may be constructed and no earthworks other than required for landscaping may be undertaken within the vegetation planting buffer.

The owner must pay the reasonable costs of preparation, execution and registration of the agreement.

6. Before the plan of subdivision is certified, the owner must prepare and submit a waste management plan to the Responsible Authority, to the satisfaction of the Responsible Authority. The waste management plan must:

- a) Be prepared by a suitably qualified expert;
- b) Provide detail of the proposed arrangements for collection of waste for the proposed lots 13, 14, 15, 16, 17, 18 and 19; and
- c) Be consistent with relevant guidelines prepared by Cardinia Shire Council with respect to waste management for new residential developments.

7. The owner of the land must enter into an agreement with:

- a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

8. Before the submission and approval of detailed design construction plans (engineering plans) and the certification of the relevant plan of subdivision for each stage, a *functional layout plan* for the subdivision or stage of subdivision, generally in accordance with the standards nominated in the Cardinia Shire Council "Guidelines for the Development & Subdivision of Land", "Development Construction Specification" and the Water Sensitive Urban Design (WSUD) Guidelines, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority.

When approved, the *functional layout plan* will be endorsed and will then form part of the permit. Three copies of the *functional layout plan* must be drawn to a scale of 1:500 to acceptable drafting standards and an electronic copy (pdf) must be provided.

The *functional layout plan* must show:

- a) A fully dimensioned subdivision layout, including proposed street names, approximate lot areas, lot numbers and widths of street reservations,
- b) Topography and existing features, including contours for the subject land and any affected adjacent land,
- c) Identification by survey of all trees (or group of trees) existing on the subject land, including dead trees and those that overhang the subject land from adjoining land,
- d) Details of tree protection zones (TPZs) for all trees to be retained on the subject land,
- e) All trees proposed for removal from the subject land clearly designated,
- f) Typical cross-sections for each street type, dimensioning individual elements, services offsets and any other spatial requirements identified in the Development Plan,
- g) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls,

- h) The proposed minor drainage network and any spatial features requiring access,
- i) The major drainage system, including any watercourse, lake, wetland, sediment pond rain gardens, bio-infiltration system and/or piped elements showing preliminary sizing,
- j) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination,
- k) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for the construction and maintenance,
- l) A table of offsets for all utility services and street trees,
- m) Preliminary location of reserves for electrical kiosks and
- n) Traffic management plan showing sufficient notional (unmarked) on-street car parking spaces, at the rate of one space per lot, traffic control devices and large vehicle turning overlays.

Sites that are not adjacent to existing or approved infrastructure will be required to show the following information in addition to the above standard requirements:

- a) The relationship between the subject subdivision stage and surrounding land,
 - b) Proposed linkages to future streets, open space, regional path network and upstream drainage,
 - c) Works external to the subdivision, including both interim and ultimate access requirements,
 - d) Intersections with Category 1 roads showing interim and ultimate treatments,
 - e) Drainage and sewerage outfalls including any easements required over other property.
9. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
10. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
11. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.

Before Statement of Compliance

12. Prior to issue of a Statement of Compliance, the permit holder must:
- a) Design and construct Nash Road from the Nash Road / Wattletree Road intersection to the northern boundary of the site, including a fully sealed pavement with, 6.5m wide from back of kerb to edge of seal, kerb and channel, concrete footpath and associated underground drainage along the west side for the full frontage Nash Road of the site, in accordance with plans and specifications approved by and to the satisfaction of the Responsible Authority.
 - b) Design and construct Wattletree Road with kerb and channel, sealed road widening, concrete footpath and associated underground drainage for the full Wattletree Road frontage of the site, in accordance with plans and specifications approved by and to the satisfaction of the Responsible Authority.
 - c) Provide construct concrete vehicle crossings to service all lots to the satisfaction of the Responsible Authority and in accordance with any specifications as per Condition 2b.

- d) Provide appropriate driveway access and drainage connection points to all lots to the satisfaction of the Responsible Authority and in accordance with any specifications as per Condition 2b.
- e) Outfall drainage for the subdivision must be designed and constructed to a satisfactory point of discharge in accordance with plans and specifications approved by the Responsible Authority and Melbourne Water.
- f) All road and drainage infrastructure must be designed and constructed in accordance with plans and specifications approved by the Responsible Authority. The works must comply with the standards nominated in the Cardinia Shire Council “*Guidelines for the Development & Subdivision of Land*”, “*Development Construction Specification*” and the “*Water Sensitive Urban Design (WSUD) Guidelines*”.

13. Prior to issue of a Statement of Compliance, the building envelopes, vegetation planting buffers and fencing restrictions must be created as a restriction on the Plan of Subdivision submitted to the Responsible Authority for certification and lodged with the Titles Office for registration.

14. Prior to issue of a Statement of Compliance, the landscape works shown on the approved landscape plans must be carried out and completed to the satisfaction of the Responsible Authority or by agreement with the Responsible Authority, bond landscaping works incomplete at the completion of civil works. Payment can be made in the form of a cash bond or bank guarantee. Refer to the Cardinia Shire Council developer landscape guidelines (as amended from time to time) for bond calculation details.

Please note - At Practical Completion the outstanding landscape works bond will be released and only a landscape maintenance bond will be retained.

15. Prior to issue of a Statement of Compliance, bonding must be provided to the Responsible Authority to cover all landscaping works within the road reserve for a twenty-four (24) month maintenance period. Payment can be made in the form of a cash bond or bank guarantee. Refer to the Cardinia Shire Council developer landscape guidelines (as amended from time to time) for bond calculation details. A Certificate of Final Completion will be issued by the Responsible Authority and the bond released, less any moneys retained for imperfect works, following the satisfactory completion and satisfactory maintenance of the landscaping for a minimum of 24 months. Final completion will not be granted between 1 November and 31 March.

Please contact Council's Open Space Department in relation to the costs of the cash bond or bank guarantee.

16. Prior to issue of a Statement of Compliance, the applicant or owner of the land must pay to the Responsible Authority a cash payment equivalent to the value of 8 per cent of Net Developable Area of the land in lieu of the provision of land for Public Open Space in accordance with the Schedule to Clause 52.01 of the Cardinia Planning Scheme.

17. Before a statement of compliance is issued for the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:

- a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

18. Before the installation of trees to be planted within the road reserve, an inspection of the plant stock must be undertaken by Council's Landscape Development unit. Any trees deemed unsuitable must not be planted within the streetscape.

19. The permit holder must notify Council's Landscape Development unit a minimum of seven (7) days before commencing street tree planting and landscaping within the road reserve so that surveillance of the works can be undertaken.
20. The landscaping shown on the endorsed landscape plans must be maintained to the satisfaction of the Responsible Authority for a minimum of 24 months from the date of practical completion of the landscaping. All maintenance activities are to be undertaken until a Certificate of Final Completion is issued by the Responsible Authority. During this period:
- any dead, diseased or damaged plants or landscaped areas must be repaired or replaced except for within the final 12 months of the maintenance period whereby trees must not be replaced. In accordance with the Cardinia Shire Council developer landscape guidelines (as amended from time to time) funds will be retained from the landscape maintenance bond for the works to be undertaken by Council following issuing of final completion.; and
 - the Responsible Authority may direct maintenance activities to be undertaken.
- The direction to undertake maintenance activities must be completed within 14 days of the written notification being received from the Responsible Authority.
21. Lighting of streets and pedestrian/cycle paths must be designed and provided (prior to the issue of a Statement of Compliance for the relevant stage) in accordance with Australian Standard 1158.1 to the satisfaction of the Responsible Authority.
22. At least 14 days before any works start, a site specific Construction Environmental Management Plan (CEMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the CEMP will be endorsed and will then form part of the permit. All works must be undertaken in accordance with the approved CEMP.
- The CEMP must address all environmental risks and include:
- Temporary stormwater management including sedimentation control;
 - Provision of pollution and contamination controls including noise and dust;
 - Location of stockpiles and stockpile management;
 - Location of site office and facilities;
 - Equipment, materials and goods management; and
 - Tree protection zones, trees to be retained and trees to be removed.
23. No fill or excavated material for or from this development is to be carted/hailed into or from the site without first obtaining the further written consent from Council's Engineering Department at least seven (7) days prior to the cartage/haulage works commencing to the satisfaction of the Responsible Authority.
24. All roads used for the purpose of haulage of imported or exported materials for construction must be:
- Approved in writing by the Responsible Authority for the submitted haulage strategy, at least seven days prior to the commencement of use,
 - Maintained in accordance with the Responsible Authority's maintenance intervention levels, or as requested by the Responsible Authority if the road deteriorates during the haulage period, and
 - Reinstated to the satisfaction of the Responsible Authority.
25. Erosion must be controlled during construction in accordance with the Environment Protection Authority Guideline TG208/90 (as amended) or in accordance with such guideline, policy or role that replaces TG 208/90.

26. Before a certificate of practical completion is issued, “as constructed” digital road and drainage information in AutoCAD format with all Xrefs binded into the drawings and showing any amendments during construction, must be submitted for all civil works where Council is the Responsibility Authority.
27. Before a certificate of practical completion is issued, CCTV results for the full length of all stormwater drainage pipes where Council is the Responsible Authority, must be submitted for assessment. The submitted information is to be to the satisfaction of the Responsible Authority.
28. Before the responsibility for the future care and maintenance of the works is transferred to Council, the developer must provide to the Responsible Authority:
- a) Survey enhanced “as constructed” GIS data for the drainage, road and footpath information components of the subdivision, in accordance with the current version of D-SPEC and R-SPEC. Council’s preferred format for the submission of the graphical data is in “MapInfo Native Format”. A secondary format is “MapInfo MID/MIF”. Grid Co-ordinates must be MGA zone 55 (GDA 94). Please refer to the A-SPEC website for further information: www.dspeg.com.au.

Sketches of the details of the permanent survey marks.

Department of Environment, Land, Water and Planning Conditions:

29. 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.
30. 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; and
 - c) No entry and exit pits for underground services are to be constructed.
31. In order to offset the removal of 0.172 hectares of native vegetation and 8 scattered trees, with a total extent of 0.735 hectares 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 0.035 general biodiversity equivalence units be located within the Port Phillip and Westernport Catchment Management Authority boundary or Cardinia municipal district have a strategic biodiversity score of at least 0.136.
32. 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

33. A suitably qualified wildlife handler is to be present when felling trees, to ensure all affected wildlife is not harmed, and is removed from the subject land to an appropriate relocation site or relocated onsite to an appropriate location away from the construction footprint.

CFA Conditions:

34. Prior to the issue of a Statement of Compliance under the *Subdivision Act 1988* the following requirements must be met to the satisfaction of the CFA:

- a) Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
- b) The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority

Note – CFA’s requirements for identification of hydrants are specified in ‘Identification of Street Hydrants for Firefighting Purposes’ available under publications on the CFA web site (www.cfa.vic.gov.au)

35. Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.

36. The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 meters. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.

APA Group Conditions:

37. Easements in favour of “Australian Gas Networks (VIC) Pty Ltd” must be created on the plan to the satisfaction of APT.

38. The plan of subdivision submitted for certification must be referred to APT O&M Services Pty Ltd, in accordance with Section 8 of the *Subdivision Act 1988*.

AusNet Services Conditions:

39. The Plan of Subdivision submitted for certification must be referred to AUSNET ELECTRICITY SERVICES PTY LTD in accordance with Section 8 of the *Subdivision Act 1988*.

40. The applicant must –

- a) Enter in an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for supply of electricity to each lot on the endorsed plan.
- b) Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for the rearrangement of the existing electricity supply system.
- c) Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by AUSNET ELECTRICITY SERVICES PTY LTD.
- d) Provide easements satisfactory to AUSNET ELECTRICITY SERVICES PTY LTD for the purpose of “Power Line” in the favour of “AUSNET ELECTRICITY SERVICES PTY LTD” pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing AUSNET ELECTRICITY SERVICES PTY LTD electric

- power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
- e) Obtain for the use of AUSNET ELECTRICITY SERVICES PTY LTD any other easement required to service the lots.
 - f) Adjust the position of any existing AUSNET ELECTRICITY SERVICES PTY LTD easement to accord with the position of the electricity line(s) as determined by survey.
 - g) Set aside on the plan of subdivision Reserves for the use of AUSNET ELECTRICITY SERVICES PTY LTD for electric substations.
 - h) Provide survey plans for any electric substations required by AUSNET ELECTRICITY SERVICES PTY LTD and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. AUSNET ELECTRICITY SERVICES PTY LTD requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
 - i) Provide to AUSNET ELECTRICITY SERVICES PTY LTD a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.
 - j) Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by AUSNET ELECTRICITY SERVICES PTY LTD. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998.
 - k) Ensure that all necessary auditing is completed to the satisfaction of AUSNET ELECTRICITY SERVICES PTY LTD to allow the new network assets to be safely connected to the distribution network.

Melbourne Water conditions:

- 41. Prior to the commencement of works the owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
- 42. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.
- 43. Prior to commencement of any works or certification of any stage detailed engineering drawings and a concise report must be submitted to Melbourne Water and Council, demonstrating the proposed alignment for the 1 in 5 year drainage infrastructure and the overland flow paths directions for the 1 in 100 year ARI flood event. The report must include details of any temporary outfall arrangements and relevant storage calculations. Approvals from any affected downstream landowners must also be submitted.
- 44. Engineering plans of the subdivision (in electronic format) are to be forwarded to Melbourne Water for comment/approval.
- 45. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water's Land Development Manual.
- 46. All local drainage must be to Council's satisfaction.
- 47. All new lots must achieve appropriate freeboard in relation to local overland flow paths to Council's satisfaction.

48. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the *Subdivision Act 1988*.

South East Water Conditions:

49. The owner of the subject land must enter into an agreement with South East Water for the provision of potable water supply and fulfil all requirements to its satisfaction.

50. The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.

51. Prior to certification, the Plan of Subdivision must be referred to South East Water, in accordance with Section 8 of the *Subdivision Act 1988*.

Permit Expiry

This permit will expire if:

- a) The subdivision is not commenced within **two (2) years** of the date of this permit; or
- b) The subdivision is not completed within **five (5) years** of the date of commencement.

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*.

(Note: The starting of the subdivision is regarded by Section 68(3A) of the *Planning and Environment Act 1987* as the certification of a plan, and completion is regarded as the registration of the plan.)

Department of Environment, Land, Water and Planning Notes:

Prior to the commencement of works, a Protected Flora Permit must be obtained from DELWP to remove protected flora during road widening works. Please contact Sue Hadden on 9450 8746 for further information.

Melbourne Water Notes:

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 249067.

AusNet Services Notes:

It is recommended that, at an early date the applicant commences negotiations with AUSNET ELECTRICITY SERVICES PTY LTD for a supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay (the release to the municipality enabling a Statement of Compliance with the conditions to be issued).

Arrangements for the supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing.

Prospective purchasers of lots on this plan should contact this office to determine the availability of a supply of electricity. Financial contributions may be required.

South East Water Notes:

The owner of the subject land is required to obtain a 'Notice of Agreement' from South East Water. All requirements must be fulfilled to its satisfaction prior to South East Water consenting to the issuing of a Statement of Compliance.

The following South East Water agreement options are available:

- 1) Application to enter into a Development Agreement-Works – If South East Water reticulated sewer/water/recycled water (as applicable) is required to be extended to service lots within the development

- 2) Application For Notice of Agreement Subdivision-Non Works – If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner only requires Statement of Compliance to release the titles (i.e. subdivision prior to building)
- 3) Plumbing Industrial, Commercial, Units & Private Water application – If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner wishes to commence construction of the building/s (i.e. building prior to subdivision)

To lodge an application please visit our website: www.southeastwater.com.au.

Cd.

4 NINE (9) LOT SUBDIVISION AT 94 WATTLETRE ROAD, BUNYIP

FILE REFERENCE INT1764307

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Vageesha Wellalage

RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T160771 be issued for Subdivision of the land in to nine (9) lots at 94 Wattletree Road, Bunyip subject to the conditions attached to this report.

Attachments

1	Locality plan	1 Page
2	Subdivision plan	4 Pages
3	Copies of objections circulated to councillors only	16 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T160771
APPLICANT:	JW Planning Services
LAND:	94 Wattletree Road, Bunyip VIC 3815
PROPOSAL:	Subdivision of the land in to nine (9) lots
PLANNING CONTROLS:	Low Density Residential Zone Design and Development Overlay Schedule 1 Vegetation Protection Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	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.
KEY PLANNING CONSIDERATIONS:	Appropriateness of the subdivision within the area Bunyip Township Strategy
RECOMMENDATION:	Approval

BACKGROUND:

A previous planning permit application, T140204 was made to Council for a nine (9) lot subdivision, however, the proposal was deemed prohibited due to the proposed lot sizes couldn't meet the minimum lot size specified in Low Density Residential Zone at the time.

SUBJECT SITE:



The site is located on the southern side of Wattle Tree Road Bunyip.

A crossover is located northern alignment of the site and there are no easements on the property. The topography of the land is relatively flat.

The site currently contains an existing dwelling and an outbuilding.

The main characteristics of the surrounding area are:

- North Wattle Tree Road is located on the northern side of the property
- South The property towards the southern side of the land has been developed for residential purposes and contains a dwelling
- East for The property towards the eastern side of the subject site is developed for residential purposes and contains a dwelling
- West Chambers Road is located on the western side of the subject site.

PROPOSAL:

The proposal is for a subdivision of the subject property into nine (9) lots. The lots are ranging between the 2000 square metres to 3137 square metres. Five out of nine lots will be orientated towards Wattle Tree Road and with four lots are battle axe allotments with frontages to the road being 4 metres wide, all other lots are rectangular lots with frontages to the road between 30.59m and 35.80m.

Access to the front lots will be provided via future crossovers to Wattle Tree Road and access to the back lots is proposed to be provided via four separate carriageway easements which is approximately 4 metres in width.

All the lots have been provided with a building envelope. Lots 4,5,6 and 9 have been provided with a 10 metres front setback and 5 metres side and rear setbacks. Lot 1 has been provided with a 10

metre front and side setback from the western boundary (Chambers Road) and 5 metres setback from other boundaries. Lot 2 has also been provided with a setback of 10 metres from the Chambers Road and 5 metre setback from the remaining boundaries, and Lots 3,7 and 8 have been provided with 5 metres setback from all property boundaries. The proposal does not involve any vegetation removal or earthworks.

PLANNING SCHEME PROVISIONS:

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 12.04-1 Environmentally sensitive areas
- Clause 12.04-2 Landscapes
- Clause 16.02-1 Rural residential development

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.07-6 Bunyip
- Clause 21.08-2 Townships
- Clause 21.09-1 Environment

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 56 – Residential Subdivision
- Clause 65 – The Decision Guidelines
- Clause 66 – Referral and Notice Provisions

Zone

The land is subject to the Low Density Residential Zone Schedule 3

Overlays

The land is subject to the following overlays:

- Design and Development Overlay Schedule 1
- Vegetation Protection Overlay Schedule 1

PLANNING PERMIT TRIGGERS

The proposal for Subdivision of land into nine (9) lots requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.03-3 of Low Density Residential Zone Schedule 3, a permit is required for the subdivision of land.
- Pursuant to Clause 42.01-2 of Environmental Significance Overlay, a permit is required for subdivision.

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

Council has received 10 objections to date.

The key issues that were raised in the objections are:

- The proposed lot densities are not consistent with the development pattern and rural context of the area.
- Increase in traffic
- Stormwater and wastewater management

REFERRALS

Ausnet Services

The application was referred to *Ausnet Services* as a statutory referral. *Ausnet Services* had no objection to the proposal subject to conditions

APA Group

The application was referred to *APA Group* as a statutory referral. *APA Group* had no objection to the proposal and no conditions.

Melbourne Water

The application was referred to *Melbourne Water* as a statutory referral. *Melbourne Water* had no objection to the proposal subject to conditions.

South East Water

The application was referred to *South East Water* as a statutory referral. *South East Water* had no objection to the proposal subject to conditions.

DISCUSSION

State and Local Planning Policy Framework

The proposed subdivision addresses a number of key State Planning Policy Frameworks including the supply and diversity of residential development, urban, neighbourhood and subdivision design and protecting the biodiversity of the area. These frameworks set out to accommodate a level of change that is appropriate for this area given the current neighbourhood character and patterns of residential subdivision of this area of Bunyip.

Low Density Residential Zone– Schedule 3

The key purpose of this zone is to provide for low-density development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater. A planning permit is required for the proposal under this zone to subdivide land. The property has been re-zoned through amendment C188 to Low Density Residential Zone Schedule 3 which allows a minimum lot size of 2000 square metres provided lots are connected to reticulated sewerage. This subdivision is consistent with the zone as it meets the requirements set out in this zone for subdivisions as it meets the minimum size for a subdivision under the zone (2000sqm) and the plans have provided a building envelope.

Although the subdivision is consistent with the lot sizes allowed by the zone, Council officers have concerns in relation to the proposed four carriageway easements to service the battle-axe allotments. Council Officers suggest (through a condition one amended plan condition) that the plans to be amended to reduce the number of crossover by the access driveways to the rear lots (Lots 2,3,7 & 8) are created as carriageway easements through the front lots (1, 4, 6 & 9) and the driveways to branch out from a single crossover. This would minimise the number of crossovers to Wattletree Road and be consistent with the existing development pattern along Wattletree Road.

Council's Engineering Department has requested a minimum 3m x 3m splay for road widening purposes at the intersection of Wattletree Road and Chambers Road and this will be requested as a condition on the permit.

Design and Development Overlay – Schedule 1 (DDO1)

The Design and Development Overlay – Schedule 1 relates to low-density residential development and aims to ensure that the design and location of buildings create an attractive low density environment and has regard to the environmental features and constraints of the land.

The decision guidelines of this overlay cover a number of matters, including the protection and enhancement of the natural environment and character of the area and the impact of proposed buildings and works on the landscape character of the area.

Pursuant to Clause 43.02-3 a permit is required to subdivide land. The proposed subdivision is consistent with the requirements of this overlay as a building envelope has been included as part of this application and if at a later date any buildings or works are commenced on this site, they will have to be carried out in accordance with the building envelopes and other restrictions set out by the Responsible Authority.

Overall the proposed subdivision is consistent with this overlay as the proposal responds to the objectives to this overlay by minimising the need to remove or negatively impact on significant existing vegetation, through the proposed siting of the building and waste envelopes on the site and through the use of appropriate setbacks from any roads, neighbouring properties, protected vegetation and waterways.

Vegetation Protection Overlay – Schedule 1 (VPO1)

The Environmental Significance Overlay – Schedule 1 recognises and seeks to conserve and protect areas with significant vegetation. It ensures the minimisation of vegetation loss and preserves existing trees and other vegetation, recognises areas of special significance, natural beauty, interest and importance. This overlay also seeks to maintain and protect habitat corridors for indigenous fauna through the protection and regeneration of native vegetation.

The decision guidelines of this overlay cover a number of matters including the effects of the proposed use, building, works or in this case subdivision on the nature and type of vegetation protected under this overlay, as well as the role of native vegetation in conserving flora and fauna.

The main objective being to minimise any adverse effects on the environment including, biodiversity, ground water, soil erosion and waterways of areas included in the overlay.

The site is mostly clear of vegetation however, it has been recognised that the proposed subdivision and the building envelopes of proposed Lot 1 and 2 will have some impact on the trees located within this area and along Chambers Road. The Arborist report provided by the applicant has assessed the trees relevant that could be impacted by the future development of Lots 1 and 2. As per Council's Environment Department's recommendation, the proposed building envelope for proposed Lot 1 must have a minimum of 5.1 metres from the western boundary and proposed Lot 2 must have a minimum setback of 2.5 metres from the western boundary. Both lots 1 and 2 have been provided with a 10 metre setback from the western boundary.

Bunyip Township Strategy

The Bunyip Township Strategy 2009 was incorporated into the planning scheme by Amendment C124 on 14 June 2012. The subject property is located within Precinct 3 Low Density Residential area which states '*The rural character of Bunyip's low density residential areas will be maintained and enhanced through the retention of existing indigenous trees and vegetation, the provision of very large allotments with wide frontages and considerable garden areas. New developments will be designed and constructed to a high standard.*'

The strategy allows for consideration of a 10m landscaped buffer instead of continuing with the nominal road width where appropriate. Council is also in the process of completing a study in relation to Southern Brown Bandicoots and the 10 metre landscaping buffer will aid in achieving the Bandicoot corridor within the area. As such, a condition will be placed on the permit to ensure that a 10 landscape buffer is provided for Lots 1,4, 6 and 9 which are fronting Wattle tree Road. In addition to that Council suggests that the building envelopes of these lots to have a minimum of 5 metre setback from the edge of the landscape buffer to be consistent with the front setbacks of the adjoining properties.

A landscaping plan will also be required prior to the plans being certified to ensure the preferred landscaping outcome in accordance with the Bandicoot study is achieved. Once approved, the landscaping plan will be incorporated in to a Section 173 agreement which will be transferred to each and individual lots within the subdivision to be completed prior to the occupation of future dwelling of these lots.

Objector's concerns

Proposed higher density and impact on rural character and lifestyle

The main concerns raised in number of objections are related to the reduced Lot size of 2000 square metres. However, the property has been re-zoned through amendment C188 which considered the impact of the amendment on the affected residents in the area at this time. The minimum lot size allowed by the schedule 3 to the zone is 2000 square metres and the proposed subdivision is consistent with this requirement.

Increase in traffic

The subdivision proposes to create 9 lots, as such these allotments in time will be developed with nine residential dwellings. Therefore, it is unlikely that the residential use of the proposed allotments will create large amount of traffic. Wattle tree Road is a local road managed by Council. It is Council's opinion that the Wattle tree Road has the capacity to hold the additional vehicles.

Drainage and Sewerage

Matters in relation to drainage and sewerage will be achieved through conditions on the permit.

CONCLUSION

Having regard to the above, the proposal is consistent with the State and Local Planning Policy Framework, the Zone and relevant Overlay controls and Clause 56 of the Cardinia Planning Scheme. It is therefore recommended that a Notice of Decision to Grant Planning Permit T160771 be issued for Subdivision of the land in to nine (9) lots at 94 Wattletree Road, Bunyip subject to the following conditions.

CONDITIONS

1. Prior to certification, 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 must be generally in accordance with the plans submitted with the application but modified to show:
 - a. A 10m landscape buffer within the front setback of Lots 1,4,6 and 9 and have building envelopes a minimum of 5m back off the landscape buffer to be consistent with the character of the area.
 - b. Building envelopes for each of the lots. The building envelopes for the Lots 1, 4, 6, 9 must be consistent with the setback requirement of point (a) above and Lots 1 and 2 must have a 10 metre setback from the western boundary.
 - c. Restriction to state the following:
 - No buildings or works must be carried out outside the area denoted as building envelope without further consent from the Responsible Authority.
 - No buildings may be constructed and no earthworks other than required for landscaping may be undertaken within the landscape buffer.
 - d. Reduced number of crossovers. As per the current plans, a total of nine (9) separate crossovers are proposed to be created from Wattletree Road. Council suggest that the access driveways to the rear lots (Lots 2,3,7 & 8) are created as carriageway easements through the front lots (1, 4, 6 & 9) and the driveways to branch out from a single crossover.
 - e. A minimum 3m x 3m splay for road widening purposes at the intersection of Wattletree Road and Chambers Road.
 - f. A landscape plan for the landscape buffer area 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. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and show the following:
 - i. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - ii. 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.

All species selected must be to the satisfaction of the Responsible Authority and consistent with Section 10.2.2 of the Southern Brown Bandicoot Habitat Protection Strategy and Environmental Significance Overlay (2016).

- g. The owner must enter into an agreement with the Responsible Authority made pursuant to section 173 of the Planning and Environment Act 1987, and make the application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act, which provides that:
- i. Fencing must not be constructed within the landscape buffer area or within 10 metres of the Wattletree Road boundary and must meet the following requirements:
 - The fence must have a gap of at least 10cm between the ground and the first strand/rail or bottom of the fence;
 - The fence must be permeable;
 - The posts are spaced at least 20cm apart;
 - At least 90% of the fence line must be open at ground level; and
 - Barbed wire must not be used.
 - ii. Landscaped areas within the landscape buffer are to be maintained to the satisfaction of the Responsible Authority and any dead or diseased plants replaced as soon as practicable.
 - iii. No buildings may be constructed and no earthworks other than required for landscaping or to create a single accessway may be undertaken within the landscape buffer.

The owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 agreement.

2. Prior to Statement of Compliance being issued, the following must be completed:
 - a) Building envelope and landscape buffer must be created as a restriction on the Plan of Subdivision submitted to the Responsible Authority for certification and lodged with the Titles Office for registration.
 - b) The landscaping as shown on the approved landscape plan must be completed prior to the issue of a statement of compliance approved by Planning Permit T160771.
3. The layout of the subdivision as shown on the endorsed plans must not be altered unless with the written consent of the Responsible Authority.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
5. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
6. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
7. The owner of the land must enter into an agreement with:

- a. A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - b. a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
8. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
- a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
9. Prior to the issue of a Statement of Compliance the following road and drainage works must be constructed in accordance with plans submitted to and approved by the responsible authority:
- a) Construction of kerb and channel on the south side of Wattletree Road extending across the full Wattletree Road frontage of the site.
 - b) Road widening as required on the south side of Wattletree Road for the full Wattletree Road frontage of the site.
 - c) Construction of residential standard concrete vehicle crossings to service all lots.
 - d) Provision of property drainage connection points to service all lots.
10. Before the submission and approval of detailed design construction plans (engineering plans) and the certification of the relevant plan of subdivision for each stage, a *functional layout plan* for the subdivision or stage of subdivision, generally in accordance with the standards nominated in the Cardinia Shire Council "Guidelines for the Development & Subdivision of Land", "Development Construction Specification" and the Water Sensitive Urban Design (WSUD) Guidelines, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority.

When approved, the *functional layout plan* will be endorsed and will then form part of the permit. Three copies of the *functional layout plan* must be drawn to a scale of 1:500 to acceptable drafting standards and an electronic copy (pdf) must be provided.

The *functional layout plan* must show:

- a. A fully dimensioned subdivision layout, including proposed street names, approximate lot areas, lot numbers and widths of street reservations,
- b. Topography and existing features, including contours for the subject land and any affected adjacent land,

- c. Identification by survey of all trees (or group of trees) existing on the subject land, including dead trees and those that overhang the subject land from adjoining land,
- d. Details of tree protection zones (TPZs) for all trees to be retained on the subject land,
- e. All trees proposed for removal from the subject land clearly designated,
- f. Typical cross-sections for each street type, dimensioning individual elements, services offsets and any other spatial requirements identified in the Development Plan,
- g. Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls,
- h. The proposed minor drainage network and any spatial features requiring access,
- i. The major drainage system, including any watercourse, lake, wetland, sediment pond rain gardens, bio-infiltration system and/or piped elements showing preliminary sizing,
- j. Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination,
- k. Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for the construction and maintenance,
- l. A table of offsets for all utility services and street trees,
- m. Preliminary location of reserves for electrical kiosks and
- n. Traffic management plan showing sufficient notional (unmarked) on-street car parking spaces, at the rate of one space per lot, traffic control devices and large vehicle turning overlays.

Sites that are not adjacent to existing or approved infrastructure will be required to show the following information in addition to the above standard requirements:

- o. The relationship between the subject subdivision stage and surrounding land,
 - p. Proposed linkages to future streets, open space, regional path network and upstream drainage,
 - q. Works external to the subdivision, including both interim and ultimate access requirements,
 - r. Intersections with Category 1 roads showing interim and ultimate treatments,
 - s. Drainage and sewerage outfalls including any easements required over other property
11. At least 14 days before any works start, a site specific Construction Environmental Management Plan (CEMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the CEMP will be endorsed and will then form part of the permit. All works must be undertaken in accordance with the approved CEMP.
- The CEMP must address all environmental risks and include:
- a. Temporary stormwater management including sedimentation control,
 - b. Provision of pollution and contamination controls including noise and dust,
 - c. Location of stockpiles and stockpile management,
 - d. Location of site office and facilities
 - e. Equipment, materials and goods management.
 - f. Tree protection zones, trees to be retained and trees to be removed
12. All roads used for the purpose of haulage of imported or exported materials for construction must be:
- a. Approved in writing by the Responsible Authority for the submitted haulage strategy, at least seven days prior to the commencement of use,
 - b. Maintained in accordance with the Responsible Authority's maintenance intervention levels, or as requested by the Responsible Authority if the road deteriorates during the haulage period, and

- c. Reinstated to the satisfaction of the Responsible Authority.
13. Before a Statement of Compliance is issued, all services, including drainage and/or sewerage, servicing any existing dwelling or building on the lot(s), must be relocated (if required) to the satisfaction of the Responsible Authority, to ensure that they do not cross the boundaries between the proposed lots.
14. Before a Statement of Compliance is issued under the *Subdivision Act 1988* the permit holder must provide:
- a) Provide survey enhanced “as constructed” GIS data for the drainage, road and footpath information components of the subdivision, in accordance with the current version of D-SPEC and R-SPEC. Council’s preferred format for the submission of the graphical data is in “MapInfo Native Format”. A secondary format is “MapInfo MID/MIF”. Grid Co-ordinates must be MGA zone 55 (GDA 94). Please refer to the A-SPEC website for further information: www.a-specstandards.com.au
15. Before a certificate of practical completion is issued, “as constructed” digital road and drainage information in AutoCAD format with all Xrefs binded into the drawings and showing any amendments during construction, must be submitted for all civil works where Council is the Responsibility Authority.
16. Lighting of streets and pedestrian/cycle paths must be designed and provided (prior to the issue of a Statement of Compliance for the relevant stage) in accordance with Australian Standard 1158.1 to the satisfaction of the Responsible Authority.

South East Water

17. The owner of the subject land must enter into an agreement with South East Water for the provision of potable water supply and fulfil all requirements to its satisfaction.
18. The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.
19. The owner of the subject land can enter into an agreement with South East Water for the provision of separate services to each individual lot.

Ausnet Services

20. The applicant must –
- a) Enter into an agreement with AusNet Electricity Services Pty Ltd for the extension upgrading or rearrangement of the electricity supply to lots on the plan of subdivision. A payment to cover the cost of such work will be required.
- b) Provide electricity easements internal and external to the subdivision in favour of AusNet Electricity Services Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by AusNet Electricity Services Pty Ltd. The provision of reserves for electricity substations may also be required.

Melbourne Water

21. Prior to the issue of a Statement of Compliance, the owner's shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and stormwater from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
22. Prior to the issue of SOC of each Stage of Subdivision, engineering plans must be submitted to Melbourne Water for acceptance in an acceptable electronic format.
23. All new lots must achieve appropriate freeboard in relation to local overland flow paths to Council's satisfaction.

24. Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of overland flows to the satisfaction of the Responsible Authority and Melbourne Water.
25. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria either as outlined in Melbourne Water's Land Development Manual, or where appropriate to Council's requirements and standards.
26. Local drainage must be to the satisfaction of Council.
27. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.
28. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.

Expiry of the permit

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

- a. The subdivision is not started within **two (2) years** of the date of this permit.
- b. The subdivision is not completed within **five (5) years** of the date of this permit.

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*.

(Note: The starting of the subdivision is regarded by Section 68(3A) of the *Planning and Environment Act 1987* as the certification of a plan, and completion is regarded as the registration of the plan.)

4 NINE (9) LOT SUBDIVISION AT 94 WATTLETRE ROAD, BUNYIP

Moved Cr R Brown Seconded Cr C Ross

That a Notice of Decision to Grant Planning Permit T160771 be issued for Subdivision of the land in to nine (9) lots at 94 Wattletree Road, Bunyip subject to the following conditions:

1. Prior to certification, 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 must be generally in accordance with the plans submitted with the application but modified to show:
 - a. A 10m landscape buffer within the front setback of Lots 1,4,6 and 9 and have building envelopes a minimum of 5m back off the landscape buffer to be consistent with the character of the area.
 - b. Building envelopes for each of the lots. The building envelopes for the Lots 1, 4, 6, 9 must be consistent with the setback requirement of point (a) above and Lots 1 and 2 must have a 10 metre setback from the western boundary.
 - c. Restriction to state the following:
 - No buildings or works must be carried out outside the area denoted as building envelope without further consent from the Responsible Authority.
 - No buildings may be constructed and no earthworks other than required for landscaping may be undertaken within the landscape buffer.
 - d. Reduced number of crossovers. As per the current plans, a total of nine (9) separate crossovers are proposed to be created from Wattletree Road. Council suggest that the access driveways to the rear lots (Lots 2,3,7 & 8) are created as carriageway easements through the front lots (1, 4, 6 & 9) and the driveways to branch out from a single crossover.
 - e. A minimum 3m x 3m splay for road widening purposes at the intersection of Wattletree Road and Chambers Road.
 - f. A landscape plan for the landscape buffer area 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. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and show the following:
 - i. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - ii. 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.All species selected must be to the satisfaction of the Responsible Authority and consistent with Section 10.2.2 of the Southern Brown Bandicoot Habitat Protection Strategy and Environmental Significance Overlay (2016).
 - g. The owner must enter into an agreement with the Responsible Authority made pursuant to section 173 of the Planning and Environment Act 1987, and make the

application to the Registrar of Titles to have the agreement registered on the title to the land under Section 181 of the Act, which provides that:

- i. Fencing must not be constructed within the landscape buffer area or within 10 metres of the Wattletree Road boundary and must meet the following requirements:
 - The fence must have a gap of at least 10cm between the ground and the first strand/rail or bottom of the fence;
 - The fence must be permeable;
 - The posts are spaced at least 20cm apart;
 - At least 90% of the fence line must be open at ground level; and
 - Barbed wire must not be used.
- ii. Landscaped areas within the landscape buffer are to be maintained to the satisfaction of the Responsible Authority and any dead or diseased plants replaced as soon as practicable.
- iii. No buildings may be constructed and no earthworks other than required for landscaping or to create a single accessway may be undertaken within the landscape buffer.

The owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 agreement.

2. Prior to Statement of Compliance being issued, the following must be completed:
 - a) Building envelope and landscape buffer must be created as a restriction on the Plan of Subdivision submitted to the Responsible Authority for certification and lodged with the Titles Office for registration.
 - b) The landscaping as shown on the approved landscape plan must be completed prior to the issue of a statement of compliance approved by Planning Permit T160771.
3. The layout of the subdivision as shown on the endorsed plans must not be altered unless with the written consent of the Responsible Authority.
4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
5. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
6. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
7. The owner of the land must enter into an agreement with:
 - a. A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and

- b. a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
8. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
 - a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
9. Prior to the issue of a Statement of Compliance the following road and drainage works must be constructed in accordance with plans submitted to and approved by the responsible authority:
 - a) Construction of kerb and channel on the south side of Wattletree Road extending across the full Wattletree Road frontage of the site.
 - b) Road widening as required on the south side of Wattletree Road for the full Wattletree Road frontage of the site.
 - c) Construction of residential standard concrete vehicle crossings to service all lots.
 - d) Provision of property drainage connection points to service all lots.
10. Before the submission and approval of detailed design construction plans (engineering plans) and the certification of the relevant plan of subdivision for each stage, a *functional layout plan* for the subdivision or stage of subdivision, generally in accordance with the standards nominated in the Cardinia Shire Council "Guidelines for the Development & Subdivision of Land", "Development Construction Specification" and the Water Sensitive Urban Design (WSUD) Guidelines, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority.

When approved, the *functional layout plan* will be endorsed and will then form part of the permit. Three copies of the *functional layout plan* must be drawn to a scale of 1:500 to acceptable drafting standards and an electronic copy (pdf) must be provided.

The *functional layout plan* must show:

- a. A fully dimensioned subdivision layout, including proposed street names, approximate lot areas, lot numbers and widths of street reservations,
- b. Topography and existing features, including contours for the subject land and any affected adjacent land,
- c. Identification by survey of all trees (or group of trees) existing on the subject land, including dead trees and those that overhang the subject land from adjoining land,
- d. Details of tree protection zones (TPZs) for all trees to be retained on the subject land,
- e. All trees proposed for removal from the subject land clearly designated,
- f. Typical cross-sections for each street type, dimensioning individual elements, services offsets and any other spatial requirements identified in the Development Plan,

- g. Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls,
- h. The proposed minor drainage network and any spatial features requiring access,
- i. The major drainage system, including any watercourse, lake, wetland, sediment pond rain gardens, bio-infiltration system and/or piped elements showing preliminary sizing,
- j. Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination,
- k. Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for the construction and maintenance,
- l. A table of offsets for all utility services and street trees,
- m. Preliminary location of reserves for electrical kiosks and
- n. Traffic management plan showing sufficient notional (unmarked) on-street car parking spaces, at the rate of one space per lot, traffic control devices and large vehicle turning overlays.

Sites that are not adjacent to existing or approved infrastructure will be required to show the following information in addition to the above standard requirements:

- o. The relationship between the subject subdivision stage and surrounding land,
 - p. Proposed linkages to future streets, open space, regional path network and upstream drainage,
 - q. Works external to the subdivision, including both interim and ultimate access requirements,
 - r. Intersections with Category 1 roads showing interim and ultimate treatments,
 - s. Drainage and sewerage outfalls including any easements required over other property
11. At least 14 days before any works start, a site specific Construction Environmental Management Plan (CEMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the CEMP will be endorsed and will then form part of the permit. All works must be undertaken in accordance with the approved CEMP.

The CEMP must address all environmental risks and include:

- a. Temporary stormwater management including sedimentation control,
- b. Provision of pollution and contamination controls including noise and dust,
- c. Location of stockpiles and stockpile management,
- d. Location of site office and facilities
- e. Equipment, materials and goods management.
- f. Tree protection zones, trees to be retained and trees to be removed

12. All roads used for the purpose of haulage of imported or exported materials for construction must be:

- a. Approved in writing by the Responsible Authority for the submitted haulage strategy, at least seven days prior to the commencement of use,
- b. Maintained in accordance with the Responsible Authority's maintenance intervention levels, or as requested by the Responsible Authority if the road deteriorates during the haulage period, and
- c. Reinstated to the satisfaction of the Responsible Authority.

13. Before a Statement of Compliance is issued, all services, including drainage and/or sewerage, servicing any existing dwelling or building on the lot(s), must be relocated (if required) to the satisfaction of the Responsible Authority, to ensure that they do not cross the boundaries between the proposed lots.

14. Before a Statement of Compliance is issued under the *Subdivision Act 1988* the permit holder must provide:

- a) Provide survey enhanced “as constructed” GIS data for the drainage, road and footpath information components of the subdivision, in accordance with the current version of D-SPEC and R-SPEC. Council’s preferred format for the submission of the graphical data is in “MapInfo Native Format”. A secondary format is “MapInfo MID/MIF”. Grid Co-ordinates must be MGA zone 55 (GDA 94). Please refer to the A-SPEC website for further information: www.a-specstandards.com.au
15. Before a certificate of practical completion is issued, “as constructed” digital road and drainage information in AutoCAD format with all Xrefs binded into the drawings and showing any amendments during construction, must be submitted for all civil works where Council is the Responsibility Authority.
16. Lighting of streets and pedestrian/cycle paths must be designed and provided (prior to the issue of a Statement of Compliance for the relevant stage) in accordance with Australian Standard 1158.1 to the satisfaction of the Responsible Authority.

South East Water

17. The owner of the subject land must enter into an agreement with South East Water for the provision of potable water supply and fulfil all requirements to its satisfaction.
18. The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.
19. The owner of the subject land can enter into an agreement with South East Water for the provision of separate services to each individual lot.

Ausnet Services

20. The applicant must –
 - a) Enter into an agreement with AusNet Electricity Services Pty Ltd for the extension upgrading or rearrangement of the electricity supply to lots on the plan of subdivision. A payment to cover the cost of such work will be required.
 - b) Provide electricity easements internal and external to the subdivision in favour of AusNet Electricity Services Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by AusNet Electricity Services Pty Ltd. The provision of reserves for electricity substations may also be required.

Melbourne Water

21. Prior to the issue of a Statement of Compliance, the owner's shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and stormwater from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
22. Prior to the issue of SOC of each Stage of Subdivision, engineering plans must be submitted to Melbourne Water for acceptance in an acceptable electronic format.
23. All new lots must achieve appropriate freeboard in relation to local overland flow paths to Council's satisfaction.
24. Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of overland flows to the satisfaction of the Responsible Authority and Melbourne Water.
25. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria either as outlined in Melbourne Water's Land Development Manual, or where appropriate to Council's requirements and standards.
26. Local drainage must be to the satisfaction of Council.

27. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

28. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.

Expiry of the permit

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

- a. The subdivision is not started within **two (2) years** of the date of this permit.
- b. The subdivision is not completed within **five (5) years** of the date of this permit.

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*.

(Note: The starting of the subdivision is regarded by Section 68(3A) of the *Planning and Environment Act 1987* as the certification of a plan, and completion is regarded as the registration of the plan.)

Cd.

Cr Graeme Moore returned to the Chamber at this stage having taken no part in the discussion or voting on Items 3 and 4.

5 NINETEEN (19) LOT SUBDIVISION AND VARIATION TO EASEMENT AT 65 MOODY STREET, KOO WEE RUP

FILE REFERENCE INT1764368

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Samantha Zimbler

RECOMMENDATION

That Planning Permit Application T160108 for the subdivision of land into nineteen (19) lots and variation of an easement at 65 Moody Street, Koo Wee Rup be supported at the VCAT Application for Review P897/2017 subject to the conditions attached to this report.

Attachments

1	Locality plan	1 Page
2	Subdivision plan	1 Page
3	Copies of objections circulated to councillors only	13 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T160108
APPLICANT:	Matt Fox
LAND:	65 Moody Street, Koo Wee Rup VIC 3981
PROPOSAL:	Subdivision of land into nineteen (19) lots and variation of an easement.
PLANNING CONTROLS:	Neighbourhood Residential Zone Schedule 1 Land Subject to Inundation Overlay Clause 52.02 Easements, Restrictions and Reserves Clause 56 Residential Subdivision
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by sending notices to adjoining land owners and occupiers and placing a sign on site. Six (6) objections from two properties have been received to date
KEY PLANNING CONSIDERATIONS:	Neighbourhood and township character, Impact on surrounding properties
RECOMMENDATION:	Notice of Decision to Grant a Permit

BACKGROUND:

The history of the site includes:

- Planning Permit T140275 was issued for Subdivision of land into two (2) lots, generally in accordance with the approved plans on 31 October 2014 with an extension of time granted on 24 November 2016.
- Planning Permit Application T150192 was lodged on 19 April 2015, further information was requested and not received as such the application lapsed on 15 July 2017.

The current application was lodged 22 February 2016 for a nineteen lot subdivision. Further information was requested in 22 March 2016 information provided on 8 September 2016. The application was notified to adjoining and adjacent properties through sending notices in September 2016. The application was delayed due to some enforcement issues including the removal of vegetation from the site.

An application for review with the Victorian Civil and Administrative Tribunal (VCAT) was lodged on 1 June 2017 for failure to determine the application within the statutory timeframe. The VCAT case is set to be heard on 18 October 2017.

SUBJECT SITE:

The site is located on the north west side of Moody Street approximately 290 metres south-west of Quinny Street in Koo Wee Rup, with north west boundary abutting Boundary Drain Road. The site is generally rectangular in shape with a frontage of 76.73 metres and depth of 227.5 metres with an overall area of 1.7 hectares.

The site is relatively flat. The site is burdened by a restrictive covenant restricting any quarrying operation from the site and is currently burdened by an easement along the north east boundary of the site.

The site is currently developed with a single dwelling and surrounding outbuildings in the south end of the site with remaining areas open grassland. The existing crossovers are located on the west side of the site.

The main characteristics of the surrounding area are:

- *North East:* The property to the north east is developed with a large single dwelling located in the southern portion of the site, open grazing land to the north west.
- *South West:* The property to the south west is developed with a single dwelling located in the southern portion of the site, open grazing land throughout the remainder of the site with a cluster of vegetation in the north west corner of the site.
- *North West:* The land to the north west includes a municipal reserve used for a children's playground and public open space with a number of trees located along the common boundary
- *South East:* The land to the south east includes the Moody Street road-reserve including a nature strip with open drains with overhead powerlines with a two-way roadway with on street parking and school located further south.

PROPOSAL:

The proposal is for the subdivision of land into nineteen (19) lots with the following a summary of the proposed subdivision:

- A central road is proposed with a width of 16 metres running north south with a 'T' intersection in the northern portion of the site allowing for connection to any future subdivision of land to the north east or south west.
- Three lots have frontage to Moody Street with remaining lots provided with access from the proposed road.
- Lots vary between 550m² and 911m² with an average lot size of 709 square metres
- Building envelopes are provided for each of the lots including minimum 7 metre setbacks from road frontages and 2.5 metres from common boundaries and secondary road frontages.

PLANNING SCHEME PROVISIONS:

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11 Settlement
- Clause 13.02 Floodplains
- Clause 15.01-3 Neighbourhood and subdivision design
- Clause 16 Housing
- Clause 16.01-2 Location of Residential Development
- Clause 16.01-4 Housing Diversity
- Clause 16.01-5 Housing Affordability

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.03 Settlement and Housing
- Clause 21.03-1 Housing
- Clause 21.03-3 Rural Townships
- Clause 21.06-1 Design and Built form
- Clause 21.07-7 Local Areas - Koo Wee Rup
- Clause 21.09-2 Catchment Management

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.01 Public Open Space Contribution and subdivision
- Clause 52.02 Easements, Restrictions and Reserves
- Clause 56 Residential Subdivision
- Clause 65 Decision guidelines
- Koo Wee Rup Township Strategy 2015

Zone

The land is subject to the Neighbourhood Residential Zone Schedule 1

Overlays

The land is subject to the following overlays:

- Land Subject to Inundation Overlay

PLANNING PERMIT TRIGGERS

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

- Pursuant to Clause 32.09-2 of the Neighbourhood Residential Zone (NRZ) a planning permit is required to subdivide land. Schedule 1 does not include any specified minimum subdivision area.
- Pursuant to Clause 44.04-2 of the Land Subject to Inundation overlay (LSIO) a planning permit is required to subdivide land.
- Pursuant to Clause 52.02 a planning permit is required to vary an easement.

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*

Council has received six objections to date.

The key issues that were raised in the objections are:

- Entry opposite the school is a safety issue
- Impact on surrounding flora and fauna with easement between 65 and 73 Moody street running the length is bandicoot habitat with a number of ti-trees in this easement, no plan to retain these trees and not clear if dwarf galaxis fish have been found in the study area
- Inconsistent with Township Strategy including 80% of the lots are not over 700 square metres and four frontages for lot 8.9 and 17 do not have the minimum 18 metres, a maximum of 11 lots should be provided on the site.
- Flooding impacts on adjoining properties, taking way the drainage easement will impact on adjoining properties

REFERRALS

Ausnet

The application was referred to *AusNet* as a statutory referral. *AusNet* had no objection to the proposal subject to conditions.

APA Group

The application was referred to *APA Group* as a statutory referral. *APA Group* had no objection to the proposal subject to conditions

Country Fire Authority (CFA)

The application was referred to CFA as a statutory referral. CFA had no objection to the proposal subject to conditions

Melbourne Water

The application was referred to *Melbourne Water* as a statutory referral. *Melbourne Water* had no objection to the proposal subject to conditions

DISCUSSION

State and Local Planning Policy Framework

The proposal is consistent with State and Local Planning Policy Frameworks. In particular, the application meets State policies that encourage residential development within the designated urban growth boundary, within a close proximity to commercial centres and along public transport routes. The subdivision will increase the supply of residential land within a small township and therefore increasing housing diversity and improving housing affordability whilst providing a subdivision layout that can integrate well with the surrounding neighbourhood and township character.

Clause 21.07-7 Koo Wee Rup seeks to:

- *Ensure that any proposed use or development within or around the Koo Wee Rup Township is generally consistent with the Koo Wee Rup Township Strategy (October 2015), including the Koo Wee Rup Framework Plan (Figure 18).*

The Township Strategy notes the site is located within the New Residential Precinct 2, the subject site is noted as yielding 11 lots assuming 9 lots per hectare.

The subdivision is generally in accordance with the Koo Wee Rup Township Strategy with an average lot size of over 700 square metres and although 80% of lots are not over 700 square metres the subdivision achieves an appropriate balance between the need to provide a range of housing options to meet the needs of the community and recognising the existing rural township character of the area. The proposed subdivision results in lot areas and layout that is not uncharacteristic of the surrounds and provides appropriate lot widths combined with building envelopes that will ensure development on the site can ensure the township character is maintained, including appropriate front and side setbacks.

Neighbourhood Residential Zone

A subdivision within the Neighbourhood Residential Zone is to be consistent with the purpose of the zone and the relevant objectives and standards of Clause 56- Subdivision of the Cardinia Planning Scheme for subdivisions between 16 and 59 lots.

The proposed subdivision is consistent with the objectives of this zone as it provides for limited increased residential development that is respectful of the surrounding neighbourhood character. Further the application has been assessed against the relevant clauses of Clause 56 and it is considered that the subdivision generally complies.

Land Subject to Inundation Overlay

The site is located within a Land Subject to Inundation Overlay, the subdivision has been referred to Melbourne Water whom had no objection to the proposal. Any development on the site would be subject to minimum floor levels in accordance with this overlay and it is considered that the subdivision will not detrimentally impact on the flood levels or flow velocity.

Environment Impacts

The site contained a substantial strip of remnant vegetation abutting the eastern property boundary. This has been removed by the landowner without any planning permission. A biodiversity assessment was submitted with the subject planning permit application before the vegetation was removed. The report concluded that:

- The habitat zone has >25% cover of the indigenous shrub Swamp Paperbark *Melaleuca ericifolia*, with an understorey dominated by exotic species, including pasture grasses
- Remnant native vegetation in the study area is representative of one EVC: Swamp Scrub
- To clear the site, 0.044 hectares of native vegetation was required to be removed.
- The removal fell under the Low Risk-based pathway with an offset requirement of 0.006 General Biodiversity Equivalence Units (BEU)
- No Southern Brown Bandicoots or evidence thereof, including tracks, tunnels, diggings or scats were observed at the site.

Council are currently investigating the illegal works and enforcement action will be undertaken post any issuing of the permit.

The rest of the site is used for pasture and therefore has low environment value.

Variation to easement

The proposal includes the removal of the easement along the north east boundary and replacement drainage easements between lots 9 and 10 with drainage likely to be incorporated in the road reserve. The application has been referred to Council's Engineers with no objection to the proposal subject to appropriate permit conditions.

Objectors Concerns

- *Detrimental impacts on traffic and safety for the area*

The objectors raised concerns that the proposal will result in increased traffic resulting in detrimental impacts for the surrounds and will impact on safety due to the location of the school.

The proposal has been referred to Council's Traffic Department with no objections or concerns raised in terms of the location of the new road in relationship to the school and the residential subdivision will not conflict with the school use rather will provide for new residential development well located in relation to the school.

- *Impact on Flora and Fauna*

The applicant has submitted a biodiversity report and has provided detailed information with regard to the potential impact on the threatened species in the area (bandicoot). The application has been referred to Council's Environment Department with no objection to the proposal.

- *Neighbourhood & Township character*

The subdivision is inconsistent with the township character and the Kooweerup Township Strategy, particularly Precinct 2 New Residential Area. The objectors noted that the subdivision is

inconsistent with a number of design guidelines within the Koo Wee Rup Township Strategy including lots do not provide the minimum lot area or width.

It is noted that Koo Wee Rup Township Strategy is a reference document in the scheme and the noted minimum lot sizes and lot widths are not statutory requirements and have not be incorporated into the Neighbourhood Residential zone schedule, as such are considered guidelines, as established under previous applications at VCAT.

When assessing a proposal against the Township Strategy, Council must also consider the other objectives and requirements of the Scheme and carefully balance each, it is considered that although not all of the guidelines to the Koo Wee Rup Township Strategy are met, a majority are, along with the other provisions of the scheme.

It is considered that the proposal is consistent with the Local Planning Policy Framework in that the subdivision is generally consistent with the Koo Wee Rup Township Strategy.

- *Flooding*

The objectors expressed concerns with the removal of the drainage reserve will result in flooding to adjoining properties.

The application has been referred both to Council's Engineers and Melbourne Water both provided no objection to the proposal subject to conditions. It is considered that these conditions will address all flooding issues as such address the objector's concerns.

CONCLUSION

The proposed application is consistent with State and Local Planning Policy, and the zone and overlay provisions that apply to the site. The application has been assessed against the relevant policy and it has been determined that the application satisfactorily complies with the vision for the area and should be supported at VCAT.

It is recommended that Council offers approval of Planning Permit Application T160108 for the subdivision of land into nineteen (19) lots and variation of an easement at 65 Moody Street, Koo Wee Rup subject to the following conditions.

CONDITIONS

1. Prior to the certification of a plan of subdivision, the following must be submitted to and approved by the responsible authority. The plans must be generally in accordance with the submitted plans, but modified to show:
 - a) A detailed landscape plan and plant schedule prepared by a person suitably qualified and experienced in landscape design The plan must show the proposed landscape plan must show:
 - i. A plant schedule for the streetscapes. A street tree must be located in front of each proposed lot.
 - ii. Existing vegetation that is approved to be retained.
 - iii. A detailed plant schedule including all proposed tree, shrub, groundcover and climbing plant species.

- iv. *The proposed location and final set out of paths and areas of pavement*
- v. *Detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls.*
- vi. *Additional supporting information, such as certified structural designs or building forms.*

All species selected must be to the satisfaction of the Responsible Authority.

- b) A restriction on the plan of subdivision requiring that each lot created must contain the minimum garden area set out in Clause 32.09-4
2. The layout of the subdivision, and access as shown on the endorsed plan/s, may not be altered or modified without the prior written consent of the Responsible Authority.
 3. Building envelopes and minimum garden area requirement (condition 1b)) must be created as a restriction on the Plan of Subdivision submitted to the responsible authority for certification and lodged with the Titles Office for registration.
 4. Before a Statement of Compliance is issued under the *Subdivision Act 1988*, the applicant or owner of the land must pay to the Responsible Authority a cash payment equivalent to the value of the percentage of Net Developable Area of the land in lieu of the provision of land for Public Open Space in accordance with the Schedule to Clause 52.01 of the Cardinia Planning Scheme and the Precinct Structure Plan applying to the land.
 5. Prior to the issue of a Statement of Compliance, kerb and channel, underground drainage, concrete footpath and sealed road widening must be constructed across the Moody Street frontage of the site in accordance with plans and specifications approved by and to the satisfaction of the Responsible Authority.
 6. Before a statement of compliance is issued for the subdivision, the landscaping works shown on the approved landscape plan must be carried out and completed to the satisfaction of the Responsible Authority
 7. 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.
 8. Before the submission and approval of detailed design construction plans (engineering plans) and the certification of the relevant plan of subdivision for each stage, a *functional layout plan* for the subdivision or stage of subdivision, generally in accordance with the standards nominated in the Cardinia Shire Council "Guidelines for the Development & Subdivision of Land", "Development Construction Specification" and the Water Sensitive Urban Design (WSUD) Guidelines, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority.

When approved, the *functional layout plan* will be endorsed and will then form part of the permit. Three copies of the *functional layout plan* must be drawn to a scale of 1:500 to acceptable drafting standards and an electronic copy (pdf) must be provided.

The *functional layout plan* must show:

- a) A fully dimensioned subdivision layout, including proposed street names, approximate lot areas, lot numbers and widths of street reservations,
 - b) Topography and existing features, including contours for the subject land and any affected adjacent land,
 - c) Identification by survey of all trees (or group of trees) existing on the subject land, including dead trees and those that overhang the subject land from adjoining land,
 - d) Details of tree protection zones (TPZs) for all trees to be retained on the subject land,
 - e) All trees proposed for removal from the subject land clearly designated,
 - f) Typical cross-sections for each street type, dimensioning individual elements, services offsets and any other spatial requirements identified in the Development Plan,
 - g) Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and traffic controls,
 - h) The proposed minor drainage network and any spatial features requiring access,
 - i) The major drainage system, including any watercourse, lake, wetland, sediment pond rain gardens, bio-infiltration system and/or piped elements showing preliminary sizing,
 - j) Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination,
 - k) Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for the construction and maintenance,
 - l) A table of offsets for all utility services and street trees,
 - m) Preliminary location of reserves for electrical kiosks and
 - n) Traffic management plan showing sufficient notional (unmarked) on-street car parking spaces, at the rate of one space per lot, traffic control devices and large vehicle turning overlays.
 - o) The relationship between the subject subdivision stage and surrounding land,
 - p) Proposed linkages to future streets, open space, regional path network and upstream drainage,
 - q) Works external to the subdivision, including both interim and ultimate access requirements,
 - r) Intersections with Category 1 roads showing interim and ultimate treatments,
 - s) Drainage and sewerage outfalls including any easements required over other property.
9. Before the statement of compliance is issued, all road and drainage infrastructure must be designed and constructed in accordance with plans and specifications approved by the Responsible Authority. The works must comply with the standards nominated in the Cardinia Shire Council “Guidelines for the Development & Subdivision of Land”, “Development Construction Specification” and the “Water Sensitive Urban Design (WSUD) Guidelines”.
10. Before the Statement of Compliance is issued, the intersection of Moody Street and Road A (subdivision road) must be designed and constructed in accordance with plans and specifications approved by the Responsible Authority.
11. Before the Statement of Compliance is issued, outfall drainage for the subdivision must be designed and constructed to a satisfactory point of discharge in accordance with plans and specifications approved by the Responsible Authority.
12. Before a Statement of Compliance is issued under the *Subdivision Act 1988* the permit holder must provide:
- a) Provide survey enhanced “as constructed” GIS data for the drainage, road and footpath information components of the subdivision, in accordance with the current version of D-SPEC and R-SPEC. Council’s preferred format for the submission of the graphical data is in “MapInfo Native Format”. A secondary format is “MapInfo MID/MIF”. Grid Co-ordinates must

be MGA zone 55 (GDA 94). Please refer to the A-SPEC website for further information:
www.a-specstandards.com.au

13. Before a Statement of Compliance is issued, all services, including drainage and/or sewerage, servicing any existing dwelling or building on the lot(s), must be relocated (if required) to the satisfaction of the Responsible Authority, to ensure that they do not cross the boundaries between the proposed lots.
14. Lighting of streets and pedestrian/cycle paths must be designed and provided (prior to the issue of a Statement of Compliance for the relevant stage) in accordance with Australian Standard 1158.1 to the satisfaction of the Responsible Authority.
15. At least 14 days before any works start, a site specific Construction Environmental Management Plan (CEMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the CEMP will be endorsed and will then form part of the permit. All works must be undertaken in accordance with the approved CEMP.

The CEMP must address all environmental risks and include:
 - a) Temporary stormwater management including sedimentation control,
 - b) Provision of pollution and contamination controls including noise and dust,
 - c) Location of stockpiles and stockpile management,
 - d) Location of site office and facilities
 - e) Equipment, materials and goods management and
 - f) Tree protection zones, trees to be retained and trees to be removed.
16. All roads used for the purpose of haulage of imported or exported materials for construction must be:
 - a) Approved in writing by the Responsible Authority for the submitted haulage strategy, at least seven days prior to the commencement of use,
 - b) Maintained in accordance with the Responsible Authority's maintenance intervention levels, or as requested by the Responsible Authority if the road deteriorates during the haulage period, and
 - c) Reinstated to the satisfaction of the Responsible Authority.
17. Before a certificate of practical completion is issued, CCTV results for the full length of all stormwater drainage pipes where Council is the responsibility authority, must be submitted for assessment. The submitted information is to be to the satisfaction of the Responsible Authority.
18. Before a certificate of practical completion is issued, "as constructed" digital road and drainage information in AutoCAD format with all Xrefs binded into the drawings and showing any amendments during construction, must be submitted for all civil works where Council is the Responsibility Authority
19. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the approved plan in accordance with the authority's requirements and relevant legislation at the time.
20. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the

relevant authority for which the easement or site is to be created.

21. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
22. The owner of the land must enter into an agreement with:
 - a. a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - b. a suitably qualified person for the provision of fibre ready telecommunication facilities
 - c. to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
23. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
 - a. a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - b. a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

AusNet conditions

24. The applicant must –
 - a) Enter in an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for supply of electricity to each lot on the endorsed plan.
 - a) Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for the rearrangement of the existing electricity supply system.
 - b) Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by AUSNET ELECTRICITY SERVICES PTY LTD.
 - c) Provide easements satisfactory to AUSNET ELECTRICITY SERVICES PTY LTD for the purpose of "Power Line" in the favour of "AUSNET ELECTRICITY SERVICES PTY LTD" pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing AUSNET ELECTRICITY SERVICES PTY LTD electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
 - d) Obtain for the use of AUSNET ELECTRICITY SERVICES PTY LTD any other easement required to service the lots.
 - e) Adjust the position of any existing AUSNET ELECTRICITY SERVICES PTY LTD easement to accord with the position of the electricity line(s) as determined by survey.

- f) Set aside on the plan of subdivision Reserves for the use of AUSNET ELECTRICITY SERVICES PTY LTD for electric substations.
- g) Provide survey plans for any electric substations required by AUSNET ELECTRICITY SERVICES PTY LTD and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. AUSNET ELECTRICITY SERVICES PTY LTD requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
- h) Provide to AUSNET ELECTRICITY SERVICES PTY LTD a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.
- i) Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by AUSNET ELECTRICITY SERVICES PTY LTD. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998.
- j) Ensure that all necessary auditing is completed to the satisfaction of AUSNET ELECTRICITY SERVICES PTY LTD to allow the new network assets to be safely connected to the distribution network.

Country Fire Authority Conditions

Hydrants

25. Operable hydrants, above or below ground must be provided to the satisfaction of CFA.
26. The maximum distance between these hydrants at the rear of all building envelopes (or in the absence of the building envelope, the rear of all lots) must be 120 metres and hydrants must be no more than 200 metres apart.
27. Hydrants must be identified as specified in 'Identification of Street Hydrants for Firefighting purposes' available publications on the Country Fire Authority web site (www.cfa.vic.gov.au).

Roads

28. Roads must be constructed to a standard so they are accessible in the all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
29. The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres. Dips must have no more than 1 in 8 (12%) (7.1 degree) entry and exit angle.
30. Roads must have a minimum trafficable width of:
 - 5.5 metre if parking is prohibited on one or both sides of the road.
 - 7.3 metres where parking is allowable on both sides of the road.
31. Roads more than 60 metre in length from the nearest intersection must have a turning circle with a minimum radius of 8 metres (including roll over kerbs if they area provided) T or Y heads of dimensions specified by the CFA must be used as alternatives.

Melbourne Water Conditions

32. Prior to the issue of a Statement of Compliance, the owner' shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
33. Prior to the certification of any stage of this subdivision, a drainage strategy for the entire subdivision must be submitted in an electronic format to Melbourne Water for acceptance.
34. The drainage strategy should include the following:
 - a) The proposed alignments and flows of the minor (20% Annual Exceedance Probability AEP) and major (1% AEP) drainage systems and any proposed stormwater quality treatment systems.
 - b) Functional designs for any retarding basins, wetlands or constructed waterways within or adjoining the subdivision confirming adequate areas are being set aside for these assets.
 - c) Any proposed permanent and temporary (interim) outfall arrangements within and downstream of the subdivision.
 - d) Any staging of drainage works within the subdivision required to provide interim servicing.
 - e) Written approvals from affected landowners for any proposed works in neighbouring properties.
 - f) The subdivision layout must be in accordance with the approved drainage strategy.
35. Stormwater runoff from the subdivision must achieve State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater as set out in the 'Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999'.
36. Prior to the issue of SOC of each Stage of Subdivision, engineering plans must be submitted to Melbourne Water for acceptance in an acceptable electronic format.
37. Filling will be required as per the Melbourne Water - Koo Wee Rup Flood Protection District Guidelines.
38. Prior to Statement of Compliance, a certified survey plan, showing levels reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that Melbourne Water's conditions have been satisfied. Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of overland flows.
39. The subdivision is to make provision for overland flows from the upstream catchment utilising roads and/or reserves.
40. Any vehicular and/or pedestrian access must be designed and constructed to comply with the following safety criteria associated with the applicable flood level. (A) Depth of flow does not exceed 0.35m; (B) Velocity of flow does not exceed 1.5m/s; (C) The Depth Velocity product does not exceed 0.35 m²/s.
41. Easements or reserves shall be created over existing and proposed Melbourne Water assets on the Plan of Subdivision to the satisfaction of Melbourne Water.
42. Prior to the issue of a Statement of Compliance for the subdivision, a separate application direct to Melbourne Water must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.

43. Prior to Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.
44. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or watercourses. Prior to the issue of a Statement of Compliance for the subdivision, a Site Management Plan detailing pollution and sediment control measures must be submitted to Melbourne Water.

South East Water Conditions

Potable Water

45. The owner of the subject land must enter into an agreement with South East Water Limited for the provision of potable water supply and fulfill all requirements to its satisfaction.

Sewer

46. The owner of the subject land must enter into an agreement with South East Water Limited for the provision of sewerage and fulfill all requirements to its satisfaction.

General

47. All lots on the Plan of Subdivision are to be provided with separate connections to our potable water supply and sewerage systems.
48. Prior to certification, the Plan of Subdivision must be referred to South East Water, in accordance with Section 8 of the Subdivision Act 1988.

Expiry of permit:

This permit will expire if:

- a. The subdivision is not commenced within two (2) years of the date of this permit; or
- b. The subdivision is not completed within five (5) years of the date of commencement.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three (3) months afterwards.

Permit Note:

The starting of the subdivision is regarded by Section 68(3A) of the Planning and Environment Act 1987 as the certification of a plan, and completion is regarded as the registration of the plan. A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.

5 NINETEEN (19) LOT SUBDIVISION AND VARIATION TO EASEMENT AT 65 MOODY STREET, KOO WEE RUP

Moved Cr R Brown Seconded Cr G Moore

That Council refuse Planning Permit Application T160108 for the subdivision of land into nineteen (19) lots and variation of an easement at 65 Moody Street, Koo Wee Rup for the following reason:

1. The proposal is inconsistent with the Koo Wee Rup Township Strategy.

Cd.

6 GROUP ACCOMODATION, CONFERENCE CENTRE AND PLANT NURSERY AT 40 DUBERKES ROAD, LANG LANG

FILE REFERENCE INT1764350

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Jason Gilbert

RECOMMENDATION

That a Refusal to Grant Planning Permit T160582 be issued for the use and development of the land for Group Accommodation, Conference Centre and Plant Nursery at 40 Duberkes Road, Lang Lang, for the reasons set out in this report.

Attachments

1	Locality plan	1 Page
2	Development plans	21 Pages
3	Copies of objections circulated to Councillors only	5 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T160582
APPLICANT:	Beveridge Williams
LAND:	Crown Allotment 79A Parish of Lang Lang, 40 Duberkes Road, Lang Lang 3984
PROPOSAL:	Use and development of the land for Group Accommodation, Conference Centre and Plant Nursery
PLANNING CONTROLS:	Green Wedge Zone – Schedule 1 (GWZ1) Land Subject to Inundation Overlay (LSIO)(part)
NOTIFICATION & OBJECTIONS:	The application has been advertised by sending notices to the owners and occupiers of adjoining land. Four (4) objections have been received to date.
KEY PLANNING CONSIDERATIONS:	Protection of agricultural land, Protection of green wedges, Consistency with Western Port Green Wedge Management Plan and Policy, Appropriateness of scale and intensity of use and development
RECOMMENDATION:	Refusal

BACKGROUND:

There is no Planning Permit history for the subject site.

SUBJECT SITE:

The irregular-shaped site has an area of 47.54 hectares and is located on the western side of Duberkes Road, with a frontage of approximately 1,884 metres, and approximately 1.5 kilometres south-east of the centre of the Lang Lang township.

The subject site generally undulates from east to west and no known easements affect the site. The majority of the site has been substantially modified and cleared to establish improved pastures for grazing, with a number of fenced paddocks. The site falls within the Gippsland Plain Bioregion and is traversed by Adams Creek and Adams Creek North Branch.

A farmhouse and associated outbuildings are located towards the south-west boundary, with a minimum setback of approximately 50 metres from this boundary and approximately 220 metres from the Duberkes Road boundary to the north-east.

The site is accessed via Duberkes Road, which is an unsealed road that extends in a south-east direction from McDonalds Track to the north for approximately 1.2 kilometres. While the road reserve continues in a south-east direction beyond the site, the road itself terminates at the driveway entrance to the subject site, with an approximate 340-metre-long driveway providing access to the dwelling.

The main characteristics of the surrounding area are:

- The site is bounded by Duberkes Road to the north and north-east, and opposite is the unused South Gippsland rail line. Further to the north-east is an approximate 79-hectare property that is mainly used for agricultural purposes and has been developed with agricultural buildings and a single dwelling, which is at least 144 metres from the subject site.
- The site is bounded by two approximately 36 hectare and 65 hectare allotments to the south, which are mainly used for agricultural purposes and contain single dwellings and agricultural buildings.
- The site is bounded by an approximate 40-hectare allotment to the south-west, which is mainly used for agricultural purposes and has been developed with agricultural buildings and a single dwelling.
- The site is bounded by an approximate 30-hectare allotment to the west and north-west, which is mainly used for agricultural purposes and has been developed with agricultural buildings and a single dwelling.
- The site is located approximately 1.5 kilometres south-east of Lang Lang, which itself is located approximately 75 kilometres south-east of Melbourne's CBD and is located within the Westernport Green Wedge. As of 2016, Lang Lang had an estimated population of 1,590 and the township provides limited community, retail and commercial services.
- A quarry operated by Metro Quarry Group is located approximately 350 metres to the north of the site and a broiler farm is located approximately 400 metres to the south-west. Lang Lang Cemetery is located 500 metres to the north-east.
- The site forms part of a large area of land zoned Green Wedge, which generally consists of large allotments that support agricultural activities. Land zoned Low Density Residential is located approximately 300 metres to the north-west and land zoned Neighbourhood Residential is approximately 800 metres to the north-west.

PROPOSAL

The application was first lodged in August 2016 and has been revised throughout the assessment process to address concerns and comments raised by Council's Planning Department.

The original proposal for a function centre and group accommodation was intended to accommodate functions such as weddings, conferences and meetings. The plans included the provision of a chapel and restaurant facilities. A second part of this original proposal involved a native plant nursery and the use of the function and accommodation facilities to enable schools and other groups to learn about the proposed 'integrated organic agricultural' activities to be undertaken on the site.

As part of council's request for further information, there were concerns raised regarding the proposal's response to the requirements of the Green Wedge Zone, and state and local policies relating to agriculture. A series of meetings were held and the applicant refined their proposal.

As such, the final proposal involves development that is concentrated in the north end of the land, with building setbacks of at least 34 metres from the north-east boundary (Duberkes Road) and at least approximately 10 metres from other boundaries.

More specifically, the proposal involves the following:

Group accommodation (for 148 people):

- 34 two-bedroom units within 'Building 3', with each unit accommodating up to 4 guests (total of 136 guests). Building 3 is generally located within the centre of the development area, with 52 car space spaces on both the northern and southern sides of the building. There are 17 ground floor units and 17 first floor units, with a central internal corridor providing access. Each unit consists of three shipping containers and contains two bathrooms and sleeping areas. Building 3 has a length of approximately 67.3 metres, a width of approximately 17.516 metres and a height of approximately 8.2 metres,
- Six two-bedroom standalone cabins for use by training facilitators, with each unit accommodating up to 2 people each (total of 12 people). The cabins are located towards the south of the development area and overlooking a proposed water course. Each cabin measures approximately 8.4 metres by 7.9 metres and contains two bedrooms and meals/living area.

Conference centre (for 150 people plus staff)

- Building 2 provides a multi-purpose building for conferences/training and dining, with a central reception area, and kitchen and bathroom facilities. Excluding the entrance portico, the building measures approximately 60 metres by 32.5 metres, with the single-level building having a height of approximately 7.5 metres. 40 car parking spaces are provided on the western side of the building.
- Six training rooms are provided in Building 1, which is in the northern part of the development area and near Building 2. The single-level building measures approximately 14.476 metres by 17.066 metres, with a height of approximately 3.2 metres. 20 car parking spaces are provided to the east of the building.
- Building 4 is referred to as a 'Sustainability Hub' for exhibitions and meetings. The building overhangs the proposed water course and measures 20 metres by 20 metres, plus a 4-metre-wide wraparound verandah. It has a maximum height of 6.5 metres.

Plant nursery

- The plant nursery and seed bank are located in the northernmost section of the land and include ten 100-metre-long by 3-metre-wide planting beds and two 100-metre-long by 6-metre-wide igloo-shaped greenhouses. Two sheds and a pond are also shown on the plans in support of the nursery.

Associated buildings and works

- The conference centre and group accommodation are located around a proposed watercourse, with associated car parking, access roads and landscaping throughout the development area.

According to the applicant, the overall intent of the above uses and development is to facilitate an environment for onsite education of existing farmers and future farmers/students regarding eco-farming methods. Under the plans, the existing agricultural use of the site would be intensified via the native plant nursery, vineyard and a series of smaller scale farming activities.

PLANNING SCHEME PROVISIONS:

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- 11.06-1 Jobs and investment;
- 11.06-7 Green wedges;
- 13.02-1 Floodplain management;
- 14.01-1 Protection of agricultural land;
- 14.01-2 Sustainable agricultural land use;
- 15.03-2 Aboriginal cultural heritage; and
- 17.03-1 Facilitating tourism.

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.02-7 Aboriginal cultural heritage;
- 21.02-2 Landscape;
- 21.04-1 Employment;
- 21.04-2 Agriculture;
- 21.04-5 Tourism;
- 21.05-3 Local roads;
- 21.06-1 Design and built form; and
- 22.05 Western Port Green Wedge Policy

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Westernport Green Wedge Management Plan;
- Clause 52.06 Car Parking;
- Clause 52.07 Loading and Unloading of Vehicles;
- Clause 52.17 Native Vegetation;
- Clause 52.34 Bicycle Facilities;
- Clause 57 Metropolitan Green Wedge Land;
- Clause 65 Decision Guidelines; and
- Clause 66 Referral and Notice Provisions.

Zone

The land is subject to the **Green Wedge Zone - Schedule 1 (GWZ1)**.

Overlays

The land is **partially subject to the Land Subject to Inundation Overlay (LSIO)**.

PLANNING PERMIT TRIGGERS

The proposal for the subdivision of the land into two (2) lots requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.04-1 of the Green Wedge Zone, a permit is required to use the land for a Conference Centre;
- Pursuant to Clause 35.04-1 of the Green Wedge Zone, a permit is required to use the land for Group Accommodation;
- Pursuant to Clause 35.04-1 of the Green Wedge Zone, a permit is required to use the land for a Plant Nursery;
- Pursuant to Clause 35.04-5 of the Green Wedge Zone, a permit is required to construct a building or carry out works associated with a use in Section 2 of Clause 35.04-1;
- Pursuant to Clause 35.04-5 of the Green Wedge Zone, a permit is required to construct a building within 100 metres of a waterway / floodway; and
- Pursuant to Clause 35.04-5 of the Green Wedge Zone, a permit is required to carry out earthworks.

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.

Council has received four (4) objections to date. The key issues that were raised in the objections are:

- Land use conflict with surrounding agricultural properties;
- The function centre and group accommodation do not meet the requirements for agricultural enterprises;
- The potential for the proposal to negatively impact the water table and water runoff;
- The impact of the proposal on the future development of sand quarries;
- Concerns regarding supervision of students and staff;
- Noise and odour issues associated with the plant nursery and animal husbandry;
- The potential that surrounding properties will be required to contribute to the cost of any required sewerage or water supply infrastructure; and
- The impact of additional traffic on the road network, particularly the intersection of Kettles Road and McDonalds Track.

REFERRALS

Melbourne Water

The application was referred to Melbourne Water for comment. Melbourne Water did not object to the proposal, subject to conditions.

VicTrack

Due to the adjacent to the railway corridor and objector's concern about Duberkes Road being subject to a VicTrack lease, the application was referred to VicTrack for comment. No response has been received to date.

Environmental Health

The application was referred to Council's Environmental Health Department, who requested a Land Capability Assessment before providing any further comment. As the recommendation is to refuse this application, this information was not requested from the applicant.

Environment

The application was referred to Council's Environment Department, who had no objection subject to conditions requiring the preparation and implementation of a creek management plan to manage the impacts of the development on Adams Creek.

Strategic

The application was referred to Council's Strategic Planning Department, who objected to the proposal based on the following:

- The proposal contradicts policies 1.4.1, 4.5.1 and 4.5.2 in Plan Melbourne;
- The proposal contradicts the objectives and policies contained in Clause 22.05 Western Port Green Wedge Policy; and
- The proposal contradicts Clause 14.01-1 (Protection of agricultural land) of the State Planning Policy Framework.

Waste

The application was referred to Council's Waste Department, who requested a Waste Management Plan.

Traffic

The application was referred to Council's Traffic Department, who requested further information before making any comment. The requested further information included a traffic impact assessment and additional detail on the plans relating to car parking and internal road networks. As the recommendation is to refuse this application, this information was not requested from the applicant.

Engineering

The application was referred to Council's Engineering Department, no response provided.

Urban Design

The application was referred to Council's Urban Design Department, no response provided.

DISCUSSION

The proposal for the use and development of the land for Group Accommodation, Conference Centre and Plant Nursery has been subject to a lengthy review and assessment process that involved a number of Council's departments, and discussions with the applicant and associated team, who endeavoured to address the concerns and issues raised by Council's Planning Department. Despite

this, after almost 12 months, it became apparent that the proposal was not consistent with the Cardinia Planning Scheme and could not be supported.

There were several elements to the assessment of this application, which are addressed below.

The definition of the proposal

The application involves several proposed land uses, and given the changing nature of the proposal during the assessment period, categorising each land use was difficult.

In relation to the accommodation component, the land use definitions of 'group accommodation' and 'host farm' were considered.

'Group accommodation' is defined as:

Land, in one ownership, containing a number of dwellings used to accommodate persons away from their normal place of residence.

'Dwelling' is defined as:

A building used as a self-contained residence which must include: a) a kitchen sink; b) food preparation facilities; c) a bath or shower; and d) a closet pan and wash basin.

'Host farm' is defined as:

An agricultural property used to provide accommodation for persons, away from their normal place of residence, to experience living on land used for agricultural purposes.

Based on the plans, group accommodation is deemed the most appropriate, as the land is in one ownership and all proposed units and cabins provide self-contained accommodation and include the four components of a dwelling. The proposal was also considered beyond the scope of the 'Host farm' definition as rather than providing an 'agricultural experience', the purpose of the accommodation is to support the education and training facilities.

Under the Green Wedge Zone, group accommodation is a section 2 use (permit required) and must meet the following conditions:

Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry, or Winery.

The number of dwellings must not exceed the number specified in a schedule to the zone or 40 dwellings, whichever is the lesser.

The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.

With a maximum of 40 dwellings, a lot size in excess of 40 hectares and a proposal that is in conjunction with agriculture, the proposal is considered to meet all three conditions of the zone.

In relation to the conference centre component, other land use terms such as function centre and place of assembly were considered. The proposal involves the construction of three buildings (Building 1, Building 2 and Building 4) for seminars, exhibitions and functions.

Conference Centre is not defined in the Planning Scheme but is nested under Function Centre. The case of *Watts v Wyndham CC [2007]* provides useful and relevant discussion. In this case, Members

Davies and Potts were considering an application for a “Demonstration Farm, incorporating a Function Centre, Plant Nursery and Primary Produce...” in a Green Wedge Zone. The Function Centre was to be used for expos, field day demonstrations, seminars and conferences.

In *Watts v Wyndham CC*, the Members made the following comments:

The use of the proposed building for conferences, seminars and the like appears to fit within the definition of “Conference Centre”, which is nested within the definition of “Function Centre”. However “Function Centre” is a land use term that also includes reception centre. It is more than likely that as a reception centre one will encounter activities of “entertainment and dancing” as included in the definition of “Function Centre” rather than at a “Conference Centre”. Having regard to the nature of this application and the condition of uses for a Function centre within the table of uses at Clause 35.04-1 we consider that the land use term “Conference Centre” to be the preferred term and one that is acceptable under the zoning.

Based on the findings in *Watts v Wyndham CC* and its similarities with the current application, Conference Centre has been determined as the most appropriate land use. As previously stated, conference centre falls under function centre, and in the Green Wedge Zone, function centre is a section 2 use (permit required) and subject to the following conditions:

Must be used in conjunction with Agriculture, Natural systems, Outdoor recreation facility, Rural industry, or Winery.

The number of dwellings must not exceed the number specified in a schedule to the zone or 40 dwellings, whichever is the lesser.

The lot on which the use is conducted must be at least the minimum subdivision area specified in a schedule to this zone. If no area is specified, the lot must be at least 40 hectares.

The plant nursery has been determined to be a use in its own right; rather than ancillary to the agricultural or other proposed uses of the land. While there is some relationship with the other land uses proposed for the site, the application documents and plans show a clear and separate business plan for the nursery, and it has been located and sited in a way that appears to provide a degree of separation and independence from the other components.

The proposed agricultural component involves a number of more specific uses, such as apiculture, horticulture, market gardens and animal husbandry; all of which are section 1 uses and therefore do not require a planning permit in the Green Wedge Zone.

‘In conjunction with agriculture’

The use of land for group accommodation and conference centre in the Green Wedge Zone can only be considered if the three key conditions discussed earlier are met. If any of these conditions are not met, these uses would be prohibited. The conditions are also reinforced by Clause 57 Metropolitan Green Wedge Land.

Two of the conditions are met: the area of the land exceeds 40 hectares and no more than 150 patrons are proposed for the conference centre and no more than 40 dwellings are proposed for the group accommodation. The proposal’s compliance with the requirement to be ‘*in conjunction with agriculture*’ was less clear and these concerns were outlined to the applicant throughout the application process.

According to Clause 64.02, if a provision of this scheme provides that a use of land must be used 'in conjunction with' another use of the land: there must be an essential association between the two uses; and the use must have a genuine, close and continuing functional relationship in its operation with the other use.

The concept of 'in conjunction with' has been explored in a number of VCAT cases, including *Jinalec Park PL v Mornington Peninsula SC [2007]* where Deputy President Helen Gibson made the following comments:

I consider the association should be between the uses on the land. They can be broad associations and may be aesthetic, economic, practical, environmental or the like. Any association that provides a mutual benefit is sufficient...

The second limb of section 64.02 emphasises that the benefit must be continuing. This limb requires that the secondary use must have a genuine, close and continuing functional relationship in its operation with the primary use. Permit applicants will need to demonstrate what the nature of this relationship is and how its ongoing nature will be guaranteed. Permit conditions requiring that the secondary use may only operate whilst the land continues to be used for its primary use would seem to be called for.

The initial application lacked detail and there was minimal aspect to determine the level of association between the uses. The applicant provided additional detail that helped to reinforce the association between the proposed conference centre and group accommodation with the agricultural uses.

However, as the proposed primary use (i.e. the agricultural component) has not commenced, the level of association between the uses has been difficult to ascertain. The applicant has provided broad details of the intended agricultural uses but has not been able to describe in any detail the how the uses will operate. For example, the proposed course outline describes a workshop on business management which appears to have no direct interaction with the agricultural use of the land. The agricultural land management plan provides a description of 'proposed' and 'intended' farming enterprises. The site plan shows broad areas of proposed agricultural activities but there is little discussion of how these areas will be integrated with the conference centre and group accommodation, which are generally kept separate from the agricultural areas due to the location of the proposed water course. The application describes 'likely partners' who would use the conference centre facilities but no definitive details are provided.

Protection of agricultural land

Clauses 11.06-1 (Jobs and investment), 11.06-7 (Green wedges), 14.01-1 (Protection of agricultural land) and 21.04-2 (Agriculture) have objectives and strategies that seek to protect and support areas of agricultural production.

In particular, Clause 11.06-7 has a strategy to "(protect) important productive agricultural areas such as ... Westernport..."

Clause 14.01-1 has an objective to protect productive farmland which is of strategic significance in the local or regional context, with strategies that seeks to avoid the removal of productive agricultural land from the state's agricultural base and require responsible authorities to balance potential offsite impacts of rural land use proposals against the benefits of the proposals.

Clause 21.04-2 seeks to maintain agriculture as a strong and sustainable economic activity within the

Municipality, with strategies that include:

- Protect agricultural land, particularly areas of high quality soils, from the intrusion of urban uses, inappropriate development and fragmentation which would lead to a reduction in agricultural viability, the erosion of the right of farmers to farm land, and ultimately the loss of land from agricultural production.
- Discourage non-soil based uses (eg: poultry farms) being located on soils which are of high agricultural quality and, recognising the economic importance of such uses, encourage their location on land with a lesser soil quality.
- Ensure that any agricultural development proposal is appropriately located in terms of buffer distances of surrounding uses.

The Cardinia Western Port Green Wedge Management Plan identifies the Western Port Green Wedge “as a highly productive agricultural and horticultural area that plays a vital role in providing food for Victoria’s population and food security. Its strategic importance as a food supply for the metropolitan area will increase over time as Melbourne grows and rainfall patterns change with increasing uncertainty over rainfall and water allocations to Australia’s traditional food bowl, the Murray Darling Basin.”

The Victorian Government’s Plan Melbourne metropolitan strategy also recognises the Western Port Green Wedge as a key agricultural area, with strategies that seek to protect agricultural land from incompatible uses, maintain farm size, promote the continuation of farming and provide a secure long-term future for productive and sustainable agriculture.

The application is not considered responsive to the above clauses as it lacks clear definition of how it will respond to the horticultural significance of the area. A large proportion of the land is to be used for non-soil-based activities, while the proposed development area for conference centre, group accommodation, and associated landscaping, watercourse and accessways also occupies a significant portion of the site. The development is also considered to lack sufficient setbacks and buffers from surrounding agricultural properties, which has the potential to cause land use conflict and diminish the agricultural productivity of these surrounding properties.

Consistency with Western Port Green Wedge Management Plan and Policy

The Cardinia Western Port Green Wedge Management Plan provides a strategic planning framework that enables Council to take advantage of opportunities and proactively attend to challenges occurring in the Cardinia Western Port Green Wedge over the next 20 years. It recognises Western Port’s key attributes, including its environment, established agriculture industry and, rich agricultural soils.

The plan was introduced as a reference document via Amendment C215 to the Cardinia Planning Scheme, which was gazetted on 10 August 2017. The amendment also inserted a Western Port Green Wedge Local Planning Policy at Clause 22.05 to provide further guidance in relation to the protection and management of the Western Port Green Wedge.

The Plan divides Western Port into three precincts, with the subject site being within Precinct 1 – Agriculture, horticulture and soil based food production. The vision for Precinct 1 is for to be a hub of agriculture, horticulture and soil-based food production that takes advantage of its highly versatile soils, vegetable production (in particular asparagus), dairy and beef farming, other agricultural pursuits, potential access to Class A recycled water and the important role this precinct plays in food security.

The vision and objectives of the Plan are reinforced by Clause 22.05, which outlines a number of policies for use and development applications. These include:

- Ensure new and growing tourism businesses have a strong link to an agricultural use based on the strengths and assets of the green wedge and have minimal adverse impact on the environment.
- Ensure that green wedge soils and their versatility are recognised as a finite resource and are protected accordingly.
- Maintain and protect the highly productive agricultural land from incompatible uses including non-soil based farming

The relevant decision guidelines of Clause 22.05 include:

- The vision and local policy for the Cardinia Western Port Green Wedge.
- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.

While the intent of the proposed use and development is not inconsistent with the Western Port Green Wedge Plan and Policy, the scale and intensity is beyond what is considered acceptable for an area where agriculture is promoted as the primary land use. The proposal includes a significant development that is based on yet-to-be-established agricultural activities and that is not considered to take full advantage of the horticultural significance of the area.

The design of the development

The decision guidelines of the Green Wedge Zone include the need to minimise adverse impacts on the character and appearance of the area. These guidelines are reinforced by local policies such as Clause 22.02 (Landscape) and Clause 21.06-1 (Design and built form), which encourage development that is context with the surrounding area.

The subject site is characterised by an open rural landscape, with low-scale buildings such as dwellings and sheds that reflect the agricultural and rural residential nature of the area. The submitted proposal consists of a number of sizeable buildings with bulk and mass that is not considered to reflect the rural character of the area.

Objections

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.

Council has received four (4) objections to date.

The objections reinforce the issues discussed earlier in this report; particularly in relation to land use conflict. Other objections, such as concerns regarding supervision of students and staff and odour and noise issues could be managed via permit conditions.

Other issues

It is noted that further information was requested from Council's Traffic (traffic impact assessment and updated plans) and Waste (waste management plan) departments, this was not submitted. The land also contains areas of cultural heritage sensitivity and the applicant has not provided information relating to cultural heritage management plan requirements.

As the application is being recommended for refusal, this information was not requested from the applicant.

CONCLUSION

The proposed use and development of the land for Group Accommodation, Conference Centre and Plant Nursery is considered to be not consistent with the purposes and objectives of the Cardinia Planning Scheme.

It is recommended that a Refusal to Grant Planning Permit **T160582** be issued for the use and development of the land for Group Accommodation, Conference Centre and Plant Nursery at **40 Duberkes Road, Lang Lang, for the following reasons:**

1. The design and scale of the development is inconsistent with the decision guidelines at Clause 35.04-6 of the Green Wedge Zone, which seek to minimise impacts of development on the character and appearance of the area.
2. The proposed use and development is inconsistent with the decision guidelines at Clause 35.04-6 of the Green Wedge Zone as it is not considered compatible with surrounding land uses and does not provide adequate measures to minimise impacts of adjoining properties.
3. The proposal is inconsistent with the Western Port Green Wedge Management Plan and Clause 22.05 Western Port Green Wedge Policy as it does not respond to the horticultural significance of the area and does not demonstrate an adequate relationship between the group accommodation, conference centre and agricultural activities.
4. The proposal does not respond to Clauses 11.06-1 (Jobs and investment), 11.06-7 (Green wedges), 14.01-1 (Protection of agricultural land) and 21.04-2 (Agriculture) as it results in the removal of productive agricultural land and lacks appropriate setbacks and buffers to limit offsite impacts on surrounding properties.

6 GROUP ACCOMODATION, CONFERENCE CENTRE AND PLANT NURSERY AT 40 DUBERKES ROAD, LANG LANG

Moved Cr G Moore Seconded Cr J Owen

That a Refusal to Grant Planning Permit T160582 be issued for the use and development of the land for Group Accommodation, Conference Centre and Plant Nursery at 40 Duberkes Road, Lang Lang, for the following reasons:

1. The design and scale of the development is inconsistent with the decision guidelines at Clause 35.04-6 of the Green Wedge Zone, which seek to minimise impacts of development on the character and appearance of the area.
2. The proposed use and development is inconsistent with the decision guidelines at Clause 35.04-6 of the Green Wedge Zone as it is not considered compatible with surrounding land uses and does not provide adequate measures to minimise impacts of adjoining properties.
3. The proposal is inconsistent with the Western Port Green Wedge Management Plan and Clause 22.05 Western Port Green Wedge Policy as it does not respond to the horticultural significance of the area and does not demonstrate an adequate relationship between the group accommodation, conference centre and agricultural activities.
4. The proposal does not respond to Clauses 11.06-1 (Jobs and investment), 11.06-7 (Green wedges), 14.01-1 (Protection of agricultural land) and 21.04-2 (Agriculture) as it results in the removal of productive agricultural land and lacks appropriate setbacks and buffers to limit offsite impacts on surrounding properties.

Cd.

7 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

FILE REFERENCE INT1764416

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 amendments and planning scheme amendment requests received.

Status of active amendments

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

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C209 – Part 1	Cardinia Shire Council	Oaktree Drive Road Reserve and part 25 Oaktree Drive & part 62 Cameron Way, Pakenham	Rezone land in the existing Oaktree Drive Road Reserve and part of 25 Oaktree Drive, Pakenham (Lot 1 TP 161356U & Lot 1 TP 159742C) and part of 62 Cameron Way, Pakenham (Lot 1 TP 161189, Lot 1 TP 161190, Lot 1 TP 844663 and Lot 1 TP 161468) from Road Zone Category 2 to Public Park and Recreation Zone.			Amendment submitted to the Minister for approval on 10/05/2017. Awaiting approval.
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	Thu 12/05/2016	Tue 14/06/2016	Amendment submitted to the Minister for approval on 30/03/2017. Awaiting approval.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			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.			
C223	Cardinia Shire Council	231 Dalmore Road, Dalmore	Apply Heritage Overlay (HO275) to the land at 231 Dalmore Road and respond 'Yes" to the prohibited uses option in the Schedule to the Heritage Overlay (Clause 43.01). This Amendment will facilitate the restoration of the Hall and its use as a dwelling.	Thu 20/07/2017	Mon 21/08/2017	Report to Council on 18 September recommends the amendment be adopted.
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: Seeking authorization from the Minister for Planning to prepare an amendment.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C226	Cardinia Shire Council	Lot 5 PS321195 67 Whiteside Rd Officer, Lot 2 PS327845 130 Whiteside Rd Officer and Lot PP PS746064 325 Princes Hwy Officer	Insert new schedule to the Rural Conservation Zone 3 (RCZ3) to Clause 35.06 to implement Officer Precinct Structure Plan. Amend table 1 in Clause 37.07 of the Urban Growth Zone 3 subclause 2.2 from Rural Conservation Zone to Rural Conservation Zone Schedule 3.	Thu 22/06/2017	Mon 24/07/2017	Exhibition finalised. One submission received. Letter sent to the Department seeking an extension of time to decide whether to proceed or abandon the amendment.

7 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

Moved Cr G Moore Seconded Cr J Owen

That the report be noted

Cd.

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

FILE REFERENCE INT1764419

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	Outcome
22/01/18	T970402	455 Westernport Road, Lang Lang	Amended permit-delete condition 5 and use and development of a dwelling	Refusal	Applicant	Waiting on hearing
18/10/17	T160108	65 Moody Street, KWR	Subdivision of land into 19 lots	Failure to determine	Applicant	Waiting on hearing
23/11/17	P160025	5-9 Salisbury Rd, Beaconsfield Upper	Additions and alterations to an existing aged care facility, vegetation removal and associated works	Refusal	Applicant	Waiting on hearing
10/01/18	T110314	36 Bunyip Modella Rd, Bunyip	Storage facility and native vegetation removal	Approval	Objector	Waiting on hearing
20/12/17	T160760	54 Rosebery St, Lang Lang	Variation of a restrictive covenant	Refusal	Applicant	Waiting on hearing
7/12/17	T160772	368 O'Neil Road Officer	Use and development of the land for a telecommunications facility and vegetation removal	Refusal	Applicant	Waiting on hearing
28/11/17		13 May Road, Beaconsfield	Extension of time	Refusal	Applicant	Waiting on hearing

Hearing Date	App No.	Address	Proposal	Council Decision	Appealed By	Outcome
4/10/17	T140410	24 Tivendale Road, Officer	Amendment to permit (amendment for additional access to RDZ1)	Refusal	Applicant	Waiting on hearing
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	Approval	Objector	Waiting on hearing

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

Moved Cr G Moore Seconded Cr J Owen

That the report be noted

Cd.

9 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY

FILE REFERENCE INT1764422

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted.

EXECUTIVE SUMMARY

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

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
Central Ward					
18/08/2017	T160672	71 Racecourse Road & 77 Racecourse Road, Pakenham VIC 3810	Use and development of the land as a Motel, erection of advertising signage and creation of a carriageway easement	NOD	12 October 2016
18/08/2017	T170343	48 John Street, Pakenham VIC 3810	Subdivision of Land into Eight Lots, in accordance with the approved Development Permit / Plans.	Issued	19 June 2017
18/08/2017	T170523	85 Grandvue Boulevard, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	10 August 2017
21/08/2017	T170522	97 Grandvue Boulevard, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	09 August 2017
22/08/2017	T170102	We 3/2-4 Purton Road, Pakenham VIC 3810	Display of one (1) business identification sign and internal additions and alterations for a mezzanine level	Issued	08 March 2017
22/08/2017	T170542	7 Avondale Street, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	15 August 2017
24/08/2017	T160466 - PC3	61 Racecourse Road, Pakenham VIC 3810	Section 173 - The staged multi-lot subdivision (Stages 12- 14) and development of one (1) dwelling on each lot in accordance with the endorsed plans	Issued	27 July 2017
24/08/2017	T170310	1280 Koo Wee Rup Road, Pakenham VIC 3810	The display of business identification signage	Issued	30 May 2017

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
24/08/2017	T170401	106 Henry Road, Pakenham VIC 3810	Subdivision of the land into seven (7) lots	Lapsed	23 June 2017
24/08/2017	T170479	95 Grandvue Boulevard, Officer VIC 3809	Development of the land for a single dwelling	Issued	25 July 2017
31/08/2017	T170464	15 Skyline Drive, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	19 July 2017
31/08/2017	T170487	98 Grandvue Boulevard, Pakenham VIC 3810	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	26 July 2017
5/09/2017	T160498	Princes Highway, Pakenham VIC 3810	Development of the land for shops, restricted retail premises, indoor recreation facility, convenience restaurant, signage and associated buildings and works, waiver of loading bay in association with a restaurant and access to a Road Zone Category 1	Withdrawn	02 August 2016
8/09/2017	T160647 - PC1	16 Watergrass Court, Pakenham VIC 3810	Plan of Subdivision fully dimensioned in accordance with what has been constructed on site, and Condition 1 items of Planning Permit addressed.	Issued	04 September 2017
11/09/2017	T170586	21 Montalto Drive, Pakenham VIC 3810	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	31 August 2017
12/09/2017	T160631 - PC2	5 Wadsley Avenue, Pakenham VIC 3810	Condition 2 - Development of a second dwelling to the rear of the existing dwelling and alterations and additions to the existing dwelling	Issued	12 May 2017
Port Ward					
18/08/2017	T170168	320 Seymour Road and 280 Dore Road, Nar Nar Goon North VIC 3812	Realignment of boundaries between two (2) lots and consolidation of two (2) lots	Issued	23 March 2017
18/08/2017	T170225	72 Gainsborough Avenue, Lang Lang VIC 3984	Development of the land for an outbuilding	Issued	28 April 2017
18/08/2017	T170378	45 Wildes Road, Yannathan VIC 3981	Alteration and Addition to Existing Dwelling	Issued	19 June 2017
22/08/2017	T170003	146 Nash Road, Bunyip VIC 3815	Subdivision of the land into four (4) lots	NOD	10 January 2017
24/08/2017	T130739 - 1	1705 Gembrook-Tonimbuk Road, Tonimbuk Victoria 3815	Re-subdivision of two (2) existing lots (boundary re-alignment)	Issued	10 October 2016

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
24/08/2017	T150574 - 1	76 Leask Road, Tonimbuk Victoria 3815	Use and development of the land for group accommodation in a Rural Conservation Zone Schedule 1 and Bushfire Management Overlay	Issued	15 May 2017
24/08/2017	T160263 - PC1	680 Manks Road, Dalmore VIC 3981	Development of the land for a rural store	Issued	27 June 2017
24/08/2017	T170007	226 Bessie Creek Road, Nar Nar Goon North VIC 3812	Construction of an outbuilding	Issued	24 January 2017
24/08/2017	T170119 - PC1	10 Gardner Street, Koo Wee Rup VIC 3981	Amended plans to comply with Condition 1 of Planning Permit T170119	Issued	27 June 2017
24/08/2017	T170271 - 1	2B Latta Road, Nar Nar Goon VIC 3812	Development of the land for an outbuilding (garage)	Issued	25 July 2017
24/08/2017	T170330	1395 Caldermeade Road, CATANI VIC 3981	Development of the land for two outbuildings	Issued	29 May 2017
28/08/2017	T170031 - PC1	75 Bunyip-Modella Road, Bunyip VIC 3815	Condition 1 - The use and development of the land for a dwelling, outbuilding and associated earthworks	Issued	08 June 2017
30/08/2017	T170203	80 Beatties Road, Koo Wee Rup VIC 3981	The use and development of the land for a dwelling, outbuilding and associated earthworks	Issued	10 April 2017
31/08/2017	T170398	22 Pinehill Drive, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued	26 June 2017
31/08/2017	T170480	75 Rices Road, Dalmore VIC 3981	Construction of two (2) buildings for workers' accommodation in association with crop raising	Issued	25 July 2017
1/09/2017	T160526 - PC1	71 Bald Hill Road, Pakenham VIC 3810	Plans to comply - Conditions 1 and 2	Issued	24 August 2017
1/09/2017	T170223 - 1	2705 Princes Highway, Tynong North VIC 3813	Permit to include the sale and consumption of liquor from the café and an animal display area. Amended plans to include details of the café, animal display area and additional car parking.	Issued	29 August 2017
1/09/2017	T170281	105-107 Nar Nar Goon-Longwarry Road, Garfield VIC 3814	Subdivision of the land into eight (8) lots and creation of an easement	Issued	18 May 2017
4/09/2017	T170400	70-80 Bald Hill Road, Pakenham VIC 3810	Construction of a building (Verandah)	Issued	23 June 2017
5/09/2017	T130302 - PC2	501 Dore Road, Nar Nar Goon North Victoria 3812	Condition 1 and 2 - Use and development of the land for a dwelling, outbuilding (carport) and vegetation removal.	Issued	28 April 2016

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
5/09/2017	T150243 - 1	15 Bunyip River Road Nar Nar Goon & 440 Pitt Road, Iona Victoria 3812	Buildings and works associated with Agriculture	Issued	08 June 2017
5/09/2017	T170110	Leask Road, Tonimbuk VIC 3815	Development of the land for two outbuildings and buildings and works associated with Agriculture (2 silos)	NOD	28 February 2017
5/09/2017	T170143	22 A` Beckett Road, Bunyip VIC 3815	Removal of easement	Issued	09 March 2017
7/09/2017	T170331	Bridal Road, Tonimbuk VIC 3815	The removal of trees.	Issued	05 June 2017
8/09/2017	T110588 - PC3	270 Cardinia Road, Officer South Victoria 3809	Condition 24 BDG - Multi-lot residential subdivision of the land in stages, associated road networks and works to remove two existing waterbodies within the land, generally in accordance with the approved plans	Issued	11 April 2017
8/09/2017	T170442	1610 Princes Highway, Nar Nar Goon VIC 3812	To subdivide land into two (2) lots including the creation of a carriageway easement and a restriction	Issued	12 July 2017
11/09/2017	T170058	8-10 Stacey Street, Bunyip VIC 3815	Subdivision of the land into (2) two lots (boundary realignment)	NOD	09 February 2017
11/09/2017	T170270	110 Eleven Mile Road, Tynong VIC 3813	Development of the land for a hay store.	Issued	16 May 2017
11/09/2017	T170422	10 Gardner Street, Koo Wee Rup VIC 3981	The subdivision of the land into two lots	Issued	05 July 2017
12/09/2017	T160526 - 1	71 Bald Hill Road, Pakenham VIC 3810	Amend conditions 27, 28 and 29	Withdrawn	14 July 2017
14/09/2017	T150122 - PC2	27 Ryan Road, Pakenham VIC 3810	Condition 1A, 1B & 1C of Planning Permit T150122.	Issued	03 April 2017
Ranges Ward					
18/08/2017	T150821 - PC4	105 Mary Street, Officer VIC 3809	Plans to Comply - Condition 2 - Waste Management Plan - The development of thirty-eight (38) dwellings and associated works generally in accordance with the endorsed plans	Issued	24 February 2017
18/08/2017	T170288	21-23 Burton Road, Beaconsfield Upper VIC 3808	Earthworks	Issued	21 May 2017
21/08/2017	T170425	35 Eastbourne Crescent, Officer VIC 3809	Construction of a single storey dwelling	Issued	05 July 2017

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
21/08/2017	T170437	49 Eastbourne Crescent, Officer VIC 3809	Construction of dwelling on residential land (SLO6)	Issued	11 July 2017
22/08/2017	T170454	266 Mountain Road, Gembrook VIC 3783	Development of the land for a dwelling	Withdrawn	17 July 2017
24/08/2017	T120470 - 1	15 Twin Creeks Road, Pakenham Upper VIC 3810	AMENDED PERMIT - Development of the land for a replacement dwelling and associated earthworks	Issued	02 December 2016
24/08/2017	T150390 - PC1	39 Station Road, Gembrook VIC 3783	Condition 1A - A restriction stating 'Each lot must comply with the minimum garden area requirement outlined in Clause 32.09-4 of the Cardinia Planning Scheme'.	Issued	08 August 2017
24/08/2017	T160590 - PC1	101 Mount Burnett Road, Mount Burnett VIC 3781	Conditions 1 & 3 - Boundary re-alignment including No. 91 Mount Burnett Road and No. 251 Harewood Park Road, variation of power line easement, removal of Section 173 Agreement AM227102B and variation of Covenant PS 720426Y.	Issued	20 June 2017
24/08/2017	T170090	15 Buckland Lane, Pakenham Upper VIC 3810	The development of the land for an outbuilding	Issued	21 February 2017
24/08/2017	T170246	43 Meadowview Lane, Emerald VIC 3782	Development of the land for an outbuilding and associated earthworks	Issued	04 May 2017
24/08/2017	T170364	30 Morris Drive, Beaconsfield Upper VIC 3808	Earthworks	Issued	14 June 2017
24/08/2017	T170417	31 Springs Street, Cockatoo VIC 3781	Construction of an outbuilding (garage)	Issued	30 June 2017
24/08/2017	T170457	225 Split Rock Road, Beaconsfield Upper VIC 3808	Construction of an outbuilding (Horse Float Shed)	Issued	18 July 2017
25/08/2017	T170073	Parker Road, Gembrook VIC 3783	Subdivision of the land (boundary realignment)	Issued	14 February 2017
25/08/2017	T170370	20 Morris Drive, Beaconsfield Upper VIC 3808	The development of the land for an outbuilding	Issued	15 June 2017
28/08/2017	T100830 - 1	4 Station Road, Gembrook Victoria 3783	use and development of the land for a dwelling and outbuilding including vegetation removal	Issued	03 July 2017
29/08/2017	T160868 - PC1	Curran Drive, Officer VIC 3809	Conditions 8 - Use and Development of the land for a Child Care Centre	Issued	05 July 2017

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
29/08/2017	T170386	58 Calder Road, COCKATOO VIC 3781	Development of the land for a dwelling on Lot 1 PS 344917Y and earthworks	Issued	22 June 2017
30/08/2017	T170025	18 Amphlett Avenue, Cockatoo VIC 3781	Development of the land for a dwelling and vegetation removal	Issued	24 January 2017
30/08/2017	T170234 - PC1	14 Lyle Avenue, Beaconsfield VIC 3807	Development of the land for two (2) dwellings	Issued	22 August 2017
31/08/2017	T170435	1A Thomas Street, BEACONSFIELD VIC 3807	Development of an outbuilding (shed)	Issued	10 July 2017
1/09/2017	T130635 - 1	1476 Pakenham Road, Mount Burnett Victoria 3781	Amendment to Planning Permit T130635 (issued for a dwelling and associated earthworks) by amending the Permit preamble; Amending Condition 3 of the Permit and modifying the endorsed plans.	Issued	15 July 2016
1/09/2017	T160569	32 McMullen Road, Officer VIC 3809	Use and development of the land for a Residential Village to be completed in stages, removal of native vegetation, buildings and works on land within a Land Subject to Inundation Overlay and buildings and works on land shown as Encumbered Open Space associated with the re-alignment of Gum Scrub Creek	Issued	24 August 2016
1/09/2017	T160644 - PC1	27 Gembrook-Tonimbuk Road, Gembrook VIC 3783	Amended plans to comply with Condition 1 of Planning Permit T160644	Issued	07 August 2017
1/09/2017	T170248	17 Bond Lane, Gembrook VIC 3783	The development of the land for an outbuilding extension and associated earthworks	Issued	08 May 2017
5/09/2017	T120566 - 1	24-26 View Hill Road, Cockatoo Victoria 3781	Amended permit - subdivision of land into three lots	Withdrawn	24 February 2017
5/09/2017	T170045	Bridge Road, Officer VIC 3809	Subdivision of the land into four (4) lots in two stages, removal of drainage easement and construction of roads within the Land Subject to Inundation Overlay generally in accordance with the endorsed plans, subject to the following conditions	Issued	01 February 2017

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
5/09/2017	T170106	7-9 Haupt Place, Beaconsfield Upper VIC 3808	Vegetation Removal	Issued	28 February 2017
5/09/2017	T170218	12 Avon Road, Avonsleigh VIC 3782	Development of an outbuilding	Issued	20 April 2017
5/09/2017	T170567	2 Christopher Road, Officer VIC 3809	Alterations and extension to existing dwelling	Withdrawn	18 August 2017
5/09/2017	T170587	335 Evans Road, Cockatoo VIC 3781	Dependent persons unit	Withdrawn	31 August 2017
5/09/2017	T170590	155 Army Settlement Road, Pakenham VIC 3810	Two (2) lot boundary re-alignment to be in accordance with the enclosed Plan of Subdivision PS815225G.	Withdrawn	31 August 2017
6/09/2017	T150803 - PC1	Cardinia Creek Road, Emerald Victoria 3782	Conditions 1, 3, 4 & 6 - Removal of native vegetation	Issued	29 March 2017
6/09/2017	T160740	214 Toomuc Valley Road, Pakenham VIC 3810	Use and development of the land for a Contractors Depot	NOD	09 November 2016
6/09/2017	T170348	206 Gembrook-Tonimbuk Road, Gembrook VIC 3783	Earthworks	Lapsed	07 June 2017
7/09/2017	T170128	365 Princes Highway, Officer VIC 3809	Demolition of part of a building (associated structure) in a Heritage Overlay	Issued	01 March 2017
7/09/2017	T170249	30 Lakeside Drive, Emerald VIC 3782	Development of the land for a garage and extension to existing verandah	Issued	08 May 2017
7/09/2017	T170322	9A Edemont Road, Emerald VIC 3782	Development of the land for a horse arena	Issued	26 May 2017
8/09/2017	T170377	15 Mary Street, Officer VIC 3809	Development of the land for a telecommunications facility and associated works in accordance with the submitted plans.	Issued	16 June 2017
8/09/2017	T170418	54 Fairway Road, Emerald VIC 3782	Alterations and addition to an existing dwelling	Issued	29 June 2017
8/09/2017	T170471	2555 Gembrook-Launching Place Road, Gembrook VIC 3783	Removal of trees	Issued	20 July 2017
11/09/2017	T150505	182 Gembrook-Tonimbuk Road, Gembrook Victoria 3783	Use and development of the land for a dwelling within 100 metres of a dwelling not in the same ownership and a waterway and earthworks in a RCZ1, buildings and works associated with accommodation in a BMO and Buildings and works greater than seven (7)	Issued	18 August 2015

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
			metres in height and removal of vegetation.		
11/09/2017	T170311	200 Beaconsfield-Emerald Road, Beaconsfield VIC 3807	Internally illuminated business identification sign	Issued	27 May 2017
12/09/2017	T160268	Yackatoon Road, Beaconsfield Upper VIC 3808	Use and development of the land for a dwelling, outbuilding, vegetation removal and earthworks	Issued	05 May 2016
12/09/2017	T170045 - PC1	Bridge Road, Officer VIC 3809	Condition 1 Plans - Subdivision of the land into four (4) lots in two stages, removal of drainage easement and construction of roads within the Land Subject to Inundation Overlay generally in accordance with the endorsed plans, subject to the following conditions	Issued	11 September 2017
12/09/2017	T170238	53 Avon Road, Avonsleigh VIC 3782	The development of the land for an outbuilding (Verandah/pergola)	Issued	28 April 2017
12/09/2017	T170557	2555 Gembrook-Launching Place Road, Gembrook VIC 3783	Development of a storage building associated with existing accommodation use	Issued	17 August 2017
13/09/2017	T150441 - PC2	225 and 265, Ure Road, Gembrook Victoria 3783	Condition 1- Realignment of the common boundary between two (2) allotments	Issued	22 March 2017
13/09/2017	T160720 - PC3	15 Belgrave Avenue, Cockatoo VIC 3781	Development of the land for a dwelling and associated earthworks, and vegetation removal	Withdrawn	07 September 2017

9 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY

Moved Cr G Moore Seconded Cr J Owen

That the report be noted.

Cd.

10 PLANNING ENFORCEMENT MATTERS

FILE REFERENCE INT1764426

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Shannon Maynard

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.

BACKGROUND

Where breaches of the Planning Scheme are detected, the breaches may give rise to criminal liability, which may result in infringements being issued, or charges being filed in the Magistrates Court of Victoria.

If Council cannot obtain appropriate remediation by consent, Council undertakes enforcement action at the Victorian Civil and Administrative Tribunal (VCAT).

VCAT enforcement actions will usually be delayed until Magistrates' Court proceedings are completed.

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

Current Enforcement cases

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.	VCAT APPLICATION P1197/2016 VCAT recently made orders and reasons in this long-running matter. VCAT made a declaration in the following terms: 1. 1. "The subject land has existing use rights under the Cardinia Planning Scheme for a tree lopping/vegetation management business conducted from the land (the Business), including the:

		<p>a) Storage of vehicles and other plant, equipment and machinery;</p> <p>b) Undertaking servicing and repairs of plant, equipment and machinery in accordance with any planning permit;</p> <p>c) Bringing onto the land timber and other vegetation that has been felled by or on behalf of the operator of the business;</p> <p>d) Storing, sorting, cutting and mulching timber and other vegetation on the land that has been felled by or on behalf of the operator of the business;</p> <p>e) Burning off timber or vegetation on the land that has been felled by or on behalf of the operator of the business;</p> <p>all associated with the Business.”</p> <p>This decision only declares the owner’s rights under the <i>Planning and Environment Act</i>, and does not determine whether Cardinia Shire Council <i>Local Law 17</i> (which prohibits commercial burning off without a permit) continues to apply, which remains contentious.</p> <p>MAGISTRATES COURT CASE relating to unpermitted building work (retaining wall) –</p> <p>The matter is set down for a 3- day contested hearing from 29th November 2017.</p> <p>The property has a 20 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>Magistrates’ Court proceeding, alleging that the owner has conducted earthworks that require a permit, and cleared native vegetation, both without a permit.</p> <p>On 10 August 2017, the accused appeared in Court with a number of supporters. The accused withdrew from the hearing, after his supporters were ejected for disruptive behaviour. It is unclear how he intends to respond to this case going forward.</p> <p>It is listed for further hearing on the 30 October 2017.</p>
230 Telegraph Rd, Beaconsfield Upper	Native vegetation removal, in breach of Clause 52.17 (Native Vegetation) and Clause	Magistrates’ Court proceeding is listed for further mention on 12 th October 2017.

OH:LK:17351	42.04-2 (Environmental Significance Overlay - Schedule 1)	
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. Rural Conservation Zone - Sch 1, Environmental Significance Overlay - Sch 1, Bushfire Management Overlay, and Clause 52.17	Magistrates' Court prosecution arising from the creation of a large dam (by earthworks and vegetation removal), contrary to strict environmental controls and Section 173 agreement protecting vegetation on the land. On 15 th September 2016 the Court issued a Warrant for arrest to compel the attendance of the accused. The matter is adjourned indefinitely, pending Victoria Police execution of the warrant.

Conclusion

The list of current enforcement activities is presented for information.

10 PLANNING ENFORCEMENT MATTERS

Moved Cr G Moore Seconded Cr J Owen

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

Cd.

Meeting closed at 7.54pm

Minutes Confirmed
Chairman