



Cardinia

MINUTES OF TOWN PLANNING COMMITTEE

MONDAY, 1 MAY 2017

MINUTES OF TOWN PLANNING COMMITTEE

held in the Council Chambers, 20 Siding Avenue, Officer
on Monday 1 May 2017.

The meeting commenced at 7.00 pm

PRESENT:

Mayor, Brett Owen, Chairman

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

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

APOLOGIES:

Cr Carol Ryan

DECLARATION OF PECUNIARY AND OTHER INTERESTS

Nil.

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1 TELECOMMUNICATION FACILITY AND VEGETATION REMOVAL, 368 O'NEAL ROAD OFFICER

FILE REFERENCE INT1726553

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Isla English

RECOMMENDATION

That a Notice of Decision T160772 be issued for the use and development of the land for a telecommunications facility and vegetation removal at 368 O`Neil Road, Officer subject to the following conditions contained in this report

Attachments

- | | | |
|---|---|----------|
| 1 | Locality plan | 1 Page |
| 2 | Development plans | 6 Pages |
| 3 | Letters of objection circulated to councillors only | 16 Pages |

EXECUTIVE SUMMARY:

APPLICATION NO.:	T160772
APPLICANT:	Visionstream Pty Ltd
LAND:	368 O`Neil Road, Officer VIC 3809
PROPOSAL:	Use and development of the land for a Telecommunication facility and removal of vegetation
PLANNING CONTROLS:	Rural Conservation Zone Schedule 2 Environmental Significance Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the <i>Planning and Environment Act 1987</i> , by sending notices to adjoining land owners and occupiers and by placing a sign on site. Four objections have been received to date.
KEY PLANNING CONSIDERATIONS:	Compliance with 'A Code of Practice for Telecommunication Facility in Victoria' Vegetation removal Clause 52.17 of the Native Vegetation
RECOMMENDATION:	Notice of Decision to approve

BACKGROUND:

There is no recent planning history relating to the property.

SUBJECT SITE

The subject property is located in the northern part of Officer which is characterised by lower density rural allotments and dense vegetation. The subject site is located on the east side of O'Neil Road and is adjoined to the north by the Beaconsfield Nature Conservation Reserve and Reservoir.

The property is developed with a single dwelling in the northwest corner of the lot. The balance of the site is largely covered by dense established vegetation approximately 18 metres high, with small clearings along the western boundary of the site.

The location of the facility takes advantage of natural ground elevation via a ridgeline that runs generally in a north-south direction along the roadway. The surrounding terrain features a significant slope away from the western title boundary, falling to the east. Land surrounding the subject site mostly comprises rural allotments, featuring scattered rural residential uses set amongst mature trees. Neighbouring residences are well screened by dense tree canopy and understory growth.

Surrounding land use and development are residential in nature and include:

- North: A heavily vegetated reserve containing water supply infrastructure.
- South: A heavily vegetated rural lot containing a dwelling.
- East: A heavily vegetated rural lot containing a dwelling.
- West: O'Neil Road and a heavily vegetated rural lot containing a dwelling.

PROPOSAL

An application was received for a NBN telecommunication facility to be constructed at 368 O'Neil Road, Officer. It is required for fixed wireless internet coverage to the northern parts of Officer and parts of Guys Hill. The applicant states after investigating a number of sites, the proposed property was the preferred site in order to meet their needs in regards to coverage and availability.

The telecommunications facility will comprise off a 40 metre monopole, ancillary components including two outdoor units (ODU) within a secure compound measuring approximately 80m².

The specific components of the proposed installation are described below:

- The installation of a 40m monopole;
- The installation of two (2) 600mm parabolic dish antennas for transmission purposes
- The installation of three (3) panel antennas attached to the headframe;
- The installation of a 2.4m high chainlink security compound fence (compound area 10m x 8m), with 3m wide access gate;
- The installation of two (2) outdoor equipment units at ground level, adjacent to the proposed tower.
- The outdoor units will be installed on a concrete slab and will be metallic grey in colour;
- The installation of associated feeder cables that will run underground from the equipment cabinets to the antennas
- The lease area of the tower is 4m² and the equipment shelter lease area is 12m²

The compound will be accessed from O'Neil Road via a new crossover proposed to the west of the compound. A gravel access track approximately 3 metres wide and approximately 12 metres long will link the roadway with the compound.

The application also includes the removal of vegetation. Twenty-six trees are proposed to be removed for the construction of the access way and the clearing of the compound. This is equivalent to 0.036 ha of native vegetation

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 19.03-4 Telecommunication

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.05-1 Infrastructure provision

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 65 Decision guidelines
- Clause 52.19 Telecommunications facility
- Clause 52.17 Native Vegetation Removal

Incorporated Documents

Clause 81 contains a list of documents that are incorporated into the Planning Scheme. One of these documents is *A Code of Practice for Telecommunication Facility in Victoria*, which is relevant in the assessment of this application.

Zone

The land is subject to the Rural Conservation Zone Schedule 2

Overlays

The land is subject to the following overlays:

- Environmental Significance Overlay Schedule 1

PLANNING PERMIT TRIGGERS

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

- Pursuant to Clause 52.19 a permit is required to construct a building or construct or carry out works for a telecommunication facility as the proposal is not classified as a low impact facility
- Pursuant to Clause 42.01-3 a permit is required to remove trees destroy or lop any vegetation.

- Pursuant to Clause 52.17 a permit is required to remove trees destroy or lop any vegetation.

PLANNING PERMIT TRIGGERS

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- Pursuant to Clause 52.17 a permit is required to remove trees destroy or lop any vegetation.

PUBLIC NOTIFICATION

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

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

Council has received four (4) objections to date.

The key issues that were raised in the objection are:

- Visual Amenity
- Pursuant to Property Values
- Loss of Vegetation
- Reflective materials

REFERRALS

DEWLP

The application was referred to DEWLP for a comment. *DEWLP* had no objection to the proposal in relation to the removal of vegetation

DISCUSSION

A Code of Practice for Telecommunication Facility in Victoria

In line with the decision guidelines as stipulated in Clause 52.19-6, the principles for the design, siting, construction and operation of a telecommunication facility must be assessed against 'A Code of Practice for Telecommunication Facility in Victoria'. Each principal of this code has been addressed as follows:

Principle 1: A telecommunication facility should be sited to minimise visual impact

At a maximum height of 40 metres it is acknowledged that the monopole tower component of the facility will be visible from land outside of the subject site. However, as highlighted in the VCAT

decision, *White v Ballarat CC* [2014] the simple visibility of the tower from surround land does not mean that there is an unacceptable planning or visual impact.

It is considered by Council officers that the location of this telecommunication facility is appropriately placed. The proposed compound is sited 8.5m from the property boundary and the monopole and equipment shelter are located approximately 11.4m. The monopole has been sited inside the allotment surrounded on three sides by tall trees and vegetation. A brush fence is proposed to screen the equipment shelter from the road as well as painting the tower pale eucalypt so as to blend with the vegetation. The brush screen was proposed to reduce the impact of the equipment shelters position after being contacted by the neighbour early in the consultation process last year to address their concerns.

The applicant states in its submission that the reasons for selecting this site are as follows:

- The proposed site has been particularly targeted to provide the optimal required quality of service for the Officer and Guys Hill community, and to provide critical transmission linkages to two downstream Fixed Wireless sites;
- The facility has been sited on rural land which benefits from existing established vegetation near the site for partial screening; The site provides sufficient spatial separation from sensitive land uses with the nearest dwellings well screened by the established tree canopy and understory growth;
- The site location benefits from the natural ground elevation achieved along the western site boundary, allowing for the smallest structure possible to be used to delivery service to the surrounding community;
- The proposal is not considered to cause unreasonable amenity impact within the rural landscape context of the site.

A proposed 40m slim line tower is to be used rather than the usual lattice tower. The design and construction materials are consistent with similar telecommunications facilities in the area. The structure may be visible from some aspects however Council officers do not believe it will result in adverse impacts on visual amenity in the local area.

When discussing Principle 1, in regards to the previously highlighted *White v Ballarat CC* [2014], Council was directed to consider aspects such as distances of the facility from the road, viewing points, and extent of any vegetation in the vicinity to obscure the pole.

VCAT also states that minimising an adverse impact on visual amenity does not mean that the telecommunication pole must be sited so that it cannot be seen by most or many people. Visibility cannot be equated to adverse visual impact. It is the extent to which a development is compatible with the particular location and how policies seek to guide change that is most relevant.

Principle 2: Telecommunication facilities should be co-located wherever practical

There are no existing telecommunication facilities within the area that are suitable for co-locating with in order to meet NBN coverage requirements.

Principle 3: Health standards for exposure to radio emissions will be met

The predicted maximum radio frequency emissions from the proposed Telstra telecommunication facility will be mandated by the Radio Communications (Electromagnetic Radiation – Human Exposure) Standard 2003.

Principle 4: Disturbance and risk relating to siting and construction should be minimised

Excavation and fill within the compound is proposed so as to level the site. A site cut of approximately 1m will be required. A permanent batter shall be compacted and seeded in a manner to suit the batter grades and erosion. Standard engineering conditions will be placed on any permit to ensure erosion and drainage will be appropriate for the site.

Vegetation Removal

Councils environment team does object to the removal of the vegetation as 26 trees that will be required to be removed as part of the development. It was recommended that as there is a clearing immediately to the north of the proposed location, this would be a better outcome. This option was investigated by planners and the applicant, however an extensive site cut, due to the fall of the land, would be required and the site was not considered suitable.

Under the State Planning Policy Framework, Clause 19.03-4 Telecommunications of the Cardinia Planning Scheme highlights an important strategy as:

Encourage the continued deployment of broadband telecommunications services that are easily accessible by:

- *Increasing and improving access for all sectors of the community to the broadband telecommunications trunk network.*
- *Supporting access to transport and other public corridors for the deployment of broadband networks in order to encourage infrastructure investment and reduce investor risk.*

In consideration proposals for telecommunication services, seek a balance between the provision of important telecommunications services and the need to protect the environment from adverse impacts arising from telecommunications infrastructure.

Planning should have regard to national implications of a telecommunications network and the need for consistency in infrastructure design and placement

It is this strategic direction, which VCAT commonly refers to when supporting applications even if there are environmental significant overlay/significant landscape overlays or general environmental concerns.

The submitted Biodiversity Assessment Report (BAR) has identified that the native vegetation to be removed, destroyed or lopped is within the low or moderate risk-based pathway and is below 0.5 hectares. A request for comment from DEWLP resulted in them having no objection for the vegetation removal.

As such it is recommended that offsets be requested to ensure that there is suitable compensation for the removal of the vegetation.

Objector concerns

- Visual Amenity

As discussed under Principle 1, because a tower can be seen does not deem it to cause an adverse impact. The tower is setback into the subject title and the trees surrounding the compound does soften the effect.

- Pursuant to Property Values

Perceived reduction in property values cannot form part of a planning decision and is not accepted argument at VCAT for objecting to a planning permit

- Loss of Vegetation

Council does not generally support the removal of vegetation. In considering this proposal, the importance of telecommunication coverage, the most appropriate site to gain this coverage, the nature of the infrastructure proposed and the pathway level of vegetation being low, on this occasion it is recommended that vegetation removal can be supported. Suitable offsets will be required to be made at the vegetation's removal.

- Reflective materials

Council will request the pole and infrastructure be coloured green so as to blend in with the natural environment. This is supported by the applicant.

CONCLUSION

The proposed NBN Co facility, comprising a 40 metre high monopole with attached antennas and equipment cabinets has been located in a site which meets visual amenity issues which meets the ability to ensure adequate coverage is achieved. The proposal satisfies the requirements of the Code of Practice for Telecommunications Facilities in Victoria, whilst also addressing coverage deficiencies within the local area. The proposal is also consistent with the stated objectives of the Cardinia Planning Scheme and, in particular, Clause 52.19 relating to telecommunications facilities, and is not considered to be detrimental to the amenity of O'Neil Road and the surrounding area.

It is therefore recommended that a Notice of Decision for planning permit T160772 be issued for the use and development of the land for a telecommunications facility and vegetation removal at 368 O`Neil Road, Officer subject to the following conditions:

CONDITIONS

1. Before the 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. The plans must be generally in accordance with *the plans submitted with the application* but modified to show:
 - a) Show the monopole and equipment shelter to be painted eucalyptus green
 - b) Show the brush fence to be placed on the exterior of the compound wall
 - c) An amended site plan numbering each of the 26 trees earmarked for removal

2. The layout of the site and the size of the proposed buildings and works, as shown on the approved plan/s, must not be altered or modified without the consent in writing of the Responsible Authority.
3. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
4. 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.
5. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
6. The exterior colour and cladding of the telecommunication facility must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the equipment shelter, including the roof, must be of a non-reflective nature.
7. Electromagnetic energy emissions must comply with the Australia Radiation Protection and Nuclear Safer Agency (ARPANSA).
8. All fallen timber and debris from the works must be cleaned up to the satisfaction of the Responsible Authority within three (3) months of the completion of works and may not remain on the subject land in a manner, which may constitute a fire hazard.
9. Except where specified on the endorsed plan, no vegetation may be removed, destroyed or lopped without the written consent of the Responsible Authority.
10. Prior to the removal of vegetation approved under this planning permit, an offset must be provided in accordance with condition 11 and be:
 - a) contribute gain of 0.004 general biodiversity equivalence units
 - b) be located within the Port Phillip and Westernport Catchment Management Authority boundary or the Cardinia municipal district
 - c) have a strategic biodiversity score of at least 0.106.

11. Offset evidence

The Guidelines require that a compliant offset be secured, to the satisfaction of the responsible or referral authority, before the native vegetation is removed. This can be an on-title security agreement for an offset site that includes an onsite management plan OR evidence of a third part offset. Security agreement requirements are specified in the *Native vegetation gain scoring manual*. Include the following condition:

Before any native vegetation is removed, evidence that an offset has been secured must be provided to the satisfaction of the responsible authority. This offset must meet the offset requirements set out in this permit and be in accordance with the requirements of *Permitted clearing of native vegetation. Biodiversity assessment guidelines and the Native vegetation gain scoring manual*. Offset evidence can be either:

- a security agreement, to the required standard, for the offset site or sites, including a 10 year offset management plan or

- a credit register extract from the Native Vegetation Credit Register.

This condition is not required for offsets on the native vegetation credit register as these include monitoring requirements.

Every year, for ten years, after the responsible authority has approved the offset management plan, the applicant must provide notification to the responsible authority of the management actions undertaken towards the implementation of the offset management plan. An offset site condition statement, including photographs must be included in this notification.

12. Prior to the commencement of the development, the trees marked on the endorsed plans as being retained must have Tree Protection Fencings (TPF) installed to the satisfaction of the Responsible Authority. All TPF's must meet the following requirements:
- a) Each TPF must be installed prior to the commencement of any demolition, excavation, tree removal, delivery of building/construction materials, temporary buildings and construction.
 - b) Each TPF shall not be removed until such works have been fully completed.
 - c) Each TPF must extend (as close as practicable) to the Tree Retention Zone, calculated as being a radius of 12 times the Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009).
 - d) If works are shown on any endorsed plans of this permit within the calculated TPF, the Tree Protection Fencing must be taken in only the minimum amount necessary to allow the works to be completed.
 - e) Areas within the TPF must not be used:
 - for vehicular or pedestrian access, no trenching or soil excavation is to occur.
 - for storage or dumping of tools, equipment, materials or waste is to occur.
 - for storage of any vehicles, machinery, equipment or other materials.

Expiry of Permit

13. The permit will expire if:
- a) The development is not commenced within **two (2) years** of the date of this permit; or
 - b) The development is not completed within **four (4) years** of the date of this permit.

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

Footnote:

A 'Vehicle Crossing Permit' must be obtained from Council prior to the commencement of any works associated with the proposed vehicle crossing.

1 TELECOMMUNICATION FACILITY AND VEGETATION REMOVAL, 368 O'NEAL ROAD OFFICER

Moved Cr L Wilmot Seconded Cr J Springfield

That a refusal to planning permit T160772 be issued for the use and development of the land for a telecommunications facility and vegetation removal at 368 O`Neil Road, Officer for the following reasons:

1. The proposed tower would result in unacceptable visual impacts to significant landscapes, ridgelines and the neighbouring property to the west of the site as a result of the height, scale and form of the tower.
2. The proposal has not minimised Native Vegetation removal from the site as per the requirements of Clause 42.01-3 and Clause 52.17 of the Cardinia Planning Scheme.
3. The proposal is also considered to be inconsistent with Principle 1 of the 'Code of Practice for Telecommunications Facilities in Victoria' document incorporated into the Cardinia Planning Scheme pursuant to Clause 81.01.

Cd.

2 VARIATION OF A COVENANT, 54 ROSEBERY STREET, LANG LANG

FILE REFERENCE INT1726644

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Isla English

RECOMMENDATION

That a Refusal to Grant Planning Permit T160760 be issued for Variation of a Restrictive Covenant at 54 Rosebery Street, Lang Lang for reasons outlined in this report.

Attachments

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

EXECUTIVE SUMMARY:

APPLICATION NO.:	T160760
APPLICANT:	LMK Building Services – Lukas Kelly
LAND:	54 Roseberry Street, Lang Lang Vic 3984
PROPOSAL:	Variation of a restricted covenant
PLANNING CONTROLS:	Neighbourhood Residential Zone Schedule 1 No overlay
NOTIFICATION AND OBJECTIONS:	The application was advertised in accordance with Section 51 1)(cb) and 52 1AA(a&b) of the Planning and Environment Act 1987 by sending notices to the owners and occupiers of adjoining land. Placing a sign on site and placing a notice in the Pakenham Gazette newspaper. Four objections have been received to date.
KEY PLANNING CONSIDERATIONS:	Section 60 (2) of the Planning and Environment (Amendment) Act 1987
RECOMMENDATION:	Refusal.

BACKGROUND:

An application was received by Council to allow the building of a dwelling outside a registered building envelope. The dwelling has already commenced and was brought to Council's attention when adjoining land owners contacted Council's building department in regards to the change in setback. An application could not be supported under the Building process due to the covenant on the land. The applicant submitted a formal planning permit application

SUBJECT SITE

The site is located on the south west corner of Roseberry Street and Rupert Street Lang Lang.

A crossover is located on the northwest corner of the allotment facing onto Roseberry Street. There are no easements registered on the title. The lot is 697.5m² in area and the topography of the land is relatively flat with no vegetation on the site.

The site currently contains a partially constructed dwelling which is located 4m from the Roseberry Street frontage.

The main characteristics of the surrounding area are:

- Land located in a recently approved residential subdivision.
- The dwellings along the Roseberry Street all meet their registered front setback as required under the covenant.
- The allotment is located within the developing White Hill estate, and is providing a new residential development at the end of Rupert Street and McDonald Track

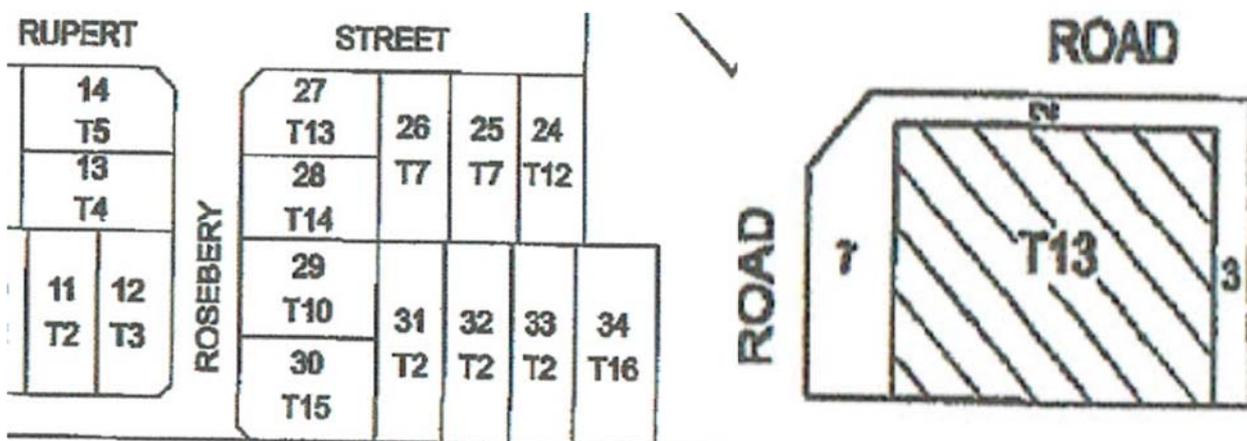
PROPOSAL

There are two registered covenants and one Section 173 agreement registered to the land (Lot 27). Registered title PS711861F states –

The registered proprietors for the time being of a lots in this plan of subdivision shall not without the written consent of the Cardinia Shire Council, construct or allow to be constructed any building on the respective lot –

- a) *Outside the area shown hatched on this plans; and*
- b) *That exceeds 50% site coverage of the respective lot*

This restrictions affecting each of the lots 1 to 34 (both inclusive) will expire two years after the issue of a certificate of occupancy for a dwelling on the respective lot.



The restriction provides for a 7m front setback (Roseberry Road), 2m off the secondary street frontage (Rupert Street), 3m to the rear setback.

The dwelling partially built has been constructed 4m off the front setback (Rosebery Road), 6m of the secondary street frontage (Rupert Street), 10m of the rear property boundary and 1.2m off the adjoining property setback.

The breach to the covenant which has resulted in this retrospect application is the difference between 7m and 4m from the front boundary.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 10.04- Integrated decision making

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.02-2 Rural townships
- Clause 21.07-4 Lang Lang

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
- Lang Lang township strategy

Zone

The land is subject to the Neighbourhood Residential Zone Schedule 1

Overlays

The land is not subject to any overlays.

PLANNING PERMIT TRIGGERS

Under Clause 52.02 of the Cardinia Planning Scheme a permit is required before a person proceeds under Section 23 of the Subdivision Act 1988 to create, vary or remove an easement or restriction or vary or remove a condition in the nature of an easement in a Crown grant.

Legislative requirements

Planning and Environment Act 1987

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(1) (cb) and 52 1AA (a &b) of the Planning and Environment Act 1987. This included notices on site, notices to adjoining properties and burdened land owners to the covenants and a notice in the newspaper.

At the end of the advertising period, three objections were received.

Issues of highlighted include:

- Visual amenity
- Streetscape compromised
- Principles of approved building design guidelines - rural environment and canopy trees
- Interferes with the visibility whilst driving on the roads and the adjoining round-about.
- Creates an untidiness to the streetscape, as its protruding further than the other houses in the street.

REFERRALS

The application was not required to be referred.

DISCUSSION

State and Local Planning Policy Framework and Decision Guidelines

The State and Local Planning Policy Framework connects the importance of proper planning for road networks and car parking. As clearly indicated in Clause 10.04 of the Cardinia Planning Scheme, development must achieve a balance of a range of policies in the planning scheme in favour of net community benefit and sustainable development for the benefit of present and future generations. The challenge is therefore to provide a high quality, responsive approval that will integrate suitably with the surrounding properties

Clause 65 'Decision Guidelines' require the Responsible Authority, among other things, to consider:

- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.

The partially constructed dwelling in its location has a significant impact on the amenity of the area.

Clause 52.02 02 Easements, restrictions and reserves

There is limited prescriptive decision guidelines provided in Clause 52.02 of the Cardinia Planning Scheme. The only guideline is that the interest of affected people must be considered. Therefore, in order for Council to make a determination on the application, the impact on affected people must be considered. This results in an assessment against the relevant decision guidelines of Clause 52.02, being:

- Strict requirements apply to the granting of a planning permit to remove or vary a registered restrictive covenant. These are set out in sections 60(2) and (5) of the Act.

- Section 60 (2) applies to restrictive covenants created on or after 25 June 1991 and Section 60 (5) applies to restrictive covenants created before 25 June 1991

Section 60 (2) applies to the assessment of this application.

Clause 60 (2) of the above mentioned Act states:

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 (other than an owner who, before or after the making of the application for the permit but not more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer:

- (a) financial loss; or
- (b) loss of amenity; or
- (c) loss arising from change to 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:** The objector has not identified financial loss as a ground of objection and Council cannot consider the balance of probabilities that the proposed variation of the covenant is likely or unlikely to cause financial loss to any benefitting owners. It is considered that there is no impact to the beneficiaries under this criteria.
- **Loss of Amenity:** The objectors noted loss of amenity as their main issue with the location of the dwelling in its present position. Phrases such as Visual amenity; Streetscape compromised; Principles of approved building design guidelines - rural environment and canopy trees; Interferes with the visibility whilst driving on the roads and the adjoining round-about and Makes the street look untidy, as its protruding further than the other houses in the street - have been used by the objectors for reasons for their concerns. It is considered that Council cannot discount that the proposal may cause a loss of amenity to the objectors therefore can consider that objectors may be inconvenience by this criteria.
- **Loss Arising from Change to the Character of the Neighbourhood:** The objector has noted that position of the dwelling compromises the streetscape and another objector states the street looks untidy. Allowing the approval of this dwelling outside the registered building envelope is not considered minor in nature and has a dominant effect on the developing streetscape and is not in accordance the approved Lang Lang township strategy. It is considered that Council cannot discount that the proposal may cause a loss arising from change to the character of the neighbourhood therefore can consider that objectors may be inconvenience by this criteria.

- Any other Material Detriment: It is acknowledged that this property and other surrounding allotments were purchased with the covenant in place. Covenants provide a level of certainty for purchasers in the estate in regards to development expectations and a certain level of standards in regards to housing development. An objection from a beneficiary to the variation of the building envelope has identified that the covenant was put there for a reason and should not be removed. Detriment is noted in VCAT case McBride v Stonnington CC 26 October 2005 as 'loss, damage or injury'. Whilst the objector has not specifically identified how building outside the registered building envelope will cause loss, Council cannot determine that there will be no loss for the objector as a result of the removal of the restriction and must therefore refuse the application.

Given the above, Council officers are not satisfied that the proposed variation of the covenant is unlikely to result in loss of amenity, loss arising from change to the character of the neighbourhood or any other material detriment. Therefore, it is considered that under clause 60 (2) Council should not support the variation.

CONCLUSION

As a result of receiving an objection to the proposal from a beneficiary, Council cannot determine that the beneficiary is unlikely to suffer under the criteria's set out in Section 60 (2) of the Planning and Environment Act 1987 as a consequence of the variation of the restriction.

It is recommended that a Refusal to Grant Planning Permit T1607601 be issued for Variation of a Restrictive Covenant at 54 Rosebery Street, Lang Lang 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 loss of amenity, loss arising from the change in neighbourhood character or any other material detriment as a consequence of variation to the restriction.

and

In light of the above refusal, that after the days to appeal such decision is exhausted that Council takes steps to enforce the Cardinia Planning Scheme including but not limited to seeking an enforcement order with VCAT to remove the dwelling from the subject land.

2 VARIATION OF A COVENANT, 54 ROSEBERY STREET, LANG LANG

Moved Cr R Brown Seconded Cr G Moore

That a Refusal to Grant Planning Permit T160760 be issued for Variation of a Restrictive Covenant at 54 Rosebery Street, Lang Lang 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 loss of amenity, loss arising from the change in neighbourhood character or any other material detriment as a consequence of variation to the restriction.

and

In light of the above refusal, that after the days to appeal such decision is exhausted that Council takes steps to enforce the Cardinia Planning Scheme including but not limited to seeking an enforcement order with VCAT to remove the dwelling from the subject land.

Cd.

3 DEVELOPMENT OF ADDITIONS AND ALTERATIONS TO AN EXISTING PLACE OF ASSEMBLY (CULTURAL & COMMUNITY CENTRE) AND ASSOCIATED CAR PARKING AT 40 LAKESIDE BOULEVARD, PAKENHAM

FILE REFERENCE INT1726632

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Stephen Powell

RECOMMENDATION

That Planning Permit T170113 be issued for the development of additions and alterations to the existing Place of Assembly (Cultural & Community Centre) and associated car parking at 40 Lakeside Boulevard, Pakenham Victoria 3810 subject to the conditions attached to this report.

Attachments

- | | | |
|---|-------------------|----------|
| 1 | Locality plan | 1 Page |
| 2 | Development plans | 25 Pages |

EXECUTIVE SUMMARY:

APPLICATION NO.:	T170113
APPLICANT:	Mantric Architecture Pty Ltd,
LAND:	Cardinia Cultural Centre, 40 Lakeside Boulevard, Pakenham
PROPOSAL:	Development of additions and alterations to the existing Place of Assembly (Cultural & Community Centre) and associated car parking.
PLANNING CONTROLS:	Comprehensive Development Zone Schedule 1 Development Contributions Plan Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	The application has been advertised pursuant to Section 52 of the <i>Planning and Environment Act 1987</i> , by sending notices to adjoining land owners and occupiers and by placing a sign on site One (1) submissions was received.
KEY PLANNING CONSIDERATIONS:	Comprehensive Development Zone Schedule 1
RECOMMENDATION:	Approval

BACKGROUND:

The history of the site includes:

Planning Permit T010487 was issued for 'the development of the land for the purpose of a Place of Assembly (Cultural & Community Centre) with a reduced car parking requirement generally in accordance with the approved plans' on 3 August 2001.

SUBJECT SITE

The subject site is located on the corner of Lakeside Boulevard and Waterford Rise in Pakenham, approximately 350 metres south of the Princes Highway.

The key features of the site are summarised as follows:

- The site is generally regular in shape with a frontage of 147.48 metres to Lakeside Boulevard and a maximum depth of 149.63 metres, with a total area of 20,806 square metres / 2.08 hectares.
- The site currently contains the Cardinia Cultural Centre (CCC) which is a single storey building that offers a variety of publicly available facilities including an auditorium, function rooms, community rooms, café and kitchen.
- The site has a generally flat topography with a slight slope from west to east of approximately 0.3 metres.
- Vehicle access is provided along the northern boundary from Waterford Rise via two double cross-overs. A total of 77 car spaces are currently accommodated on-site.
- The site is affected by an easement that runs along the western boundary.
- The site contains low level landscaping including small shrubs and canopy trees.
- A number of footpaths are provided throughout the site connecting the CCC with Lakeside Park and the surrounding pedestrian network,

The main characteristics of the surrounding area are:

North: Medical Centre and Food and Drink Premises located north of Waterford Rise.

South: Lakeside Park which is a large open space area that includes a lake which provides a 140 metre buffer between the CCC and the dwellings beyond.

East:

Three storey townhouse development which have an outlook towards the subject site and located on the opposite side of Lakeside Boulevard.

Lakeside College and associated car parking.

West: A mixture of two/three storey dwellings located along Clearwater Drive. The rear of the lots abut the subject site with private open space and rear boundary fencing abutting the public open space that abuts the subject site. There is a pedestrian path which runs adjacent the rear boundary of these dwellings and within the public open space.

PROPOSAL

The proposal is for the development of additions and alterations to the existing Cardinia Cultural Centre with works limited to the ground floor level including internal reconfigurations of the existing building.

The proposal is summarised as follows:

- Partial demolition to the north-east portion of the building which generally contains the rear foyer, toilets and western wing.
- The construction of the following generally within the existing building footprint:
 - two (2) dance studios;
 - lounge and crush space;
 - two (2) meeting rooms;
 - theatre room;
 - new arts space entrance and lobby on the north side of the building;

- laundry room;
- workshop;
- office;
- waste compound with four temporary storage units located behind a 2.86-metre-high timber batten fence.
- An increase in gross floor area of 483sqm from 2,922sqm to 3405sqm.
- The construction of 74 additional car spaces in the north east corner of the site. This will complement the existing 77 car spaces currently constructed.
- A revitalised cladding scheme generally consisting of anodised aluminium cladding, precast cladding and timber battens.

The proposed development forms Stage 1 of 3 stages with the preceding stages expected to be delivered over the next 10 years. The facility is located within a designated urban growth area with population figures expected to increase expediential over time. The development is required to cater for the projected increase in demand for the facility to ensure the Cardinia Cultural Centre can continue to provide the community with high quality facilities, services and amenities.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11 - Settlement
- Clause 15 – Built Environment and Heritage
- Clause 17 - Economic Development
- Clause 18 – Transport
- Clause 19.02-3 Cultural Facilities

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 – Cardinia Shire Key Issues and Strategic Vision
- Clause 21.03-2 – Urban Growth Area
- Clause 21.04-1 – Employment
- Clause 21.04-3 – Activity Centres
- 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 52.07 – Loading and Unloading of Vehicles
- Clause 52.34 – Bicycle Parking
- Clause 65 – Decision Guidelines
- Clause 67 – Applications under Section 96 of the Act
- Cardinia Precinct Structure Plan

Zone

The land is subject to Clause 37.02 - Comprehensive Development Zone - Schedule 1 (CDZ1).

Overlays

The land is subject to Clause 45.06 - Development Contribution Plan Overlay – Schedule 1 (DCP01)

PLANNING PERMIT TRIGGERS

The proposal for *the development of additions and alterations to the existing Place of Assembly (Cultural & Community Centre) and associated car parking* requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 37.02-4 – Comprehensive Development Zone a planning permit is required to construct a building or construct or carry out works.

PUBLIC NOTIFICATION

In accordance with Clause 67.02, the application has been advertised pursuant to Section 52(1)(c) of the Planning and Environment Act 1987, by:

- *Sending notices to the owners and occupiers of adjoining land.*

It is noted that pursuant to Clause 37.02-4 – Comprehensive Development Zone, the application is exempt from the notice requirements of Section 52(1)(a), (b) and (d).

Council did not receive any objections in relation to the proposed development.

One (1) submission was received which requested that consideration be given to the light spill of the development to the surrounding properties.

The following advice was provided by the applicant and provided to the resident:

- The proposed carpark lighting will have less spill lighting relative to the existing carpark lighting due to proposed LED lighting which has a much improved light-beam focus / cut-off angle. Further, the carpark lighting is directed toward the carpark ground surface and not in any other direction.
- The proposed lighting levels are designed to be similar to the existing lighting levels (sub-category P11b of AS1158.3) and the pole heights match the existing. The external lighting design considers the obtrusive effects of outdoor lighting in accordance with Australian Standard AS4282 *Obtrusive Effects of Outdoor Lighting*;

REFERRALS

The application was not required to be referred to any external referral authorities under Section 55 of the Planning and Environment Act 1987.

DISCUSSION

State Planning Policy Framework

The proposal will provide a good quality urban environment with a sense of place and cultural identity (Clause 15.01-1) while providing architectural and urban design outcomes which contribute positively to the local urban character and enhance the public realm (Clause 15.01-2). The height, scale and massing of the development is commensurate to the existing building while providing a high standard in architecture and urban design features.

The development will meet the communities needs for entertainment and provide a net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities (Clause 17.01-1) and promote a strong cultural environment by increasing access to art, recreation and other cultural facilities (Clause 19.02-3).

Local Planning Policy Framework

Cardinia Shire is expected to accommodate population growth from 77, 000 people in 2011 to 120, 000 by 2021 (Clause 21.01). Key issues relevant to this intended growth is providing infrastructure that meets the needs of the existing and future community (Clause 21).

The Municipal Strategic Statement (MSS) recognises that it is essential to balance the needs of the environment, economic development and community in order to continue to provide its residents with a high quality of life. The MSS provides a commitment to provide quality community infrastructure (Clause 21.05-6 and Clause 21.06) that acknowledges the diversity of age groups within the municipality and the importance in providing services to meet the needs of particular age groups and which is located in accessible locations.

The propose development with further reinforce the commitment to provide residents with a range of community services and facilities which respond to the community's needs.

Zone

Clause 37.02 - Comprehensive Development Zone - Schedule 1 (CDZ1).

The purpose of the zone is as follows:

- To designate land suitable for urban development.
- To provide for the development of the land generally in accordance with the Pakenham West Comprehensive Development Plan, 1 September 2005.
- To ensure that any development and use of the land is in accordance with a local structure plan prepared to the satisfaction of the responsible authority.
- To provide a range of dwelling types and lot sizes to meet a diversity of housing needs.
- To provide a range of commercial and community facilities to meet the needs of existing and future residents of the area.
- To ensure that non-residential uses do not cause a loss of amenity to nearby residents.
- To facilitate urban design which creates a strong character and identity for the area, provides for a functional built environment, and promotes community and personal safety.

- To manage the quality and quantity of urban stormwater entering local waterways.

Pursuant to Clause 37.02-4 – Comprehensive Development Zone a planning permit is required to construct a building or construct or carry out works.

It is noted that the proposed development is associated with the existing use of the land as a Place of Assembly which is a use which does not require planning approval under the CDZ1 as the use is consistent with the Pakenham West Comprehensive Development Plan 1 September 2005.

The proposed development is considered to satisfy the objectives of the CDZ1 on the following basis:

- The facility is located within a designated urban growth area with population figures expected to increase exponential over time. The development is required to cater for the projected increase in demand for the facility and to ensure the Cardinia Cultural Centre will remain a viable community centre that will provide the community with high quality facilities, services and amenities to meet the needs of the existing and future residents of the area.
- The proposed development remains consistent with the existing use of the land as a 'Place of Assembly' and with the uses specified for the site in the Pakenham West Comprehensive Development Plan 1 September 2005 which identifies the site as being located in a 'Neighbourhood Centre' that includes 'Community Facilities'.
- The proposed development remains consistent with the community service role of the Cardinia Cultural Centre as identified in the Cardinia Road Precinct Structure Plan.
- The design of the additions and alterations respects the character of the existing building while providing a strong sense of character and identity, as well as providing a functional built environment that will benefit the local visiting community.
- The proposed car parking location is generally in accordance with the location identified in previous planning permit T010487 for future staging of the Cultural Centre.
- The unique materials and colour finishes and the innovative architectural design will ensure that the Cardinia Cultural Centre continues to positively contribute to the character of the area, whilst maintaining a sense of place and identity to the area. Further, the new architectural expression of the building is designed to integrate well with the overall design of the host (existing) building.
- The temporary storage units and waste compound enclosure have been screened from the public realm through the use of landscaping and a 2.86-metre-high timber batten fence.
- The proposed development does not result in any significant amenity impacts to the potentially sensitive interface of the residential properties to the west. These dwellings are orientated to Clearwater Drive with the rear private open space abutting the subject site characterised by high rear boundary fencing. The proposed additions and alterations are generally located within the building footprint of the existing building ensuring that the open outlook viewed from the rear of dwellings in Clearwater Drive is retained. Further, the development retains significant open space buffers around the building footprint between the nearby residences and appropriately addresses the public open space. In addition, landscaping is proposed between the building and the dwellings within Clearwater Drive to further screen the development and car parking areas to the nearby residences.
- As detailed in the submitted Environmental Noise Survey prepared by Cundall, the proposed setback of 50 metres (building) and 17 metre (carpark) exceed the EPA requirements (minimum 10 metres to noise sensitive areas).

The proposed additions and alterations will ensure that the current / future demands of the community will be positively contribute by providing the community with high quality facility and services.

Overlays

Clause 45.06 - Development Contribution Plan Overlay – Schedule 1 (DCPO1)

The purpose of the DCPO is to identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence.

Pursuant to Clause 45.06-1, a permit granted must:

- Be consistent with the provisions of the relevant development contributions plan.
- Include any conditions required to give effect to any contributions or levies imposed, conditions or requirements set out in the relevant schedule to this overlay.

Development Contributions associated with this site have been paid.

Particular Provisions / General Provisions and relevant incorporated or reference documents

Cardinia Road Precinct Structure Plan

The Cardinia Road Precinct Structure Plan highlights the regional recreational and community service role of the Cardinia Cultural Centre. The proposed development with further the strategic role of the Neighbourhood Activity Centre by aiding in addressing the growing needs of the community and ensure that the community is provided with a range of high quality facilities within activity centres.

Clause 52.06 – Car Parking

A total of 77 car spaces are currently provided on-site to meet the demands generated by the existing Cardinia Cultural Centre and in accordance with the requirements of the original permit T010487. The proposed development does not seek to change the peak usage / occupancy of the site which is currently allowed (noting that no patron cap was nominated on the original permit that allowed the use T010487). Rather the development seeks to provide an additional 74 car parking spaces to accommodate the demands of the existing use / intensity (Total of 151 car spaces). Further, the building footprint has only been marginally increased (483 sqm). Therefore, there are no permit requirements under Clause 52.06-3 with relation to parking reductions.

Council's Traffic Engineering Department have reviewed the submitted and provision of car parking numbers and have raised no objection to the proposed development.

Clause 52.07 - Loading and Unloading of Vehicles

The proposed development provides for loading bays in excess of the requirements of Clause 52.07.

Council's Traffic Engineers have reviewed the submitted information and provided no objection to the proposal. Condition of the permit will require the alterations to the medium strip in Waterford Drive and to a section of kerb within the existing parking areas to ensure that a 12.5 metre long Heavy Rigid Vehicle can satisfactorily enter and exit the site for the purposed of loading and unloading of vehicles.

Clause 52.34 – Bicycle Parking

Pursuant to Clause 52.34-1, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. Where the floor area occupied by an existing use is increased, the requirement for bicycle facilities only applies to the increased floor area for the use. Bicycle parking has been provided on site to comply with Clause 52.34.

Clause 67 – Applications under Section 96 of the Act

The buildings and works associated with the existing Place of Assembly are exempt from the requirements of Section 96(1) and (2) of the Act pursuant to Clause 67.01 as ‘community facility’ is a Class 1 use.

CONCLUSION

The proposal is consistent with the State and Local Planning Policy Framework, Zone, Overlay, Particular and General Provisions.

It is recommended that Planning Permit T170113 be issued for the development of additions and alterations to the existing Place of Assembly (Cultural & Community Centre and associated car parking at 40 Lakeside Boulevard, Pakenham Victoria 3810, subject to conditions.

CONDITIONS

1. Before the development starts, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must show:
 - a. A swept path assessment which demonstrates that a 12.5 metre long Heavy Rigid Vehicle can satisfactorily enter and exit the Waste Compound area for the purpose of waste collection in accordance with the Waste Management Plan required under Condition 2.
 - b. An amended service entry design to accommodate the swept path areas as detailed in Condition 1a.
 - c. The location of any zebra crossings (if applicable) with a notation that the zebra crossings are subject to a Memorandum of Authorisation (MOA) being obtained from VicRoads prior to the installation.
 - d. Alterations to the medium strip within Waterford Rise in accordance with Condition 16.
 - e. Alterations to the existing car parking kerb in accordance with Condition 17.
 - f. The relocation of bollards within the service entry driveway to be outside of areas required for the turning of waste collection/loading vehicle.
 - g. All areas required for the manoeuvrability of the 12.5 metre long Heavy Rigid Vehicle to be appropriately sealed, including the turning area associated with the Waste Compound.
 - h. The location of signage and line marking to control right of way at internal cross-road and altered priority T intersections including loading bays and rear driveway access to the waste compound area.
 - i. A notation confirming that the waste compound is unroofed to ensure sufficient room for waste collection.
 - j. Consistency with the bin type and location as detailed in the Waste Management Plan required under Condition 2.

2. Before the development starts, a Waste Management Plan 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 waste management plan must:
 - a. be prepared by a suitably qualified expert;
 - b. provide detail of the proposed arrangements for collection of waste from the land;
 - c. be consistent with relevant guidelines prepared by Cardinia Shire Council;
 - d. provide turning templates which demonstrate how a 12.5 m long Heavy Rigid Vehicle can satisfactorily enter and exit the Waste Compound; and
 - e. Details of the location of any glass crushers.

3. Before the development starts, an amended landscape plan prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The landscaping plan must be generally in accordance with the landscape concept plan dated 19 December 2016 prepared by Land Design Partnership, amended to show all of the following:
 - a. The replacement of any landscape islands to car parking spaces;
 - b. Planting at the ends of aisles and near disabled bays to be no more than 600mm above road level to avoid blocking sightlines for motorists and pedestrians within the carpark at conflict points;
 - c. Details of surface finishes of pathways and driveways; and

- d. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. All species selected must be to the satisfaction of the Responsible Authority and be consistent with the exiting landscape installations.
4. Before the development starts, an access and disability audit report for the development, carried out by a person suitably qualified in the field, must be provided and approved, to the satisfaction of the Responsible Authority.
5. The development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
6. The layout of the uses on the endorsed plans must not be altered without the written consent of the Responsible Authority.
7. The various activities forming parts of the use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
8. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Engineering:

9. Before the development starts, detailed construction plans must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and must show:
 - a) Fully sealed pavement with kerb and channel to dimensions generally in accordance with the approved plans, including traffic management devices where appropriate including but not limited to:
 - i. The medium strip within Waterford Rise altered to allow for a 12.5m long Heavy Rigid Vehicle to turn east.
 - ii. The existing car parking kerb altered to allow for a 12.5m long Heavy Rigid Vehicle to access the loading bay on the north side of the building.
 - iii. The proposed carpark west of the existing carpark.
10. Before the development starts, a stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted for the approval of the Responsible Authority. The stormwater management plan must be prepared by a suitably qualified person and show details of the proposed stormwater works including all existing and proposed features that may have impact (including trees to be retained, crossings, services, fences, abutting buildings, existing boundary levels etc). All works must be undertaken in accordance with the approved stormwater management plan.
11. Stormwater 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.
12. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
13. Before the development is occupied, all proposed areas set aside on the approved plan/s for access, circulation and car parking (apart from the proposed gravel access driveway) 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

14. 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.
15. 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.
16. Prior to practical completion of the development, the medium strip within Waterford Rise must be altered to allow for a 12.5m long Heavy Rigid Vehicle to turn east in accordance with approved plans submitted to the Responsible Authority, and constructed to the satisfaction of the Responsible Authority.
17. Prior to practical completion of the development, the existing car parking kerb must be altered to allow for a 12.5m long Heavy Rigid Vehicle to access the loading bay on the north side of the building in accordance with approved plans submitted to the Responsible Authority, and constructed to the satisfaction of the Responsible Authority.
18. Prior to practical completion of the development, signage and line marking must be provided to control right of way at internal cross-road and altered priority T intersections including to the loading bays and rear driveway access to the waste compound, to the satisfaction of the Responsible Authority.
19. Zebra crossings must not be installed until a Memorandum of Authorisation (MOA) is obtained from VicRoads, to the satisfaction of the Responsible Authority.
20. Before a certificate of practical completion is issued, "as constructed" digital road and drainage information in AutoCAD format with all Xrefs binded into the drawings and showing any amendments during construction, must be submitted for all civil works where Council is the Responsibility Authority

General Conditions

21. The development (including works associated with the construction of the 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 or litter, grit or oil.
 - d. Presence of vermin.
22. Noise levels emanating from the subject land must comply with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1.
23. Noise levels emanating from the subject land must comply with the State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.

24. All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes must be stored out of general view and storage areas maintained in a suitable condition to the satisfaction of the Responsible Authority.
25. External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority so as to cause no loss of amenity to residents of adjoining properties, to the satisfaction of the Responsible Authority.
26. Except with the written consent of the Responsible Authority no external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.
27. The loading and unloading of goods from vehicles must only be carried out on the subject land within the designated loading bay/s and must not disrupt the circulation and parking of vehicles on the subject land.
28. The loading and unloading of vehicles must always be carried out on entirely within the site and not interfere with other traffic.
29. The landscaping shown on the approve plans must be carried out within six (6) months of the practical completion of the development or by such later date as is approved by the Responsible Authority in writing, to the satisfaction of the Responsible Authority.
30. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
31. All security alarms or similar devices installed on the subject land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service.
32. All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise for nearby residence to a level satisfactory to the Responsible Authority.
33. All wastewater must be discharged into the reticulated sewerage system to the satisfaction of the responsible authority.

Permit Expiry

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

- a. The development is not started within two years of the date of this permit.
- b. The development is not completed within four years of the date of this permit.

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

3 DEVELOPMENT OF ADDITIONS AND ALTERATIONS TO AN EXISTING PLACE OF ASSEMBLY (CULTURAL & COMMUNITY CENTRE) AND ASSOCIATED CAR PARKING AT 40 LAKESIDE BOULEVARD, PAKENHAM

Moved Cr M Schilling Seconded Cr J Owen

That Planning Permit T170113 be issued for the development of additions and alterations to the existing Place of Assembly (Cultural & Community Centre) and associated car parking at 40 Lakeside Boulevard, Pakenham Victoria 3810 subject to the following conditions.

1. Before the development starts, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must show:
 - a. A swept path assessment which demonstrates that a 12.5 metre long Heavy Rigid Vehicle can satisfactorily enter and exit the Waste Compound area for the purpose of waste collection in accordance with the Waste Management Plan required under Condition 2.
 - b. An amended service entry design to accommodate the swept path areas as detailed in Condition 1a.
 - c. The location of any zebra crossings (if applicable) with a notation that the zebra crossings are subject to a Memorandum of Authorisation (MOA) being obtained from VicRoads prior to the installation.
 - d. Alterations to the medium strip within Waterford Rise in accordance with Condition 16.
 - e. Alterations to the existing car parking kerb in accordance with Condition 17.
 - f. The relocation of bollards within the service entry driveway to be outside of areas required for the turning of waste collection/loading vehicle.
 - g. All areas required for the manoeuvrability of the 12.5 metre long Heavy Rigid Vehicle to be appropriately sealed, including the turning area associated with the Waste Compound.
 - h. The location of signage and line marking to control right of way at internal cross-road and altered priority T intersections including loading bays and rear driveway access to the waste compound area.
 - i. A notation confirming that the waste compound is unroofed to ensure sufficient room for waste collection.
 - j. Consistency with the bin type and location as detailed in the Waste Management Plan required under Condition 2.
2. Before the development starts, a Waste Management Plan 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 waste management plan must:
 - a. be prepared by a suitably qualified expert;
 - b. provide detail of the proposed arrangements for collection of waste from the land;
 - c. be consistent with relevant guidelines prepared by Cardinia Shire Council;
 - d. provide turning templates which demonstrate how a 12.5 m long Heavy Rigid Vehicle can satisfactorily enter and exit the Waste Compound; and
 - e. Details of the location of any glass crushers.
3. Before the development starts, an amended landscape plan prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan

will be endorsed and will then form part of the permit. The landscaping plan must be generally in accordance with the landscape concept plan dated 19 December 2016 prepared by Land Design Partnership, amended to show all of the following:

- a. The replacement of any landscape islands to car parking spaces;
 - b. Planting at the ends of aisles and near disabled bays to be no more than 600mm above road level to avoid blocking sightlines for motorists and pedestrians within the carpark at conflict points;
 - c. Details of surface finishes of pathways and driveways; and
 - d. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
- All species selected must be to the satisfaction of the Responsible Authority and be consistent with the exiting landscape installations.

4. Before the development starts, an access and disability audit report for the development, carried out by a person suitably qualified in the field, must be provided and approved, to the satisfaction of the Responsible Authority.
5. The development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
6. The layout of the uses on the endorsed plans must not be altered without the written consent of the Responsible Authority.
7. The various activities forming parts of the use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
8. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Engineering:

9. Before the development starts, detailed construction plans must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and must show:
 - a) Fully sealed pavement with kerb and channel to dimensions generally in accordance with the approved plans, including traffic management devices where appropriate including but not limited to:
 - i. The medium strip within Waterford Rise altered to allow for a 12.5m long Heavy Rigid Vehicle to turn east.
 - ii. The existing car parking kerb altered to allow for a 12.5m long Heavy Rigid Vehicle to access the loading bay on the north side of the building.
 - iii. The proposed carpark west of the existing carpark.
10. Before the development starts, a stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted for the approval of the Responsible Authority. The stormwater management plan must be prepared by a suitably qualified person and show details of the proposed stormwater works including all existing and proposed features that may have impact (including trees to be retained, crossings, services, fences, abutting buildings, existing boundary levels etc). All works must be undertaken in accordance with the approved stormwater management plan.
11. Stormwater 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.

12. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
13. Before the development is occupied, all proposed areas set aside on the approved plan/s for access, circulation and car parking (apart from the proposed gravel access driveway) 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
14. 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.
15. 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.
16. Prior to practical completion of the development, the medium strip within Waterford Rise must be altered to allow for a 12.5m long Heavy Rigid Vehicle to turn east in accordance with approved plans submitted to the Responsible Authority, and constructed to the satisfaction of the Responsible Authority.
17. Prior to practical completion of the development, the existing car parking kerb must be altered to allow for a 12.5m long Heavy Rigid Vehicle to access the loading bay on the north side of the building in accordance with approved plans submitted to the Responsible Authority, and constructed to the satisfaction of the Responsible Authority.
18. Prior to practical completion of the development, signage and line marking must be provided to control right of way at internal cross-road and altered priority T intersections including to the loading bays and rear driveway access to the waste compound, to the satisfaction of the Responsible Authority.
19. Zebra crossings must not be installed until a Memorandum of Authorisation (MOA) is obtained from VicRoads, to the satisfaction of the Responsible Authority.
20. Before a certificate of practical completion is issued, "as constructed" digital road and drainage information in AutoCAD format with all Xrefs binded into the drawings and showing any amendments during construction, must be submitted for all civil works where Council is the Responsibility Authority

General Conditions

21. The development (including works associated with the construction of the 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 or litter, grit or oil.
 - d. Presence of vermin.
22. Noise levels emanating from the subject land must comply with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1.

23. Noise levels emanating from the subject land must comply with the State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.
24. All bins and receptacles used for the collection and storage of garbage, bottles and other solid wastes must be stored out of general view and storage areas maintained in a suitable condition to the satisfaction of the Responsible Authority.
25. External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority so as to cause no loss of amenity to residents of adjoining properties, to the satisfaction of the Responsible Authority.
26. Except with the written consent of the Responsible Authority no external sound amplification equipment or loud speakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.
27. The loading and unloading of goods from vehicles must only be carried out on the subject land within the designated loading bay/s and must not disrupt the circulation and parking of vehicles on the subject land.
28. The loading and unloading of vehicles must always be carried out on entirely within the site and not interfere with other traffic.
29. The landscaping shown on the approve plans must be carried out within six (6) months of the practical completion of the development or by such later date as is approved by the Responsible Authority in writing, to the satisfaction of the Responsible Authority.
30. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose. Any dead, diseased or damaged plants are to be replaced.
31. All security alarms or similar devices installed on the subject land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service.
32. All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise for nearby residence to a level satisfactory to the Responsible Authority.
33. All wastewater must be discharged into the reticulated sewerage system to the satisfaction of the responsible authority.

Permit Expiry

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

- a. The development is not started within two years of the date of this permit.
- b. The development is not completed within four years of the date of this permit.

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

Cd.

4 DEVELOPMENT OF TWENTY ONE (21) DWELLINGS, 360 PRINCES HIGHWAY OFFICER

FILE REFERENCE INT1726695

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Stephen Powell

RECOMMENDATION

That a Refusal to Grant Planning Permit T160600 be issued for Development of the land for 21 dwellings and associated works at 360 Princes Highway (proposed lot A PS738353A), Officer for reasons outlined in this report.

Attachments

- 1 Locality plan 1 Page
- 2 Development plans 5 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.: T160600

APPLICANT: Yeasmin Quiroga

LAND: 360 Princes Highway, Officer VIC 3809 (proposed lot A PS738353A)

PROPOSAL: Development of the land for twenty-one (21) dwellings and associated works

PLANNING CONTROLS: Urban Growth Zone Schedule 3
Development Contributions Plan Overlay Schedule 4

NOTIFICATION & OBJECTIONS: Pursuant to Clause 37.07-13 the application is exempt

KEY PLANNING CONSIDERATIONS: Officer Precinct Structure Plan & Compliance with Clause 55

RECOMMENDATION: Refusal

BACKGROUND:

The subject site has been subject to previous planning approvals including Planning permit T120482 issued on 11 May 2015 for the subdivision of land, titles for the subject site have not been issued. The endorsed plans for the subdivision permit have noted the site for medium density development. This development application was submitted on 16 September 2016 with further information requested and the applicant encouraged to redesign the proposal to address concerns with the proposed development. The applicant was provided with a number of opportunities to redesign the proposal with only minor alterations provided at the time of writing this report.

SUBJECT SITE

The subject site is known as proposed Lot A on Plan of Subdivision PS738353A created under planning permit T120482. The site is an irregular shaped allotment with an area of 3,529 square metres and is one of two lots within the subdivision earmarked for a future medium density proposal.

The site is currently vacant, with works commenced on the approved subdivision. The Officer Native Vegetation Precinct Plan does not show any protected native vegetation within the site or adjacent road reserve.

The site has a road frontage to Pioneer Way to the north boundary and a future arterial road along the eastern boundary, Ethan Road to the west and Heathcote Grove to the south. Pioneer Way is a connector street as identified in the Officer Development Contribution Plan (DCP). The future arterial road is also identified within the Officer DCP and the land will be vested with VicRoads.

PROPOSAL

The application is to develop the land with twenty-one (21) dwellings. The following is a summary of the proposed development:

- **Site Layout:** The overall layout incorporates dwellings designed to front Pioneer Way, and the future arterial road adjacent to the east boundary. It is proposed to have 11 attached dwellings extending along these frontages with nine attached dwellings located in a 'U' shaped arrangement in the south west corner portion of the site, including four dwellings fronting Ethan Road with remaining dwellings addressing the internal driveway and one additional dwelling fronting Heathcote Grove. The first floors are attached with some minor separation between two dwellings on Pioneer Way and the future arterial road.

The ground floor is generally setback 3 metres from the street frontages with dwelling 14 setback 1.7 metres from the Heathcote Grove frontage. The first floors include balcony areas setback between 1 and 2 metres from site frontages.

- **Vehicle Access & Parking:** The layout includes a common accessway with double crossover on Ethan Road and Heathcote Grove, a 5.5 metre wide accessway is proposed to service seventeen (17) dwellings. With four dwellings fronting Ethan Road to be provided with separate access, with two additional crossover proposed along this frontage.

The dwellings are provided with individual single garages and tandem space. The proposal has included the inclusion of 4 visitor car parking spaces.

- **Dwelling Design, Height and Form:** The development provides a mixture of three or four bedroom dwellings. The proposal includes double storey dwellings throughout the site. Interfaces to all roads contain balconies, with some living spaces at first floor level. Floor to Ceiling heights are typically 2.7 metres at the ground level and 2.4 metres to the upper level, with an overall maximum height of approx. between 6.4 and 6.9 metres above the natural ground level. The proposed dwellings are a contemporary design with flat roofs.
- **Colours and Materials:** Dwellings will be constructed using face render and timber cladding.

- **Private and Open Space:** The proposed dwellings are provided with private open space either to the rear of the dwellings or to upper balconies where fronting Pioneer Way, Ethan Road and Heathcote Grove and of the future arterial road.

PLANNING SCHEME PROVISIONS

The relevant clauses of the SPPF are:

- Clause 11 Settlement
 - Clause 11.02-2 Structure Planning
 - Clause 11.02-3 Planning for Growth Areas
 - Clause 11.02-4 Sequencing of development
- Clause 15.01-1 Urban Design
 - Clause 15.01-3 Neighborhood and Subdivision Design
 - Clause 15.01-4 Design for Safety
 - Clause 15.01-5 Cultural Identity and neighbourhood character
 - Clause 15.02-1 Energy and resource Efficiency
- Clause 16 Housing
 - Clause 16.01-1 Integrated Housing
 - Clause 16.01-3 Housing opportunity areas
 - Clause 16.01-4 Housing diversity
 - Clause 16.01-5 Housing Affordability
- Clause 19 Infrastructure
 - Clause 19.03-1 Development contribution plans
 - Clause 19.03-2 Water supply, sewerage and drainage
 - Clause 19.03-3 Stormwater
 - Clause 19.03-4 Telecommunications

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.03 Settlement and Housing
 - Clause 21.03-1 Housing
 - Clause 21.03-2 Urban growth area
- Clause 21.05 Infrastructure
 - Clause 21.05-1 Infrastructure provision
 - Clause 21.05-3 Local roads
 - Clause 21.05-4 Public transport
 - Clause 21.05-5 Pedestrian and bicycle network
- Clause 21.06 Particular Uses and Development
 - Clause 21.06-1 Design and built form
 - Clause 21.06-2 Community Safety

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.06 Car Parking
- Clause 55 Two dwellings on a lot

- Clause 65 Decision Guidelines
- Officer Precinct Structure Plan (2011)
- Officer Development Contributions Plan (2011)
- Officer Native Vegetation Precinct Plan (2011)

Zone

The land is subject to the Urban Growth Zone Schedule 3

Overlays

The land is subject to the following overlays:

- Development Contributions Plan Overlay Schedule 4 (DCPO4)

PLANNING PERMIT TRIGGERS

The proposal for the development of the land for twenty-one (21) dwellings requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.08-4 of the General Residential Zone (GRZ) (applied zone under UGZ3) a permit is required to construct two or more dwellings on a lot. Pursuant to Part B of the UGZ where a structure plan applies (approved September 2008 and incorporated into the scheme), the provisions of Clauses 37.07-9 to 37.07-16 apply. Any permit issued must be generally in accordance with the precinct structure plan applying to the land.

PUBLIC NOTIFICATION

Pursuant to Clause 37.07-13 any provision of this scheme which is generally in accordance with the precinct structure plan applying to the land is exempt from the notice requirements of section 52(1)(a), (b) and (d) of the Planning and Environment Act 1987.

DISCUSSION

State and Local Planning Policy Framework

The three issues that a design must satisfy in the planning policy include to urban consolidation, neighbourhood character and high quality design and built form. The assessment is to provide a balance of each of these issues resulting in a site responsive design that will integrate with the preferred neighbourhood character whilst providing high quality design for future residents.

The site is not unsuitable for medium density development although the clear objectives of housing design that is established within both the State and Local Planning Policy Framework does not provide 'preference' to these objectives. Urban consolidation should not be the sole driving force behind any development with a development required to integrate with the surrounds and provide for high quality design.

The proposed development provides key features that indicate the density or number of dwellings on the lot has been the focus rather than good site responsive design. In particular, the consistent built form along each street frontage, provides minimal separation distances and inappropriate front setbacks, excessive hard standing areas with the lack of landscaping opportunities through the minimal areas provided. This is combined with extensive areas of overhanging balconies, severely restricting the development to provide suitable integration with the surrounding preferred

character. As such it is considered that the design is inconsistent with the State and Local Planning Policy Framework.

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

As the Officer Precinct Structure Plan (PSP) 2011 applies, PART B of Clause 37.07 of the Urban Growth Zone (UGZ) is applicable. Clause 37.07-11 of the Urban Growth Zone (Building and works) states that the provisions of the applied zone within the Schedule. Schedule 3 to the UGZ identifies the applicable applied zone for the site as being General Residential Zone (GRZ - Clause 32.08).

A permit granted must:

- Be generally in accordance with the precinct structure plan applying to the land; and
- Include any conditions or requirements specified in the schedule to the zone or precinct structure plan.

The subject site is located within the Residential Land area as shown on Section 2.1 of Schedule 3 of the UGZ. The Officer PSP Plan 8 Housing includes half of the site that is located within a Standard Density Residential area (average of 15 dwellings per hectare) and Medium Density Residential (average of 25 dwellings per hectare).

Section 4.2.3 Planning Design Guidelines Table 7 Medium Density notes guidelines that must be met include:

- *Additional sites for medium density and/or site that propose higher density will be considered provided that site are in strategic location and satisfy the objectives of 4.2 Housing*

The Officer Precinct Structure Plan (PSP) has sought to address a range of housing policy issues through the master planning and subsequent approval of subdivisions. The subdivision approval T120284 has provided an assessment of the overall subdivision of the land, accounts for the density requirement of the Officer PSP with a number of smaller allotments proposed throughout the development and has provided two medium density sites with the subject site, noted as one of the two with the average lot size as:

‘Integrated medium density residential site estimated dwelling yield is 18 dwellings based on 25 dwellings per hectare’

The application proposes a density of 59.5 dwellings per hectare with an average lot size of 168 square metres, which is substantially above both the average density specified in the Officer PSP, the average lot size specified in Table 6 of the PSP and the yield shown in the approved overall subdivision of the site. Although the site has been noted for medium density development, the proposed design has not provided suitable urban design outcomes that would provide any justification for the increased density and yield proposed.

Section 4.2.1 of the Officer PSP specifies that objectives of housing to *‘provide residential neighbourhoods with attractive streetscape and high quality urban design and distinct urban character’*. As detailed below, the proposal incorporates a number of design features that provide evidence that the proposal is an overdevelopment of the site and results in a design that will not result in a residential neighbourhood with attractive streetscape or high quality urban design as such is inconsistent with the objectives of Clause. Therefore, does not meet the planning design guidelines of Table 7 of the Officer PSP and is inconsistent with the purpose of the Urban Growth Zone.

Compliance with Clause 55 Two or More Dwellings on a Lot

Clause 32.08-4 states that a permit is required to construct two or more dwellings on a lot and a development must meet the requirements of Clause 55. The areas of non-compliance with Clause 55 objectives are highlighted as:

Clause 55.02 Neighbourhood character and infrastructure

- **Standard B1 Neighbourhood Character:** The following is summary of the developments failure to achieve the objectives of this standard:
 - The continuous double storey form, with limited breaks within the building result in continuous building form, this coupled with minimal setbacks from road frontages, presents a building form that is inconsistent with previously approved development in the area and the preferred neighbourhood character. The separation between the dwellings is minimal creating a 'clustered' form rather than the sense of spaciousness.
 - The proposed balcony areas of dwellings 1 - 11 extend into the front setback with a number of these balconies providing a setback less than 1 metre from the Pioneer Way and the Arterial road which is inconsistent with approved development within the immediate and wider site context. The inappropriate setbacks from road frontages providing a key feature that indicates an overdevelopment of the site.
 - The site layout has resulted in poor response to Heathcote Grove with the design resulting in the side of a number of dwellings presenting to the street frontage and the one dwelling orientated towards this frontage has been designed to provide a minimal setback from Heathcote Grove with overhanging first floor balcony. This results in an inappropriate presentation to this street frontage, another key feature that represents of an overdevelopment of the site.
 - The dwellings proposed on the corner of the subject site provide an inappropriate representation to the both street frontages. For example, dwelling 1 has been designed to provide a garage located on the west side of the dwelling resulting in the rear and side of the garage presented to the key corner location of the site. This clearly indicates an additional characteristic that shows the design in terms of its impact on the streetscape has not been fully considered and an overdevelopment of the site.
 - The proposed development provides for extensive hard standing areas and built form, that with limited areas for landscaping are constrained, which will limit the establishment of appropriate landscaping overtime due to the location of the overhanging balconies on the Pioneer Way and future aerial road.
- **Standard B5 Integration with the street:** As detailed above the proposed dwellings located along the site frontage continuous attached nature, with minimal front setback and lack of opportunity for landscaping, present an unresponsive design to the future streetscape character. The location of the garage of the dwelling on the corner of Pioneer Way and Eades Street clearly indicates the designs absence of respect to the future streetscape presentation of the development. Further the lack of consideration of the Heathcote Grove street frontage highlights the unresponsive design with this street fronting presented with the side of three dwellings with limited setbacks and articulation and the one dwelling that is fronting the street has minimal setback with overhanging balcony resulting in a poor streetscape presentation.

Clause 55.03 Site layout and building massing

- **Standard B6 Street Setback:** This standard requires a minimum setback of 4 metres for the street frontage and 3 metres for secondary frontages. The development provides a fairly consistent 3 metres on the Pioneer Way, Eades Street and future Arterial Road frontage with first floor providing 2 metre encroachment of the balconies into this setback. Further the dwelling fronting Heathcote Grove is setback 1.7 metres as such the standard or objective of this standard have not been achieved.
- **Standard B10 Energy Efficiency:** The proposed layout for the private open spaces of dwellings 12 – 21 provides courtyards with significant lack of sunlight with living spaces for dwellings 12, 13, 15, 16, 17 and 21 have no north facing windows and lack of consideration in terms of sunlight access to these ground floor spaces with a similar arrangement with upper floor bedrooms resulting in poor energy efficiencies.
- **Standard B11 Open Space & Standard B12 Safety:** The design proposes a rear accessway that results in creating a potentially unsafe space that provides multiples places for concealment and obstructed lines of sight due to the design providing service yards for the rear of dwellings 1 – 11. Although the design has provided for semi-transparent fencing in part to address this concern it is considered a more site responsive design could have ensured that this design element could be avoided.
- **Standard B13 Landscaping:** The design has provided limited setback treatments form site frontage with extensive hard surface areas which has limited opportunity for landscaping throughout the site. The proposal only includes one shade tree for the entire site, with the majority of planting low growing shrubs or ground covers with little height variation and is limited landscaping spaces. Further the ‘trees’ specified along the north of the site are all weeping cherries which will grow no larger than 2m tall and are deciduous so will not provide no screening between April and September. Additionally, there are a number of errors in the landscape plan including the mature sizes for plants are incorrect. Overall the lack of landscaping areas proposed combined overhanging balcony areas will severely restrict any landscaping on the site which is inconsistent with the objective of this standard. A reduction in the number of dwellings, would allow for greater and more opportunity for landscaping/open space areas to improve the visual outlook of the development.
- **Standard B15 Parking Location:** The proposed ‘visitor’ parking space are inconveniently located for future visitors and present concerns with regard to the distance between the car space, fence and accessway (See Clause 52.06 discussion below) which may result in vehicles overhanging the accessway and restricting access as such does not achieve the objective of this standard.

Clause 55.04 Amenity Impacts:

- **Standard B24 Noise Impacts:** The design has not provided any noise protection for future occupants along the future arterial road. With the dwellings providing a limited setback from the future road, with no detail of design treatments to minimise the future noise impacts of this road, providing an additional feature indicating an unresponsive design.

Clause 55.05 On Site Amenity and Facilities:

- **Standard B28 Private open space:** Although the development provides ‘minimum’ open space requirements for the majority of the dwellings with balcony areas proposed for dwellings 1 – 11 with some ground floor service yards. Dwellings 15, 16 and 19 do not provide the minimum

secluded opens space of 25 square metres and no detail with regard to the total area of ground floor open spaces for dwellings 12 – 21 have not been provided as such the overall development does not meet the requirements of this standard.

Clause 55.06 Detailed Design:

- *Standard B30 Storage:* No external storage area provided for dwelling 6 as such does not achieve this standard requirement.
- *Standard B31 Design Detail:* The objective of this standard to encourage design detail that respects the existing or preferred neighbourhood character, as noted above this has not been achieved by the proposed design as detailed above in the neighbourhood character section.
- *Standard B33 Common Property:* Location of the fencing along the common accessway and the proposed driveway arrangement to the north-east corner of the site presents some concerns with the functionality and efficient management of the site as such has not achieved the objective of this standard.

These features provide key indicators of an overdevelopment of the site and do not achieve the objectives of Clause 55. The proposal is unresponsive to the site and surrounds with the following features providing key indicators of an overdevelopment of the site are highlighted:

- The consistent attached form throughout the site with limited separation with the upper floor levels result in a façade treatment uniform and lacking in articulation.
- Inappropriate front setbacks and encroachment of the first floor balcony areas result in an unresponsive design and restricts the establishment of trees within the streetscape.
- The excessive hard standing areas throughout the site with lack of landscaping provided this coupled with inappropriate trees proposed.
- Dwellings located on the corner of streets are have not been designed to appropriately address both street frontages and results in a poor urban form.
- The design includes excessive building bulk and lack of articulation on the Heathcote Grove frontage this coupled with an inappropriate front setback highlights the overdevelopment of site.
- The provision of awkward ground level open space areas with a number of the spaces detrimentally impacted by overshadowing due to the intense nature of the design.
- The internal fencing provides a poor interface to the common property and obstructs passive surveillance from the habitable room windows facing the common property.

Although as noted above the proposed design is not site responsive, the reduction in the number of dwellings and alterations to the design to improve the response to the surrounding character and improve the internal amenity for future occupants it would be envisaged that a multi dwelling development could be accommodated on the site.

Clause 52.06 Car Parking

The proposed garages and tandem spaces for each of the individual dwellings comply with the requirements of Clause 52.06 although the design of the internal accessway and cluster of access points in the north-east corner of the site presents some on site traffic conflicts that may have been avoided with the reduction in the dwelling numbers.

The additional concerns with the proposal relates to the visitor parking spaces and the inconsistencies in the development plans. The plans dimension the spaces with 4.9 metres although additional text notes the length of 5.5 metres, this inconsistency does not give any confidence in the accuracy of the plans and if they have achieved the design standard. Additionally, the parking space adjacent to the electrical substation abuts a fence and only allows for a car parking space the length of 4.9 metres as such does not consider the potential vehicle overhang that may occur for this space. Further the location of the space adjacent to the substation presents safety concerns adjacent to the future substation as this is likely to be fenced and vehicles reversing from this space will have limited sight lines with this a potential vehicle conflict point.

As such the design does not achieve the purpose of this standard in that the design and location of car parking is not of a high standard and does not enable easy and efficient use of the parking areas.

CONCLUSION

The proposal is inconsistent with the State and Local Planning Policy Framework and is also an overdevelopment of the site therefore it is recommended that the application be refused.

It is recommended that a Refusal to Grant Planning Permit T160600 be issued for Development of the land for twenty-one (21) dwellings and associated works at 360 Princes Highway (proposed lot A PS738353A), Officer VIC 3809 on the following grounds:

1. The proposal is inconsistent with Clause 15.01-1 (Urban Design) and Clause 21.06-1 (Design and Built form) as the proposal does not promote good urban design that respects the preferred neighbourhood character and fails to achieve architectural and urban design outcomes that contribute positively to local urban character or enhance the public realm.
2. The proposal is inconsistent with the purpose of Clause 37.07 (Urban Growth Zone) as the proposed development does not achieve the objectives of Section 4.2 Housing of the Officer Precinct Structure Plan September 2009.
3. The proposal fails to satisfy the objectives and standards of;
 - a) Clause 55.02-1 (Neighbourhood character) as the design does not adequately address each street frontage and presents a continuous double storey built form with limited separation at upper level.
 - b) Clause 55.02-5 (Integration with the Street) as the proposal does not provide an appropriate presentation to the Heathcote Grove frontage and has a poor design response with garage located in key corner locations.
 - c) Clause 55.03-1 (Street Setback) as the proposed setbacks do not meet Standard B6 to Pioneer Way and Heathcote Grove and does not respect the preferred neighbourhood character resulting in a detrimental streetscape impact.
 - d) Clauses 55.03-5 (Energy efficiency) as dwellings 12 -21 are provided with poor energy efficiencies with limited sunlight access to the secluded private open space areas and the lack north facing windows.

- e) Clause 55.03-6 (Open space) & Clause 55.03-7 Standard B12 (Safety) as the design results in extensive fencing along the proposed accessway which restrict surveillance of this area and creates safety concerns.
- f) Clause 55.03-10 (Parking Location) as the proposed visitor parking spaces are not conveniently located for the majority of the dwellings and their design does not ensure that vehicles will not obstruct the adjacent accessway.
- g) Clause 55.04-8 (Noise Impacts) as the design has not provided any features that will protect future residents from the noise impact of the future arterial road.
- h) Clause 55.05-4 (Private Open space) Standard B28 as dwellings 15, 16 and 19 have not been provided with the minimum secluded open space areas and dwellings 12 and 16 do not meet the total minimum requirement of 40 square metres.
- i) Clause 55.06-1 (Storage) Standard B30 as dwelling 6 is not provided with any external storage are to meet the minimum requirements of this standard.
- j) Clause 55.06-2 (Design Detail) Standard B31 as the proposed development provides limited façade articulation and design that is inconsistent with the preferred neighbourhood character.
- k) Clause 55.06-4 (Common Property) Standard B33 as the common area will not achieve a functional area that can be efficiently managed as the design presents a number of conflict points at the north east corner of the accessway.

of the Cardinia Planning Scheme.

4. The site represents an overdevelopment of the site, in failing to respond appropriately to its opportunities and constraints resulting in unreasonable impact on the character of the area, streetscape and amenity for future occupants.
5. The proposal is inconsistent with the purpose of Clause 52.06 Car Parking as the visitor parking spaces have not been appropriately located or dimensioned to ensure that layout create a safe environment for the future occupants.

4 DEVELOPMENT OF TWENTY ONE (21) DWELLINGS, 360 PRINCES HIGHWAY OFFICER

Moved Cr G Moore Seconded Cr M Shilling

That a Refusal to Grant Planning Permit T160600 be issued for Development of the land for 21 dwellings and associated works at 360 Princes Highway (proposed lot A PS738353A), Officer on the following grounds:

1. The proposal is inconsistent with Clause 15.01-1 (Urban Design) and Clause 21.06-1 (Design and Built form) as the proposal does not promote good urban design that respects the preferred neighbourhood character and fails to achieve architectural and urban design outcomes that contribute positively to local urban character or enhance the public realm.
2. The proposal is inconsistent with the purpose of Clause 37.07 (Urban Growth Zone) as the proposed development does not achieve the objectives of Section 4.2 Housing of the Officer Precinct Structure Plan September 2009.
3. The proposal fails to satisfy the objectives and standards of;
 - a) Clause 55.02-1 (Neighbourhood character) as the design does not adequately address each street frontage and presents a continuous double storey built form with limited separation at upper level.
 - b) Clause 55.02-5 (Integration with the Street) as the proposal does not provide an appropriate presentation to the Heathcote Grove frontage and has a poor design response with garage located in key corner locations.
 - c) Clause 55.03-1 (Street Setback) as the proposed setbacks do not meet Standard B6 to Pioneer Way and Heathcote Grove and does not respect the preferred neighbourhood character resulting in a detrimental streetscape impact.
 - d) Clauses 55.03-5 (Energy efficiency) as dwellings 12 -21 are provided with poor energy efficiencies with limited sunlight access to the secluded private open space areas and the lack north facing windows.
 - e) Clause 55.03-6 (Open space) & Clause 55.03-7 Standard B12 (Safety) as the design results in extensive fencing along the proposed accessway which restrict surveillance of this area and creates safety concerns.
 - f) Clause 55.03-10 (Parking Location) as the proposed visitor parking spaces are not conveniently located for the majority of the dwellings and their design does not ensure that vehicles will not obstruct the adjacent accessway.
 - g) Clause 55.04-8 (Noise Impacts) as the design has not provided any features that will protect future residents from the noise impact of the future arterial road.
 - h) Clause 55.05-4 (Private Open space) Standard B28 as dwellings 15, 16 and 19 have not been provided with the minimum secluded open space areas and dwellings 12 and 16 do not meet the total minimum requirement of 40 square metres.
 - i) Clause 55.06-1 (Storage) Standard B30 as dwelling 6 is not provided with any external storage are to meet the minimum requirements of this standard.
 - j) Clause 55.06-2 (Design Detail) Standard B31 as the proposed development provides limited façade articulation and design that is inconsistent with the preferred neighbourhood character.
 - k) Clause 55.06-4 (Common Property) Standard B33 as the common area will not achieve a functional area that can be efficiently managed as the design presents a number of conflict points at the north east corner of the accessway.

of the Cardinia Planning Scheme.

4. The site represents an overdevelopment of the site, in failing to respond appropriately to its opportunities and constraints resulting in unreasonable impact on the character of the area, streetscape and amenity for future occupants.
5. The proposal is inconsistent with the purpose of Clause 52.06 Car Parking as the visitor parking spaces have not been appropriately located or dimensioned to ensure that layout create a safe environment for the future occupants.

Cd.

5 EXTENSION OF TIME FOR PLANNING PERMIT T090457 ALLOWING A HOTEL AND GAMING VENUE AT 13 MAY ROAD BEACONSFIELD

FILE REFERENCE INT1726571

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Hugh Pierce

RECOMMENDATION

That a Refusal to Grant Planning Permit T090457 be issued for the extension of time for Planning Permit T090457 which allows for the use and development of the land for a hotel, sixty (60) gaming machines, the sale and consumption of liquor, vegetation removal and a reduction of the car parking requirements at 13 May Road, Beaconsfield for reasons outlined in this report.

Attachments

- 1 Locality plan 1 Page
- 2 Planning permit 2 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T090457
APPLICANT:	TM Design Group (Aust) Pty Ltd
LAND:	13 May Road, Beaconsfield Victoria 3807
PROPOSAL:	The fourth extension of time for Planning Permit T090457
PLANNING CONTROLS:	General Residential Zone (GRZ1) Development Plan Overlay (DPO4)
NOTIFICATION AND OBJECTIONS:	Extension of time - no notification required
KEY PLANNING CONSIDERATIONS:	Changes in Planning Scheme and Warehousing of the Planning Permit
RECOMMENDATION:	Refusal

BACKGROUND:

The site has been subject to a number of planning applications which are summarised as:

- Planning Permit T090457 was issued on 11 October 2011 at the direction of VCAT after Council's decision to refuse the application was set aside. This permit allows for the use and development of the land for a hotel, sixty (60) gaming machines, the sale and consumption of liquor, vegetation removal and a reduction of the car parking requirements. The Planning Permit T090457 has been extended on 10 October 2013, 30 July 2015 and 29 September 2016. The

current permit requires the commencement of works by 11 April 2017 and completion of works by 11 April 2019 with an additional request to extend the permit on 10 March 2017. At the time of writing this report there are no endorsed plans for this application with a number of conditions on the permit outstanding.

- An application to Amend Planning Permit T090457 was lodged on 13 August 2015 which sought to amend a number of features of the development including the deletion of conditions 1(j) and 1 (l). Council's position on this application was detailed in a letter to the applicant 25 November 2015. This indicated that a number of the changes would be acceptable although would not support the removal of the conditions relating to exit point and deceleration lane and Council would not support the proposed amendments until the amendment removes the request to delete the conditions. This application has not progressed by time of finalising this report, depending on the decision on the request to extend the permit the amendment will be either refused or considered for approval
- Planning Permit T100453 was issued on 18 April 2012 for the subdivision of the land into five (5) lots. Plans to comply with the subdivision permit were issued on 26 November 2014.
- Planning Permit T110443 was issued on 18/04/2012 for the Multi-lot residential subdivision (28 lots), generally in accordance with the approved plan/s.

SUBJECT SITE

The permit applies to substantial parcel of land situated on the north-west corner of May Road and Princes Highway in Beaconsfield. The land was an irregular allotment with an area of 7.47 hectares, original title details were Lot 1 PS 503575S, 13 May Road Beaconsfield, the site has been subsequently subdivided and the site is now known as Lot 3 PS701135, 20 Pink Hill Boulevard Beaconsfield.

The land is vacant, rises to a high point proximate to its south-east corner (referred to as 'Pink Hill'), and has a substantial fall from east to west. While the property is largely cleared, the site supports a number of established trees in the south and east sections of the site.

The surrounding development includes:

- North: Residential subdivision known as the Beaconhill Grange Estate. It comprises of conventional residential allotments exceeding 1000 square metres in area. These lots have been developed in the form of detached dwellings. The Beaconsfield Community Centre accommodates a community hall, kindergarten, maternal & child health centre and a toy library to the north west of the site. As part of the subdivision provides a dead-end road along the north boundary of the hotel site.
- South: Princes Highway, beyond which is further residential development comprised of both conventional lots and low-density properties
- East: On the opposite of May Road, are larger residential land holdings and a place of worship (Beacon Gospel Trust).
- West: The land abutting to the west side of the lot is a recent residential development with a number of dwellings established on the 28 lot subdivision, some lots are currently vacant. Further west on the opposite of O'Neill Road, is public open space (sporting oval and associated car parking), the lot that has been created to contain the hotel abuts new residential development to the west which was part of the overall parent lot.

PROPOSAL

The applicant has requested a fourth extension of time for the planning permit that allows for the use and development of the land for a hotel, sixty (60) gaming machines, the sale and consumption of liquor, vegetation removal and a reduction of the car parking requirements. The request is for an extension of 6 months with the justification noted as:

- The project has been fully documented tender and in the process of signing contracts to appoint a builder however still working through issues with endorsement of plans which has taken longer than expected.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 15.01-1 Urban Design
- Clause 15.01-4 Design for Safety
- Clause 15.01-5 Cultural Identity and Neighbourhood Character
- Clause 17 Economic Development
- Clause 18.01-1 Land use and transport planning
- Clause 19.03-2 Water supply, sewerage and drainage
- Clause 19.03-3 Stormwater

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.06-1 Design and built form
- Clause 22.03 Gaming
- Clause 22.04 Highway development

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.06 Car Parking
- Clause 52.07 Loading and Unloading of Vehicles
- Clause 52.27 Licensed Premises
- Clause 52.28 Gaming
- Clause 52.29 Land Adjacent to a Road Zone, Category 1
- Clause 52.34 Bicycle Facilities
- Clause 66.04 Referrals and Notice Provisions
- Clause 65 Decision Guidelines

Zone

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

Overlays

The land is subject to the following overlays:

- Development Plan Overlay DPO4

PLANNING PERMIT TRIGGERS

Pursuant with Section 69 of the Planning and Environment Act 1987 the applicant has requested an extension of time to Planning Permit T090457.

PUBLIC NOTIFICATION

The application not been notified given the application is for the extension of time for a current permit.

DISCUSSION

History of Extensions of Time for Planning Permit T090457

Planning permit T090457 was issued on 11 October 2011 with an initial commencement expiry 11 October 2013 with an initial completion expiry 11 October 2015.

First extension - An application for an extension to the permit was submitted 'to allow for the subdivision of the land and compliance with the permit conditions of the subdivision could be completed prior to the Hotel permit conditions be addressed'. An extension was issued on 10 October 2013 for a two year period with the altered commencement expiry 11 October 2015 and completion expiry 11 October 2017.

Second extension - An additional extension of time was requested with the justification that details 'the delay in commencement are due to the applicant developing the surrounding residential estate and associated civil works (e.g. construction of Pink Hill Boulevard); "planning differences" between the residential lot development and the older hotel site an amended permit application is required to be submitted for T090457 in order to rectify some issues regarding levels and access and; Finance from the residential lot development will assist with the hotel site funding'.

This justification was accepted and planning permit was extended on 30 July 2015 for a one year period with the altered commencement expiry 11 October 2016 and completion expiry 11 October 2018.

Subsequently an application to amend Planning Permit T090457, as detailed previous in this report, was lodged on 13 August 2015 and remains outstanding.

Third extension - A third extension of time was requested on 28 July 2016 for an additional six (6) month period. The justification was that 'the construction project is currently out to tender and additional time is required to complete relevant negotiations. And that amended plans (relating to access and road levels) are currently with Council for consideration'. As such it was considered reasonable to have a minor extension to the permit to allow for the amended permit to be resolved as such was extended on 4 October 2016 for a six (6) month period with the altered commencement expiry 11 April 2017 and completion expiry 11 April 2019.

In the intervening time of the extension being issued and this extension of time being lodged the applicant has not resolved numerous issues or requirements of the permit.

The first three conditions require amended plans, landscaping plans and access and disability audit report before the development starts. Each of these conditions were not satisfied at the time of requesting the extension of time. Additionally, conditions that are required to be satisfied before development or works start include condition 17 requiring a Traffic Management Plan; Condition 28 requiring a storm management plan; condition 35 requiring an offset plan for vegetation to be removed. None of which had been satisfied at time of requesting the extension. Officers met with the owner of the land and spoke to the consultant. A list of outstanding conditions was sent to both parties; it was highlight to Council it is the intention of the applicant to have these conditions met prior to the Council meeting on 1 May 2017.

The Victorian Civil and Administrative Tribunal (VCAT) has established a series of tests to determine whether an extension of time should be granted for a permit. The leading case for this type of “request for extension of life of permit”, is *Kantor v Murrindindi Shire Council (1997)*. In this case Justice Ashley set out various criteria to be considered in a request to extend the life of a permit, these are commonly known as the ‘Kantor factors’ and include:

- a) Whether there has been a change of planning policy;
- b) Whether the land owner is seeking to “warehouse” the permit;
- c) Intervening circumstances bearing on the grant or refusal of the extension;
- d) The total elapse of time;
- e) Whether the time limit originally imposed was adequate;
- f) The economic burden imposed on the land owner by the permit; and
- g) The probability of a permit being issuing should a fresh application be made.

A number of VCAT decisions have noted that the onus is on the applicant to justify the reason for the extension and consideration is not restricted to the above points, although the following is a review of each of these tests which are the general guidance for decisions. It is important to note that the Tribunal stated that the “Weight to be given to each of these criteria must vary with each circumstance of the particular case.” (*Licciardi v Yarra Ranges SC [2002] VCAT 336*). The following is a review of the application in accordance with these tests:

Whether there has been a change of planning policy

The Cardinia Planning Scheme has undergone changes in terms of Planning Policy specifically with regard to Gaming Venues between the issue of the original permit to the current circumstance. Amendment C207 sought to implement the Cardinia Shire Gaming Policy Review September 2015 by introducing a Gaming Local Planning Policy and amending Clause 52.28 schedules to prohibit gaming machines in all strip shopping centres and a number of shopping complexes. During the amendment process the owners of the land were notified of the amendment being introduced as part of the advertising process. The amendment was adopted by Council and was included as part of the Cardinia Planning Scheme on 3 March 2016.

The Local Policy Clause 22.03 Gaming applies to all applications which require a permit to install or use a gaming machine or use the land for the purpose of gaming. The objectives of the policy are:

- *To discourage new gaming machines in vulnerable or disadvantaged areas.*
- *To achieve positive social, economic and environmental outcomes in the location and relocation of gaming machines and avoid exacerbating the risk of problem gambling.*
- *To minimise opportunities for convenience gaming.*
- *To locate gaming machines where the community has a choice of non-gambling entertainment or recreation activities within the gaming venue and the local area.*
- *To protect the amenity of areas surrounding gaming venue*

The policy includes a number of criteria including:

- *Appropriate Areas; The policy includes a number of details where the gaming machines should and should not be located.*
- *Appropriate Sites: Are noted as sites that minimise the likelihood of impulse gaming by people passing the venue in the course of their usual business or every day activities and are at the periphery of activity centres and removed from land zoned for a commercial purpose, or at a sports or recreation club.*
- *Appropriate Venues: the appropriate venues are noted as venues that offer other forms of recreation and entertainment, venues that have existing gaming machines, promotion of non-gaming activities and responsible gaming practices and design to comply with best practice of the VCGLR Venue Manual.*

The following areas of non-compliance are highlighted:

- *The site is isolated surrounded by residential properties with a community centre & kindergarten is located within close proximity of the site and the site will result in detrimental impacts to the surrounds inconsistent with this policy.*
- *The venue is likely to increase the social disadvantage or vulnerability of the local community and location of gaming premises will facilitate convenience gaming contrary to policy directions.*
- *The site is a new gaming venue with no established gaming machines and the venue will not improve the choice between entertainment and recreation venues with and without gambling in the local area.*
- *The proposed use and development will not result in a net community benefit.*
- *The venue is not accessible by a variety of transport modes.*
- *The site is located within a residential area and is easily accessed by the community undertaking day to day convenience activities.*

As such it is considered that the use and development is inconsistent with this policy direction and a further extension of time does not meet this test.

It is noted that one minor extension of time has been granted since the introduction of this policy, this was decided on the basis that the amendment to the permit had been lodged with applicant indicating that would be progressed within the 6 months, the applicant has not shown that this has progressed any further as such it is considered a further extension to a use and development that is contrary to current policy settings is unreasonable.

Whether the land owner is seeking to “warehouse” the permit

The warehousing of a permit relates to store the permit without intending to act upon it. It is considered that the applicant is seeking to warehouse the permit. This is evidenced by the lack of progress by the applicant satisfying a number of permit conditions before the development can start, even with a number of extensions of time being granted.

The extent of the conditions that were still required to be satisfied the time of the extension request included satisfactory amended plans in accordance with condition 1, shows that the applicant has not sufficient progressed the application that Council would be satisfied that the permit is not being warehoused. It is noted that the amendments that have been made to the development plans (Drawing PHB-1122-TP-01) coincide with the request for an extension to the time of the permit (i.e. Plan Revisions in July 2015, June 2016 and most recently 10 April 2017) which indicates a token

redesigning suggesting that the development will be progressed, although each of these revisions have still yet to satisfy the permit requirements.

These features provide characteristics of an attempt to warehouse this permit as such it is considered that this test has not been satisfied.

Intervening circumstances bearing on the grant or refusal of the extension

The general tests could be considered;

- *action taken by the applicant in the context of any legislative and policy uncertainties, including under other jurisdictions*
- *whether conditions on adjoining land may have changed in a way that would affect the proposal*

The applicant has been aware of the policy changes in the Cardinia Planning Scheme and has not provided any clear indication of the urgency to progress the development of the site, rather relying on the extension of time for the permit.

The total elapse of time

This is a critical factor on the recommendation to refuse to the extension of time. The initial approval of the permit was on 11 October 2011 as such the applicant has been afforded the opportunity to commence the development with an additional three and half years, on top of the permitted 2 years, to commence the development. Given the total elapse of time from the original granting of the permit is five and half years from the initial approval it is considered that the applicant has been given ample opportunity to act on the permit.

Even with the extensions already granted, at the time of this last request, there were still an extensive number of unsatisfied permit conditions to allow for the commencement of the development. This provides a clear indication on the lack of intent by the applicant to progress the development. As such the total time elapsed for the permit has been more than enough time to progress the development. It is considered an additional extension of time is unreasonable and does not satisfy the tests to determine the appropriateness of a extending.

Whether the time limit originally imposed was adequate

The time limit originally imposed was reasonable given the subdivision of the land was also provided on the same date, and all those permit conditions (on the subdivision) including road construction was undertaken to enable lots to be sold. Additionally, Council has provided reasonable flexibility to the applicant to allow for a number of circumstances detailed in the first three extensions of time.

The economic burden imposed on the land owner by the permit

This test generally relates to the economic burden imposed on the landowner by the permit, including whether the cost of having to comply with the permit conditions was so onerous that the time available for compliance was inadequate. The permit conditions were applied by VCAT and Council has granted three (3) extensions of time to allow for compliance with the conditions and there were still extensive conditions that the applicant has not satisfied five and a half years after the initial approval of the use and development, as such this test does not provide any justification for the extension of the permit.

The probability of a permit being issuing should a fresh application be made.

Given the policy changes in the Cardinia Planning Scheme, the surrounding development of residential properties it is unlikely that a permit would be granted if a new application was made as such the application does not meet this test.

CONCLUSION

The proposal for a fourth extension of time for Planning Permit T090457 is unreasonable and will result in the warehousing of a permit that is inconsistent with current Local Planning Policy of the Cardinia Planning Scheme

It is recommended that a Refusal to Grant Planning Permit T090457 be issued for the extension of time for Planning Permit T090457 which allows for the use and development of the land for a hotel, sixty (60) gaming machines, the sale and consumption of liquor, vegetation removal and a reduction of the car parking requirements at 13 May Road Beaconsfield be issued subject to the following:

1. The applicant has not provided sufficient justification for the extension of time for the planning permit.
2. There has been a significant change policy direction of the Cardinia Planning Scheme Local Planning Policy Framework, particularly Clause 22.03 Gaming with the use and development approved by the Planning Permit is contrary to the objectives of this policy.
3. The lack of progress of the development combined with the time elapsed from the initial approval indicates that the applicant is “warehousing” the permit.

5 EXTENSION OF TIME FOR PLANNING PERMIT T090457 ALLOWING A HOTEL AND GAMING VENUE AT 13 MAY ROAD BEACONSFIELD

Moved Cr C Ross Seconded Cr B Owen

That a Refusal to Grant Planning Permit T090457 be issued for the extension of time for Planning Permit T090457 which allows for the use and development of the land for a hotel, sixty (60) gaming machines, the sale and consumption of liquor, vegetation removal and a reduction of the car parking requirements at 13 May Road, Beaconsfield for the following reasons

1. The applicant has not provided sufficient justification for the extension of time for the planning permit.
2. There has been a significant change in policy direction of the Cardinia Planning Scheme Local Planning Policy Framework, particularly Clause 22.03 Gaming with the use and development approved by the Planning Permit is contrary to the objectives of this policy.
3. The lack of progress of the development combined with the time elapsed from the initial approval indicates that the applicant is “warehousing” the permit.

Cd.

6 THE USE AND DEVELOPMENT OF A SUPERMARKET, SERVICE STATION AND VARIOUS USES AND DEVELOPMENTS, ASCOT PARK DRIVE PAKENHAM

FILE REFERENCE INT1726537

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Hugh Pierce

RECOMMENDATION

That a Refusal to Grant Planning Permit T160577 be issued for 'The use and development of a supermarket, service station, 7 food and drink premises, 3 convenience restaurants, 6 offices, development of buildings and works including 37 dwellings and 3 convenience shops, variation to car parking, access to a Road Zone, Category 1 and Advertising Signage at Ascot Park Drive, Pakenham be refused for reasons outlined in this report.

Attachments

- 1 Locality plan 1 Page
- 2 Development plan 25 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.:	T160577
APPLICANT:	Montague Construction (Aust) Pty Ltd C/- Contour Consultants Aust Pty Ltd
LAND:	Ascot Park Drive, Pakenham VIC 3810
PROPOSAL:	The use and development of a supermarket, service station, 7 food and drink premises, 3 convenience restaurants, 6 offices, development of buildings and works including 37 dwellings and 3 convenience shops, variation to car parking, access to a Road Zone, Category 1 and Advertising Signage
PLANNING CONTROLS:	Clause 37.02, Comprehensive Development Zone, Schedule 2 Clause 44.04, Land Subject to Inundation Overlay Clause 45.06, Development Contributions Plan Overlay, Schedule 1
NOTIFICATION & OBJECTIONS:	Requested, but not yet undertaken
KEY PLANNING CONSIDERATIONS:	Compliance with the Former Pakenham Racecourse Development Plan. Urban design Flood movement and hazards Car parking
RECOMMENDATION:	Refusal

BACKGROUND:

Planning permit T150133 for Staged multi-lot Subdivision (Stages 6 to 9), construction of single dwelling on a lot in the Comprehensive Development Zone, buildings and works within the Land Subject to Inundation and Special Building Overlay was issued on 3 July 2015. The was subsequently amended on 31 August 2015 and 29 January 2016.

SUBJECT SITE:

The subject site comprises two future lots adjacent to Racecourse Road and separated by Henry Street. The lot to the north is 11, 421 square metres whilst the lot to the south is 3, 507 square metres.

The site currently is vacant.

The main characteristics of the surrounding area are:

North:

- 65 Racecourse Road: Land subject to Heritage Overlay and comprises the Bourke House and Stables buildings along with multiple mature trees.
- Pakenham Creek

East:

- Vacant land subject to both the Comprehensive Development Zone – Schedule 3 and the Industrial Zone

South:

- Stages 6, 12 and 13 of the Former Pakenham Racecourse Site. Stage 6 will comprise of a wetland whilst 12 and 13 will be reserved for residential development.

West:

- Stage 8A and a significant extent of Stage 7 of the Former Pakenham Racecourse Site. Both stages still under construction but will comprise of residential development.

PROPOSAL:

The applicant is seeking planning approval for the use and development of a supermarket, service station, 7 food and drink premises, 3 convenience restaurants, 6 offices, development of buildings and works including 37 dwellings and 3 convenience shops, variation to car parking, access to a Road Zone, Category 1 and Advertising Signage.

The proposal is divided across the two lots as follows:

North lot

- 1 service station and associated advertising signage
- 7 food and drink premises
- 3 convenience restaurant
- 6 offices
- 37 dwellings
- Car park

South lot

- 1 supermarket

- 3 convenience shops
- Car Park

The proposed development does not require any vegetation removal.

CULTURAL HERITAGE:

In previous planning permit applications for the Ascot Estate, a due diligence report on the Aboriginal and Historic Cultural Heritage values of the site was provided. In summary the report states that the activity area is likely to have been subject to significant previous ground disturbance and hence under the conditions of the *Aboriginal Heritage Act 2006*, a mandatory CHMP is not required. As a consequence of this and the subsequent fill applied to that land as a result of the previous subdivision, a CHMP is not required to be submitted.

PLANNING SCHEME PROVISIONS:

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11, Settlement
- Clause 11.06-2, Housing choice
- Clause 11.06-3, Integrated transport
- Clause 11.06-4, Place and identity
- Clause 13.02, Floodplains
- Clause 15.01-1 Urban design
- Clause 15.01-2, Urban design principles
- Clause 15.01-5, Cultural identity and neighbourhood character
- Clause 15.02, Sustainable development
- Clause 15.03-1, Heritage conservation
- Clause 15.03-2, Aboriginal cultural heritage
- Clause 16.01-1, Integrated housing
- Clause 16.01-2, Location of residential development
- Clause 16.01-3, Housing opportunity areas
- Clause 16.01-4, Housing diversity
- Clause 16.01-5, Housing affordability
- Clause 17.01, Commercial
- Clause 17.01-1 Business

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01, Cardinia Shire Key Issues and Strategic Vision
- Clause 21.01-3, Key Issues
- Clause 21.02, Catchment and coastal management
- Clause 21.02-6, Post-contact heritage
- Clause 21.03-1, Housing
- Clause 21.04-1, Employment
- Clause 21.04-3, Activity centres
- Clause 21.06, Particular uses and development

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.05, Advertising Signs
- Clause 52.06, Car Parking
- Clause 52.07, Loading and Unloading of Vehicles
- Clause 52.12, Service Station
- Clause 52.29, Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road
- Clause 52.34, Bicycle Facilities
- Pakenham Structure Plan

Zone

The land is subject to Clause 37.02 – Comprehensive Development Zone, Schedule 2

Overlays

The land is subject to the following overlays:

- Clause 44.04, Land Subject to Inundation Overlay
- Clause 45.06, Development Contributions Plan Overlay, Schedule 1

PLANNING PERMIT TRIGGERS

The proposal for use and development of a supermarket, service station, 7 food and drink premises, 3 convenience restaurants, 6 offices, development of buildings and works including 37 dwellings and 3 convenience shops, variation to car parking, access to a Road Zone, Category 1 and Advertising Signage requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 37.02 – Comprehensive Development Zone, Schedule 2 (CDZ2) a planning permit is required to use the land for a food and drink premises, shop (not including convenience shop) and office if not generally in accordance with the Comprehensive Development Plan. The use of the land as a service station requires a planning permit regardless.

A planning permit is required to construct a building or to construct or carry out works.

- Pursuant to Clause 44.04, Land Subject to Inundation Overlay (LSIO) a planning permit is required to construct a building or to construct or carry out works.
- Pursuant to Clause 45.06, Development Contributions Plan Overlay, Schedule 1 (DCPO1) this overlay is not applicable to applications to construct a building or carry out works.
- Pursuant to Clause 52.05 Advertising Signs, a planning permit is required to erect business identification signage exceeding a combined area of 8 square meters.
- Pursuant to Clause 52.06, Car Parking, a planning permit required to vary the specified number of car spaces associated with the proposal.

- Pursuant to Clause 52.29, Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road, a planning permit is required to create or alter access to a road in a Road Zone, Category 1.

PUBLIC NOTIFICATION

The applicant was notified that the application was to be advertised and sent notice on the 30 March 2017 requesting payment of the advertising fee so that letters and a sign could be produced for the formal advertising process to proceed. As of 18 April 2017 Council's records indicate the fee has not yet been paid and therefore advertising has not been undertaken.

Both the CDZ2 and LSIO include exemptions from public notification, however, the CDZ2 exemption is on the condition that the proposed use and/or development is generally in accordance with the *Former Pakenham Racecourse Comprehensive Development Plan (February 2010)*. As it is not considered that the proposal is generally in accordance with this plan, the exemption does not apply. Further assessment of why the proposal is not considered to be generally in accordance with this plan will be provided in the 'Discussion' section of this report.

REFERRALS

Melbourne Water

The application was referred to Melbourne Water as a statutory referral. Melbourne Water objected to the proposal for the following reasons:

- The proposed development is inconsistent with State and Local Planning Policy relating to drainage and floodplain management.
- The proposed development is subject to inappropriate and unacceptable flood risk, where the safety of land users may be affected and potential for flood damage is excessive.
- The proposed development is contrary to Melbourne Water's 'Guidelines for Development in Flood Prone Areas' (Freeboard requirement).

VicRoads

The application was referred to VicRoads as a statutory referral. Despite Vic Roads having been referred the application on 24 February 2017, well in excess of the 28 day period provided for VicRoads to respond as prescribed within the *Planning and Environment Regulations 2015*, no formal response has been provided notwithstanding multiple requests.

DISCUSSION

Land use

The *Former Pakenham Racecourse Comprehensive Development Plan (February 2010)* incorporated within the CDZ2 establishes the intended uses for the wider former Pakenham Racecourse and their respective locations. The land is divided into two precincts (Precinct 1 and Precinct 2) divided by Henry Street.

Precinct 1 should accommodate a mixture of uses such as high density residential, retail, commercial and community and institutional uses. This to be focussed within the western third of the precinct, where the retail hub of the entire former Pakenham Racecourse site is to be located, given its proximity to the Pakenham Train Station and established Pakenham commercial centre. The remaining land is a combination of residential and commercial use. The residential area is

located centrally within the precinct, whilst commercial area skirts around the edges of the precinct along the south and east boundaries.

Precinct 2 should comprise predominantly of residential development with a high density residential focused around parks and key junctions. It features a small section notated for commercial use at the corner of Henry Street and Racecourse Road, but this is only located on the corner and does not extend to the north boundary. Excluding this small section of commercial, the remainder of this precinct is reserved for residential use.

The subject site is located across both precincts with the north lot located in Precinct 2 and the south lot located in Precinct 1. The southern half of the north lot is within the commercial area whilst the majority, if not all of the south lot is also within this commercial area.

The service station, 6 offices and 2 convenience restaurants are located outside of the commercial area and therefore are sited inappropriately, within the land reserved for residential development as established by the *Former Pakenham Racecourse Comprehensive Development Plan (February 2010)*.

Pursuant to the CDZ2, a supermarket must be generally in accordance with the *Former Pakenham Racecourse Comprehensive Development Plan (February 2010)*. Whilst the supermarket is located within Precinct 2 and within a defined commercial area along the intersection of Racecourse Road and Henry Street, it sits outside of the core retail hub in the western third of the precinct. It is considered that to locate a significant use such as a supermarket outside of the core retail hub would fragment the overall layout of uses and detract from the overall intention of not only Precinct 2 but the entirety of the *Former Pakenham Racecourse Comprehensive Development Plan (February 2010)*.

Within *Fabcot Pty Ltd vs Whittlesea CC*, VCAT reviewed a case involving a proposed supermarket and whether it was 'generally in accordance with a relevant Comprehensive Development Plan. The supermarket was not within the 'core retail centre' as noted within the applicable Comprehensive Development Plan and VCAT therefore found that the purpose of the applicable Comprehensive Development Plan would be 'frustrated and potentially thwarted', as a supermarket is a key anchor store generating high customer numbers encouraging pedestrian flow which supports speciality shops within close proximity.

Taking the findings of *Fabcot Pty Ltd vs Whittlesea CC* into consideration, the overall spread of uses across both sites within the proposal fragments the wider former Pakenham Racecourse site in a manner that will dilute the functionality of the 'core retail hub' by drawing significant customers away from its intended location as dictated by the *Former Pakenham Racecourse Comprehensive Development Plan (February 2010)*.

Urban Design

Both the CDZ2 and *Former Pakenham Racecourse Comprehensive Development Plan (February 2010)*, establish a key objective for design within the former Pakenham Racecourse to achieve excellence in architecture and urban design. Likewise, both State and Local Planning Policies highlight objectives and strategies promoting urban environments that are safe, functional with a sense of place and cultural identity. Council's Urban Designer has reviewed the proposal and advised of several significant urban design issues.

Supermarket and associated Convenience Shops

The *Former Pakenham Racecourse Comprehensive Development Plan (February 2010)* establishes the Racecourse Road and Henry Street intersection as a gateway location which should be anchored by key buildings. Council's Urban Designer notes that blank walls associated with supermarkets are conventionally and ideally sleeved behind speciality shops fronting the street, however, in this instance speciality shop fronts are located to front the car park resulting in blank walls fronting the both Henry Street and Racecourse Road. This is considered a poor urban design outcome given the significance of the gateway.

Food and Drink Premises and Offices fronting Henry Street

As previously noted, the Racecourse Road and Henry Street intersection is of considerable significance to the former Pakenham Racecourse. The floor plans and elevations of the commercial premises along Henry Street predominantly indicate primary access to these premises being from the internal car park. The implications of the primary entrances being from the internal car park as opposed to Henry Street will result in the development turning away from Henry Street, limiting the visual and social experience of the design interface between the building and pedestrian footpath along Henry Street.

Interface with 65 Racecourse Road

Adjoining 65 Racecourse Road is subject to Heritage Overlay – Schedule 108 'Bourke House and Stables' which is of particular significance to the former Pakenham Racecourse. The Pakenham Structure Plan highlights that an active interface should be achieved between the subject site and 65 Racecourse Road. The proposed development is setback a minimum of 1 metre from the common boundary between the two properties and only blank walls front 65 Racecourse Road. Council's Urban Designer has noted the proposal would significantly impact in a detrimental way on the heritage site, by degrading the landscape setting and curtilage of the heritage buildings. As a consequence, it is not considered that proposal appropriately respects the identified heritage significance of this adjoining site.

Shop top dwelling entrances

The proposed entrances to the shop top dwellings within the proposal are located to the rear of their respective buildings which front the car park as opposed to Henry Street. This layout results in an inefficient sense of address that will further detract from the movement of pedestrians along Henry Street and instead preference the rear car park.

Dwellings to the west

The proposed three storey dwellings to the west of the subject site predominantly feature a very limited setback and replicate a consistent design that will restrict the ability of each dwelling to achieve its own individual sense of address. Furthermore, the dwellings fronting the internal laneway are provided with limited open space that will provide for poor internal amenity.

Traffic

Pursuant to Clause 52.06 Car Parking the proposal requires 190 car parking spaces, however, only 157 car spaces are provided. Whilst the Traffic Impact Assessment, submitted as part of the applicants' proposal, notes that only 177 spaces are required to be provided it does not include the 13 dwellings that feature 2 bedrooms and a study, which requires 2 car spaces as opposed to 1 car space as provided within their assessment.

Council's Traffic Engineers have reviewed the proposal and provided the following concerns:

- Overall this development appears to be over developed and internal connections appear to not have been well considered with sections of the site isolated from each other, especially for pedestrian access from the residential component.

Advertising signs

The proposed signage is applicable to business identification signage associated with the service station above the entry and along the canopy. It is consistent with signage associated with service stations and would therefore have limited implications on the amenity of the area. Whilst a pole sign displaying petrol prices is shown on the site plans the applicant has advised it does not form part of this application.

Land Subject to Inundation

As previously discussed, Melbourne Water, as the relevant floodplain management authority, objected to the proposal. It is therefore considered that the proposal is not able to satisfy the purpose of the Land Subject to Inundation Overlay.

CONCLUSION

The proposed development is not considered to accord with the *Former Pakenham Racecourse Comprehensive Development Plan (February 2010)* and therefore will undermine the intended layout and functionality of the former Pakenham Racecourse site. The overall design of the development fails to actively interact externally, fails to provide appropriate internal amenity to dwellings and establish individual senses of address or satisfactory car parking. Furthermore, Melbourne Water has also objected to the proposal.

It recommended that a Refusal to Grant Planning Permit T160577 be issued for 'The use and development of a supermarket, service station, 7 food and drink premises, 3 convenience restaurants, 6 offices, development of buildings and works including 37 dwellings and 3 convenience shops, variation to car parking, access to a Road Zone, Category 1 and Advertising Signage at Ascot Park Drive, Pakenham for the following reasons:

1. The proposal is inconsistent with the Comprehensive Development Zone, Schedule 2. Specifically, its failure to appropriately respond to the *Former Pakenham Racecourse Comprehensive Development Plan (February 2010)* due to the types of uses proposed, their extent, location and the inability to provide a suitable urban design outcome.
2. The proposal is inconsistent with the State and Local Planning Policy Framework of the Cardinia Planning Scheme, specifically the following:
 - Clause 11.06-4 Place and identity
 - Clause 13.02 Floodplains
 - Clause 15.01-1 Urban design
 - Clause 15.01-2 Urban design principles
 - Clause 15.03-1 Heritage conservation
 - Cause 16.01-4 Housing diversity
 - Clause 21.02.02 Catchment and coastal management
 - Clause 21.02-6 Post-contact heritage
 - Clause 21.03-1 Housing
 - Clause 21.06-1 Design and built form

3. The proposal is an overdevelopment of the site having regard to the extent of use and development and its failure to comply with Clause 52.06 Car Parking.
4. The proposal is inappropriate having regard to its context, and design response and would result in a poor planning outcome contrary to Clause 65 of the Cardinia Planning Scheme.

Melbourne Water

5. The proposed development is inconsistent with State and Local Planning Policy relating to drainage and floodplain management.
6. The proposed development is subject to inappropriate and unacceptable flood risk, where the safety of land users may be affected and potential for flood damage is excessive.
7. The proposed development is contrary to Melbourne Water's 'Guidelines for Development in Flood Prone Areas' (Freeboard requirement).

6 THE USE AND DEVELOPMENT OF A SUPERMARKET, SERVICE STATION AND VARIOUS USES AND DEVELOPMENTS, ASCOT PARK DRIVE PAKENHAM

Moved Cr C Ross Seconded Cr J Owen

That a Refusal to Grant Planning Permit T160577 be issued for 'The use and development of a supermarket, service station, 7 food and drink premises, 3 convenience restaurants, 6 offices, development of buildings and works including 37 dwellings and 3 convenience shops, variation to car parking, access to a Road Zone, Category 1 and Advertising Signage at Ascot Park Drive, Pakenham be refused for the following reasons:

1. The proposal is inconsistent with the Comprehensive Development Zone, Schedule 2. Specifically, its failure to appropriately respond to the *Former Pakenham Racecourse Comprehensive Development Plan (February 2010)* due to the types of uses proposed, their extent, location and the inability to provide a suitable urban design outcome.
2. The proposal is inconsistent with the State and Local Planning Policy Framework of the Cardinia Planning Scheme, specifically the following:
 - Clause 11.06-4 Place and identity
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 - Clause 15.01-1 Urban design
 - Clause 15.01-2 Urban design principles
 - Clause 15.03-1 Heritage conservation
 - Clause 16.01-4 Housing diversity
 - Clause 21.02.02 Catchment and coastal management
 - Clause 21.02-6 Post-contact heritage
 - Clause 21.03-1 Housing
 - Clause 21.06-1 Design and built form
3. The proposal is an overdevelopment of the site having regard to the extent of use and development and its failure to comply with Clause 52.06 Car Parking.
4. The proposal is inappropriate having regard to its context, and design response and would result in a poor planning outcome contrary to Clause 65 of the Cardinia Planning Scheme.

Melbourne Water

5. The proposed development is inconsistent with State and Local Planning Policy relating to drainage and floodplain management.
6. The proposed development is subject to inappropriate and unacceptable flood risk, where the safety of land users may be affected and potential for flood damage is excessive.
7. The proposed development is contrary to Melbourne Water's 'Guidelines for Development in Flood Prone Areas' (Freeboard requirement).

Vic Roads

8. Direct access to the northern site from Racecourse Road will cause detriment to the current and future operation of Racecourse Road and public safety; and

9. The proposed right-turn access into the northern site from Henry Street is likely to cause detriment to the current and future operation of the Racecourse Road/Henry Street intersection.

Cd.

7 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)

FILE REFERENCE INT1726573

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.

EXECUTIVE SUMMARY

The following list of enforcement matters currently before VCAT and the Magistrates' Court is submitted for Councillors information.

Where breaches of the Planning Scheme are detected that cannot be satisfactorily resolved Council undertakes enforcement action at the Victorian Civil and Administrative Tribunal (VCAT).

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

Where breaches are sufficiently serious, criminal proceedings in the Magistrates' Court will be commenced, and if so, the successful criminal proceedings will usually be followed by VCAT proceedings (criminal proceedings taking precedence over "civil" proceedings)

1). Multi-purpose 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.

2). Admin 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.

3). Adjournment

An adjournment will be asked for where there has been some discussion between Council and the Respondent, and more time is to be allowed for the Respondent (or Council as the Applicant) for a variety of reasons.

4). Offset plan

An Offset Plan goes by a few different names, including a Property Management Plan or a Property Remediation Plan. These plans are used when a Respondent has removed vegetation or otherwise damaged vegetation on the Land and Council is seeking a remedy for this removal, normally requiring replanting to occur on the Land. This plan is what Council will seek in the shape of an Enforcement Order, and the contents of the Plan will be decided by Council's Environment Team.

5). Full hearing

A full hearing is a hearing which is to be contested by the Respondent.

6). 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.

The following list indicates such enforcement activities that are currently before VCAT or the Magistrates' Court.

Property Address	Nature of Contravention	Status
715 Gembrook Rd, Pakenham Upper (ref: OH:AB:14130, OH:SMAY:15227 OH:OH:16295)	Alleged land use (burning off) and building breaches, that relates to extensive and complex planning history of the site.	<p>Magistrates' Court proceedings further adjourned to 30 May 2017 for further mention. The Court will rule on constitutional arguments raised by the accused, then proceed to contested hearing if appropriate.</p> <p>The accused has filed application in VCAT for declaration as to existing use rights, which relates to Burning Off waste timber on the land.</p> <p>The owner asserts that burning off activities are protected by the planning scheme. The owner now asserts a broader range of activities attract Existing Use Rights, and this contested proceeding will seek to clarify land use rights.</p> <p>This VCAT application will be listed for a 2-day hearing in 14-15 June 2017.</p> <p>Magistrates' Court proceeding may be delayed pending determination of this issue.</p> <p>The property has a 17 yr history of litigated planning disputes between 1997 and 2015.</p>
555 Back Creek Rd, Gembrook EH:LK:16272)	Native vegetation removal, and earthworks creating a dam, in breach of Section 173 agreement and the scheme. Rural Conservation Zone – Sch 1, Environmental Significance Overlay – Sch 1, Bushfire Management Overlay, and Clause 52.17	<p>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.</p> <p>On 15th September 2016 the Court issued a Warrant for arrest to compel the attendance of the accused. The accused has recently re-located, and we are investigating options to locate him.</p>
230 Telegraph Road Beaconsfield Upper EH:JALF:16300	Earthworks and excavation creating a structure consisting of a total of six 40ft shipping containers, in breach of 35.06-5	VCAT Enforcement arising from the creation of a structure, earthworks and excavation, contrary to strict environmental controls.

Property Address	Nature of Contravention	Status
	Rural Conservation Zone – Sch 2, clause 42.01-2 Environmental Significance Overlay – Sch 1, Bushfire Management Overlay, and clause 44.06-1	The owner has submitted a planning application to regularise the development, and removed non- compliant works from the land. The VCAT application was withdrawn, by consent.

CONCLUSION

The list of current enforcement activities is presented for information.

7 **PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)**

Moved Cr G Moore Seconded Cr M Schilling

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

Cd.

8 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

FILE REFERENCE INT1726525

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Tracey Parker

RECOMMENDATION

That the report be noted.

Attachments

Nil.

EXECUTIVE SUMMARY

The report provides an update on the status of active planning scheme amendments and planning scheme amendment requests received.

Status of active amendments

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

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
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.			On 20/06/2016 Council adopted that authorisation be sought from the Minister for Planning to prepare the amendment.
C206	Cardinia Shire Council	16 Beaconsfield-Emerald Road Emerald	Rezone 16 Beaconsfield-Emerald Road Emerald from Rural Conservation Zone 2 to Public Park and Recreation Zone.	Thu 07/01/2016	Mon 08/02/2016	Amendment submitted to the Minister for approval on 04/10/2016. Awaiting approval.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C208	Cardinia Shire Council	Cardinia Shire	Updates the Local Planning Policy Framework (LPPF) to make reference to relevant policy direction outlined in Plan Melbourne. Airport Policy and Healthy By Design.	Thu 21/07/2016	Mon 22/08/2016	Approval documents re-submitted on 17/03/2017 in light of the release of Plan Melbourne refresh.
C209	Cardinia Shire Council	Pakenham Golf Course	Apply the Low Density Residential Zone 3, a Vegetation Protection Overlay 1 and Development Design Overlay 1 to land within the Deep Creek Master Plan area, and consider a planning permit for a two lot subdivision to allow for the land to be zoned Low Density Residential Zone 3 and Public Park and Recreation Zone.	Fri 24/06/2016	Wed 31/08/2016	On 20/03/2017 Council adopted to split the amendment into two parts with Part A to be resubmitted to the Minister for Planning for approval and Part B to be abandoned.
C211	Cardinia Shire Council	Pakenham Structure Plan area	The Amendment adds the Pakenham Activity Centre Incorporated Provisions (March 2017) as an Incorporated document in the Schedule to Clause 81.01 and the Pakenham Structure Plan (March 2017) as a Reference document in Clauses 21.03-2, 21.04-1, 21.04-3 and 21.04-4. The Amendment revises the Local Planning Policy Framework (LPPF) to make reference to 'Activity Centre Structure Plans' in various Clauses.	Thu 12/05/2016	Tue 14/06/2016	Amendment submitted to the Minister for approval on 24/03/2017. Awaiting approval.
C214	Pakenham Racing Club Inc.	71 and 77 Racecourse Road, Pakenham (Lot 1 on PS63208 7K)	Rezone land from Special Use Zone 2 (SUZ2) to General Residential Zone (GRZ).	Thu 13/10/2016	Mon 14/11/2016	Amendment submitted to the Minister for approval on 11/01/2017. Awaiting approval.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C215	Cardinia Shire Council	Green Wedge land	Implement the key recommendations of the Cardinia Western Port Green Wedge Management Plan (July 2016). Amends the Municipal Strategic Statement to remove reference to matters that are now proposed to be addressed in the Western Port Green Wedge Local Planning Policy & include the Cardinia Western Port Green Wedge Management Plan (July 2016) as a reference document.	Thu 01/09/2016	Mon 03/10/2016	Panel Hearing held on 7 March. The Panel Report was received on 23 March 2017 and is currently being assessed.
C221	Villaworld Developments Pty Ltd Group	27-39 Vantage Drive Pakenham	The amendment proposes to rezone the part of residential lots 27-39 Vantage Drive, Pakenham that are covered by the Urban Floodway Zone (UFZ) to General Residential Zone Schedule 1 (GRZ1).	Thu 15/12/2016	Fri 06/01/2017	Amendment submitted to the Minister for approval on 03/04/2017. Awaiting approval.
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: Process commenced to seek amendment authorization from the Minister for Planning.

8 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

Moved Cr G Moore Seconded Cr M Schilling

That the report be noted.

Cd.

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

FILE REFERENCE INT1726575

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted.

Attachments

Nil.

EXECUTIVE SUMMARY

The following list is presented to keep Council informed of applications that are currently the subject of appeals proceedings.

Hearing Date	App No.	Address	Proposal	Council Decision	Appealed By	Current Status
5/09/2017	T160026	44 Ambrose St, Emerald	The subdivision of land into six (6) lots in three (3) stages and creation of a road	Approval	Objector	Awaiting hearing
17/07/17	T140337	65 Pioneer Road, Lang Lang	Use and development of the land for extractive industry (sand quarry) removal of vegetation and alter access to a road in a Road Zone, Category 1	Failure to determine	Applicant	Awaiting hearing
24/04/17	T130758-2	5 & 6 Spencer Place, Pakenham	The development of the land for the purpose of five (5) dwellings, generally in accordance with the approved plans	Refusal	Applicant	Awaiting hearing
20/03/17	T160196	Timbertop Blvd, Officer	Multi lot subdivision of the land and the removal of one native tree	Refusal	Applicant	Awaiting Decision
20/03/17	T160150	70 Croft Road, Nar Nar Goon North	Development of the land a dwelling extension (pergola) and outbuilding (shed)	Approval	Objector	Awaiting Decision
15/03/17	T160197	32 Racecourse Road, Pakenham	Development of the land for a service station, development and use for a convenience restaurant and convenience shop, car parking variation and works to alter and create access to a Road Zone category 1	Failure determined	Applicant	Permit issued
22/02/17	T150734	7 Henry Street Koo Wee Rup	Subdivision of land into two (2) lots and creation of an easement	Refusal	Applicant	Awaiting hearing

Hearing Date	App No.	Address	Proposal	Council Decision	Appealed By	Current Status
22/4/17	T080447-1	11-15 Vista Court Gembrook	Remove 173 condition on retirement village permit	Refusal	Applicant	Awaiting decision

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

Moved Cr G Moore Seconded Cr M Schilling

That the report be noted.

Cd.

10 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATED AUTHORITY

FILE REFERENCE INT1726950

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted.

Attachments

Nil.

EXECUTIVE SUMMARY

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

Central Ward				
Date	Permit No	Location	The proposal	The decision
28/02/2017	T160466	61 Racecourse Road, Pakenham VIC 3810	The staged multi-lot subdivision (Stages 12- 14) and development of one (1) dwelling on each lot in accordance with the endorsed plans	Issued
27/02/2017	T160564	10 Acacia Court, Pakenham VIC 3810	Development of the land for three (3) dwellings on a lot	Issued
27/02/2017	T160828	U 1/68 Racecourse Road, Pakenham VIC 3810	Subdivision of the land	Issued
28/02/2017	T160591	2 Lavit Lane, Pakenham VIC 3810	Construction of five (5) dwellings, subdivision of the land into five (5) lots and a reduction in the number of car parking spaces required	Issued
2/03/2017	T170012	25 Skyline Drive, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued
2/03/2017	T170035	62 Cameron Way, PAKENHAM VIC 3810	Vegetation Removal	Withdrawn
3/03/2017	T160808	17 John Street, Pakenham VIC 3810	Reduction to the number of car parking spaces required for a Medical Centre	Withdrawn
7/03/2017	T160165 - PC1	1 Conrad Court, Pakenham VIC 3810	Development of the land for seven (7) dwellings	Issued

7/03/2017	T170116	Cardinia Cultural Centre, 40 Lakeside Boulevard, Pakenham VIC 3810	Expansion to the existing Cultural Centre; New secondary entrance, foyer, art space, dance studios, art and theatre storage, workshop, laundry and circulation space; Refurbished 'crush space' and foyer; New external service court / waste management compound with new accessways, existing northern plant enclosure expansion, new car parking with pedestrian walkway and stormwater management system (WSUD); New solar panel array on existing Theatre roof;	Withdrawn
8/03/2017	T150757 - 1	158-160 Princes Highway, Pakenham Victoria 3810	Use and development of the land for a medical centre and associated works in Residential 1 Zone, alteration of access to Road Zone Category 1 and reduction in car parking under Clause 52.06	Issued
8/03/2017	T160500 - PC1	10 James Street, Pakenham VIC 3810	Plans to Comply - Development of the land for three (3) dwellings	Issued
9/03/2017	T160561	2 Cumberland Drive, Pakenham VIC 3810	Two (2) lot subdivision & variation of restrictive covenant	Refused
9/03/2017	T100763 - 3	Greenhills Road, Pakenham Victoria 3810	Subdivision of the land and creation of road reserves generally in accordance with the approved plans	Issued
16/03/2017	T160816	64 Peet Street, Pakenham VIC 3810	2 lot Subdivision	Issued
16/03/2017	T160707	26 King Street, Pakenham VIC 3810	Subdivision of the land into three (3) lots	Issued
20/03/2017	T160820	32 Pinehill Drive, Pakenham VIC 3810	2 lot Subdivision	Withdrawn
20/03/2017	T170114	30 Exchange Drive, Pakenham VIC 3810	Proposed Buildings and works Hi-Bay Shed Development	Withdrawn
20/03/2017	T170115	30 Exchange Drive, Pakenham VIC 3810	Proposed Buildings and works Hi-Bay Shed Development	Withdrawn
20/03/2017	T170072	27 Davidson Street, Pakenham VIC 3810	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued
24/03/2017	T160227 - PC1	75 Princes Highway, Pakenham VIC 3810	Development of the land for three (3) dwellings on a lot	Issued

27/03/2017	T160466 - PC1	61 Racecourse Road, Pakenham VIC 3810	Condition 1 - The staged multi-lot subdivision (Stages 12- 14) and development of one (1) dwelling on each lot in accordance with the endorsed plans	Issued
28/03/2017	T970139 - PC1	31 Main St, Pakenham Victoria 3810	Consulting Room - Physiotherapy	Issued
30/03/2017	T160634	Caversham Drive, Pakenham VIC 3810	The development of nineteen (19) dwellings and associated works in accordance with endorsed plans	Issued
31/03/2017	T170086	74 Melissa Way, Pakenham VIC 3810	THE CONSTRUCTION OF A COLOURBONDCARPORT	Withdrawn
3/04/2017	T120051 - 2	5 Hosking Court, Pakenham Victoria 3810	AMENDED PERMIT - Condition 8(b) to be altered after the title has been released for access to Lot 2 -	Withdrawn
3/04/2017	T160866	25 Main Street, Pakenham VIC 3810	Development and Use of an office and associated car parking	Lapsed
4/04/2017	T160564 - PC1	10 Acacia Court, Pakenham VIC 3810	Development of the land for three (3) dwellings on a lot	Issued
9/04/2017	T160553	61 Princes Highway, Pakenham VIC 3810	Proposed development of seven (7) dwellings and associated earthworks	Withdrawn
10/04/2017	T170081	28 Lorraine Court, Pakenham VIC 3810	2 lot subdivision	Withdrawn
11/04/2017	T160466 - PC2	61 Racecourse Road, Pakenham VIC 3810	Waste Management - The staged multi-lot subdivision (Stages 12- 14) and development of one (1) dwelling on each lot in accordance with the endorsed plans	Issued
12/04/2017	T160681	9 Jamieson Court, Pakenham VIC 3810	The subdivision of the land into two (2) lots	Withdrawn
Port Ward				
Date	Permit No	Location	The Proposal	The Decision
27/02/2017	T160249	3165 Princes Highway, Bunyip VIC 3815	Buildings and works associated with a tourist facility (fruit and vegetable sales)	Issued
27/02/2017	T170013	462 Fogarty Road, Maryknoll VIC 3812	development of the land for an outbuilding	Issued
28/02/2017	T160665	38 James Street, Lang Lang VIC 3984	Development of a dwelling to the rear of the existing dwelling and alterations and additions to the existing dwelling	Issued
1/03/2017	T160848	20 Corcoran Road, Bunyip VIC 3815	Alterations and Additions to the existing dwelling	Issued

3/03/2017	T170053	170 Caldermeade Road, Caldermeade VIC 3984	The use and development of a minor sports and recreation facility	Issued
6/03/2017	T150573 - 1	Hillbrick Road, Garfield Victoria 3814	The use and development of the land for a dwelling within the Green Wedge Zone	Withdrawn
7/03/2017	T160497 - PC1	180 Nash Road, Bunyip VIC 3815	Plans to Comply - Condition 1 - Development of the land for a dwelling and an outbuilding	Issued
7/03/2017	T160626	47 Westernport Road, Lang Lang VIC 3984	Use and development of a brewery, business identification signage, the sale and consumption of liquor and a waiver of the loading bay requirements in accordance with the endorsed plans	Issued
8/03/2017	T110588 - PC1	270 Cardinia Road, Officer South VIC 3809	Subdivision of the land	Issued
8/03/2017	T150166 - PC2	347 Westernport Road, Lang Lang Victoria 3984	Development of the land for a dwelling and removal of vegetation in Significant Landscape Overlay Schedule 3	Withdrawn
9/03/2017	T110314 - 1	36 Bunyip-Modella Rd, Bunyip Victoria 3815	The development of the land for a self storage facility and native vegetation removal	Issued
10/03/2017	T160827	579 Bessie Creek Road, Nar Nar Goon North VIC 3812	Building and works in association with an outbuilding	Issued
10/03/2017	T170006	386 Fogarty Road, Tynong North VIC 3813	Use of the land for a Dependant Person's Unit	Issued
10/03/2017	T170039	430 McDonalds Track, Lang Lang VIC 3984	Development of the land for an outbuilding	Issued
14/03/2017	T160315 - PC1	6 Ravendene Court, Maryknoll VIC 3812	Condition 1 - Variation to a registered covenant (to extend a dwelling outside the building envelope and extend the waste water envelope) and construction of a dam and outbuilding within 5 metres of a boundary.	Issued
15/03/2017	T170027	3 Haynes Close, Bunyip VIC 3815	Extension of an existing dwelling within 2 metres of a boundary	Lapsed
16/03/2017	T150546 - PC2	18 Tynong Road, Tynong Victoria 3813	Section 173 - Three (3) lot subdivision and creation of easements	Issued
16/03/2017	T160295	2345 Ballarto Road, Cardinia VIC 3978	Boundary re-alignment	Issued
16/03/2017	T160845	109 Hall Road, Pakenham South VIC 3810	Use and development of the land for a dwelling and outbuilding	Issued

16/03/2017	T160849	1A Rupert Street, Lang Lang VIC 3984	Development of the land for a dwelling and garage	Withdrawn
16/03/2017	T170034	Rosebery Street, Lang Lang VIC 3984	Extension to a building	Lapsed
17/03/2017	T160316 - PC1	1 Cambridge Street, Lang Lang VIC 3984	Plans to Comply - Landscape - Use of the land for a Medical Centre (Myotherapy), display of a business identification sign and reduction in the number of car parking spaces	Issued
17/03/2017	T160676	Hall Road, Pakenham South VIC 3810	Use and development of the land for a dwelling, dependant person's unit and an outbuilding	Issued
20/03/2017	T160535	1-3 Main Street, Bunyip VIC 3815	Six (6) lot subdivision	Issued
21/03/2017	T160666	270 Cardinia Road, Officer South VIC 3809	Signage	Issued
22/03/2017	T160581 - PC1	270 Cardinia Road, Officer South VIC 3809	Condition 1 - Re-subdivision of the land (in stages)	Issued
23/03/2017	T160794	62 Cameron Way, PAKENHAM VIC 3810	Development of a Place of Assembly (Golf Club and Community Facility) and Wetlands	Issued
23/03/2017	T170064	38-40 Tynong Road, Tynong VIC 3813	Vegetation Removal	Issued
24/03/2017	T160700	172-180 Station Street, Koo Wee Rup VIC 3981	Extension and refurbishment to the school administration building, conversion of the meeting room to toilet facilities and construction of car parking/games courts	Issued
24/03/2017	T160558 - PC1	Evans Road, BUNYIP VIC 3815	Development of the land for a farm shed	Issued
24/03/2017	T160742	2375 Ballarto Road, Cardinia VIC 3978	Development of the land for a replacement dwelling.	Issued
28/03/2017	T140530 - 1	35 Commercial Drive, Pakenham Victoria 3810	Use of the land for Car Sales and associated buildings and works; Development of the land for a building to be used in association with service industry and store (storage of vehicles)	Issued
28/03/2017	T160483 - PC1	145 Edens Road, Caldermeade VIC 3984	Plans to Comply - Development of the land for an agricultural building	Issued
28/03/2017	T120247 - PC1	52 James Street, Lang Lang Victoria 3984	SEC 173 - Plans to Comply - Multi lot residential subdivision and removal of native vegetation and easements	Issued
28/03/2017	T160862	8 Ravendene Court, Maryknoll VIC 3812	Construction of one (1) dwelling, one (1)	Issued

			outbuilding and associated earthworks	
28/03/2017	T170040	220 South Yannathan Road, Yannathan VIC 3981	Use and development of the land for a temporary dwelling	Withdrawn
29/03/2017	T160586	29 Ryan Road, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued
30/03/2017	T160805	105 Boundary Drain Road, Koo Wee Rup VIC 3981	Construction of an outbuilding	Issued
3/04/2017	T160386 - PC1	15 Knights Road, Longwarry VIC 3816	Plans to Comply - Condition 1 - Extension and alterations to an existing dwelling	Issued
3/04/2017	T160554	16 Blackfish Drive, Koo Wee Rup VIC 3981	The development of the land for a dwelling and outbuilding	Issued
4/04/2017	T090192 - PC2	8 Drake Court, Bunyip Victoria 3815	Section 173 Agreement - Subdivision of the land into fourteen (14) lots and vegetation removal.	Issued
4/04/2017	T160633 - PC1	270 Fogarty Road, Tynong North VIC 3813	Plans to Comply - Development of the land for an outbuilding	Issued
6/04/2017	T170005	670 Nine Mile Road, Cora Lynn VIC 3814	Construction of a fence	Issued
6/04/2017	T110133 - 2	75 Island Road, Koo Wee Rup Victoria 3981	Use and development of the land for one (1) dwelling and two (2) outbuildings, one (1) to be used as stables and one (1) to be used as machinery storage	Issued
6/04/2017	T170026	1000 Koo Wee Rup-Longwarry Road, Catani VIC 3981	Alterations and additions to an existing dwelling and construction of a swimming pool	Issued
7/04/2017	T160493	4 Kerry Place, Garfield VIC 3814	Subdivision of the land into six (6) lots and creation of common property	Issued
7/04/2017	T160505	15 Knights Court, Tynong VIC 3813	Development of the land for buildings and works associated with agriculture	Issued
7/04/2017	T160830	70 Sanders Road, Garfield North VIC 3814	Construction of an outbuilding	Issued
7/04/2017	T160847	455 Westernport Road, Lang Lang VIC 3984	Amended Permit: Construction of an outbuilding	Withdrawn
11/04/2017	T170179	Whitstable Street, Lang Lang VIC 3984	Use and development the land for a single dwelling and outbuilding	Issued
Ranges Ward				
Date	Permit No	Location	The Proposal	The Decision
27/02/2017	T170088	369 Monbulk Road, SILVAN VIC 3795	Three Lot Boundary Realignment.	Withdrawn

27/02/2017	T140410 - 3	24 Tivendale Road, Officer Victoria 3809	Amended permit application - Commercial premises incorporating a service station, shops (including a licensed premise – bottle- shop), food and drink premises, offices, medical centres, advertising signage, a reduction in car parking and loading bay requirements and access to a Road Zone Category 1, generally in accordance with the approved plans	Refused
27/02/2017	T160850	33 Avondale Street, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued
27/02/2017	T160854	31 Skyline Drive, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued
27/02/2017	T170048	22 Skyline Drive, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued
27/02/2017	T170008	6 Cornish Road, Emerald VIC 3782	Development of the land for a dwelling and earthworks exceeding 1 metre	Issued
28/02/2017	T160146 - PC10	Officer South Road, Officer VIC 3809	Stage 15 MCP- Subdivision of the land, associated works (including road-works within land affected by the Land Subject to Inundation Overlay) and creation of restrictions	Issued
28/02/2017	T160835	165 Army Settlement Road, Pakenham VIC 3810	Construction of an outbuilding	Issued
1/03/2017	T150186 - PC5	85 Mary Street, Officer Victoria 3809	Section 173 Agreement - Development of the land for 69 dwellings	Issued
1/03/2017	T160638	2 Sutherland Road, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding, vegetation removal and associated works	Issued
2/03/2017	T150269 - PC6	Brunt Road, Officer Victoria 3809	Plans to Comply - Subdivision of the land, remove an easement (electricity), create a reserve and removal of native vegetation	Issued
2/03/2017	T160425	Mountain Road, Gembrook VIC 3783	Use and development of the land for a dwelling and outbuilding, and associated earthworks	Issued
2/03/2017	T160441	45 Warrawee Avenue, Beaconsfield VIC 3807	Development of the land for a dwelling extension with a	Issued

			reduced setback and exceeding 7 metres in height	
2/03/2017	T160781	244 Woori Yallock Road, Cockatoo VIC 3781	Buildings and works associated with an extension to the exiting dwelling	Issued
3/03/2017	T160470	Curran Drive, Officer VIC 3809	Subdivision of the land into two (2) lots and creation of easements	Issued
6/03/2017	T130036 - PC1	Bridge Road, Officer Victoria 3809	Use and development of the land for a restricted place of assembly, installation and use of 60 electronic gaming machines and sale and consumption of liquor (full club licence)	Issued
6/03/2017	T150186 - PC4	85 Mary Street, Officer Victoria 3809	Development of the land for 69 dwellings	Issued
7/03/2017	T150374 - 1	Curran Drive, Officer Victoria 3809	Buildings and works associated with the construction of shops, food and drink premises, office and medical centre (veterinary clinic)	Issued
7/03/2017	T160162	70 Whiteside Road, Officer VIC 3809	Multi lot subdivision of the land - Stage 5	Issued
7/03/2017	T160733	11 Turquoise Walk, Officer VIC 3809	Construction of a dwelling on a lot less than 300sqm	Issued
7/03/2017	T170084	3 Turquoise Walk, Officer VIC 3809	Dwelling	Withdrawn
8/03/2017	T140627 - PC1	70 Whiteside Road, Officer Victoria 3809	AMENDED - Subdivision of the land and removal of native vegetation	Issued
8/03/2017	T160632	2 Curtis Road, Emerald VIC 3782	Development of the land for an outbuilding	Issued
8/03/2017	T170057	5 Eastbourne Crescent, Officer VIC 3809	Development of the land for a dwelling	Issued
8/03/2017	T170076	3 Parker Street, Officer VIC 3809	Building and works associated with a Section 2 use (education centre)	Withdrawn
9/03/2017	T170021	1 Avondale Street, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued
9/03/2017	T170033	11 Skyline Drive, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued
9/03/2017	T140521 - PC6	15 Bayview Road, Officer Victoria 3809	Plans to Comply - Landscape Plans for Stage 4 - Potters North - Subdivision of the land and subdivision of the land adjacent to a road in a Road Zone Category 1 Zone	Withdrawn

9/03/2017	T160199 - 1	30 Kings Road, Emerald VIC 3782	Development of a dwelling and associated works	Issued
9/03/2017	T160485	73 Main Street, Gembrook VIC 3783	Advertising Signage	Refused
9/03/2017	T160613	544 Brown Road, Officer VIC 3809	Use of the land for Primary Produce Sales and ancillary Food and Drink Premises (café) associated with the existing orchard (agriculture), associated buildings and works and display of business identification signage	Issued
10/03/2017	T160277	Timbertop Boulevard, Officer VIC 3809	Development of the land for eight (8) dwellings and subdivision of land.	Issued
10/03/2017	T160714	150 Beaconsfield Emerald Road, BEACONSFIELD VIC 3807	Demolition of a heritage building (Payne House)	Issued
10/03/2017	T160777	4 Cardinia Road, Officer VIC 3809	Building and works (awning & gantries) and electronic signage.	Issued
14/03/2017	T170010	14 Lenne Street, Beaconsfield Upper VIC 3808	Alterations and additions to a dwelling with 2 metres of a boundary.	Issued
15/03/2017	T160146 - PC9	Officer South Road, Officer VIC 3809	Stage 16 MCP - Subdivision of the land, associated works (including road-works within land affected by the Land Subject to Inundation Overlay) and creation of restrictions	Issued
15/03/2017	T160639	680 Woori Yallock Road, Nangana VIC 3781	Earthworks associated with a open horse riding arena	Withdrawn
15/03/2017	T160722	36 Toogood Court, Pakenham Upper VIC 3810	Development of the land for an outbuilding	Lapsed
16/03/2017	T150535 - PC2	3 Harris Road, Beaconsfield Upper Victoria 3808	Development of land for a dwelling, outbuilding and vegetation removal	Issued
16/03/2017	T160641	14 Young Street, Beaconsfield Upper VIC 3808	Buildings and works associated with a dwelling extension and two outbuildings	Issued
16/03/2017	T170130	10 Joanne Way, Officer VIC 3809	Proposed veranda to the rear of the dwelling	Withdrawn
16/03/2017	T170139	62 Skyline Drive, Officer VIC 3809	N/A	Withdrawn
16/03/2017	T100430 - 1	26 Le Souef Road, Gembrook Victoria 3783	Amend Permit - Development of the land for a Dependent Persons unit	Issued
17/03/2017	T140748 - 1	11 Carawa Street, Cockatoo Victoria 3781	The subdivision of the land into two (2) lots and the removal of vegetation	Issued
17/03/2017	T160431	31 Church Street, Clematis VIC 3782	Development of a single dwelling, outbuilding, associated works and	Issued

			removal of native vegetation	
20/03/2017	T160782	1475 Pakenham Road, Mount Burnett VIC 3781	Alterations and additions to an existing dwelling, relocation of an existing outbuilding and removal of vegetation	Issued
20/03/2017	T160839	1 Sydney Avenue, Emerald VIC 3782	Development of the land for an outbuilding	Issued
20/03/2017	T170085	3 Turquoise Walk, Officer VIC 3809	Proposed Dwelling	Withdrawn
21/03/2017	T060010 - PC1	Beaconsfield-Emerald Road, Beaconsfield Victoria 3807	T060010 PC - Section 173 Agreement	Issued
21/03/2017	T160219 - PC1	26 Whiteside Road, Officer VIC 3809	Plans to Comply - SEC 173 (Con. 08 173) - Subdivision of the land into two (2) lots	Withdrawn
21/03/2017	T160507 - PC1	43-45 Wallace Street, Beaconsfield VIC 3807	Use of the land for a Medical Centre and associated works.	Issued
22/03/2017	T150780 - 1	85 Bayview Road, Officer Victoria 3809	Subdivision of land and removal and/or variation of an easement	Issued
22/03/2017	T150780 - PC4	85 Bayview Road, Officer Victoria 3809	Condition 8 - Subdivision of land and removal and/or variation of an easement	Issued
22/03/2017	T160661	11 Caroline Crescent, Emerald VIC 3782	Buildings and works for an observatory associated with the existing dwelling	Issued
22/03/2017	T160724	5 Turquoise Walk, Officer VIC 3809	Construction of a dwelling on a lot less than 300sqm	Issued
22/03/2017	T170065	35 Avondale Street, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay - Schedule 6	Issued
23/03/2017	T160712	13 Daley Court, Beaconsfield VIC 3807	Variation to the Covenant PS701136R to include the wording "without the written consent of the Responsible Authority" on the Description of Restriction (sheet 3)	Issued
24/03/2017	T160644	27 Gembrook-Tonimbuk Road, Gembrook VIC 3783	Construction of an outbuilding and associated earthworks	Issued
24/03/2017	T160650	Clematis Park Road, CLEMATIS VIC 3782	Replacement Dwelling	Issued
24/03/2017	T170099	3 Niki Place, Officer VIC 3809	Erection of illuminated sign on the southern western corner of the Pakenham Racing Club's Social entertainment venue for the Officer Club	Withdrawn
27/03/2017	T160162 - PC1	70 Whiteside Road, Officer VIC 3809	Condition 8 - Multi lot subdivision of the land - Stage 5	Issued

27/03/2017	T160225 - PC1	9 Church Street, Emerald VIC 3782	Condition 1 Plans - Construction of two (2) dwellings on a lot and associated vegetation removal	Issued
27/03/2017	T160729	2395 Gembrook-Launching Place Road, Gembrook VIC 3783	Use and development of the land for a Telecommunications Facility	Withdrawn
27/03/2017	T160747	519 O`Neil Road, Beaconsfield VIC 3807	Construction of an Outbuilding	Issued
27/03/2017	T160807	2 Old Gembrook Road, Emerald VIC 3782	Construction of a building associated with emergency services facility and associated works	Withdrawn
28/03/2017	T150760 - PC3	2973 Gembrook-Launching Place Road, Gembrook VIC 3783	Plans to comply - Condition 10	Issued
28/03/2017	T160404	15 Alexander Road, Cockatoo VIC 3781	Alteration and extension to existing dwelling	Withdrawn
28/03/2017	T170071	21 Rosebank Lane, Beaconsfield Upper VIC 3808	Construction of Single Dwelling and Garage	Withdrawn
29/03/2017	T160692	280 Princes Highway, Officer VIC 3809	Subdivision of the land into two (2) lots, creation of a reserve and an easement on land adjacent to a road zone category 1	Issued
29/03/2017	T170145	Brunt Road, Officer VIC 3809	This is an application for a planning permit to subdivide the above mentioned land into two (2) lots (Refer comment for fee).	Withdrawn
30/03/2017	T140627 - PC4	70 Whiteside Road, Officer Victoria 3809	Subdivision of the land and removal of native vegetation	Issued
30/03/2017	T150440 - 1	6 Railway Avenue, Beaconsfield VIC 3807	Subdivision of the land into two (2) lots within the GRZ1 and the creation of an easement	Issued
3/04/2017	T130036 - PC3	Bridge Road, Officer Victoria 3809	Condition 13 - Use and development of the land for a restricted place of assembly, installation and use of 60 electronic gaming machines and sale and consumption of liquor (full club licence)	Issued
3/04/2017	T160544	26 Whiteside Road, Officer VIC 3809	Multi lot subdivision, associated works, creation of restrictions and vegetation removal	Withdrawn
4/04/2017	T110094 - PC4	Hepner Road, Emerald Victoria 3782	Development of the land for a dwelling, vegetation removal & associated earthworks	Issued
4/04/2017	T160843	70-120 Ure Road, Gembrook VIC 3783	Subdivision of two (2) lots (boundary realignment)	Lapsed

4/04/2017	T170061	7 Poplar Crescent, Emerald VIC 3782	Vegetation Removal	Issued
6/04/2017	T160356	245 Gembrook-Tonimbuk Road, Gembrook VIC 3783	Development of the land for a replacement dwelling and removal of vegetation	Issued
6/04/2017	T160590	101 Mount Burnett Road, Mount Burnett VIC 3781	Boundary re-alignment including No. 91 Mount Burnett Road and No. 251 Harewood Park Road, variation of power line easement, removal of Section 173 Agreement AM227102B and variation of Covenant PS 720426Y.	Issued
6/04/2017	T160679	5 Desmond Court, Beaconsfield VIC 3807	2 lot subdivision	Issued
6/04/2017	T160688	1 George Road, Cockatoo VIC 3781	Development of the land for an outbuilding (garage)	Issued
6/04/2017	T160730	46 Springs Street, Cockatoo VIC 3781	Construction of a Dependent Person's Unit and associated works and the removal of one (1) tree	Issued
6/04/2017	T170101	4 Clematis Park Road, Clematis VIC 3782	Alterations and additions to an existing dwelling	Issued
7/04/2017	T160183 - 1	423 Belgrave-Gembrook Road, Emerald VIC 3782	Display of two (2) internally illuminated signs	Issued
7/04/2017	T160620	12 Fern Gully Road, Cockatoo VIC 3781	Alterations and additions to an existing dwelling	Issued
7/04/2017	T170152	4A Doery Street, Emerald VIC 3782	Vegetation Removal	Issued
7/04/2017	T170182	67 Hedgevale Drive, Officer VIC 3809	Development of the land for a single story dwelling with variation to the maximum front allowable setback to be 5960mm in lieu of 4500mm. This is required due to the fall on the land, the driveway gradient cannot be achieved if we bring the house forward. We believe our proposal is the best option for our client.	Withdrawn
10/04/2017	T110494 - 1	101-103 Main Street, Gembrook Victoria 3783	Amendment to Planning Permit T110494 (issued for a Childcare Centre, earthworks and veg removal) by amending the land address to include No.101 Main Street, the endorsed plans and Condition 13.	Issued
11/04/2017	T110237 - PC1	23-25 Woods Street, Beaconsfield Victoria 3807	Development of land for the purpose of shops and offices associated car parking and reduction loading and unloading requirements	Issued

11/04/2017	T150733 - PC1	360 Princes Highway, Officer Victoria 3809	Conditions 1 & 5 Development of the land for nineteen (19) dwellings and associated works	Issued
11/04/2017	T170043	48 Salisbury Road, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding	Issued
12/04/2017	T170038	206 Gembrook Road, Gembrook VIC 3783	Construction of a verandah	Issued

10 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATED AUTHORITY

Moved Cr G Moore Seconded Cr M Schilling

That the report be noted.

Cd.

Meeting closed at 7.47pm

Minutes Confirmed
Chairman