

# **1 AMENDED PERMIT FOR SUBDIVISION OF THE LAND AND CREATION OF A RESERVE**

FILE REFERENCE INT186015

RESPONSIBLE GENERAL MANAGER Andrew Paxton

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## **RECOMMENDATION**

That a Refusal to Grant Planning Permit T130742 - 2 be issued for subdivision of the land and creation of a reserve at Lot 1 PS 724891 365 Princes Highway, Officer on the following grounds:

- The conditions are considered to be valid in order to achieve a well-planned and orderly development.
- The deletion of the words 'creation of a reserve' within the preamble is to remain. The creation of the reserve is a consequence of the subdivision.
- The deletion of condition 12 (f) is not supported as the footpath connections within and around the reserve linking with the Princes Highway shared trail network are required for the orderly and proper planning of the area.
- The proposed amendment request to delete conditions will have negative impacts upon community safety within public areas and reduce the amenity planned and accessibility for the area.
- The proposed amendment request will diminish the ability to ensure that the required drainage reserve and associated 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.
- The proposed amendment request will diminish the ability for the development to contribute to community health and well being by encouraging walking and cycling as part of the daily lives of residents, employees and visitors.
- The proposed amendment request will diminish the ability to provide safe and direct movement through and between neighbourhoods by pedestrians and cyclists.

## **Attachments**

1	Aerial locality plan	1 Page
2	Subdivision plans	1 Page
3	Officer Precinct Structure Plan, Plan 11 Open Space Network, Plan 12 Integrated Water Management	2 Pages

## **EXECUTIVE SUMMARY:**

APPLICATION NO.: T130742 - 2

APPLICANT: Bosco Jonson Pty Ltd on behalf of Keymore Pty Ltd

LAND:	Lot 1 PS724891, 365 Princes Highway, Officer
PROPOSAL:	Subdivision of the land and creation of a reserve
PLANNING CONTROLS:	Urban Growth Zone Schedule 3 Applied zone is General Residential Development Contributions Overlay Schedule 4 Clause 43.01-1 Heritage Overlay Clause 52.01 Public Open Space Clause 52.02 Easements Restrictions and Reserves Clause 52.16 Native Vegetation Precinct Plan Clause 52.29 Land Adjacent to a Road Zone Category 1 Clause 52.36 Integrated Transport Planning Clause 56 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 (applied zone, General Residential), Officer Precinct Structure Plan September 2011, Community Safety, Health and Well Being, Infrastructure, Melbourne Water drainage network.
RECOMMENDATION:	Refusal

**BACKGROUND:**

The applicant has lodged an application to amend the planning permit that was issued for the subdivision of land and creation of a reserve. The land is designated as residential with an encumbered reserve along the southern boundary in the Officer Precinct Structure Plan (OPSP).

The planning permit was issued on the 3rd November 2016 for the subdivision of land in stages and creation of a reserve for open space which included the drainage reserve, the lot for the heritage building and remainder of land designated for the residential subdivision. The subdivision was for 51 lots and road network undertaken in two stages. A public open space reserve is proposed in favour of Council with an easement in favour of Melbourne Water and applies to an area over the existing claypits in the south west corner of the site with the proposed reserve provides an area of 1.214 hectares. The lot to be created is irregular in shape with a south boundary on the Princes Highway frontage of 146.4 metres. The land contained a dam referred to as the former claypit dam associated with the former use of the land. The Officer Precinct Structure Plan shows the claypit dam as being within the encumbered open space area and existing retarding basin.

The permit was subsequently amended on the 11th September 2017 to amend and delete some conditions and change the preamble to remove the word 'staged' and amend the address of the land to include the new plan of subdivision PS724891X, which creates lot 1 and the reserve number 1.

The reserve, which is a drainage reserve, was created as a consequence of the planning permit under the provisions of the planning scheme. However, during the course of the application process there were negotiations between Council, Melbourne Water and the landowner regarding the acquisition of the drainage reserve land. Council considered that the creation of the drainage reserve by way of section 35 under the Subdivision Act 1988 was consistent with the intent of the overall subdivision application that included the drainage reserve.

As a result of the above, Council became the owner of the reserve on the 27th May 2016 with Melbourne Water being the beneficiary of the creation and maintenance of the reserve/wetlands, floodway and drainage as specified and set out in the memorandum of common provisions.

The adjoining land to the west of the subject site is known as Timbertop Estate, which also contains another claypit dam, which has been modified into a retarding basin to contain the drainage catchment for the residential development within the Melbourne Water catchment area.

As a result of the subdivision process for the subject site and the adjoining development Timbertop Estate, the applications were referred to Melbourne Water for comment who required that the dams on each site be used as retarding basins for the catchment, which is in accordance with the Officer PSP.

The two claypit dams were single entities divided by a former driveway (figure 1). As part of the subdivision process and consultation with Melbourne Water and Council, the claypit dams have now become one singular large retarding basin.

It is worth noting that Timbertop Estate and adjoining subdivisions will be constructing the shared paths along the Princes Highway, which provides for pedestrian and bicycle connectivity across the broader area.

*Figure 1 – Shows the subject site to the east and adjoining Timbertop Estate to the west*



## SUBJECT SITE

The site is located on the north side of Princes Highway, approximately 200 metres east of Timbertop Boulevard in Officer. The land has undergone earthworks over time with the re-sculpturing of the dam/retarding basin previously used as a claypit in association with the heritage building located in the south east corner of the site. The heritage building includes a brick kiln and

associated attached shedding with the heritage overlay applying to the southern section of the site over the existing heritage building and claypits. The remaining land is currently vacant.

The former claypit dam is now land that is within Council's ownership with Melbourne Water being a beneficiary of the reserve for the purpose of a retarding basin and maintenance. The claypit dam has now been joined with the adjoining dam at Timbertop Estate to form a large retarding basin.

The surrounding land is characterised as being predominately developed for residential purposes.

Figure 2 – Taken in 2013



Figure 3 – Taken in 2017



## PROPOSAL

Details of the amendment request:

- Delete condition 8 (a) which requires a shared path along the Princes Hwy frontage of the land being shown in a Public Infrastructure land to be endorsed under the permit and implemented by way of a section 173 agreement.

This condition is proposed to be removed as the shared path is to be delivered under the Officer Development Contributions Plan being DCP item DI\_TN\_01. Therefore, the permit holder is not responsible for the construction or delivery of the said shared path and there is no need for a PIP to list this item. The DCP funds should be used as efficiently as possible and in this case the design and construction of the path in small segments would lead to a very costly and inefficient outcome.

Moreover, the DCP requires a request from the landowner/developer to undertake works in lieu and such action is not appropriate in this case.

- Amend the permit preamble removing the creation of a reserve. The permit address of the land has been amended to be lot 1 on PS724489X which excludes the reserve located to the south west of the site.

In this context the permit does not allow for the creation of the said reserve and therefore the permits preamble should be corrected accordingly.

- Amend the permit address of the land to include the correct land description. The permits correct land description should be lot 1 on PS724489X as illustrated in the title.

- Delete condition 12 (f) which requires footpath connections around the reserve (Melbourne Water maintenance track) being shown on a landscape master plan to be endorsed under the permit. This condition is proposed to be removed for the following reasons:
  - It is already constructed in accordance with Melbourne Water approved civil engineering plans (see attachments 1 & 2)
  - As discussed it is not within the permit address of the land but within the Council reserve (reserve number 1 on PS724891X) affected by easement E-1 in favour of Melbourne Water.
  - The purpose of the reserve is to be a retarding basin and as such the PSP does not provide further extension of the constructed maintenance track.
  - Melbourne Water design does not accommodate any additional path network.
  - Although this item is not a DCP project the DCP recognises that small landowners should not be burdened with the embellishment of reserves.

## **PLANNING SCHEME PROVISIONS**

### **State Planning Policy Framework (SPPF)**

The relevant clauses of the SPPF are:

- Clause 9.01 Plan Melbourne 2017-2050: Melbourne Planning Strategy
- Clause 10.04 Integrated decision making
- Clause 11.02-2 Urban Growth (Structure Planning)
- Clause 11.02-3 Planning for growth areas
- Clause 11.02-4 Sequencing of development
- Clause 11.03-1 Open space management
- Clause 11.06-4 Place and identity
- Clause 11.06-5 Neighbourhoods
- Clause 15.01-1 Urban Design
- Clause 15.01-3 Neighborhood and Subdivision Design
- Clause 15.01-4 Design for Safety
- Clause 15.01-5 Cultural Identity and Neighbourhood Character
- Clause 15.03-1 Heritage Conservation
- Clause 15.03-2 Aboriginal Cultural Heritage
- Clause 18.02-1 Cycling
- Clause 19.03-1 Development contribution plans
- Clause 19.03-3 Stormwater

### **Local Planning Policy Framework (LPPF)**

The relevant clauses of the SPPF are:

- Clause 21.01-3 Cardinia Shire key issues and strategic vision; economic development
- Clause 21.02-6 Post contact heritage
- Clause 21.02-7 Aboriginal cultural heritage
- Clause 21.03-2 Urban growth area
- Clause 21.05-1 Infrastructure provision
- Clause 21.05-3 Local roads
- Clause 21.05-5 Pedestrian and bicycle network
- Clause 21.06-1 Design and built form

**Relevant particular/general provisions and relevant incorporated or reference documents**

The relevant provisions/documents are:

- Clause 52.01 Public Open Space.
- Clause 52.02 Easements, Restrictions and Reserves
- Clause 52.16 Native Vegetation Precinct Plan
- Clause 52.29 Land adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road
- Clause 52.36 Integrated Transport Planning
- Clause 56 Subdivision Site and Context Description and Design Response
- Clause 65.01 and 65.02 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 with the applied zone is the General Residential Zone.

**Overlays**

The land is subject to the following overlays:

- Heritage Overlay Schedule 104
- Development Contributions Overlay Schedule 4 (DCPO4) (Clause 45.06) which implements the Officer Development Contributions Plan (September 2011).

**PLANNING PERMIT TRIGGERS**

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

- The land is subject to the Urban Growth Zone, pursuant to Part B of the zone where a structure plan applies (approved September 2011) and incorporated into the scheme), the provisions of Clauses 37.07-9 to 37.07-16 apply. Any permit issued must be generally in accordance with the precinct structure plan applying to the land.
- Under the Schedule 3 Section 2.1 the subject site is located and zoned within the General Residential Zone, as such pursuant to Clause 37.07-10 & 37.07-11 the site is subject to these provisions under the Cardinia Planning Scheme, 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.
- Pursuant to Clause 43.01-1 of the Heritage Overlay a permit is required for subdivision.
- Pursuant to Clause 45.06, Development Contributions Plan Overlay Schedule 4 implements the Officer Development Contributions Plan. Clause 2 and 3 contains a summary of the costs and contributions applicable for the area.

- Pursuant to Clause 52.02 a permit is required to create, vary or remove an easement, restriction or reserve.
- Pursuant to Clause 52.29 a permit is required to subdivide land adjacent to a road in a Road Zone, Category 1.

## **PUBLIC NOTIFICATION**

Pursuant to Clause 37.07-9 to 37.07-11 of the Cardinia Planning Scheme the proposal is exempt from the notice requirements of Section 52(1) (a), (b) and (d) of the Planning and Environment Act 1987.

Under the Schedule 3 Section 2.1 the subject site is located and zoned within the General Residential Zone, as such pursuant to Clause 37.07-10 & 37.07-11 the site is subject to these provisions under the Cardinia Planning Scheme, 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.

## **REFERRALS**

Referred to Melbourne Water as part of the original application but not under this request. A response was received on the 5th May 2016 with a range of conditions as follows:

1. Prior to the issue of a statement of compliance for the subdivision:
  - a) 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.
  - b) Engineering plans of the development (in electronic format) are to be forwarded to Melbourne Water for comment/approval. A Certified Survey Plan may be required following our comments on the engineering drawings.
  - c) Evidence confirming that the development has a free draining outfall must be submitted and accepted by Melbourne Water and Council.
  - d) The submission of as constructed flood mapping information may also be required of 1 in 100 year ARI flood levels.
  - e) A section 173 agreement or equivalent must be executed with Council and Melbourne Water to ensure that the filling of the lots and floor levels constructed above applicable flood levels associated with the adjacent retarding basin to Council and Melbourne Water's satisfaction.
2. Pollution and / or sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.
3. Lots adjoining the retarding basin may be filled 300mm above the 1 in 100 year flood level in the retarding basing provided:
  - a) The allotment is graded to 600mm above the flood level at the building envelope, and
  - b) A Section 173 agreement under the Planning and Environment Act 1987 is required to be entered into and placed on title for each allotment filled in this manner requiring the floor level to be 600mm above the retarding basin flood level.
4. All new lots must achieve appropriate freeboard in relation to any local overland flow paths to Council's satisfaction.

5. Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of overland flows.
6. 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.
7. Any proposed fencing for new lots that abut a Melbourne Water Drainage Reserve is to be fully funded by the developer. Melbourne Water will not contribute to the cost of any future fencing required by the development.
8. Prior to certification of the subdivision:
  - a) The plan of subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.
  - b) Easements and/or reserves must be shown on the plan of subdivision and must be created over any proposed Melbourne Water assets to the satisfaction of Melbourne Water.
  - c) A Drainage and Storm Water Management Strategy for the overall development shall be provided to Melbourne Water for review.
  - d) Copy of Council's acceptance of the SWMS for any assets under Council's maintenance shall be provided to Melbourne Water for our records.
  - e) The Developer must ensure adequate outfall from the site. A copy of written approval from the relevant affected parties to the satisfaction of Council for the arrangement of appropriate drainage outfall for the subdivision must be provided to Melbourne Water.
  - f) A drainage layout plan for the development must be submitted to Melbourne Water demonstrating the proposed alignment for the 1 in 5 year ARI flows and drainage infrastructure and the overland flow paths directions for the 1 in 100 year ARI flood event.
9. Prior to commencement of works:
  - a) A separate application direct to Melbourne Water's Asset Services team must be made for formal approval: for any stormwater connection to a Melbourne Water asset; before building, planting or installing utility works over, or near, any of Melbourne Water's assets. Asset Services team can be contacted on telephone 9679 6614 or email via [assetservices@melbournewater.com.au](mailto:assetservices@melbournewater.com.au)
  - b) At least 21 days prior to commencement of works, a Site Management Plan detailing pollution and sediment control measures, must be submitted to Melbourne Water.

The application was referred internally to Council's Engineering Department who support the current conditions as issued and that there be no change.

## DISCUSSION

### 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 for 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 appropriate footpath network is provided in suitable locations that will provide the walking and cycling network in a 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. (CEPTED)

In response to the above, by not providing the footpath within the reserve and shared path within Princes Hwy this will create missing links within a planned area that provides a pedestrian network that connects to the adjoining footpaths in neighbouring subdivisions which compromises the future pedestrian and bicycle networks not providing 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, 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 open space for this area. As a result, this provides for a multi-functional built environment, that promotes community health and safety, encouraging greater accessibility through the area.

The proposal 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 proposed amendment does not achieve the objective in that the activity in public spaces and provision of safe movement through good connections is not maximised. The missing paths will create a fragmented footpath network.

*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 significant 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 reserve 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 reserve in this context is to transform an existing claypit dam to serve as an important drainage function and key landmark for pedestrians. Pedestrians can choose to use this area that connects to a 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.

**Urban Growth Zone Schedule 3 – Officer Precinct Structure Plan (September 2011)**

Section 4.5 Open space and natural systems applies. The objective of open space is to provide for the following:

- Provide and develop a network of quality, well distributed, multi-functional and appropriately sized open space areas that are well connected to meet the active and passive needs of the community.
- 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.
- Encourage and promote the early development of open space through subdivision works, the Officer Development Contributions Plan and / or Council's Capital Works Programs.
- Incorporate pedestrian and bicycle paths throughout the open space network.

Plan 11 and 12 of the Officer PSP identifies the site as containing an encumbered drainage reserve with a retarding basin along the southern boundary of the site.

Table 13 Open space categories of the Officer PSP identifies the role of the open space as 'other encumbered land' which:

- To provide for overland flows and stormwater retention.
- To maintain access to services, particularly those underground.

Table 14 Open space planning and design guidelines to be met of the Officer PSP for other encumbered land:

- Publicly accessible encumbered land will only be considered as productive open space where the land is suitable for the intended open space function/s including maintenance.
- A road is to be provided along the edge of all drainage reserves as the interface to development, unless a maintenance track is otherwise provided to the satisfaction of Melbourne Water or the responsible authority.

In response to the above the original application was assessed against the provisions of the Officer PSP including the above sections of the PSP. The site has no noted unencumbered passive open spaces. A 2.05ha local park is provided to the south west of the site within Timbertop Estate and to the east (on the opposite side of Bayview Road) but not part of this application. An encumbered open space drainage reserve, which contains an existing retarding basin is shown within the land along the western and southern boundaries of the site.

The purpose of the drainage (heritage reserve) is to provide for overland flows and stormwater retention and to protect and conserve sites of cultural heritage significance.

Table 14 of the Officer PSP specifies that a road is to be provided along the edge of all drainage reserves as the interface to development, unless a maintenance track is otherwise provided to the satisfaction of Melbourne Water or the responsible authority.

In the assessment of the original application, the applicant has opted to provide part of a road along the northern boundary of the reserve and the remainder will be a maintenance track which doubles as the pedestrian footpath link to the shared path within Princes Highway. Melbourne Water have agreed to this.

To remove condition 12 (f) from the permit will undermine the original intent of the permit condition and the ability to create a permeable and well connected pedestrian friendly path network. Furthermore, should the condition be removed and no path created the residents within the area would have to walk longer distances through adjoining estates to reach the Princes Highway and access the shared path and public transport network.

#### **Officer Development Contributions Plan:**

The noted DCP items include and are reflected within the permit:

- The shared path along the Princes Highway, DI\_TN\_01. The trail is part of the trail network from O'Neill Road to Gum Scrub Creek. The trail is 3m wide reinforced concrete with lighting.
- The trail network is apportioned across the DCP area. The trail provides the new community with a safe and efficient trail network along the public transport network system.

A public infrastructure plan (PIP) condition will be placed on the permit.

A standard condition is placed on permits where the shared path has been required. This enables Council and the landowner/developer to enter into discussions about works in kind for their development and the nexus of the shared path with their development.

#### *Clause 52.02 Easements, restrictions and reserves*

A permit is required before a person proceeds under Section 23 of the Subdivision Act 1988 to create, vary or remove an easement or restriction or reserve. It is proposed to create a Melbourne Water reserve consistent with the PSP, Melbourne Water have been in negotiations with the applicant with regard to the acquisition of this land, Melbourne Water have noted that the subdivision accords with their requirements and have no objection to the proposal.

#### *Clause 56.06 Subdivision – Access and Mobility Management*

The objectives are to:

- To achieve an urban structure where compact and walkable neighbourhoods are clustered to support larger activity centres on the Principal Public Transport Network in Metropolitan Melbourne and on the regional public transport network outside Metropolitan Melbourne.
- To provide for walking (including persons with impaired mobility), cycling, public transport and other motor vehicles in an integrated manner.
- To contribute to reduced car dependence, improved energy efficiency, improved transport efficiency, reduced greenhouse gas emissions and reduced air pollution.

#### *Clause 56.06-2 - Walking and cycling network objectives*

- To contribute to community health and well being by encouraging walking and cycling as part of the daily lives of residents, employees and visitors.
- To provide safe and direct movement through and between neighbourhoods by pedestrians and cyclists.
- To reduce car use, greenhouse gas emissions and air pollution.

Further to the above standard C15 refers to walking and cycling network should be designed to:

- Provide safe walkable distances to activity centres, community facilities, public transport stops and public open spaces.
- Provide an interconnected and continuous network of safe, efficient and convenient footpaths, shared paths, cycle paths and cycle lanes based primarily on the network of arterial roads, neighbourhood streets and regional public open spaces.
- Provide direct cycling routes for regional journeys to major activity centres, community facilities, public transport and other regional activities and for regional recreational cycling.
- Be accessible to people with disabilities.

*Clause 56.06-3 - Public transport network objectives*

- To provide an arterial road and neighbourhood street network that supports a direct, efficient and safe public transport system.
- To encourage maximum use of public transport.

*Clause 56.06-4 - Neighbourhood street network objective*

- To provide for direct, safe and easy movement through and between neighbourhoods for pedestrians, cyclists, public transport and other motor vehicles using the neighbourhood street network.

It is apparent as outlined above that a subdivision proposal should meet the relevant objectives of clause 56 of the planning scheme by providing an interconnected and continuous network of safe, efficient and convenient footpaths and shared paths within a neighbourhood.

**Melbourne Water:**

The Melbourne Water conditions are linked to the creation of the reserve and the overall drainage requirements for the subdivision. It is considered inappropriate to delete the word 'creation of reserve' from the preamble when it is linked to the creation and function of the reserve. Furthermore, there are specific works required to be undertaken as part of the process for the subdivision which the subdivision process has not been commenced and the conditions of the permit acted upon it is considered to be premature to remove the 'creation of reserve' from the preamble.

**Response to the amendment request:**

Amendment request 1:

Delete condition 8 (a) which requires a shared path along the Princes Hwy frontage of the land being shown in a Public Infrastructure land to be endorsed under the permit and implemented by way of a section 173 agreement.

This condition is proposed to be removed as the shared path is to be delivered under the Officer Development Contributions Plan being DCP item DI\_TN\_01. Therefore, the permit holder is not responsible for the construction or delivery of the said shared path and there is no need for a PIP to

list this item. The DCP funds should be used as efficiently as possible and in this case the design and construction of the path in small segments would lead to a very costly and inefficient outcome.

Moreover the DCP requires a request from the landowner/developer to undertake works in lieu and such action is not appropriate in this case.

Response:

This is a standard condition placed on the permit and other permits where the shared path has been required. This enables Council and the landowner/developer to enter into discussions about works in kind for their development and the nexus of the shared path with their development and for the efficient and timely construction of infrastructure as development occurs.

Amendment request 2:

Amend the permit preamble removing the creation of a reserve. The permit address of the land has been amended to be lot 1 on PS724489X, which excludes the reserve located to the south west of the site.

In this context the permit does not allow for the creation of the said reserve and therefore the permits preamble should be corrected accordingly.

Response:

The permit address was recently amended as requested as a correction of the permit under section 72 of the Act at the applicants request. The original application that was made to Council included the creation of a reserve, which is created as part of the subdivision process. This does not exclude the reserve as the reserve was created as part of the subdivision process and is shown on the approved subdivision masterplan.

Whilst the permit was subsequently amended on the 11th September 2017 which included changing the preamble to amend the address of the land to include the new plan of subdivision PS724891X, which creates lot 1 and the reserve number 1, during the course of the application process there were negotiations between Council, Melbourne Water and the landowner regarding the acquisition of the drainage reserve land. Council considered that the creation of the drainage reserve by way of section 35 under the Subdivision Act 1988 was consistent with the intent of the overall subdivision application that included the drainage reserve.

Council became the owner of the reserve on the 27th May 2016 with Melbourne Water being the beneficiary of the creation and maintenance of the reserve/wetlands, floodway and drainage as specified and set out in the memorandum of common provisions.

It is not considered necessary to amend the preamble to remove the 'creation of a reserve' as this a consequence of the entire process.

Amendment request 3:

- Amend the permit address of the land to include the correct land description.

The permits correct land description should be lot 1 on PS724489X as illustrated in the title.

Response:

In response to the above, the permit address was recently amended as requested as a correction of the permit under section 72 of the Act at the applicants request.

- Delete condition 12 (f) which requires footpath connections around the reserve (Melbourne Water maintenance track) being shown on a landscape master plan to be endorsed under the permit. This condition is proposed to be removed for the following reasons:
  - It is already constructed in accordance with Melbourne Water approved civil engineering plans (see attachments 1 & 2)
  - As discussed it is not within the permit address of the land but within the Council reserve (reserve number 1 on PS724891X) affected by easement E-1 in favour of Melbourne Water.
  - The purpose of the reserve is to be a retarding basin and as such the PSP does not provide further extension of the constructed maintenance track.
  - Melbourne Water design does not accommodate any additional path network.
  - Although this item is not a DCP project the DCP recognises that small landowners should not be burdened with the embellishment of reserves.

The pathway is required to provide an appropriate pedestrian link between the approved development and the shared pathway network along the Princes Highway. This will enable the residents from within the approved development to walk / cycle to the Officer town centre and school precincts using an appropriate and logical route.

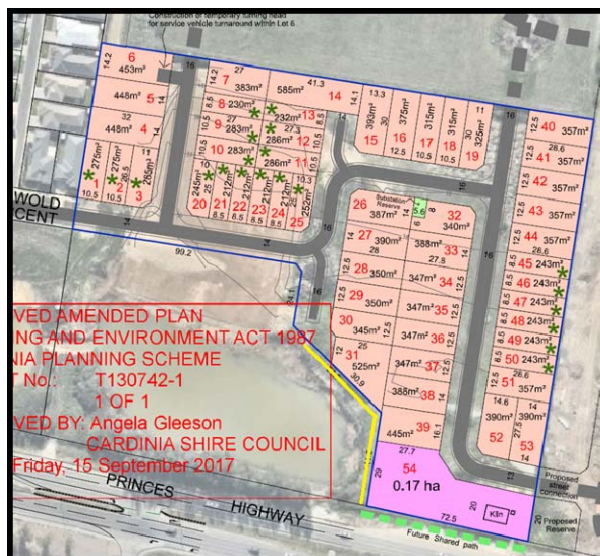
It is not unusual within the course of a subdivision application for developers to be required to provide appropriate pedestrian / cycle linkages outside of their developable land to ensure connectivity for their future residents as there is a need and nexus. If the developer did not subdivide the land, then these items would not be required to be provided.

The Melbourne Water maintenance track is separate to a footpath as the permit condition describes. The maintenance track will not serve the purpose of connecting the internal footpath network with the shared pathway along the Princes Highway. The standard on construction of the maintenance track will not be acceptable or conducive to enable "all abilities" use. Therefore, in addition to the gravel maintenance which appears to already be provided on the land, a proper concrete footpath is required to be constructed.

As a course of the planning application process, the subject of the road around the drainage reserve was extensively discussed with the permit applicant to the point that a subdivision layout that provides a road along the northern extent and partly along the north east part of the boundary was provided however, the road comes to a 'dead end'. In order for Melbourne Water to obtain access and to also provide a highly connected pedestrian link to Princes Highway, the permit was issued with a condition being 12 (f) to ensure that a pedestrian footpath was to be provided from the internal road network around the eastern boundary of the land connecting to the shared path on the Princes Highway. (Figure 2 shows a yellow line of the extent of the footpath from the road)



Figure 2



## CONCLUSION

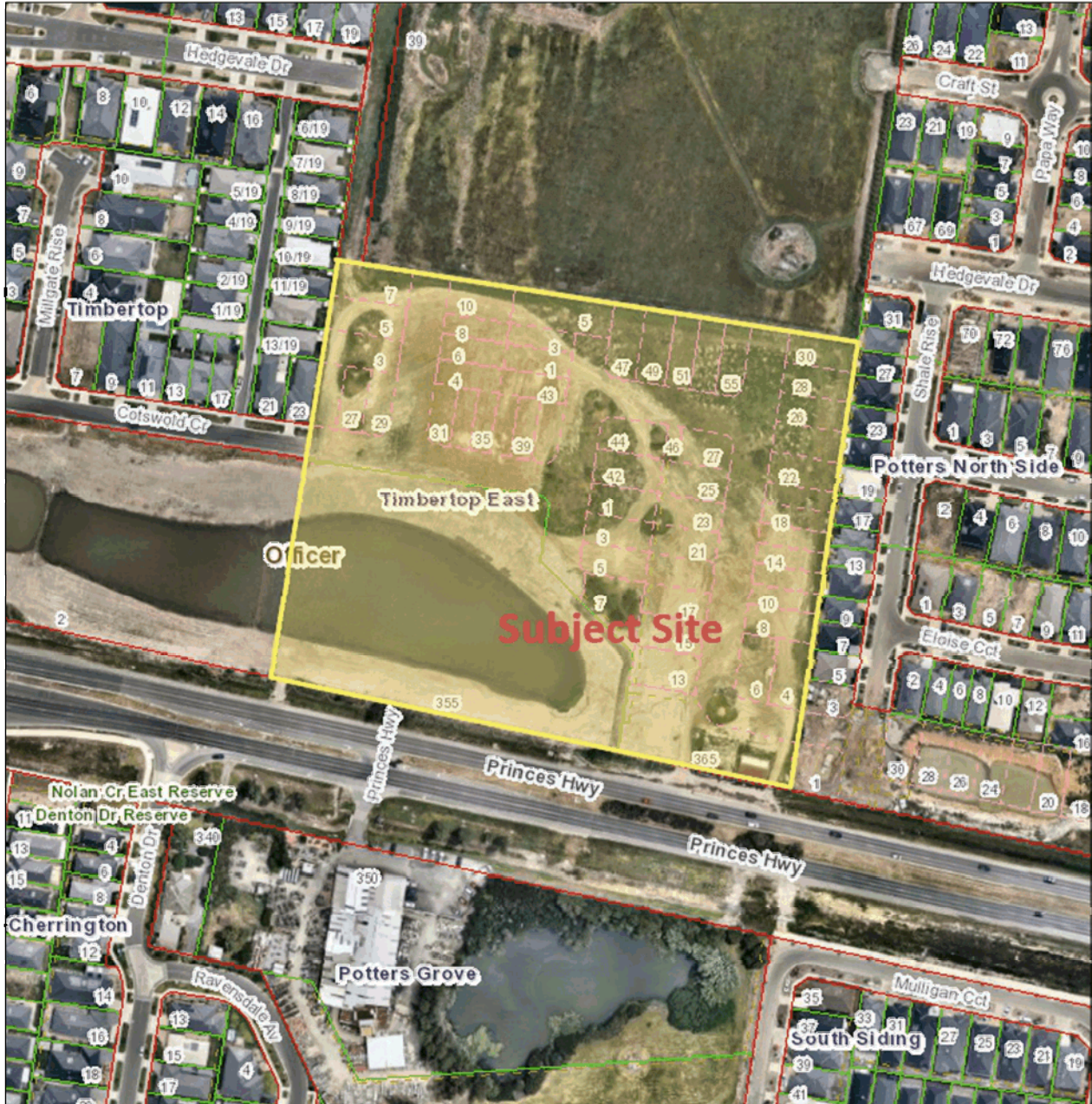
The Officer Precinct Structure Plan (PSP) identifies the subject site as a drainage reserve and a planning permit was issued for the entire land parcel which included the reserve, the lot for the heritage building and residential subdivision. Table 13 Open Space of the Officer Precinct Structure Plan, categorises the role of encumbered land being the retarding basin to provide for the overland flows and stormwater retention and to maintain access to services, particularly those underground.

Table 14 Open space planning and design guidelines that must be met for other encumbered land (including drainage), stipulates that a road is to be provided along the edge of all drainage reserves as the interface to development, unless a maintenance track is otherwise provided to the satisfaction of Melbourne Water or the responsible authority.

Whilst there is no specific footpath identified within the Officer PSP, the PSP is a performance based document based on a combination of objectives plans and tables and does not mean that certain key elements should not be provided by the owner of the land or developer. Other relevant provisions of the planning scheme refer to what the essentials are in creating a community with a sound and well planned neighbourhood for the community.

Council Officer's stand by the conditions of the permit and do not consider in necessary to remove the conditions as requested. The conditions are standard and lead to a positive outcome for the site.

# Aerial Map for Council report T130742-2



Legend	
Proposed Road Names	Approved
Bus Stops	Proposed
Railway Stations	Parcel
Railway	Approved
Bunyip Horse Trail	Proposed
Property Address	Rivers
Easements	River
Road Casement	Creek
Property	Drain
	Play Spaces
	Buildings
	BMX/Skate Parks
	Sporting Arenas
	Facilities
	Town Boundary
	Asset Landscaping
	Estates

Notes
365 Princes Highway, Officer

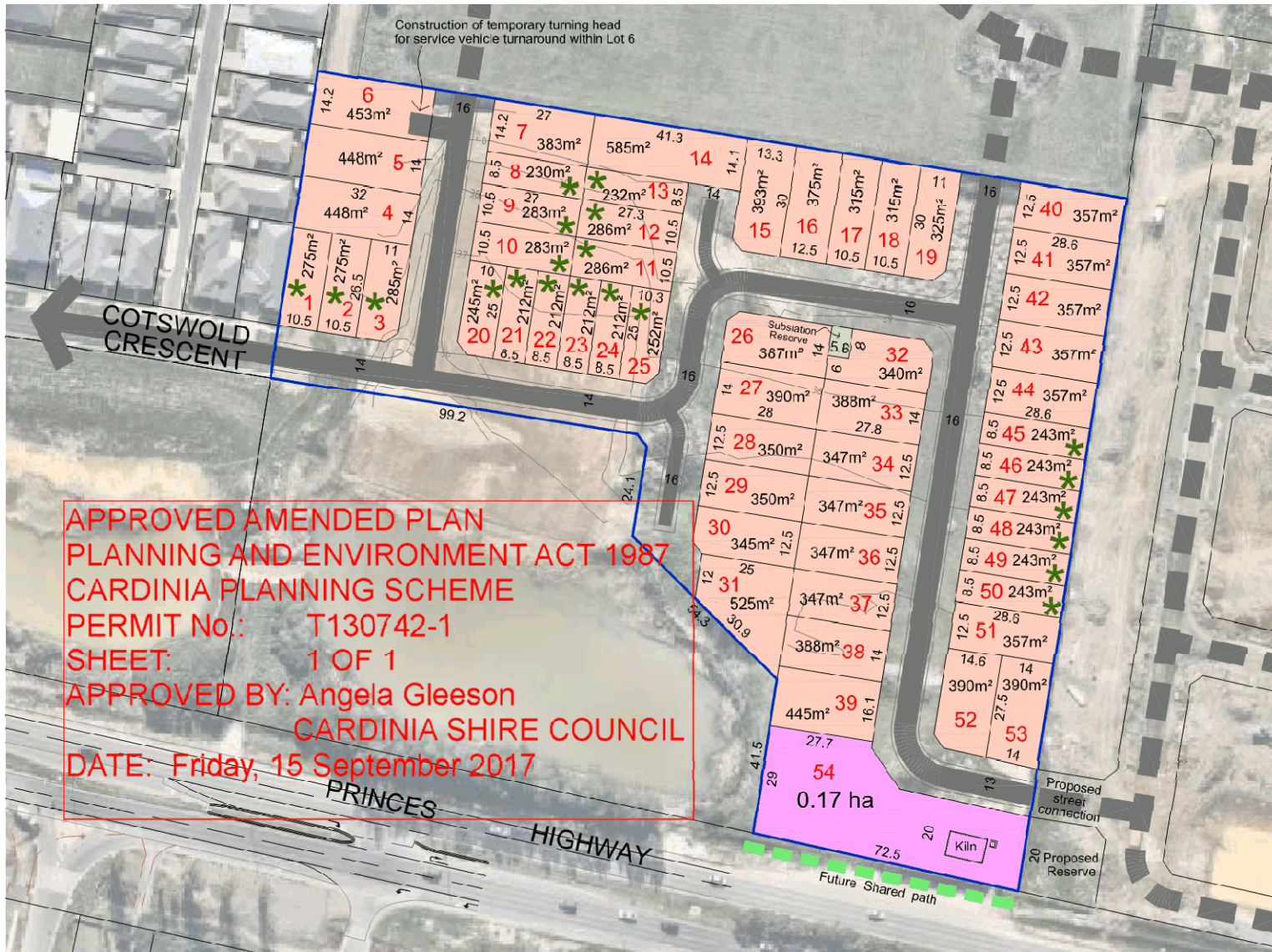


1: 2,267

Data Source: State & Local Government. © CARDINIA SHIRE COUNCIL

19-Jan-2018





**APPROVED AMENDED PLAN**  
**PLANNING AND ENVIRONMENT ACT 1987**  
**CARDINIA PLANNING SCHEME**  
**PERMIT No.: T130742-1**  
**SHEET: 1 OF 1**  
**APPROVED BY: Angela Gleeson**  
**CARDINIA SHIRE COUNCIL**  
**DATE: Friday, 15 September 2017**



8.5m wide lots (Example only)



10.5m wide lots (Example only)



10.5m wide lots (Example only)



12.5m wide lots (Example only)



14m wide lots (Example only)

**parklea.**

**Boscoe Jonson Pty Ltd**  
 16 Eastern Road South Melbourne  
 VIC 3206 Australia  
 Tel: 03 9599 1400 Fax: 03 9599 5982  
**Surveyors • Urban Designers • Planners**

LOT MIX				
8.5m	10.5m	12.5m	14m >	Total
12	11	18	12	53
23%	20%	34%	23%	100%

(330m<sup>2</sup> av)

Subject Land area 2.728 ha  
 Lot 1 on PS 724891X

\* Lots subject to the provisions of  
 The Small Lot Housing Code  
 Non-residential lot



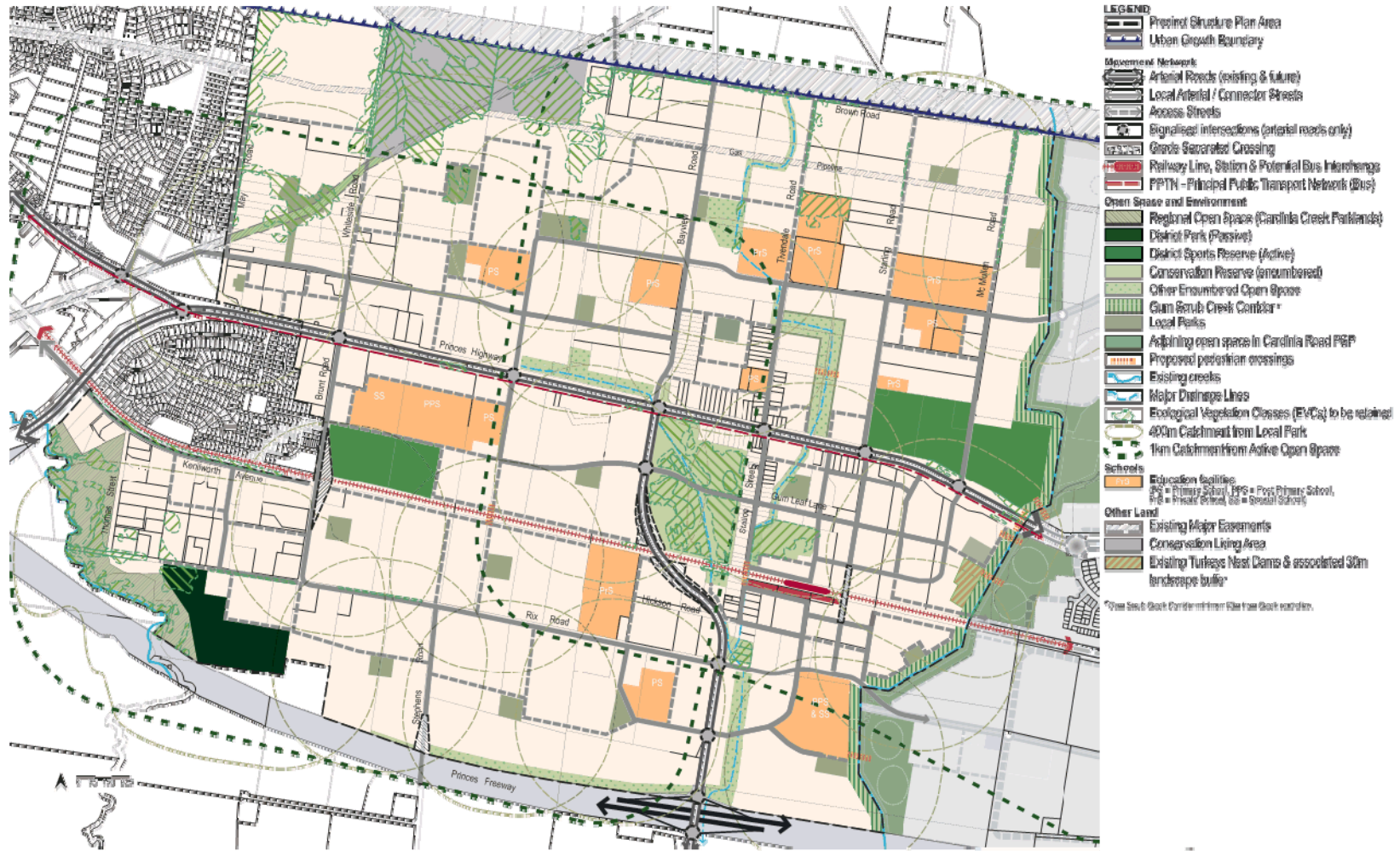
**CONCEPT PLAN**

DATE: 14 Sept 2017  
 REF: 28012 001  
 DWG: 801200FF

0 20 40 SCALE 1:1000@A3

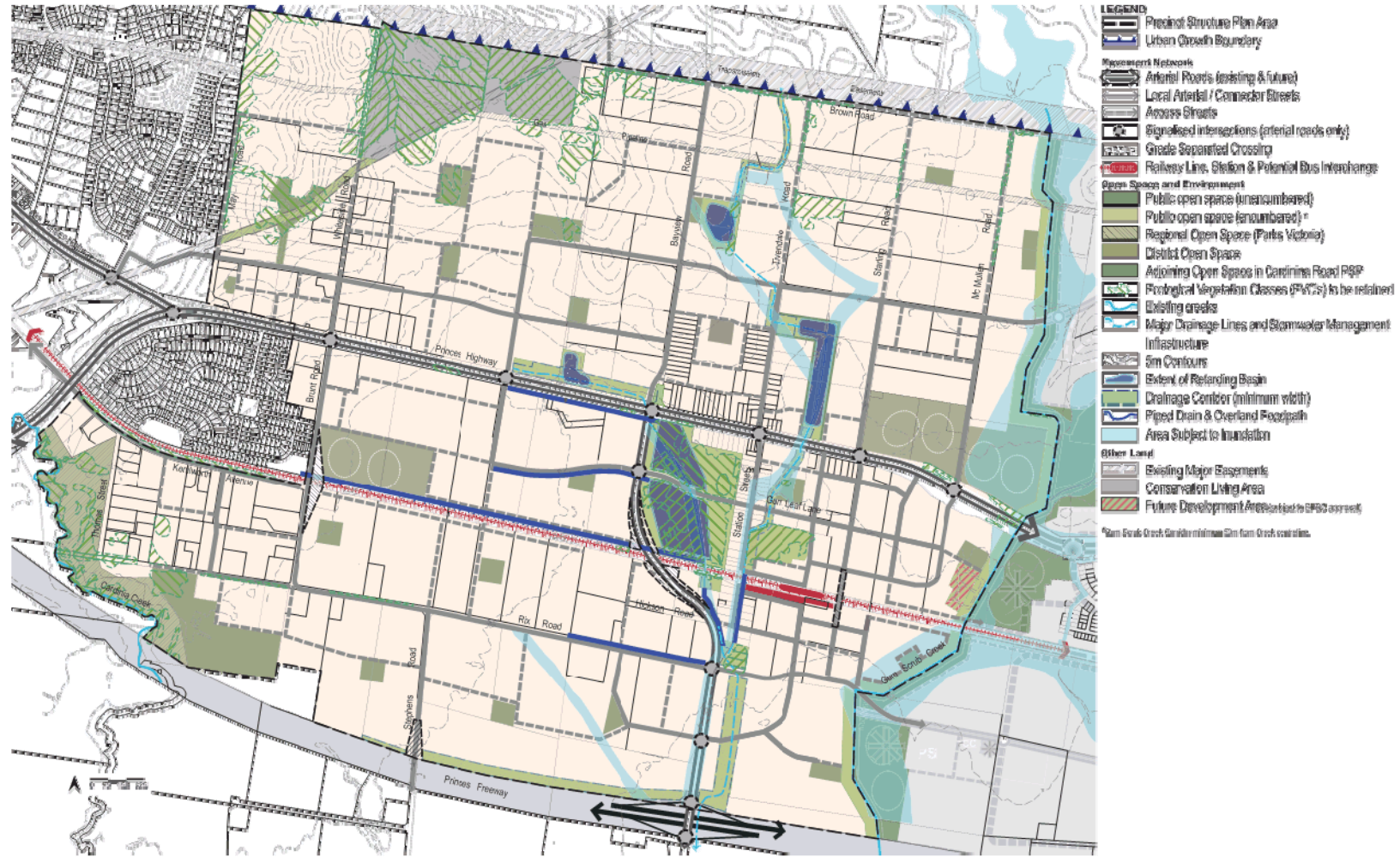
**TIMBERTOP EAST**  
**365 Princes Hwy**  
**OFFICER**

Plan 11: Open Space Network



Officer Precinct Structure Plan 97

Plan 12: Integrated Water Management



Officer Precinct Structure Plan