



Cardinia

MINUTES OF TOWN PLANNING COMMITTEE

MONDAY, 5 MARCH 2018

MINUTES OF TOWN PLANNING COMMITTEE

held in the Council Chambers, 20 Siding Avenue, Officer
on Monday, 5 March 2018

The meeting commenced at 7.00pm

PRESENT:

Mayor, Collin Ross, Chairman

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

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

APOLOGIES:

Nil

DECLARATION OF PECUNIARY AND OTHER INTERESTS

Nil.

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1 USE AND DEVELOPMENT OF THE LAND FOR A RESIDENTIAL BUILDING (BOARDING HOUSE) AT 1 - 3 SAVAGE STREET, PAKENHAM

FILE REFERENCE INT1813646

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Frances Stipkovic

RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T170462 be issued for the use and development of the land for a Residential Building (Boarding House) at 1-3 Savage Street, Pakenham VIC 3810 subject to the conditions attached to this report

Attachments

- | | | |
|---|--|-----------|
| 1 | Development plans | 9 Pages |
| 2 | Letters of objections circulated to councillors only | 142 Pages |

EXECUTIVE SUMMARY:

APPLICATION NO.: T170462

APPLICANT: Marjo (Aust) P/L C/- John McCaffrey Consultant Town Planner

LAND: 1-3 Savage Street, Pakenham VIC 3810

PROPOSAL: Use and development of the land for a Residential Building

PLANNING CONTROLS: General Residential Zone
Development Contributions Plan Overlay Schedule 1

NOTIFICATION & OBJECTIONS: Notice of the application was given by way of sending notices to adjoining and near-by land owners/occupiers and by placing a sign on site

To date Council has received in excess of 100 objections received

KEY PLANNING CONSIDERATIONS: Appropriateness of use in residential zone
Off-site amenity impacts
Car parking

RECOMMENDATION: Approval

BACKGROUND:

Council records indicate there is no recent Planning Permit history for the site.

SUBJECT SITE



The site, comprising two allotments, is located on the west side of Savage Street, Pakenham approximately 150m south from Pakenham Town Centre. The parcel is generally square in shape, has a combined frontage to Savage Street of 40.2m and a total area of 1680sqm. No. 1 Savage Street is currently developed with a single dwelling setback 9.1m from the frontage with No.3 undeveloped.

There is a land rise of less than 1.0m from the front to the rear (flat). There is established vegetation located along the front title boundary. Vehicle access to each parcel is provided via a crossover and driveway along the northern boundary. A 1.6m high timber paling fencing defines the side and rear boundaries.

No. 1A Savage Street and 2/25 Henty Street both adjoin the northern boundary and are each developed with a single dwelling setback between 2.0m and 3.0m from the common boundary. There is a total of four (4) habitable room windows that directly face the site within 9.0m. Secluded private open space (SPOS) is located to the north and west of each dwelling. There is no significant vegetation that abuts the common boundary.

No. 3/26 Henty Street and 4 and 5/6 Ann Crescent all adjoin the western boundary and are each developed with a single dwelling setback between 2.4m and 3.5m from the common boundary. There is a total of five (5) habitable room windows that directly face the site within 9.0m. SPOS is located to the side and rear of each dwelling. There is established vegetation that abuts the common boundary.

No. 5 Savage Street adjoins the southern boundary and is developed with a single dwelling setback 7.9m from the common boundary and 15.1m from the frontage. There are three (3) habitable room windows that directly face the site within 9.0m, SPOS is located to the rear. There is no significant vegetation that abuts the common boundary.

Land on the south side of Henty Street is used and developed for residential purposes. Vegetation is typically subordinate to the built form within the streetscape. Land on the north side of Henty Street is used and developed for commercial purposes (Pakenham Town Centre). Pakenham Rail Station is located 650m from the subject site.

PROPOSAL

Approval is sought for the use and development of the land for a low cost Residential Building (Boarding House).

The single storey building is setback 11.6m from the frontage, 1.8m from the northern and southern boundaries and a minimum 3.15m from the rear.

The floor area comprises 41 single rooms, communal bathrooms, 1 communal kitchen, living area, laundry, caretakers' room and office.

A communal private open space area is located to the rear. Proposed site coverage is 45.6% with 37.2% of the site allocated for garden area including a landscape strip along the frontage.

The built form can be described as conservative with a pitched roof form and maximum height of 5.6m. Vehicle access is provided via the existing crossover at No. 1 leading to a new driveway with 10 car spaces within the front setback.

A maximum 41 persons are proposed to be accommodated within the building at any one time plus one (1) caretaker. The applicant has stated this will be exclusively for men. A site/patron management plan has also been submitted in support of the application which outlines 'house rules' for each person accommodated.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

Clause 11 Settlement
Clause 11.02-1 Supply of urban land
Clause 15.01-1 Urban Design
Clause 16 – Housing

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

Clause 21.03 Settlement and Housing
Clause 21.06-1 Design and Built Form

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

Clause 52.06 – Car Parking
Clause 52.23 – Shared Housing
Clause 55 – Two or more dwellings on a lot
Clause 65 – Decision Guidelines

Zone

The land is subject to the General Residential Zone 1

Overlays

The land is subject to the following overlay:

Development Contributions Plan Overlay 1

PLANNING PERMIT TRIGGERS

The proposal for the use and development of the land for a residential building requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.08 – 2, a planning permit is required for the use of the land for a Residential Building (Accommodation).
- Pursuant to Clause 32.08 – 8, a planning permit is required for buildings and works associated with a Section 2 use.
- Pursuant to Clause 52.23, a planning permit is required for shared housing which contains more than 10 habitable rooms.

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 and nearby land; and
- Placing two signs on site

Council has received in excess of 100 objections to date.

The key issues that were raised in the objections are:

- Lack of car parking/increase in traffic congestion;
- Privacy concerns for local residents;
- Noise
- Increase in crime/safety issues/demographics of residents
- Poor internal amenity
- Inconsistent with Neighbourhood Character
- Devaluation of property

REFERRALS

- The application was not required to be referred externally.

DISCUSSION

On balance, the proposal is consistent with the State and Local Planning Policy Framework, the purpose of the General Residential Zone 1, Clause 52.06, Clause 55 and Clause 65 of the Cardinia Planning Scheme.

State and Local Planning Policy Framework

It is considered that the proposal is consistent with the State and Local Planning Policy Framework. As the site is located within the General Residential Zone 1 with no ResCode variations, a more dense built form can be expected within this area.

The building is provided with ground level SPOS at the rear, adequate setbacks are provided from title boundaries which creates spacing and will enable landscaping. The built form, roof pitch and materials are consistent with other dwellings in the immediate vicinity.

The proposal provides an alternative housing type on Savage Street. A single storey building is provided which will provide low cost accommodation.

Overall the design of the proposal is considered to be safe and functional. All vehicles are able to enter and exit the site satisfactorily. A condition of approval will require the construction of an on-site storm water detention system. As the site is located within an established residential area, the development will not unreasonably exceed the capacity of local infrastructure.

The proposed use is consistent with Clause 16 which promotes affordable housing to service community needs in well serviced areas. The site is located in an established residential area in close proximity to Pakenham Town Centre, public open space and Pakenham Rail Station.

Clause 32.08 – General Residential Zone 1

The purpose of this Zone is to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies, to encourage development that respects the neighbourhood character of the area and to encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.

Pursuant to Clause 32.08 – 2 and Clause 32.08- 8, a planning permit is required for the use and development of the land for a Residential Building (Accommodation). Such a proposal must meet the objectives of Clause 55 of the Cardinia Planning Scheme. An assessment against Clause 55, including neighbourhood character, is provided further in this report.

In accordance with Clause 32.08-4, a minimum 35% of the site is allocated for garden area.

The use of land for a Residential Building is appropriate in this context as the site is within walking distance to public open space, Pakenham Town Centre and public transport. Whilst still falling under the broader land use term 'Accommodation' the use for a Residential Building is not common nor is there a cluster of such land uses in the immediate vicinity. Therefore the proposal offers a diverse housing type for the area as land on the south side of Henty Street is primarily developed with single/medium density dwellings.

Whilst formal research has not been undertaken, the operators have drawn from years' experience operating another Residential Building at No. 25 Dunbarton Drive, Pakenham (2.1km north-east from the subject site). The operators have determined that there is a high demand for low cost housing therefore this site has been strategically chosen given its size and proximity to public transport, employment and services. From a holistic perspective, providing low cost accommodation options for vulnerable members of the community will reduce rates of homelessness and associated social issues.

It's acknowledged that a maximum 41 persons for the site (with 1 caretaker) is a high concentration for a typical residential setting and whilst the building can accommodate this (and still meet relevant building and health standards), the site at No. 25 Dunbarton Drive, on a 1590sqm allotment, has a maximum capacity of 27 residents at any one time (plus 1 caretaker) under Planning Permit T080329-1.

In VCAT decision BMKC Pty Ltd v Cardinia Shire Council [P2915/2008], the tribunal member determined that:

“Previous consideration of boarding houses by the Tribunal it is has acknowledged, however, that evidence has been accepted that there is often a greater risk of anti-social behaviour associated with boarding houses.”

The proposed maximum residents of 41 is a 35% increase when compared to No. 25 Dunbarton Drive which has a similar lot size. It is considered appropriate to limit resident numbers to 30 to avoid future management issues which may impact the amenity of the locality and residents of the boarding house.

The application was referred to Council's Social and Community Strengthening Department who has recommended larger rooms be provided and some with an ensuite to provide for greater internal amenity for residents. As it is recommended that resident numbers be capped at 30, a condition of approval will also require amended plans to show a modified floor layout as per this recommendation.

Council in its submission at the previous VCAT hearing also raised concerns with the concentration of 17 residents. The tribunal member concluded that a Patron Management Plan was necessary. In this instance, a Patron Management plan has been submitted and is considered satisfactory.

Having regard to the above, the proposed use and development is consistent with the objectives and decision guidelines of the Zone.

Clause 52.06 – Car Parking

There is no specified car parking rate for this land use therefore car parking must be provided to the satisfaction of the Responsible Authority. A traffic report, prepared by TTM Consulting Pty Ltd dated October 2017, was submitted in support of the application and concludes that adequate parking has been provided for the land use given the locality.

The application was referred to Council's Traffic Engineer who does not object to the proposal subject to conditions. Whilst case studies have been used from inner city Councils, it's acknowledged that motor vehicle ownership rates are significantly lower for this demographic. The site is located 640m from Pakenham Rail Station and Pakenham Town Centre, therefore a reliance on motor vehicles in this locality is reduced. Further, on-street parking adjacent to the site is also available.

Engineering have advised that the proposal does not comply with Design Standard 1 with respect to the accessway (90 degree parking). The minimum car parking bay width must be 2.6m (shown to be 2.5m) and the isle width must be 6.4m (shown to be 6.0m). This modification will be required via condition.

Landscaping is provided within the front setback which will soften the appearance of the hard surfacing when viewed from the streetscape.

Clause 55 – Two or more dwellings on a lot

- **Clause 55.02 – Neighbourhood Character**

Pursuant to Standard B1 of Clause 55, it is essential for proposed developments to maintain and enhance the neighbourhood character of the area. It is policy with regard to built form that development complements the current character and contributory elements.

The proposal respects the rhythm of development as adequate setbacks have been provided from the side and rear boundaries to ensure that the development will not be visually dominant when viewed from the street and adjoining properties.

Open space areas have been provided to the rear and sides of the building which are sufficient in size for landscaping and the planting of canopy trees which will further assist in screening the proposed development. Ground level SPOS has also been provided for the building.

The built form, external materials and openings (i.e. door and windows) is consistent with the surrounding area. Additional landscaping opportunities are provided within the front setback and alongside the driveway which will assist in breaking up the appearance of hard surfaces when viewed from the street. A condition of approval will require the submission of a formal landscape plan.

A complete Clause 55 assessment is provided in Appendix 1.

Clause 45.06 – Development Contributions Plan Overlay 1

In accordance with Clause 45.06 – 1, a condition of approval will require that a monetary contribution be paid to Council prior to the issuing of a Building Permit.

Clause 65 – Decision Guidelines

The proposal is consistent with Clause 65 as the development will result in minimal off-site amenity impacts. There is no native vegetation removal required with the required landscape plan to include native species. The development will not impact native vegetation on adjoining land. Storm water will be mitigated via condition.

The site is located outside the Pakenham Structure Plan boundaries (March 2017).

RESPONSE TO OBJECTIONS

- *Lack of car parking/increase in traffic congestion*

As detailed above, a traffic/car park demand assessment was submitted in support of the application and concludes that the on-site spaces are sufficient for this land use. The application was referred to Council's Traffic Engineer who does not object to the proposal. It's acknowledged that motor vehicle ownership rates are significantly lower for this demographic and the site is located within walking distance of public transport, employment and services.

- *Privacy concerns for local residents*

As existing side and rear boundary fencing is 1.6m high, a condition of approval will require the provision of a minimum 1.8m fencing. Via condition, the single storey built form ensures no overlooking into adjoining secluded private open space or habitable room windows within 9.0m of the site which is in accordance with Standard B22 at Clause 55.04-6 (Overlooking).

The use is for residential purposes in a residential zone, therefore any additional privacy measures are not required.

- *Noise*

As detailed above, the number of residents will be reduced to 30 which is more consistent with the existing residential building/boarding house at No. 25 Dunbarton Drive Pakenham being on a similar sized allotment. This reduction is to avoid any management issues (which includes noise from residents). The in house caretaker and the submitted patron/site management plan which stipulates a curfew and visiting hours, will also address noise/disturbance issues to near-by residents.

- *Increase in crime/safety issues/demographic of residents*

Whilst it cannot be assumed that criminal activity will occur, previous VCAT decisions have accepted that the risk of anti-social behaviour is higher with such land uses. However they cannot be considered unsuitable for residential zones. Reduced resident numbers in conjunction with a patron management plan and caretaker of the site is considered suitable to manage any potential anti-social issues.

Any anti-social or criminal behaviour is to be managed by the operators, the caretaker and Victoria Police and is referenced in the patron management plan.

Whilst the applicant has stated this site will only cater for men, who resides in such buildings cannot be considered under a planning permit application. Should the application be approved, the demographic of guests may change over time (e.g. woman/children only, students) without any further planning consideration. Further, the length of time residents are to be accommodated for also cannot be considered under a planning permit application.

- *Poor internal amenity*

As detailed above, upon advice received from Council's Social and Community Strengthening Department, a condition of approval will require a modified internal layout to cater for a maximum 30 residents plus 1 caretaker. The building must also comply with all relevant Building and Health legislation.

- *Inconsistent with Neighbourhood Character*

The built form, layout and landscaping is consistent with the existing pattern of development along Savage Street and in the immediate vicinity. A neighbourhood character assessment is provided in the Clause 55 Assessment of this report.

- *Devaluation of property*

The devaluation of land (perceived or actual) cannot be considered under a planning permit application. This has been determined in multiple VCAT cases.

CONCLUSION

Having regard to the above assessment, the proposal is consistent with the State and Local Planning Policy Framework, the purpose of the General Residential Zone 1 and relevant Particular Provisions. It is recommended that a Notice of Decision to Grant a Permit be issued for the use and development of the land for a Residential Building (Boarding House) at 1-3 Savage Street, Pakenham subject to the following conditions:

CONDITIONS

Amended plans

1. Before the use or development start/s, 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 modified floor layout to allow a maximum 30 residents (plus 1 caretaker) including ensuite/bathroom facilities for a portion of rooms.
 - b. The provision of 1.8m high (minimum) side and rear boundary fencing.
 - c. An amended patron management plan to reflect Condition 4 (resident numbers).
 - d. Amended car parking/access layout to accord with Clause 52.06 including the provision of one (1) disabled space.
 - e. A landscape plan prepared by a suitably qualified professional to include:
 - i. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
 - ii. Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
 - iii. Details of surface finishes of pathways and driveways.
 - iv. 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.
 - v. Landscaping and planting within all open areas of the subject land including the provision of three (3) canopy trees within the front setback

All species selected must be to the satisfaction of the Responsible Authority and must not impede vehicle or pedestrian sightlines or reduce passive surveillance.

2. Before the development commences, a Waste Management Plan must be submitted to and approved by the Responsible Authority.

Endorsed plans

3. The development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
4. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Land use

5. The maximum number of residents permitted at any one time must not exceed 31 persons, including any on site caretaker/manager.
6. The owner must notify the Responsible Authority within 14 days of either expiry of or cessation of the management lease concerning the boarding house. If there is a change in management of the premises the owner must lodge a new management plan with the Responsible Authority within 30 days of cessation.
7. The amenity of the area must not be detrimentally affected by the use or development, through the:
 - a) Transportation of materials, goods or commodities to or from the land;
 - b) Appearance of any building, works or materials;

- c) Emission of noise, artificial light, smell, fumes, smoke, dust, waste water, waste products, or oil;
- d) Presence of vermin, or
- e) In any other way.

Development plan contribution

8. Prior to a building permit being issued under the Building Act 1993, a cash contribution to the satisfaction of the Responsible Authority must be provided for the provision or augmentation of public infrastructure in accordance with the relevant approved Development Contribution Plan.

Engineering

9. All stormwater associated with roofed and paved surfaces associated with this development/permit must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority.
10. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
11. Before the development starts, drainage plans must be submitted to and approved by the Responsible Authority. The plans must show the provision of a stormwater detention system. The stormwater detention system will become the responsibility of the property owner or body corporate to maintain to the satisfaction of the Responsible Authority.

Note: As the development has an impervious ratio greater than 35%, the developer shall engage the services of a suitably experienced Engineer to design a stormwater detention system that will reduce the intensity of the storm water discharge entering Council's drainage system, i.e.: a detention system. The storm water detention system shall provide for the same five (5) year ARI peak discharge as that for a standard house lot with no storm water detention. A standard house lot is assumed to have a fraction impervious area of 35%. Calculations and a plan shall be submitted to Council for approval prior to construction. The storm water detention system must be constructed prior to the occupation of the proposed development.

12. 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.
13. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority

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. Prior to the occupation of the building, all boundary fencing must be constructed to the satisfaction of the Responsible Authority.
16. Before the development is occupied:
 - a. All proposed areas set aside on the approved plan/s for access, circulation and car parking must be constructed with concrete, asphalt or other approved hard surfacing material, drained and the parking areas delineated to the satisfaction of the Responsible Authority. Once constructed, these areas must be maintained to the satisfaction of the Responsible Authority.
 - b. The premises are connected to a reticulated water supply, sewerage, drainage and underground electricity to the requirements of the relevant servicing authority.
 - c. Power and telephone lines to building must be placed underground from the main point of service supplied by the relevant authority outside the boundaries of the subject land.
 - d. A bin storage area must be provided and must be located so as not to be detrimental to the visual amenity of the neighbourhood to the satisfaction of the Responsible Authority.
 - e. Mail boxes must be provided to the satisfaction of the Responsible Authority and Australia Post.
 - f. Lighting must be provided near the front entrance of each dwelling to the satisfaction of the Responsible Authority.
 - g. The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
17. The dimensions and layout of the proposed access and parking areas must accord with the requirements of Clause 52.06 of the Cardinia Planning Scheme.

Landscaping/general amenity

18. The landscaping works as shown on the approved plan must be completed within sixty (60) days of the completion of the dwellings. The completion date is defined as the issue of a Certificate of Occupancy.
19. The completed landscaping must be maintained by the owner to the satisfaction of the Responsible Authority until such time as the dwellings have been transferred.
20. The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building, including the roof, must be of a non-reflective nature.
21. All residential waste must be stored within the specified bin storage area for each dwelling. Garbage bins are to be placed on the street for collection in a tidy manner on the appropriate waste collection day for the area.

Expiry:

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

- a) The development is not started within two (2) years of the date of this permit.

- b) The development is not completed within four (4) years of the date of this permit.
- c) The use has not commenced within two (2) years of the date of this permit; or
- d) The use is discontinued for a period of two (2) years.

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

Notes:

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

APPENDIX 1 – CLAUSE 55 ASSESSMENT

Clause 55 – Two or More Dwellings on a Lot	Compliance
<p>Neighbourhood character (Clause 55.02-1)</p> <p><i>To ensure that the design respects the existing neighbourhood character or contributes to the preferred neighbourhood character</i></p> <p><i>To ensure that the development responds to the features of the site and the surrounding area.</i></p> <p>Standard B1</p>	<p>Complies – refer to report</p>
<p>Residential policy (Clause 55.02-2)</p> <p><i>To ensure that residential development is provided in accordance with any policy for housing in the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.</i></p> <p><i>To support medium densities in areas where development can take advantage of public transport and community infrastructure.</i></p> <p>Standard B2</p>	<p>Complies</p> <p>An adequate design response was provided.</p>
<p>Dwelling density (Clause 55.02-3)</p> <p><i>To encourage a range of dwelling sizes and types in developments of ten or more dwellings.</i></p> <p>Standard B3</p>	<p>n/a</p> <p>One building proposed.</p>

<p>Infrastructure (Clause 55.02-4)</p> <p><i>To ensure development is provided with appropriate utility services and infrastructure.</i></p> <p><i>To ensure development does not unreasonably overload the capacity of utility services and infrastructure.</i></p> <p>Standard B4</p>	<p>Complies</p> <p>Reticulated services and road access are available.</p> <p>The development would not unreasonably exceed the capacity of local infrastructure.</p>
<p>Integration with the street objective (Clause 55.02-5)</p> <p><i>To integrate the layout of development with the street.</i></p> <p>Standard B5</p>	<p>Complies</p> <p>The entrance for the building fronts Savage Street.</p> <p>There is no front fencing proposed.</p>
<p>Street setback objective (Clause 55.03-1)</p> <p><i>To ensure the setbacks of buildings from the street respect the existing or preferred neighbourhood character and make efficient use of the site.</i></p> <p>Standard B6</p>	<p>Complies</p> <p>The building is setback 11.6m from the frontage which exceeds the maximum of 9.0m. This setback has enabled car parking and landscaping within the front setback.</p> <p>Once vegetation is established, it will make a positive contribution to the streetscape.</p>
<p>Building height objective (Clause 55.03-2)</p> <p><i>To ensure that the height of buildings respects the existing or preferred neighbourhood character.</i></p> <p>Standard B7</p>	<p>Complies</p> <p>The maximum building height is 5.6m. The maximum allowed under the Zone is 11.0m.</p>

<p>Site coverage objective (Clause 55.03-3)</p> <p><i>To ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site.</i></p> <p>Standard B8</p>	<p>Complies</p> <p>Site coverage is 45.6%. The maximum allowed is 60%.</p>
<p>Permeability objective (Clause 55.03-4)</p> <p><i>To reduce the impact of increased stormwater run-off on the drainage system.</i></p> <p><i>To facilitate on-site stormwater infiltration.</i></p> <p>Standard B9</p>	<p>Complies</p> <p>Permeable area exceeds the minimum 20%.</p>
<p>Energy efficiency objective (Clause 55.03-5)</p> <p><i>To achieve and protect energy efficient dwellings.</i></p> <p><i>To ensure the orientation and the layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy.</i></p> <p>Standard B10</p>	<p>Complies</p> <p>The solar access to dwellings on adjoining lots is not reduced given the lot layout and height of the proposed building.</p> <p>Rooms have been provided with north facing windows where practical. This will reduce the use of artificial lighting. All other habitable room windows will receive light from other aspects.</p>
<p>Open space objective (Clause 55.03-6)</p> <p><i>To integrate the layout of development with any public and communal open space provided in or adjacent to the development.</i></p> <p>Standard B11</p>	<p>Not applicable</p> <p>The site does not adjoin communal open space.</p>
<p>Safety objective (Clause 55.03-7)</p> <p><i>To ensure the layout of development provides for the safety and security of residents and property.</i></p> <p>Standard B12</p>	<p>Complies</p> <p>The front entrance of the building faces Savage Street.</p> <p>Required landscaping is low scale will not create unsafe spaces.</p> <p>There is passive surveillance of the car parking area and driveway with the inclusion of habitable room windows which front Savage Street.</p>

<p>Landscaping objectives (Clause 55.03-8)</p> <p><i>To encourage development that respects the landscape character of the neighbourhood.</i></p> <p><i>To encourage development that maintains and enhances habitat for plants and animals in locations of habitat importance.</i></p> <p><i>To encourage the retention of mature vegetation on the site.</i></p> <p>Standard B13</p>	<p>Conditional compliance</p> <p>Sufficient space is available for landscaping. The proposal will not cause adverse impacts to vegetation on adjoining land including within the nature strip.</p> <p>Landscape plan required via condition.</p> <p>There is no vegetation of high amenity value worthy of retention.</p>
<p>Access objectives (Clause 55.03-9)</p> <p><i>To ensure vehicle access to and from a development is safe, manageable and convenient.</i></p> <p><i>To ensure the number and design of vehicle crossovers respects the neighbourhood character.</i></p> <p>Standard B14</p>	<p>Complies</p> <p>The existing crossover will be utilised for the building.</p> <p>Entry and exit to the site is safe and manageable.</p>
<p>Parking location objectives (Clause 55.03-10)</p> <p><i>To provide convenient parking for resident and visitor vehicles.</i></p> <p><i>To avoid parking and traffic difficulties in the development and the neighbourhood.</i></p> <p><i>To protect residents from vehicular noise within developments.</i></p> <p>Standard B15</p>	<p>Complies.</p> <p>No garage proposed given nature of land use.</p> <p>A condition of approval will require an amended car park/access layout to accord with Clause 52.06.</p> <p>The parking area is adequately setback from habitable room windows.</p>
<p>Side and rear setbacks objective (Clause 55.04-1)</p> <p><i>To ensure that the height and setback of a building from the boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</i></p>	<p>Complies</p> <p>All side and rear setbacks comply with the standard (minimum 1.0m provided for wall heights not exceeding 3.6m).</p>

Standard B17	
Walls on boundaries (Clause 55.04-2) <i>To ensure the location, length and the height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</i> Standard B18	<p>Not applicable.</p> <p>There are no walls on boundaries proposed.</p>
Daylight to existing windows objective (Clause 55.04-3) <i>To allow adequate daylight into existing habitable room windows.</i> Standard B19	<p>Complies</p> <p>Any existing windows on adjoining land are provided with at least 1.0m clear to sky.</p>
North-facing windows objective (Clause 55.04-4) <i>To allow adequate solar access to existing north-facing habitable room windows.</i> Standard B20	<p>Complies</p> <p>Given the orientation of the land and location of the dwelling on adjoining land, existing north facing windows will not be impacted as a result of the development.</p>
Overshadowing open space objective (Clause 55.04-5) <i>To ensure buildings do not unreasonably overshadow existing secluded private open space.</i> Standard B21	<p>Complies</p> <p>Whilst overshadowing diagrams were not submitted with the application, overshadowing will primarily be contained within the title boundaries as the building is single storey and is setback 3.1m from the rear boundary.</p>
Overlooking objective (Clause 55.04-6) <i>To limit views into existing secluded private open space and habitable room windows.</i> Standard B22	<p>Complies via condition.</p> <p>Minimum 1.8m high side and rear boundary fencing will provide an adequate visual barrier and will limit views into adjoining SPOS and habitable room windows.</p>
Internal views objective (Clause 55.04-7) <i>To limit views into the secluded private open space and habitable room windows of dwellings and residential</i>	<p>Not applicable given nature of land use.</p>

<p><i>buildings within a development.</i></p> <p>Standard B23</p>	
<p>Noise impact objectives (Clause 55.04-8)</p> <p><i>To contain noise sources in developments that may affect existing dwellings.</i></p> <p><i>To protect residents from external noise.</i></p> <p>Standard B24</p>	<p>Complies</p> <p>The proposal does not include unreasonable noise sources or noise sources unusual to a residential building.</p> <p>There are no mechanical plants proposed to be located near bedrooms or immediately adjacent existing dwellings.</p>
<p>Accessibility objective (Clause 55.05-1)</p> <p><i>To encourage the consideration of the needs of people with limited mobility in the design of developments.</i></p> <p>Standard B25</p>	<p>Complies</p> <p>The development provides reasonable access to people with limited mobility. Given the topography of the site, there are no steps required upon the entrance of the dwelling.</p>
<p>Dwelling entry objective (Clause 55.05-2)</p> <p><i>To provide each dwelling or residential building with its own sense of identity.</i></p> <p>Standard B26</p>	<p>Complies</p> <p>The front entrance of the building is centrally located and easily identifiable from Savage Street.</p>
<p>Daylight to new windows objective (Clause 55.05-3)</p> <p><i>To allow adequate daylight into new habitable room windows</i></p> <p>Standard B27</p>	<p>Complies</p> <p>All new habitable room windows are setback a minimum 1.0m from boundaries and provided with sufficient clearance to the sky in accordance with Standard B27.</p>
<p>Private open space objective (Clause 55.05-4)</p> <p><i>To provide adequate private open space for the reasonable recreation and service needs of residents.</i></p>	<p>Complies.</p> <p>Given the nature of the land use, the building is provided with a large communal private open space area at the rear. This area will provide for reasonable</p>

<p>Standard B28</p>	<p>recreation for future occupiers and is easily accessible from the living room.</p>
<p>Solar access to open space objective (Clause 55.05-5)</p> <p><i>To allow solar access into the secluded private open space of a new dwelling.</i></p> <p>Standard 29</p>	<p>Complies</p> <p>The SPOS is located west and will receive ample solar access.</p>
<p>Storage objective (Clause 55.05-6)</p> <p><i>To provide adequate storage facilities for each dwelling.</i></p> <p>Standard B30</p>	<p>Complies</p> <p>Given the nature of the land use, storage areas are provided within each room.</p>
<p>Design detail objective (Clause 55.06-1)</p> <p><i>To encourage design detail that respects the existing or preferred neighbourhood character.</i></p> <p>Standard B31</p>	<p>Complies</p> <p>Conservative built form proposed. Design elements and features do not conflict with the existing character of the area.</p> <p>External materials consistent with existing dwelling and dwellings in the vicinity. .</p>
<p>Front fences objective (Clause 55.06-2)</p> <p><i>To encourage front fence design that respects the existing or preferred neighbourhood character.</i></p> <p>Standard B32</p>	<p>Not applicable</p> <p>No front fence proposed.</p>
<p>Common property objectives (Clause 55.06-3)</p> <p><i>To ensure that communal open space, car parking, access areas and site facilities are practical, attractive and easily maintained.</i></p> <p><i>To avoid future management difficulties in areas of common ownership.</i></p> <p>Standard B33</p>	<p>Complies.</p> <p>Given the proposed landscaping, the common driveway area will be softened and is considered to be easily maintained.</p>
<p>Site services objectives (Clause 55.06-4)</p> <p><i>To ensure that site services can be installed and easily maintained.</i></p>	<p>Complies</p> <p>Sufficient space is provided for services to be installed and maintained efficiently and economically.</p>

<p><i>To ensure that site facilities are accessible, adequate and attractive.</i></p> <p>Standard B34</p>	<p>Waste management plan required via condition.</p> <p>The rear/side areas of the building can be efficiently accessed for garden maintenance.</p>
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1 USE AND DEVELOPMENT OF THE LAND FOR A RESIDENTIAL BUILDING (BOARDING HOUSE) AT 1 - 3 SAVAGE STREET, PAKENHAM

Moved Cr J Owen Seconded Cr M Schilling

That a Refusal to Grant Planning Permit T170462 be issued for the use and development of the land for a Residential Building (Boarding House) at 1-3 Savage Street, Pakenham VIC 3810 on the following basis:

1. The proposed use is considered to intensive given the site context
2. The proposed use will result in unreasonable off-site amenity impacts which is inconsistent with the objectives of the General Residential Zone 1

Cd.

2 VARIATION OF A RESTRICTIVE COVENANT AT 3 MIKEY BOULEVARD, BEACONSFIELD

FILE REFERENCE INT1813574

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Mary Rush

RECOMMENDATION

That a Refusal to Grant Planning Permit T170262 be issued for a variation of a restrictive covenant at 3 Mikey Boulevard, Beaconsfield VIC 3807 on the following grounds:

The proposal fails to meet the requirements of Section 60(2) of the Planning and Environment Act 1987, as the Responsible Authority is not satisfied that the owner of any land benefitted by the restriction will be unlikely to suffer financial loss, loss of amenity, loss arising from the change in neighbourhood character or any other material detriment as a consequence of variation to the restriction.

Attachments

- | | | |
|---|---|---------|
| 1 | Copy of covenant | 2 Pages |
| 2 | Site plan | 1 Page |
| 3 | Objections circulated to councillors only | 9 Pages |

EXECUTIVE SUMMARY:

APPLICATION NO.:	T170262
APPLICANT:	Matthew Milosevic
LAND:	3 Mikey Boulevard, Beaconsfield VIC 3807
PROPOSAL:	Variation of a restrictive covenant
PLANNING CONTROLS:	General Residential Zone Bushfire Management Overlay
NOTIFICATION & OBJECTIONS:	The application was advertised and received seven (7) objections and one (1) letter of support.
KEY PLANNING CONSIDERATIONS:	Compliance with Section 60 (2) of the Planning and Environment Act 1987 Impact on beneficiaries of covenant
RECOMMENDATION:	Refusal

BACKGROUND:

There is no previous planning history for the site.

SUBJECT SITE



The site is located on the northern corner of Mikey **Boulevard** and Liam Court, near the peak of the ridgeline that Berwick Views Estate is located on.

The site currently contains an existing 2 storey dwelling which is constructed on the northern section of the lot. One crossover is located on the northern boundary of the site abutting Liam Circuit.

The topography of the land slopes steeply down to the south west from the north east.

The main characteristics of the surrounding area are:

- North: North-east of the site is a vacant lot known as 4 Liam Crt (1400sqm).
- East: South-east of the site is 5 Mikey Blvd which contains a two storey dwelling (1000sqm)
- South: Directly south of the site is the intersection of Liam Crt and Mikey Blvd. Opposite this are residential lots each with dwellings. 12 Mikey Blvd (1000sqm), 14 Mikey Blvd (1554sqm) and 16 Mikey Blvd (1580sqm). South of these is the Ridge Top Reserve and more residential developments within the Berwick Views Estate, each lot before reaching O'Neil Road and Janet Bowman Drive is over 1000sqm.
- West: Directly west of the site is 15 Mikey Blvd (1000sqm) which contains a dwelling.

PROPOSAL

The proposal is to vary a restrictive covenant to allow the site to be used for a second dwelling, by removing part (a) of the existing covenant in instrument AC126927Y, which states:

“Creation and/or Reservation and/or Covenant:
Covenant

“The Transferee with the intent of binding itself and each subsequent owner for the time being of the land in this transfer (“the Land”) COVENANTS with the Transferor and each of the owners from time to time of the land in plan of subdivision PSS07847N (apart from the Land) that the Transferee will not:

*(a) build or allow to be built more than one dwelling house together with the usual outbuildings (unless the land is designated a dual occupancy site);
.....”*

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11.02-1 Supply of urban land

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.03-1 Housing

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.02-Easements restrictions and reserves
- Clause 65 Decision Guidelines

Zone

The land is subject to the **General Residential Zone Schedule 1 (GRZ1)**

Overlays

The land is subject to the Bushfire Management Overlay

PLANNING PERMIT TRIGGERS

The proposal to vary a restrictive covenant requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 52.02 Easements, Restrictions and Reserves a planning permit is required before a person proceeds under Section 23 of the Subdivision Act 1988 to create, vary or remove an easement or restriction.

Section 60 (2) of the Planning and Environment Act 1987 provides that:

The responsible authority must not grant a permit which allows the removal or variation of a restriction (within the meaning of the Subdivision Act 1988) unless it is satisfied that the owner of any land benefited by the restriction will be unlikely to suffer –

- (a) Financial loss; or*
- (b) Loss of amenity; or*
- (c) Loss arising from change in the character of the neighbourhood; or*
- (d) Any other material detriment –*

as a consequence of the removal or variation of the restriction.

PUBLIC NOTIFICATION

The application was advertised in accordance with Section 52 of the Planning and Environment Act 1987 by way of a public notice displayed on the site and by mail to adjoining owners and occupiers. Council also required the applicant to place a newspaper advertisement on the Pakenham Gazette.

The application has received seven (7) objections from beneficiaries of the restrictive covenant. . The objections are summarised as follows:

- Breach of covenant
- Loss of amenity
- Loss of property value
- Detrimental to the character of the area

REFERRALS

No internal or external referrals were required

DISCUSSION

Variation of Covenant

The purpose of the planning application to vary the restrictive covenant by deleting part (a) of the covenant, to allow the use of the land for a second dwelling and so that there is no barrier to the future subdivision of the land.

The decision guidelines of Clause 52.02 of the Cardinia Planning Scheme states that before deciding on an application to remove or vary a covenant that the Responsible Authority must consider the interests of the affected people. The affected people in this instance are the beneficiaries of the subject covenant and Council must assess the impact of the proposed variation to the covenant on those beneficiaries. Section 60 (2) of the Planning and Environment Act 1987 provides criteria to assess the impact of such covenant variation on the benefitted parties of the covenant. They are:

- (a) Financial loss; or
- (b) Loss of amenity; or
- (c) Loss arising from change in the character of the neighbourhood; or
- (d) Any other material detriment –

As a consequence of the removal or variation of the restriction.

Often with the variation or the removal of covenants the Responsible Authority is obliged to refuse the application where the removal or variation of a covenant is opposed by a beneficiary of the

covenant. Although as established in a VCAT decision *Derring Lane Pty Ltd v Glen Eira CC* (2 August 2006) the Responsible authority is not obliged to refuse the application solely based on objections by beneficiaries, provided it is satisfied that the requirements of Section 60(2) of the Planning and Environment (Amendment) Act 1987 have been met.

The following is an assessment against those criteria provided on Section 60(2) of the Planning and Environment Act:

- *Financial Loss:* Several objectors have identified financial loss as a ground of objection. Council cannot confirm that the beneficiaries will not suffer financial detriment because of the variation to the covenant particularly to those lots immediately abutting the site as they will have an additional dwelling opposite the location of the private open space of the existing dwelling. Therefore, it is considered that the proposal could lead to financial loss.
- *Loss of Amenity:* Several objectors have identified specific concerns of the impact of the proposal on their amenity, such as increase in on street parking and traffic congestion. Council officers cannot provide any certainty that the proposal will not result in the loss of amenity. It is therefore considered that the proposal could result in loss of amenity.
- *Loss Arising from Change to the Character of the Neighbourhood:* Several objectors have identified that the area is characterised by larger lots and that allowing the variation of the covenant will allow the construction of a dwelling on a small lot which will be out of character with the surrounding neighbourhood. It is therefore considered that the proposal will change the character of the immediate area and that Council officers cannot provide any certainty that the proposal will not result in the loss arising from a change to the character of the neighbourhood.
- *Any other Material Detriment:* Two of the objections specifically identified that the covenant protects the character of the area by ensuring additional dwellings/lots would not be created. Approving the requested variation is in direct conflict with covenant and will result in material detriment to the beneficiaries of the covenant whether it be perceived or otherwise.

CONCLUSION

After consideration of the affected parties as required by Clause 52.02 and Section 60 (2) of the Planning and Environment Act 1987, Council considers that the proposed variation of the restrictive covenant is likely to result in financial loss, loss of amenity, loss arising from a change to the character of the area, and other material detriment. It is therefore recommended that the variation of a restrictive covenant at 3 Mikey Boulevard, Beaconsfield VIC 3807 be refused on the following grounds:

1. The proposal fails to meet the requirements of Section 60(2) of the Planning and Environment Act 1987, as the Responsible Authority is not satisfied that the owner of any land benefitted by the restriction will be unlikely to suffer financial loss, loss of amenity, loss arising from the change in neighbourhood character or any other material detriment as a consequence of variation to the restriction.

**2 VARIATION OF A RESTRICTIVE COVENANT AT 3 MIKEY BOULEVARD,
BEACONSFIELD**

Moved Cr B Owen Seconded Cr L Wilmot

That a Refusal to Grant Planning Permit T170262 be issued for a variation of a restrictive covenant at 3 Mikey Boulevard, Beaconsfield VIC 3807 on the following grounds:

The proposal fails to meet the requirements of Section 60(2) of the Planning and Environment Act 1987, as the Responsible Authority is not satisfied that the owner of any land benefitted by the restriction will be unlikely to suffer financial loss, loss of amenity, loss arising from the change in neighbourhood character or any other material detriment as a consequence of variation to the restriction.

Cd.

3 BUILDINGS AND WORKS ASSOCIATED WITH A FOOD AND DRINK PREMISES AT 12-14 OLD PRINCES HIGHWAY, BEACONSFIELD

FILE REFERENCE INT1813657

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Dean Haeusler

RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T170703 be issued for Buildings and works, sale and consumption of liquor and waiver of the car parking requirement (3 spaces) associated with a food and drink premises (cafe) at 12-14 Old Princes Highway, Beaconsfield VIC 3807 subject to the conditions attached to this report.

Attachments

- | | | |
|----------|--|---------|
| 1 | Locality plan | 1 Page |
| 2 | Development plans | 6 Pages |
| 3 | Letters of objections circulated to councillors only | 4 Pages |

EXECUTIVE SUMMARY:

APPLICATION NO.:	T170703
APPLICANT:	Mr Joerge Meelky
LAND:	12-14 Old Princes Highway, Beaconsfield VIC 3807
PROPOSAL:	Buildings and works, sale and consumption of liquor and waiver of the car parking requirement (3 spaces) associated with a food and drink premises (cafe)
PLANNING CONTROLS:	Commercial 1 Zone
NOTIFICATION & OBJECTIONS:	<p>Notice of the application was given by way of sending notices to adjoining and near-by land owners/occupiers and by placing a sign on each frontage and advertising in the local paper.</p> <p>Council has received four objections to date</p>
KEY PLANNING CONSIDERATIONS:	Reduction of Car Parking requirements Impact of liquor licence
RECOMMENDATION:	Approval

BACKGROUND:

The existing building was previously used as a Sandwich Bar/News Agency.

SUBJECT SITE

The site is located on the west side of Old Princes Highway and forms part of the Beaconsfield Commercial precinct. It is situated within a row of single-storey premises with a mixture of retail and commercial uses on an 897 square metres allotment.

The site contained one food and drink premises (sandwich bar/news agency), open disused back yard area with one large tree and scattered shrubs, surrounding full height fencing. The building has a traditional shopfront façade, constructed of painted brick with front verandah and large glazed windows stretching the length of the Old Princes Highway frontage.

The area is identified with the Beaconsfield Township Strategy (2013) and forms part of a gateway precinct from the North. It is characterised by a mixture of uses with a number of restaurants, grocery, convenience stores and retail premises on the west side of the highway.

The primary uses identified on the adjacent properties is as follows:

North: Accountant; Real Estate agency and various takeaway/restaurants

East: Old Princes Hwy; Beaconsfield Shopping Precinct including two large Supermarkets, smaller convenience stores and Hotel

South: Café; Florist and Takeaway store; Pet Store

West: Bob Burgess Reserve, Cardinia Creek

PROPOSAL

Approval is sought for buildings and works associated with a food and drink premises (Gelato Shop and Café), a liquor licence and waiver of car parking requirements for three spaces.

The proposed business will comprise of two key components:

Café

The primary use will be for a café including the sale and consumption of liquor on premises. Buildings and works will include internal rearrangements, minor alterations to the front façade windows and the construction of an outdoor seating area to accommodate approximately 36 patrons in addition to the 90 internal seats that will be available inside. The existing floor area is 350 square metres which will be increased to 425 square metres with the outdoor seating. The restaurant is to operate between the hours of 7.00am - 16:00pm from Monday - Sunday

Liquor

A 'restaurant and café' liquor licence is to be applied for this premises through the VCGLR. The licence allows the serving of alcohol predominantly with meals and to be consumed on-site only. A Cumulative Impact Assessment has been provided with the application to assess the combined influence of multiple liquor licences within the Beaconsfield precinct.

Gelato Shop

A smaller Gelato shop also forms part of the application and will be established to compliment the proposed Café. The two premises will operate separately, however internal access will allow movement between the two areas. The Gelateria is to operate with extended hours of 7.00am - 23.00pm, Monday - Sunday. No liquor is to be sold or consumed within this area.

Car Parking

There is no car parking available on premise and no provision for additional car parking to be made on the subject site. Based on the increased floor area of 75 square metres, a waiver of three car spaces is requested. A Traffic Report was prepared and supported the waiver.

Signage

A non-illuminated sign will be erected in place of the existing veranda signage while an additional illuminated sign will replace the existing illuminated sign beneath. These will be both contained within the dimensions of the existing signs and therefore do not require planning consent.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- 11.06 Metropolitan Melbourne
- 15 Built Environment and Heritage
- 17 Economic Development

Local Planning Policy Framework (LPPF)

The relevant clauses of the SPPF are:

- 21.01 Cardinia Shire Key Issues and Strategic Vision
- 21.04 Economic Development
- 21.06 Particular Uses and Development

Relevant particular/general provisions and relevant incorporated or reference documents

The relevant provisions/documents are:

- 52.06 Car Parking
- 52.27 Licenced Premises
- 63 Existing Uses
- 66 Referral and Notice Provisions

Zone

The land is subject to the Commercial 1 Zone

Overlays

The land is not subject to any overlays.

PLANNING PERMIT TRIGGERS

The proposal for buildings and works, sale and consumption of liquor and waiver of the car parking requirement (3 spaces) associated with a food and drink premises (cafe) requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 34.01 of the Commercial 1 Zone a permit is required to construct or carry out works

- Pursuant to Clause 52.06 of the Car Parking provision a permit is required to reduce the number of car parking spaces required
- Pursuant to Clause 52.27 of the Licenced Premises provision a permit is required to use the land to sell and consume liquor

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
- Placing a notice in the Pakenham Gazette newspaper

Council has received four objections to date.

The key issues that were raised in the objections are:

Lack of available car parking – reduction in car parking will exacerbate existing issue
Liquor licence concerns – large amount of businesses in the area with liquor licences

DISCUSSION

State and Local Planning Policy

The proposal responds to the relevant state and local policies including Clauses 17 and 21.04 that concerns economic development. The proposal is well located within an existing commercial precinct and will provide local employment opportunities to the surrounding area. The proposal is also expected to add greater vitality to the streetscape during the day and into the night.

Furthermore, the proposal is also consistent with Clause 21.06 - Particular Uses and Development policy as the sale and consumption of alcohol is positioned centrally within the existing commercial areas with good public transport options and away from residential areas. The concentration will also assist in isolating alcohol consumption to particular areas that can be better managed and are well serviced by bus and train public transport.

Beaconsfield Structure Plan (2013)

The structure plan envisages the subject site within the gateway area with broad potential for growth. The plan encourages greater integration with the public and private realms, focusing on creating a stronger link between Cardinia Creek/Bob Burgess Reserve and the adjacent retail strip.

The proposal is modest in scope and does not propose a transformation of the subject site but rather revitalisation of the existing premises. External alterations are limited to cosmetic changes of the front façade and the alterations of the rear to utilise the backyard of the subject site to provide open air dining and provide a stronger link between reserve and commercial strip.

Through these alterations including footpath seating, the proposal will positively contribute to the activation of the street and draw patrons to the west side of the highway as well as establish a connection between Bob Burgess reserve/Cardinia Creek areas. By creating these interfaces and allowing extended trading hours a positive impact may also be felt for public safety.

Commercial 1 Zone

The use of the land for a Café/Gelateria (food and drink premises) is considered an 'as of right use' under Section 1 of the Commercial 1 Zone and does not require planning consent.

The proposed building alterations are modest and remain complimentary to the adjacent businesses and broader commercial precinct. Tiling and bi-fold windows to the Gelato shop are proposed for the street façade however access and window arrangements will be primarily unchanged. The rear decking extension will create an open-air dining area and will accommodate approximately 35 patrons. This addition is unlikely to adversely impact adjacent businesses or land owners given the limited café and liquor licencing hours.

Clause 52.06 - Car Parking

The proposed Café and Gelateria both fall within the category of a Food and Drink premises under the Planning Scheme with a requirement to provide 4 spaces for every 100 square metres of leasable floor area. The subject site does not contain any car parking spaces on site, however considering the existing and proposed businesses fall under the same use; the subject has car-parking credits for the existing total floor area.

The proposed buildings and works include an additional 75 square metre decking to the rear of the building. Based on car parking requirements, an additional three parking spaces are required that cannot be contained on site.

A Traffic Impact report was prepared by SALT to assess the car parking demand of the wider precinct, on both sides of the highway. The report concludes there is peak availability of parking spaces during the middle of the day with reduced availability of spaces into the evening (5-8pm). This compliments the proposed uses as the primary hours of operation fall between 7.00-16.00 – with the majority of demand to be generated by the café component of the proposal. The reduced car parking availability in the evening coincides with the closed hours of the Café, leading to surplus parking allocation (based on existing car parking credit) available for the Gelato Shop to operate until 11pm.

Whilst the existing car parking pressures of the Beaconsfield commercial area are acknowledged, given the above report and primary hours of operation, the proposed reduction of three spaces is not considered to have an unreasonable impact to the availability of car parks.

Clause 52.27 - Licenced Premises

Clause 52.27 aims to ensure that licensed premises are situated in appropriate locations and that the impact of the licensed premises on the amenity of the surrounding area is considered. The relevant decision guidelines include:

- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area

The Café premises proposes to operate during the hours of 7.00-16.00 Monday – Sunday with liquor consumption limited to the Café in both the indoor and outdoor entertaining areas. This is demonstrated on the 'Red Line' plan submitted to Council.

The proposed licence, as a Café and Restaurant' Liquor licence, authorises consumption of liquor on-premises where the predominant activity carried out on the premises is the serving of meals.

Given the purpose of the proposed licence and daytime hours that are applied for, it is considered the impact of the venue and net impact of an additional liquor licence would not be excessive. Any impacts are also further reduced as the location is central to the commercial/retail zone and the business is well buffered from sensitive residential areas.

Based on the Cumulative Impact Assessment there are 18 premises with varying liquor licences within a 500-metre radius of the subject site. The majority of these licences are noted as 'On Premises' licences situated along the Old Princes Hwy strip. By comparison, the licence sought for this proposal is more restrictive compared to those of the neighbouring businesses and therefore, additional impacts born by a Café/Restaurant licence for consumption during daylight hours are likely to be low.

It is noted that liquor is not proposed to be sold or consumed within the Gelataria and therefore, a condition will be placed on the permit to provide an updated Red Line plan to reflect the exclude area.

Clause 66 – Referral and Notice Provisions

Pursuant to Clause 52 of the Planning and Environment Act notification has been provided to Victoria Police due to the proposed liquor licence. To date, no response has been received.

Objections

The proposal has been advertised via notice, sign and newspaper on 18 December 2017 where four objections were received. These objections can be summarised as concerns relating to inadequate car parking availability and excessive liquor licencing for the area.

Car Parking

While the existing car parking issues of Beaconsfield are recognised and acknowledged, given the comparatively small waiver of three spaces in contrast to the car parking credits for this site, a minor reduction is unlikely to seriously affect the wider availability of car spaces. This is further justified when considering the proposed café closing hours of 4pm each day. These trading hours will ensure car parking during high demand after school/work times will be mostly unaffected and allow the Gelataria to operate with surplus parking allocation into the evening. Furthermore, the general make-up of the Beaconsfield Precinct presents as one with a diversity of retail and commercial outlets, therefore the addition of a café/ice cream shop will likely form part of a multipurpose trip rather than a single destination point, with demand distributed accordingly.

Additional liquor licencing

The liquor component of the application is understood as a secondary use where the majority of consumption is likely to be had in conjunction with meals and in moderation. The addition of a Café/Restaurant liquor licence during the proposed hours is likely to have very limited amenity impacts. Considering the Café will be situated within an activity centre with existing restaurants and bars, any foreseeable issues are isolated to an area with good visibility, public transport alternatives and isolated from residential areas.

CONCLUSION

The proposal is consistent with the relevant State and Local policies, the Commercial zoning of the land and applicable particular provisions that apply to the proposal. Acknowledging the car parking pressures and existing alcohol licences in the area, on balance the proposed Café and Gelataria are

likely to have a positive net impact on the precinct by improving the local economy and provide a greater range of eateries.

The façade revisions and proposed decking area contribute to the vitality of the commercial strip whilst activating the street further and encouraging a stronger connection with the precinct and reserve. The proposal will complement the establishing character of the Beaconsfield area with a proportionately low impact to the wider amenity.

It is recommended that a Notice of Decision for Planning Permit T170703 be issued for Buildings and works, sale and consumption of liquor and waiver of the car parking requirement (3 spaces) associated with a food and drink premises (cafe) at 12-14 Old Princes Highway, Beaconsfield subject to the following conditions.

CONDITIONS

Amended Plans

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and be generally in accordance with the plans submitted with the application but modified to show:
 - a. The Red Line plan excluding the Gelato Shop from areas of sale and consumption of liquor
 - b. Rear (southern) elevations of the premises

Endorsed Plans

2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. The licenced premises as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
4. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.

Use

5. Except with the written consent of the Responsible Authority the sale and consumption of liquor must only occur between the following days/times:
 - a. Monday to Sunday: 7am – 4pm
6. Sale and consumption of liquor is limited to all areas excluding the Gelato Shop
7. Without further consent of the Responsible Authority, the sale and consumption of liquor shall occur only within the confines of the premises and the designated licensed area, as specified on the endorsed plan.
8. At all times during the operation of the use, there must be present on the premises a person over the age of 18 years who is responsible for ensuring that the activities on the premises and the conduct of persons attending the premises do not have a detrimental impact on the amenity of the area (referred to in this permit as "the manager").

9. The manager must be authorised by the operator under this permit to make statements at any time on his/her behalf to any officer of the Responsible Authority and of the Victoria Police and/or of Liquor Licensing Victoria authorised under Section 129 of the Liquor Control Reform Act 1998; and/or to take action on his/her behalf in accordance with a direction by such officer.
10. A copy of this permit must be displayed in a conspicuous position on the premises and, where applicable, adjacent to any statutory notices required to be exhibited.
11. The approved use must not cause any unreasonable nuisance or annoyance to persons beyond the land because of emission of noise or otherwise to the satisfaction of the Responsible Authority.
12. Cigarette disposal facilities must be placed in appropriate external locations to ensure any customer smoking litter is contained.
13. External lighting must be designed, baffled and located so as to not detrimentally effect on adjoining land whilst providing appropriate measures to ensure adequate lighting and security while the premises is in operation to the satisfaction of the Responsible Authority.
14. Noise levels emanating from the manufacturing of beer must not exceed those permissible under State Environment Protection Policy (Control of Noise from Commerce Industry and Trade) No. N-I, 5 or applicable state policy.
15. All amplified music must be within the approved building on the land to the satisfaction of the Responsible Authority.
16. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
17. The use and development must not detrimentally affect the amenity of the area, through the:
 - a. Transport of materials, goods or commodities to or from the land.
 - b. 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.
18. All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes shall be kept in a storage area screened from view to the satisfaction of the Responsible Authority.
19. All goods and materials must be stored out of view or so as not to be unsightly when viewed from the nearby roads or lands to the satisfaction of the Responsible Authority.

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.

Notes:

- i. A Building Permit will be required for this development. To obtain a building permit you will need to contact a registered building surveyor.
- ii. Should the future development be used for a commercial enterprise involving handling of food or drink, hairdressing, beauty therapy, myotherapy, colonic irrigation, skin penetration or tattooing or be providing accommodation to more than four (4) persons then the applicant must contact the Environmental Health Department for further advice concerning legislative requirements.
- iii. Permission given under planning legislation cannot be construed as permission relating to any other legislation under Council jurisdiction, such as Public Health & Wellbeing, Food or Tobacco Acts.

3 BUILDINGS AND WORKS ASSOCIATED WITH A FOOD AND DRINK PREMISES AT 12-14 OLD PRINCES HIGHWAY, BEACONSFIELD

Moved Cr G Moore Seconded Cr R Brown

That a Notice of Decision to Grant Planning Permit T170703 be issued for Buildings and works, sale and consumption of liquor and waiver of the car parking requirement (3 spaces) associated with a food and drink premises (cafe) at 12-14 Old Princes Highway, Beaconsfield VIC 3807 subject to the conditions attached to this report.

Cd.

4 PLANNING ENFORCEMENT MATTERS (INCLUDING VCAT AND MAGISTRATES COURT PROSECUTIONS)

FILE REFERENCE INT1813528

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Owen Hardidge

RECOMMENDATION

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

Attachments

Nil.

EXECUTIVE SUMMARY

The following list of enforcement matters currently before VCAT & 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
2705 Princes Hwy, Tynong North (OH:LK:17356)	Removal of native vegetation in Council road reserve, in breach of Environmental Significance Overlay (42.01) and Native Vegetation Particular Provisions (52.17).	On 18 January 2018, the company that owns this property appeared in the Magistrates Court at Dandenong. Council and the owner have agreed to the making of an Enforcement Order which requires the owner to manage the road reserve for 10 yrs. Work has commenced on

Property Address	Nature of Contravention	Status
	Breach of planning permit condition relating to protection of remnant vegetation	the relevant applications, which will result in orders by consent.
715 Gembrook Rd, Pakenham Upper (ref: OH:AB:14130)	Construction of retaining wall without building permit.	FOR INFORMATION ONLY – no on going planning enforcement matters relating to property MAGISTRATES COURT CASE relating to unpermitted building work (retaining wall) – On 21 December 2017, the Magistrates Court delivered judgement in this matter, finding the charges proven. The owner was fined \$1500, without conviction, and ordered the owner to pay in excess of \$15,000 costs. The COUNTY COURT has listed a contested hearing of the matter in May 29-31 2018.
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	Magistrates' Court proceeding, alleging that the owner has conducted earthworks that require a permit, and cleared native vegetation, both without a permit. The mater is set down for a 2-day contested hearing from May 2nd 2018.
60 Hillbrick Rd, Garfield OH:JALF:17371	Earthworks affecting drainage and flow of water, without a permit/in breach of issued permit, contrary to Environmental Significance Overlay – Schedule 1	VCAT enforcement order application has been filed. The applicant has begun remediating the land, and reimbursed our fees. If the work is completed to Council satisfaction, it is likely that the application will be withdrawn, by consent, on the 2nd March 2018..
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,	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 15th September 2016 the Court issued a Warrant for arrest to compel the attendance of the accused. The matter is adjourned

Property Address	Nature of Contravention	Status
	Environmental Significance Overlay – Sch 1, Bushfire Management Overlay, and Clause 52.17	indefinitely, pending Victoria Police execution of the warrant.

CONCLUSION

The list of current enforcement activities is presented for information.

GLOSSARY TERMS

Practice day hearing

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

Mention hearing

A mention hearing is a brief hearing, where the Court or VCAT lists the matter for brief hearing. If the case can be dealt with swiftly, it will be dealt with at a Mention hearing. For more lengthy matters (such as contested hearings) the case will be further adjourned. In the Magistrates' Court, the Court may hear a “guilty plea” during a mention hearing.

Administrative Mention

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

Adjournment

A court or Tribunal will adjourn a case when the matter is deferred until another date. This can occur for a number of reasons, and is at the discretion of the Magistrate or VCAT member.

Land Management Plan

These plans are used to describe actions that will remediate the land, and commonly describe rehabilitation following unlawful vegetation removal. This plan will then become mandatory, by being incorporated into an Enforcement Order or a Section 173 agreement. The contents of the Plan will be decided by Council's Environment Team, or Vegetation Management officer.

Contested hearing / Full hearing

A contested (or “full” hearing) means the matter is disputed by the accused/respondent, and Council and the respondent will fully present and test each other's evidence and/or submissions. A contested (of “full”) hearing is effectively a “trial”.

Consent Orders

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

**4 PLANNING ENFORCEMENT MATTER (INCLUDING VCAT AND
MAGISTRATES COURT PROSECUTIONS)**

Moved Cr G Moore Seconded Cr R Brown

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

Cd.

5 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY

FILE REFERENCE INT1813543

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.

Central Ward					
17/01/2018	T110500 - PC3	155 Ahern Road, Pakenham Victoria 3810	Section 173 Agreement - Planning permit to Subdivide (land into 10 or more lots)	Issued	19 September 2017
17/01/2018	T170261	Station Street, Pakenham VIC 3810	Use and development of the land for multiple dwellings, buildings and works associated with retail, associated works and waiver of loading and unloading requirements	Issued	18 May 2017
18/01/2018	T170651	Princes Hwy, PAKENHAM VIC 3810	Use of the land for material recycling	Issued	03 October 2017
24/01/2018	T170538	10 Acacia Court, Pakenham VIC 3810	Subdivision of the land into three (3) lots	Issued	14 August 2017
25/01/2018	T180040	110 Pakenham Road, Pakenham VIC 3810	to be withdrawn Amendment to Permit T160690 Refer cover letter.	Withdrawn	25 January 2018
29/01/2018	T180008	46 Skyline Drive, Officer VIC 3809	Development of the land for a dwelling in an SLO	Issued	04 January 2018
29/01/2018	T180009	FY 9/99 Bald Hill Road, Pakenham VIC 3810	Use of the land for an indoor sports and fitness centre	Withdrawn	03 January 2018
5/02/2018	T170778	20 Henry Street, Pakenham VIC 3810	extension and alterations to a building (office)	Withdrawn	30 November 2017
5/02/2018	T180043	30 Montalto Drive, Pakenham VIC 3810	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	25 January 2018
5/02/2018	T180053	14 Skyline Drive, Officer VIC 3809	single, double storey dwelling on the property	Withdrawn	05 February 2018
6/02/2018	T170699	FY 7/99 Bald Hill Road, Pakenham VIC 3810	Use of the land for retail premises and extension to an existing building	NOD	31 October 2017

8/02/2018	T170381	114 Mulcahy Road, Pakenham VIC 3810	Use of the land for an ancillary Food and Drink Premise (café), associated sale and consumption of liquor and car parking.	Issued	20 June 2017
8/02/2018	T170533 - PC1	9 Jamieson Court, Pakenham VIC 3810	Development of the land for two (2) dwellings	Issued	14 December 2017
9/02/2018	T170629	26-28 Meaby Drive, Pakenham VIC 3810	Development of the land for two (2) additional dwellings	Issued	19 September 2017
15/02/2018	T130505 - PC3	Pakenham Road, Pakenham Victoria 3810	Subdivision of land, removal of native vegetation, removal of an easement and removal of a restriction on title (building and waste envelope) and associated earthworks	Issued	19 December 2017
15/02/2018	T160409 - PC1	Lakeside Boulevard, Pakenham VIC 3810	Condition 1A	Issued	12 February 2018
15/02/2018	T160634 - PC4	Caversham Drive, Pakenham VIC 3810	Section 173 Agreement - The development of nineteen (19) dwellings and associated works in accordance with endorsed plans	Issued	23 November 2017
Port Ward					
17/01/2018	T150336 - PC2	1160 Koo Wee Rup Road, Pakenham Victoria 3810	Development of the land for three (3) warehouses	Issued	19 December 2017
18/01/2018	T170594	165 Sanders Road, Garfield North VIC 3814	Development of the land for a dwelling and earthworks	Issued	30 August 2017
18/01/2018	T170662	710 Nine Mile Road, Cora Lynn VIC 3814	Development of an outbuilding (carport)	Issued	10 October 2017
18/01/2018	T170677	580 Koo Wee Rup Road, Pakenham South VIC 3810	Use and development of the land for dwelling and outbuilding	Issued	13 October 2017
18/01/2018	T170713	Daly Road, Nar Nar Goon VIC 3812	Two lot boundary realignment	Issued	16 November 2017
18/01/2018	T180013	3520 Ballarto Road, Bayles VIC 3981	Dwelling, Buildings and Works Associated with Agriculture (including stables / shed and covered equestrian arena)	Withdrawn	18 January 2018
19/01/2018	T170762	17 Station Street, Koo Wee Rup VIC 3981	To display an internally illuminated and electronic business identification sign	Issued	20 November 2017
19/01/2018	T180013 - 1	3520 Ballarto Road, Bayles VIC 3981	The changes relate to the details and location of the house, to the size of the indoor arena, which has been reduced and to the stables which have been significantly reduced in size.	Withdrawn	19 January 2018

19/01/2018	T180015	67 National Avenue, Pakenham VIC 3810	Subdivision of existing lot into 2 factories and allocated off-street carparking in accordance with Planning Permit T160324	Issued	10 January 2018
22/01/2018	T170503	40 Dore Road, Nar Nar Goon North VIC 3812	Boundary realignment (2 lots)	Issued	03 August 2017
22/01/2018	T180030	Thirteen Mile Road, Garfield VIC 3814	Removal of one tree	Withdrawn	19 January 2018
23/01/2018	T160776	11 Pinehill Drive, Pakenham VIC 3810	Three (3) lot Subdivision and the removal of vegetation (39 trees)	Issued	22 November 2016
23/01/2018	T170785	10 Quarry Road, Tynong VIC 3813	Development of the land for an extension to an outbuilding (carport).	Issued	30 November 2017
23/01/2018	T170601	286 A` Beckett Road, Bunyip VIC 3815	Development of land for an Agricultural shed and earthworks	Issued	08 September 2017
23/01/2018	T170727 - PC1	Shop 1/277 Rossiter Road, Koo Wee Rup VIC 3981	Use of the land for a restricted recreation facility (gym) and display of business identification signage	Issued	23 January 2018
23/01/2018	T180032	84-88 Wattletree Road, Bunyip VIC 3815	Duplicate Four Lot Subdivision	Withdrawn	23 January 2018
24/01/2018	T160424 - PC2	685 McDonalds Track, LANG LANG VIC 3984	Condition 1 - Use and development of land for extractive industry (sand quarry) and removal of vegetation	Issued	08 January 2018
25/01/2018	T170625 - PC1	40 Wattletree Road, Bunyip VIC 3815	Condition 1	Issued	08 January 2018
29/01/2018	T170611	FY 6/7 Sharnet Circuit, Pakenham VIC 3810	Use of the land for a restricted recreational facility	Issued	14 September 2017
30/01/2018	T170806	24 Rays Way, Pakenham VIC 3810	Use of the land for a Restricted Recreation Facility (Gymnastics Club)	Issued	07 December 2017
30/01/2018	T180026	Thirteen Mile Pump Station - Crn Beswick St & Thirteen Mile Road, Garfield VIC 3814	Removal of one tree (native vegetation)	Withdrawn	19 January 2018
31/01/2018	T170319	4 Main Street, Nar Nar Goon VIC 3812	Subdivision of the land into two (2) lots	NOD	29 May 2017
31/01/2018	T170769	775 McDonalds Drain Road, Pakenham South VIC 3810	Use and development of the land for a single dwelling	Issued	24 November 2017
1/02/2018	T120195 - PC5	170 McDonalds Track, Lang Lang Victoria 3984	Subdivision of the land into 234 lots, removal of one native tree, removal of a drainage easement and the subdivision of land adjoining a Road	Withdrawn	06 September 2017

			Zone Category 1		
1/02/2018	T170551	2 Industrial Drive, Pakenham VIC 3810	Buildings and works associated with a Service Station and a variation to the Service Station requirements of Clause 52.12	Issued	17 August 2017
2/02/2018	T170752	966 Koo Wee Rup-Longwarry Road, Bayles VIC 3981	Construction of a Seasonal Worker Accommodation Facility	Issued	16 November 2017
6/02/2018	T120247 - 2	52 James Street, Lang Lang Victoria 3984	Multi lot residential subdivision and removal of native vegetation and easements	Issued	12 October 2017
6/02/2018	T170575	4 & 6 Industrial Drive, Pakenham VIC 3810	Development of the land for a warehouse	Issued	24 August 2017
6/02/2018	T180029	7 Kingston Avenue, Pakenham VIC 3810	Subdivision of the land into two (2) lots, in accordance with the approved development permit.	Issued	16 January 2018
7/02/2018	T180066	1160 Koo Wee Rup Road, Pakenham VIC 3810	Proposed Warehouse Development comprising 10 x units with associated buildings and works	Withdrawn	07 February 2018
9/02/2018	T170514	67 Enticott Road, Bunyip VIC 3815	Use and development of land for a Rural Store and earthworks	Issued	07 August 2017
9/02/2018	T170752 - PC1	966 Koo Wee Rup-Longwarry Road, Bayles VIC 3981	Construction of a Seasonal Worker Accommodation Facility	Issued	08 February 2018
9/02/2018	T170779	254 Snell Road, Nar Nar Goon North VIC 3812	Buildings and works for the construction of additional residential accommodation and office buildings associated with the existing accommodation facility.	Issued	13 December 2017
12/02/2018	T180049	21 Tarmac Way, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued	30 January 2018
12/02/2018	T180050	19 Tarmac Way, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued	30 January 2018
13/02/2018	T170638	98 Nar Nar Goon-Longwarry Road, Bunyip VIC 3815	Construction of an Outbuilding, Verandah and associated earthworks	Issued	26 September 2017
13/02/2018	T170657	3/14-17 Hogan Court, Pakenham VIC 3810	Use of the land for the purpose of a Restricted Recreation Facility (personal training gym)	NOD	06 October 2017
13/02/2018	T170677 - PC1	580 Koo Wee Rup Road, Pakenham South VIC 3810	Use and development of the land for dwelling and outbuilding	Issued	29 January 2018
13/02/2018	T170835	Corporate Terrace, Pakenham VIC 3810	Development of the land for four (4) warehouses	Issued	20 December 2017
14/02/2018	T170495	40 Bundilla Road, Maryknoll VIC 3812	Development of the land for an outbuilding (garage and shed)	Issued	27 July 2017

14/02/2018	T170742	190 Main Drain Road, Koo Wee Rup VIC 3981	Development of the land for a dwelling extension	Issued	14 November 2017
14/02/2018	T180064	235 Bayles-Cora Lynn Road, Cora Lynn VIC 3814	Development of the land for a store (storage shed)	Issued	05 February 2018
15/02/2018	T170483	470 Main Drain Road, Koo Wee Rup VIC 3981	The use and development of the land for a dwelling	NOD	24 July 2017
15/02/2018	T170589	Sims Lane, Koo Wee Rup VIC 3981	Removal of reserve status of plantation reserves RES 1-4 and removal of the Easement shown as E-3 on PS318511C	Issued	06 September 2017
15/02/2018	T170710	56a Hope Street, Bunyip VIC 3815	Construction of an outbuilding	Issued	02 November 2017
15/02/2018	T170775	93 Tynong Road, Tynong VIC 3813	Development of the land for an outbuilding and associated earthworks	Issued	29 November 2017
Ranges Ward					
17/01/2018	T170531	11 Eastbourne Crescent, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay - Schedule 6	Withdrawn	14 August 2017
17/01/2018	T180021	53 Skyline Drive, Officer VIC 3809	applying for an amendment to existing planning permit to include earthworks and construction of gabion walls	Withdrawn	11 January 2018
18/01/2018	T170414	3 Harris Road, Beaconsfield Upper VIC 3808	Development of the land for outbuilding and associated earthworks	Issued	29 June 2017
18/01/2018	T170626	85 Kitchen Road, Beaconsfield Upper VIC 3808	Development of the land for a dependent persons unit	Issued	20 September 2017
19/01/2018	T170361 - PC1	74 Stoney Creek Road, Beaconsfield Upper VIC 3808	Use and development of the land for a dwelling, construction of an outbuilding and native vegetation removal	Issued	09 November 2017
19/01/2018	T170667	7 Pinnocks Road, Emerald VIC 3782	Earthworks and Removal of Vegetation	Issued	10 October 2017
19/01/2018	T180002	13 Riverhill Road, Officer VIC 3809	Buildings and works associated with accommodation (dwelling) within the Bushfire Management Overlay.	Issued	21 December 2017
22/01/2018	T170639	19a Edmunds Road, Cockatoo VIC 3781	Development of the land for alterations and additions to an existing dwelling (deck) and outbuilding	Issued	27 September 2017
22/01/2018	T170829	Hammond Crescent, Officer VIC 3809	Creation of sewerage easement	Issued	15 December 2017
23/01/2018	T160832 - PC1	13 Belgrave Avenue, Cockatoo VIC 3781	Condition 1 - Development of the land for a dwelling and vegetation removal	Issued	12 December 2017

23/01/2018	T170685	80 Huxtable Road, Pakenham Upper VIC 3810	Garage to store cars	Lapsed	20 October 2017
23/01/2018	T170693	116-118 Stoney Creek Road, Beaconsfield Upper VIC 3808	Development of the land for a carport and removal of one (1) tree	Issued	25 October 2017
24/01/2018	T160686	90 Rix Road, Officer VIC 3809	Subdivision of land in stages in accordance with the submitted plans.	Issued	12 October 2016
24/01/2018	T170354	10 Sutherland Road, Beaconsfield Upper VIC 3808	Works associated with the removal of one tree	Withdrawn	08 June 2017
29/01/2018	T160268 - PC4	Yackatoo Road, Beaconsfield Upper VIC 3808	Section 173 Agreement - Use and development of the land for a dwelling, outbuilding, vegetation removal and earthworks	Issued	31 October 2017
29/01/2018	T170467	9 Wright Road, Avonsleigh VIC 3782	Development of Dwelling additions and Alterations	Issued	02 August 2017
29/01/2018	T170574 - PC1	130 Thewlis Road, Pakenham VIC 3810	Development of the land for a telecommunications facility	Issued	10 January 2018
29/01/2018	T170648	9 Mikey Boulevard, Beaconsfield VIC 3807	Subdivision of the land into two (2) lots	NOD	04 October 2017
29/01/2018	T170793	79 Skyline Drive, Officer VIC 3809	Development of a house	Issued	05 December 2017
30/01/2018	T150290 - PC13	Bridge, Officer Victoria 3809	Subdivision in stages and associated works, including road-works within a Floodway Overlay and Land Subject to Inundation Overlay, construction of single dwellings on lots less than 300sqm and creation of restriction.	Issued	05 December 2017
30/01/2018	T150753 - PC1	3 Orchard Grove, Emerald Victoria 3782	The development of dwelling additions	Issued	26 October 2017
31/01/2018	T170355	110 Old Soldier Road, Cockatoo VIC 3781	Development of the land for an abolition block and associated vegetation removal	Withdrawn	08 June 2017
31/01/2018	T170721	422 Paternoster Road, Mount Burnett VIC 3781	Extension to dwelling, construction of outbuilding (shed), removal of easement	Issued	06 November 2017
31/01/2018	T170728	53 Fern Glade Drive, Emerald VIC 3782	Development of the land for a replacement outbuilding	Issued	06 November 2017
1/02/2018	T170600	437 Princes Highway, Officer VIC 3809	Use and development of the land for offices and shops, a reduction in car parking, alteration of an access to a Road Zone Category 1 and advertising signage.	Issued	05 September 2017
1/02/2018	T170837	71 Skyline Drive,	Buildings and works (dwelling) within	Issued	21

		Officer VIC 3809	the Significant Landscape Overlay - Schedule 6		December 2017
1/02/2018	T180014	20A Tivendale Road, Officer VIC 3809	Use of land for the sale and consumption of liquor	Issued	04 January 2018
5/02/2018	T170735	19 Telopea Road, Emerald VIC 3782	Storage shed, measuring 6m x 6m. Constructed of Colourbond steel, on concrete slab.	Lapsed	09 November 2017
6/02/2018	T130742 - 2	365 Princes Highway, Officer Victoria 3809	Subdivision of the land and creation of a reserve	Refused	19 December 2017
6/02/2018	T170564	73 Lewis Road, BEACONSFIELD UPPER VIC 3808	Development of land for an outbuilding (shed)	Issued	22 August 2017
6/02/2018	T170691	1970 Wellington Road, Clematis VIC 3782	Use and development of the land for a dwelling and associated earthworks	Issued	23 October 2017
6/02/2018	T170697	39 St Georges Road, Beaconsfield Upper VIC 3808	Dwelling Extension	Issued	30 October 2017
7/02/2018	T170749	139-141 Beaconsfield-Emerald Road, Beaconsfield Upper VIC 3808	Development of the land for a building associated with Animal Husbandry (shed for stables)	Issued	13 November 2017
8/02/2018	T160759	7 Neville Street, Cockatoo VIC 3781	Construction of a dwelling and associated earthworks, re-subdivision of the land into two (2) lots (boundary realignment) and the removal of vegetation	Issued	21 November 2016
8/02/2018	T170731 - PC1	67 Holm Park Road, Beaconsfield VIC 3807	Development of the land for an outbuilding, associated vegetation removal and earthworks	Issued	05 February 2018
9/02/2018	T170585	30 Neville Street, Cockatoo VIC 3781	Development of land for an outbuilding	Issued	12 September 2017
12/02/2018	T150535 - PC1	3 Harris Road, Beaconsfield Upper Victoria 3808	Plans to Comply - Sec 173 - Development of land for a dwelling, outbuilding and vegetation removal	Issued	06 January 2017
12/02/2018	T150698 - PC1	2970 & 2972, Gembrook-Launching Place Road, Gembrook Victoria 3783	Two lot subdivision (Boundary Realignment)	Withdrawn	28 November 2017
13/02/2018	T170444	105 Manestar Road, Beaconsfield Upper VIC 3808	Removal of Vegetation	Issued	13 July 2017
13/02/2018	T170749 - PC1	139-141 Beaconsfield-Emerald Road, Beaconsfield Upper VIC 3808	Development of the land for a building associated with Animal Husbandry (shed for stables)	Issued	08 February 2018
14/02/2018	T130242 - 1	45 Cooina Road, Beaconsfield Victoria 3807	Development of the land for an outbuilding, vegetation removal and associated earthworks	Issued	07 December 2017

14/02/2018	T170449	Morris Drive, Beaconsfield Upper VIC 3808	Development of the land for a single dwelling and an associated outbuilding	Issued	13 July 2017
14/02/2018	T180036	20 Amphlett Avenue, Cockatoo VIC 3781	Development of the land for an outbuilding	Issued	19 January 2018
15/02/2018	T170540	Beenak East Road, Gembrook VIC 3783	Use and development of the land for a dwelling and removal of native vegetation	NOD	14 August 2017
15/02/2018	T180084	47 Pakenham Road, Cockatoo VIC 3781	*duplicate* Construction of a dwelling and garage and removal of trees as shown on site plan.	Withdrawn	15 February 2018

5 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY

Moved Cr G Moore Seconded Cr R Brown

That the report be noted.

Cd.

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

FILE REFERENCE INT1813644

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 application that are currently the subject of appeals proceedings.

Hearing Date	App No.	Address	Proposal	Council Decision	Appealed By	Outcome
1/7/18	T130742-2	365 Princes Hwy Officer	Multi lot subdivision of the land	Refusal	Applicant	Waiting on hearing
27/07/2018	T170666	Timbertop Blvd, Officer	Use of land for multi unit development, subdivision of the land into eight (8) lots and a reduction in car parking	Refusal	Applicant	Waiting on hearing
30/5/18	T170371	33 Officer Road, Officer	Place of worship, vegetation removal	Approval	Objectors	Waiting on hearing
14/5/18	T170024	1 Station Street Officer	Buildings and works and use of a hotel, sale and consumption of liquor, installation and use of land for eighty (80) electronic gaming machines	Refusal	Applicant	Waiting on hearing
10/04/18	T990164-2	100 School Road, Bayles	Amendment to Planning Permit for the use and development of the land as a rural store by amending conditions 3, 5, 4 and 13 and the endorsed plans.	Refusal	Applicant	Waiting on hearing
22/01/18	T970402	455 Westernport Road, Lang Lang	Amended permit-delete condition 5 and use and development of a dwelling	Refusal	Applicant	Negotiated outcome with applicant. No appeal required

Hearing Date	App No.	Address	Proposal	Council Decision	Appealed By	Outcome
23/11/17	P160025	5-9 Salisbury Road Beaconsfield Upper	Additions and alterations to an existing aged care facility and vegetation removal	Refusal	Applicant	Waiting on Decision
28/11/17		13 May Road, Beaconsfield	Extension of time – Hotel and EGMs	Refusal	Applicant	VCAT overturned Councils decision – permit issued

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

Moved Cr B Owen Seconded Cr G Moore

That the report be noted.

Cd.

7 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

FILE REFERENCE INT1813724

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Tracey Parker

RECOMMENDATION

That the report be noted.

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
C205	EDM Group	80 McDonalds Track Lang Lang	Rezone part of the land at 80 McDonalds Track, Lang Lang (Lot 3 on PS542732), and Lots 1 and 2 (PS542732) Westernport Road, Lang Lang, from Farming Zone to Industrial 1 Zone, apply Schedule 20 to the Development Plan Overlay to this land and concurrently consider, under Section 96A of the Planning and Environment Act 1987, a planning permit application to subdivide the land at 80 McDonalds Track, Lang Lang into two (2) lots.	02/11/2017	04/12/2017	Exhibition period completed - 2 submissions received. Currently being reviewed.
C220	Cardinia Shire Council	Beaconsfield	Implements the key objectives of the Beaconsfield Structure Plan December 2013 (expires March 2019) by applying the Design and Development	09/11/2017	11/12/2017	Exhibition period completed - 4 submissions received. 1 submission objecting.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			Overlay (DDO) to the Princes Highway Gateway Precinct (Proposed DDO5), Beaconsfield Point Precinct (Proposed DDO6) and Woodland Grove Precinct (Proposed DDO7).			Council meeting scheduled for 22/01/2018. Panel hearing will follow in February.
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: Finalising amendment documentation prior to seeking authorization from the Minister for Planning to prepare an amendment.
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	Panel Report received on 05/01/2018 is currently being reviewed.
C230	Cardinia Shire Council	Various	The amendment corrects a number of mapping and ordinance anomalies within the Cardinia Planning Scheme.	Thu 18/01/2018	Thu 01/02/2018	On 19/02/2018 Council adopted the amendment. It is currently

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
						with the Minister for Planning for approval.
C234	Victorian Planning Authority	Pakenham East Precinct Structure Plan	Incorporate the Pakenham East Precinct Structure Plan (PSP) and associated the associated Infrastructure Contributions Plan into the Cardinia Shire Council Planning Scheme along with associated Heritage Overlay.	Mon 15/01/2018	Fri 23/02/2018	On exhibition.

7 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

Moved Cr G Moore Seconded Cr R Brown

That the report be noted.

Cd.

Meeting closed at 7.48pm

Minutes Confirmed
Chairman