

## **7 RE-SUBDIVISION OF TWO (2) EXISTING LOTS (BOUNDARY REALIGNMENT) AT 35-43 GARDENIA STREET, PAKENHAM**

FILE REFERENCE INT175283

RESPONSIBLE GENERAL MANAGER Andrew Paxton

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### **RECOMMENDATION**

That a Refusal to Grant Planning Permit T160543 be issued for Re-subdivision of two (2) existing lots (boundary realignment) at 35-43 Gardenia Street, Pakenham for the reasons outlined in this report.

### **Attachments**

- |   |                              |        |
|---|------------------------------|--------|
| 1 | Locality plan                | 1 Page |
| 2 | Proposed plan of subdivision | 1 Page |

### **EXECUTIVE SUMMARY:**

APPLICATION NO.:	T160543
APPLICANT:	Nobelius Land Surveyor
LAND:	35-43 Gardenia Street, PAKENHAM VIC 3810
PROPOSAL:	Re-subdivision of two (2) existing lots (boundary realignment)
PLANNING CONTROLS:	General Residential Zone Development Contributions Plan Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	Pursuant to Section 52 (1A) of the Planning and Environment Act 1987, notification of the application was not given in accordance with Section 52 (1), as the proposal is recommended to be refused.
KEY PLANNING CONSIDERATIONS:	Existing and preferred subdivision character.
RECOMMENDATION:	Refusal

### **BACKGROUND:**

There is no planning history for the subject site.

### **SUBJECT SITE:**

The two subject sites are known as Lot 1 TP437940 and Lot 17 LP99061.

The subject sites are generally rectangular in shape with Lot 1 TP437940 northern boundary abutting Lot 17 LP99061 southern boundary.

### **Lot 1 TP437940**

The site located on the north site of Gardenia Street and has an area of 913m<sup>2</sup> with a street frontage of 18.31 metres and a depth of 49.39 metres. The site is approximately 730 metres north of Princes Highway.

The site slopes gently down from northwest to southeast and contains a single storey dwelling and outbuilding. A single crossover is located along the southern property boundary. The site does not contain any easements. The site is largely clear of vegetation aside from general landscaping.

#### Lot 17 LP99061

The site is located on the west side of Gardenia Street and has an area of 1235.21m<sup>2</sup> with a street frontage of 18.44 metres and a depth of 64.3 metres. The subject site is approximately 780 metres north of Princes Highway.

The site slopes down from west to east and contains a single storey dwelling and swimming pool. A single crossover is located along the eastern property boundary. The site does not contain any easements. Except for a small cluster of mature trees to the rear of the site, the site is largely clear of vegetation.

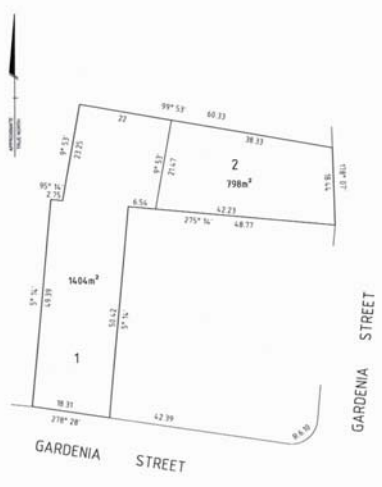
The main characteristics of the surrounding are:

- Residential allotments all of a similar size surround all sides of the subject site.
- 'Falling Waters' residential estate is located 50 metres east of the subject site with 'Pakenham Heights' residential estate located 370 metres west of the subject site.
- Meadowvale Retirement Village is located 515 metres west of the subject site.
- Pakenham Town Centre is located approximately 1.2 kilometres south of the subject site.

#### **PROPOSAL:**

The proposal is to re-subdivide two (2) existing lots by undertaking a boundary realignment. The proposal will involve transferring approximately 437m<sup>2</sup> from Lot 17 LP99061 to Lot 1 TP437940. This will result in:

- Lot 1 TP437940 will have a total area of 1404m<sup>2</sup> and be 'L' shaped. The lot will maintain a frontage of 18.31 metres.
- Lot 17 LP99061 will have a total area of 798m<sup>2</sup> and be rectangular in shape. The lot will maintain a frontage of 18.44 metres.



#### **PLANNING SCHEME PROVISIONS:**

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

The relevant clauses of the SPPF are:

- 15.01-5 Cultural identity and neighbourhood character

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

The relevant clauses of the LPPF are:

- 21.03-2 Urban growth area

#### **Relevant Particular/ General Provisions and relevant incorporated or reference documents**

The relevant provisions/ documents are:

- Clause 65 Decision Guidelines

#### **Zone**

The land is subject to the General Residential Zone

#### **Overlays**

The land is subject to the following overlays:

- Development Contributions Plan Overlay – Schedule 1

#### **PLANNING PERMIT TRIGGERS**

The proposal for the re-subdivision of two (2) existing lots (boundary realignment) requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.08-2 of the General Residential Zone a planning permit is required to subdivide land.

#### **PUBLIC NOTIFICATION**

The application was not advertised pursuant to Section 52 (1A) of the Planning and Environment Act 1987. The applicant was advised early in the application assessment process that it would not be supported at an Officers level, it was decided that advertising would not be beneficial in this case. If the application was appealed at VCAT, it is in all likelihood the proposal would be advertised at this point.

#### **REFERRALS**

- The application was not required to be referred.

#### **DISCUSSION**

The proposal has been assessed against all relevant Clauses of Cardinia Planning Scheme and determined to be inappropriate for the site.

#### **State and Local Planning Policy Framework**

*Clause 15.01-5 (Cultural identity and neighbourhood character)*

The objective of this Clause is to recognise and protect cultural identity, neighbourhood character and sense of place. As such, the proposal should consider the existing subdivision layout of the surrounding area. The

surrounding area has a district uniform rectangular pattern of subdivision. The proposal will result in a lot design that is inconsistent with the existing neighbourhood character of the area.

#### *Clause 21.03-2 (Urban Growth Area)*

The objective of this Clause is to create a functional, attractive, safe and sustainable urban environment for the community. Generally, planning requires subdivision patterns to be functional and orderly which is reinforced by planning provisions and policies such as Clause 56 of the planning scheme (residential subdivision). The proposal creates a lot that is not considered functional or orderly.

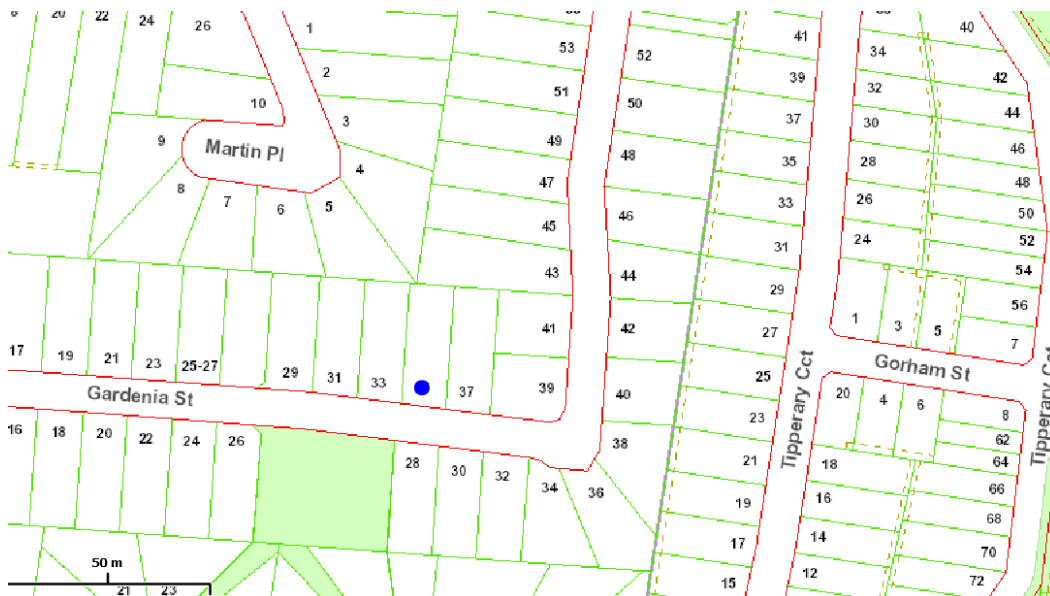
#### **General Residential Zone**

The General Residential Zone aims to provide for residential development that respects the neighbourhood character of the area.

The proposed re-subdivision will deliver two different sized and shaped lots. The proposal involves realigning the common boundary which will result in Lot 1 TP437940 having a lot size of 1404m<sup>2</sup>, achieved by acquiring approximately 437m<sup>2</sup> of Lot 17 LP99061 rear yard. As the lots are located perpendicular to each other, the boundary realignment will create an irregular 'L-shaped' lot for Lot 1 which is not consistent with the existing subdivision pattern of the surrounding area. The predominant pattern of the area is rectangular shaped lots with relatively narrow street frontages relative to its depth.

The boundary realignment will result in Lot 17 maintaining its rectangular shape which is 798m<sup>2</sup> in size. Whilst the lot size and design is considered in keeping with the character of the area, there are concerns that the realignment will result in Lot 17 having a small and impractical rear yard which is not in keeping with the residential character of the surrounding area.

The subdivision pattern of the existing area is recognised below, the land sizes and shapes are consistent, offering uniformity to the neighbourhood character. It is considered the proposed subdivisions will be inconsistent with the current lay of the land.



#### **CONCLUSION**

In conclusion the proposal is not consistent with the purposes and objectives of the relevant provisions of the Cardinia Planning Scheme. The proposed re-subdivision is considered inappropriate for the subject site and surrounding area and as such it is considered that the proposal should not be supported.

It is recommended that a Refusal to Grant Planning Permit T160543 be issued for the Re-subdivision of two (2) existing lots (boundary realignment) at 35-43 Gardenia Street, PAKENHAM VIC 3810 on the following grounds:

1. The proposal fails to adequately satisfy the following Clauses of the Cardinia Planning Scheme:
  - a) 15.01-5 Cultural identity and neighbourhood character,
  - b) 21.03-2 Urban growth area
  - c) Clause 65 Decision Guidelines
2. The proposal fails to meet the purpose of the General Residential Zone
3. The proposal fails to recognise and protect the neighbourhood character resulting in a re-subdivision that will create a lot that is inconsistent with the logical and orderly subdivision pattern of the area.
4. The re-subdivision will create a lot that is inconsistent with the logical and orderly subdivision pattern of the area.
5. The re-subdivision would adversely impact on the established neighbourhood character of the area.



