

2 AMEND PLANNING PERMIT T140051 ISSUED FOR EARTHWORKS AT 67 PAYNE ROAD BEACONSFIELD

FILE REFERENCE INT1691078

RESPONSIBLE GENERAL MANAGER Andrew Paxton

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RECOMMENDATION

That a Notice of Decision to Amend Planning Permit T140051 - 1 be issued for Earthworks at 67 Payne Road, Beaconsfield Victoria 3807 subject to the conditions attached to this report.

Attachments

1	Locality Plan	1 Page
2	Plan showing earthworks	1 Page
3	Copies of objections circulated to Councillors only	5 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T140051 - 1
APPLICANT:	Terry Marrinon
LAND:	67 Payne Road, Beaconsfield Victoria 3807
PROPOSAL:	Earthworks
PLANNING CONTROLS:	Green Wedge A Zone Schedule 1 Environmental Significance Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the Planning and Environment Act, 1987, by sending notices to adjoining and surrounding land owners and occupiers. Council received five objections to date.
KEY PLANNING CONSIDERATIONS:	Decision Guidelines of Green Wedge A Zone
RECOMMENDATION:	Notice of Decision

BACKGROUND:

Planning Permit T140051 was issued for earthworks on 26 June 2014. This application comes into fruition due to enforcement proceedings. The owner undertook works on the property without gaining planning permission, when Council was alerted to this, the owner was required to apply for a retrospect planning permit. Concerns were raised in relation to a tree being removed at this time, however after a full investigation, Council could not confirm that the tree was removed illegally and a successful prosecution was highly unlikely, therefore no action could be taken.

Planning Permit T100645 was issued for development of the land for the purpose of a replacement outbuilding with a reduced setback, generally in accordance with the approved plans.

SUBJECT SITE

The site is located on the northern side of Payne Road Beaconsfield. A crossover is located southern alignment of the site and there are no easements on the property.

The site currently contains an existing dwelling and associated outbuildings on the western side of the property and a dam is located on the far eastern side of the land. The land around the subject site is a mixture of lot sizes, mostly with residential dwellings on the land. The topography of the land is undulating sloping away from the road towards north western side.

The main characteristics of the surrounding area are:

- North Rural Residential/Agricultural.
- South Access Road (Payne Road).
- East Warawee Avenue, and rural residential further to the east.
- West Rural residential/agricultural.

PROPOSAL

Council has issued a planning permit T140051 for earthworks on 26 June 2014. The applicant has carried out earthworks in excess of the earthworks approved under this permit. The current application proposes to amend the permit to increase the area of earthworks towards the western side of the property up to the existing spoon drain that runs across the land. The applicant mentioned that there has been an error on their side, in that the extent of earthworks was misinterpreted on the original plans submitted and approved by Council.



The above plan submitted with the application shows the area of earthworks approved under planning permit T140051 in brown, the extent of retrospective earthworks (already undertaken) in purple and proposed additional earthworks in green colour.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 14.02-1 Catchment planning and management

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.02-1 Catchment and coastal management

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 65 – The Decision Guidelines

Zone

The land is subject to the Green Wedge A Zone Schedule 1

Overlays

The land is subject to the following overlays:

- Environmental Significance Overlay Schedule 1

PLANNING PERMIT TRIGGERS

The application is to amend the planning permit T140051.

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.

The notification has been carried out correctly, and Council has received five (5) objections to date.

The key issues that were raised in the objections are:

- Dust generated by the fill brought in to the site.
- The fill brought in to the site containing building materials and concerns over presence of Asbestos and other toxic rubbish.
- Potential for sediment to flow from the site to Cardinia Creek and contamination of drinking water.
- Applicant's failure to adhere to the permit conditions and endorsed plans.

DISCUSSION

The application has been assessed against all relevant clauses of Cardinia Planning Scheme and determined to be appropriate for the site.

As mentioned above, Council has issued a planning permit T140051 for earthworks and the earthworks have been carried in excess of what has been approved. Therefore, this application considers retrospective earthworks and additional earthworks that will extend to the existing spoon drain located towards the centre of the site.

The subject site is located within Green Wedge A Zone. The zone provides decision guidelines in terms of rural issues, general issues, environmental issues and design and siting issues, however it is only environmental issues that are relevant to this application. Summary of the assessment is as follows:

The main concern when assessing the application against the Green Wedge A Zone is to ensure any environmental issues are considered.

The application mentions that the proposed earthworks are required to flatten the land to make for better use of the property. The area of proposed earthworks is clear of any vegetation therefore there will be no impact on any vegetation on the site.

The earthworks undertaken and proposed are less than one metre in depth. Council's Engineering Department has assessed the application and has no objection to the proposal given the works are below one metre in depth. Council will be imposing conditions on the permit to ensure dust and odours are controlled appropriately to avoid any impact on the adjoining properties. Given the earthworks now extend close to the spoon drain Council's Engineering Department has requested that sediment control fencing must be installed on the north and south sides of the spoon drain for the entire length of the drain during filling works to avoid any sediment entering the waterways.

Provided the above, Council officers are satisfied that the proposed earthworks are appropriate for the site and is consistent with the decision guidelines of the zone.

Objector's Concerns

- Dust generated by the fill brought in to the site

The applicant has mentioned that there is a sprinkler system in place to control dust during filling works. Relevant conditions will be placed on the permit to ensure effective methods are used to control dust to avoid any impacts on adjoining neighbours.

- The fill brought in to the site containing building materials and concerns over presence of Asbestos and other toxic rubbish

An investigation was undertaken in relation to the original fill brought to the site and there was insufficient evidence that the fill was contaminated with building materials or like materials. This permit will be conditioned to only allow clean fill to be brought in to the site.

- Potential for sediment to flow from the site to Cardinia Creek and contamination of drinking water.

The proposed earthworks will be compacted to avoid sediments being transferred to nearby waterways. This will also be controlled once vegetation such as grass grows over the compacted fill. The engineering conditions to have sediment control fencing along the spoon drain will also aid in controlling sediment being transferred to waterways through spoon drain.

- Applicant's failure to adhere to the permit conditions and endorsed plans.

As mentioned in the above proposal section of this report, applicant stated that the submitted plans with the original permit was incorrectly drawn therefore, didn't reflect the extent of earthworks correctly. This has been investigated further and as a result, an amended permit application was submitted to Council that reflect the extent of earthworks correctly.

CONCLUSION

It is considered that the proposal can be supported when assessed against the Cardinia Planning Scheme. It is therefore recommended that a Notice of Decision to Amend Planning Permit T140051 - 1 be issued for Earthworks at 67 Payne Road, Beaconsfield Victoria 3807 subject to the conditions

CONDITIONS

The following conditions are recommended:

1. The layout of the site and the extent of the proposed earthworks, as shown on the approved plans, must not be altered or modified without the consent of the Responsible Authority.
2. The fill area must be limited to the hatched area shown in the plan.
3. All proposed earthworks of this permit must be completed to the satisfaction of the Responsible Authority.
4. Prior to undertaking any filling works within 50 metres of the existing north / south spoon drain, appropriate sediment control fences must be erected and maintained along the length of spoon drain, for the duration of the filling works, to the satisfaction of the Responsible Authority.
5. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised and compacted to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.
6. Fill material that is contaminated must not be deposited on the subject land. For the purpose of this condition, the term "contaminated" has the same meaning as that used in Ministerial Direction No. 1.
7. Storage areas/external stockpiles must be covered and maintained to avoid dust nuisance to any residential area to the satisfaction of the Responsible Authority.
8. The subject land must be filled so as to not:
 - a) Cause an unreasonable amount of dust to be carried beyond the boundaries of the subject land; and,
 - b) Adversely affect the drainage on adjacent land.

To the satisfaction of the Responsible Authority.

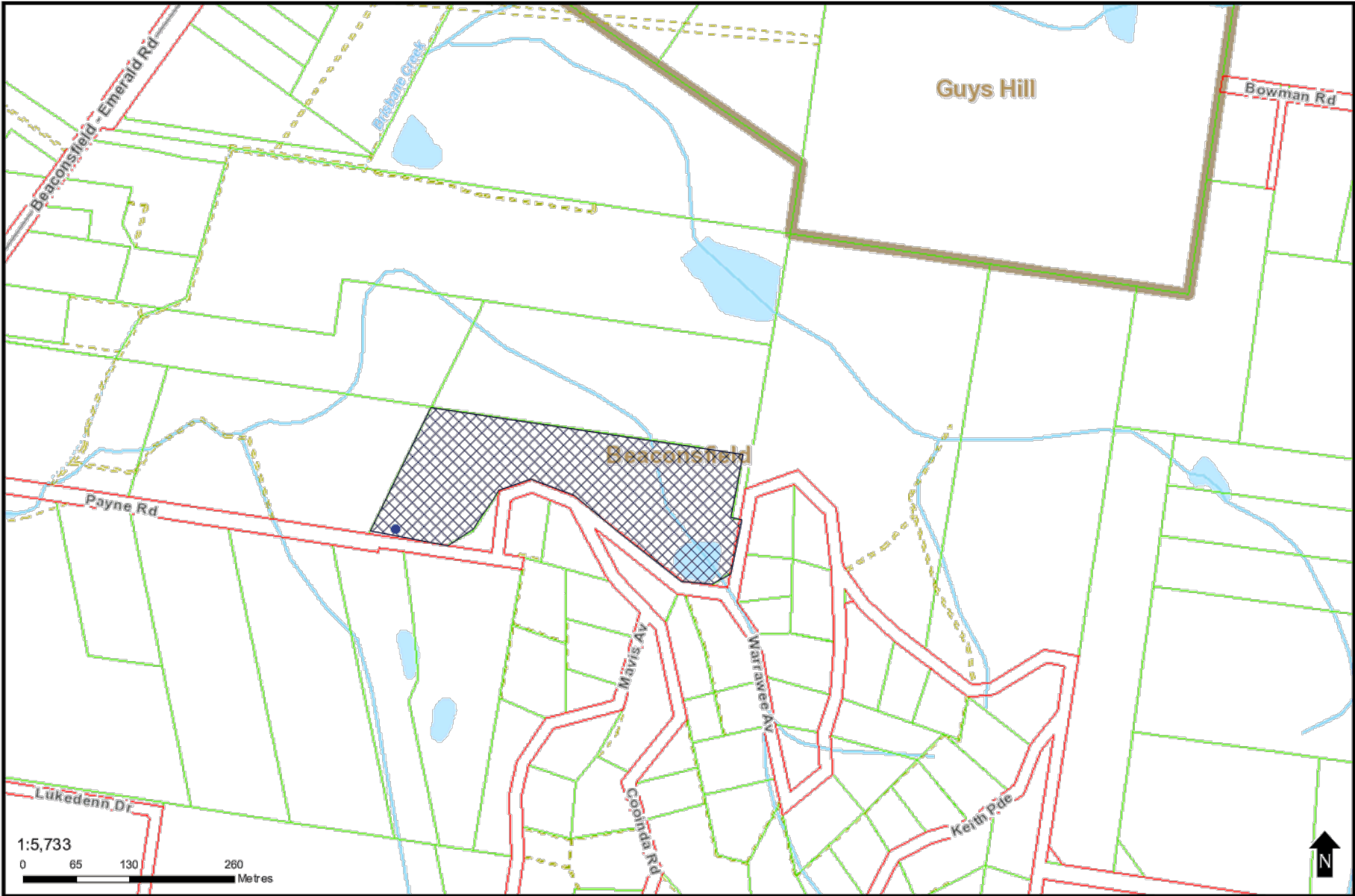
Expiry of permit

In accordance with Section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:

- (a) The development is not started **two (2) years** from the date of this permit.
- (b) The development is not completed **four (4) years** from the date of this permit.

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

Locality Map



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

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