



# Cardinia

MINUTES OF TOWN PLANNING COMMITTEE

MONDAY, 3 JULY 2017

## MINUTES OF TOWN PLANNING COMMITTEE

held in the Council Chambers, 20 Siding Avenue, Officer  
on Monday, 3 July 2017

The meeting commenced at 7.01pm

**PRESENT:**

Mayor, Brett Owen, Chairman

Councillors Michael Schilling, Carol Ryan, Collin Ross, Graeme Moore, Ray  
Brown, Jeff Springfield, Leticia Wilmot

Andrew Paxton (GMPD), Doug Evans (MG)

**APOLOGIES:**

Cr Jodie Owen

**DECLARATION OF PECUNIARY AND OTHER INTERESTS**

Nil.

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## **1 THE USE AND DEVELOPMENT OF A PLACE OF WORSHIP 90 SOLDIERS ROAD, PAKENHAM SOUTH**

FILE REFERENCE INT1741747

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Hugh Pierce

### **RECOMMENDATION**

That a Refusal to Grant Planning Permit T160439 be issued for 'The use and development of a Place of Worship' at 90 Soldiers Road, Pakenham South for reasons set you in this report.

### **Attachments**

- |   |                                                   |         |
|---|---------------------------------------------------|---------|
| 1 | Site plan                                         | 1 Page  |
| 2 | Development plans                                 | 7 Pages |
| 3 | List of objections circulated to councillors only | 6 Pages |

### **EXECUTIVE SUMMARY:**

APPLICATION NO.: T160439

APPLICANT: Yoga Yogaparan

LAND: 90 Soldiers Road, Pakenham South VIC 3810

PROPOSAL: The use and development of a place of worship

PLANNING CONTROLS: Green Wedge Zone Schedule 1  
Land Subject to Inundation Overlay

NOTIFICATION & OBJECTIONS: The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by sending notices to adjoining land owners and occupiers and placing a sign on site. A total of six objections were received

KEY PLANNING CONSIDERATIONS: Consistency with the Green Wedge Zone  
Impact on agriculture  
Access and proximity to other urban uses

RECOMMENDATION: Refusal

### **BACKGROUND:**

The following planning decisions are relevant to subject site:

Planning Application No.	Proposal	Determination
T120168	Use and development of the land for a rural store and outbuilding generally in accordance with the approved plans	Permit Issued: 9 July 2012
T120119	Use of the land for animal husbandry and development o the land for two outbuildings and retrospective earthworks	Permit Issued: 15 August 2012 Amended: 15 May 2015
T12380	The development of the land for twelve horse shelters, generally in accordance with the approved plans.	Permit Issued: 14 September 2012

## SUBJECT SITE

The site is located on the north side of Soldiers Road, is rectangular in shape and 8.509 hectares. Two crossovers are located on the site one along the east side of the site's frontage the other on the west side.

The site currently contains an existing dwelling, horse shelters and outbuildings scattered sporadically throughout the subject site. The land also currently contains grazing livestock.

The topography of the land features some undulation between 500 mm to 1 metre sporadically across the subject site.

The main characteristics of the surrounding area are:

- Large rural allotments predominantly cleared of vegetation and occasionally containing dwellings and associated outbuildings.

## PROPOSAL

The applicant is seeking planning approval for the use and development of a place of worship. The proposed place of worship will comprise of an 840 square metre temple and associated detached 142 square metre dining hall. The existing dwelling on the subject site will be occupied by the priest associated with the place of worship.

The place of worship is proposed to generally operate during the following hours:

Monday to Friday

7:30 AM to 11:00 AM

6:00 PM to 8:30 PM

Maximum attendance: 10 patrons

Saturday to Sunday

7:30 AM to 12:00 PM

5:00 PM to 8:30 PM

Maximum attendance: 25 patrons

In addition to the above, there are also 10 proposed auspicious days within the calendar year of which the following hours and attendances are requested:

January (maximum of 2 days)

7:30 AM to 12:30 PM

5:00 PM to 9:30 PM

Maximum attendance: 150 patrons and 75 patrons on respective days

February

7:30 AM to 12:30 PM

5:00 PM to 9:30 PM

Maximum attendance: 75 patrons

April

7:30 AM to 12:30 PM

5:00 PM to 9:30 PM

Maximum attendance: 75 patrons

October (maximum of 5 days)

7:30 AM to 12:30 PM

5:00 PM to 9:30 PM

Maximum attendance: 150 patrons on 1 day and 75 on the remaining 4 days

November

7:30 AM to 12:30 PM

5:00 PM to 9:30 PM

Maximum attendance: 75 patrons

## **PLANNING SCHEME PROVISIONS**

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

The relevant clauses of the SPPF are:

- Clause 11 Settlement
- Clause 11.06-7 Green wedges
- Clause 12.04-2 Landscapes
- Clause 13.02 Floodplains
- Clause 14.01-1 Protection of agricultural land
- Clause 15.01 Urban environment
- Clause 15.03-2 Aboriginal cultural heritage
- Clause 18.02-5 Car Parking
- Clause 19.02-4 Distribution of social and cultural infrastructure
- Clause 19.03-2 Water supply, sewerage and drainage

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

The relevant clauses of the LPPF are:

- Clause 21.02 Cardinia Shire Key Issues and Strategic Vision
- Clause 21.01-2 Key influences
- Clause 21.01-3 Key issues
- Clause 21.02 Environment
- Clause 21.02-7 Aboriginal cultural heritage
- Clause 21.03-3 Rural townships
- Clause 21.04-2 Agriculture
- Clause 21.05-3 Local roads

- Clause 21.05-6 Community services and facilities
- 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 57 Metropolitan Green Wedge Land
- Cardinia Western Port Green Wedge Management Plan

### Zone

The land is subject to the **Clause 35.04 Green Wedge Zone**

### Overlays

The land is subject to the following overlays:

- Clause 44.04 Land Subject to Inundation Overlay

### PLANNING PERMIT TRIGGERS

The proposal for a place of worship requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.04 Schedule 1 of the Green Wedge Zone a planning permit is required for a Section 2 use (Place of Worship).
- Pursuant to Clause 35.04 Schedule 1 of the Green Wedge Zone a planning permit is required to construct or carry out buildings and works associated with a Section 2 use (Place of Worship).
- Pursuant to Clause 44.04 Schedule to the Land Subject to Inundation Overlay a planning permit is required to construct a building or to construct or carry out works.

### 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 two (2) sign on site

Council has received six (6) objections to date.

The key issues that were raised in the objections are:

- Inconsistency with agriculture which characterises the immediate area.
- Detrimental impact on property values.
- Lack of surrounding infrastructure.
- Inability of Soldiers Road to accommodate the volume of traffic.
- Hazardous intersection of Soldiers Road and Koo Wee Rup Road.
- Invasion of privacy.

- Noise and dust generated by the proposed use.

## REFERRALS

The application was referred to Melbourne Water as a statutory referral. Melbourne Water has not yet provided a response to date and is outside their statutory timeframe to respond.

## DISCUSSION

### **Is a place of worship appropriate within the context of the subject site and surrounding land?**

The subject site is located within the Green Wedge Zone (GWZ) characterised by open rural landscapes. The predominate use occupying land within this zone is agriculture, which is the underlying purpose of the GWZ specifically empathises the provision of land for.

Clause 14.01-1, Protection of agriculture land, highlights the protection of productive farmland by way of preventing inappropriately dispersed urban activities in rural areas and permanent changes of land use. Likewise, Clause 21.04-2 Agriculture, advises that productive agricultural land must be protected from incompatible uses and inappropriate development.

Council's Westernport Green Wedge Management Plan acknowledges that there are broader activities and uses encroaching into the GWZ which has increased the amount of urban uses, such as place of worships, being proposed in the zone. If inappropriately located, these uses can detrimentally impact the rural character of these landscapes and fragment agricultural land. Within this plan the subject site is located in 'Precinct 1' which is recognised as an area for agriculture, horticulture and soil based food production. Within this precinct uses such as places of assembly within the GWZ should therefore be located, subject to strategic justification, closer to the urban growth boundary (UGB) or within existing townships.

Clause 21.03-3 Rural townships, categorises rural areas of settlement outside the urban growth area into 'large rural townships', 'small rural townships' and 'rural localities'. Pakenham South is identified as a 'rural locality' within this hierarchy. This would be due to Pakenham South only compromising of large rural allotments with no central commercial township hub. This clause acknowledges the need to set clear limits for development of the townships and that the capacity for growth varies depending on the environmental and infrastructure capabilities of each individual town.

The subject site is currently located in excess 2.7 kilometres from the UGB around Pakenham and in excess of 6 kilometres from the UGB around Koo Wee Rup. Furthermore, there are multiple properties between the subject site and the UGB all predominantly open and rural. The proposal includes the land to be used for grazing livestock and to plant fruit trees to further enhance the agricultural production of the land. However, the proposed place of worship including the temple, dining hall, car parking area and space between comprises a space of approximately 8,500 square metres, which is currently vacant and capable of accommodating agricultural activities.

Clause 21.05-6 Community services facilities, encourages the provision of a reasonable level of access to a range of community services and facilities to rural townships in response to community needs. This includes establishing facilities in the most accessible location and to co-locate community activities to encourage joint management.

The proposed place of worship as previously highlighted is located within a rural locality of Pakenham South, with no immediate commercial township hub. The immediate character of the area is open and rural landscapes, comprising of predominantly agricultural activities on large

allotments. The road servicing the subject site is not sealed and there is no immediate access to public transport options.

As a consequence of the above, the proposed place of worship is not considered to be appropriately located in accordance with the relevant state, local and Council policy. To locate the proposed use on the subject site would result in the encroachment of urban activities into an area which is sought to be conserved primarily for its agricultural purpose. This is not to say that a place of worship would be inappropriate within the GWZ, as it is acknowledged that the use is not explicitly prohibited by the zone. However, in this instance taking into account the limited urban activities within Pakenham South, the subject site's distance from the UGB, the access constraints of the subject site and the loss of agricultural land, that such a use as proposed should not be supported.

### **Are the building and works suitable within the Green Wedge Zone?**

The proposed temple is a rectangular building 840 square metres in size and a height of 5.463 metres situated in the northern half of the subject site. The proposed dining hall is situated immediately south of the temple, 142 square metres in size and a height of 8.657 metres. The temple is setback in excess of 200 metres from Soldiers Road, 84 metres from the north boundary, 106 metres from the east boundary and 93 metres from the west boundary. The dining hall is setback in excess of 200 metres from Soldiers Road, in excess of 100 metres from the north, east and west boundaries. This results in the buildings providing significant separation with all adjoining allotments which will minimise the impact of the development on the surrounding area. Both buildings feature rooves of with muted tones that would aid in further integrating them into the landscape.

### **Can Soldiers Road accommodate the potential maximum volume of patrons proposed?**

Council's traffic engineers have reviewed the proposal and advised that a traffic impact assessment would be required to determine the capacity of Soldiers Road. Given the previously discussed position on the use itself being undertaken on the land and the statutory timeframes prescribed by the *Planning and Environment Act 1987*, it has been determined to instead proceed to a decision. Council's traffic engineers have advised that at least half of the length of the subject site's frontage would likely need to be sealed, if a permit were to be issued.

### **Is there enough car parking provided?**

Pursuant to Clause 52.06 Car Parking a place of worship required 0.3 car spaces per patron. With a maximum patron capacity of 150 people that would equate to 45 car spaces being needed. The proposal includes a car park with a capacity of 48 spaces that more than satisfies the minimum car parking requirements.

### **What are the implications of the Land Subject to Inundation Overlay?**

The subject site is covered by Clause 44.04 Land Subject to Inundation Overlay which necessitates a referral to Melbourne Water. As previously discussed the application has been referred to Melbourne Water but a response it yet to be provided. Given the previously discussed position on the use itself being undertaken on the land and the statutory timeframes prescribed by the *Planning and Environment Act 1987* it has been determined to instead proceed to a decision.



## Objector concerns

Concerns raised within objections that have not been addressed in the discussion of the application above are responded to below:

- *Noise and dust generated by the proposed use.*

If a permit were approved, a condition will be included to ensure the proposal complies with the relevant EPA noise level requirements.

- *Detrimental impact on property values.*

Property values are outside of the ambit of discretion in assessing a planning application.

## CONCLUSION

The proposed place of worship is considered to be inappropriate for the subject site due to its lack of close proximity to other urban activities and the urban growth boundary, the fragmentation of agricultural land and access constraints. The proposal is inconsistent with the relevant State Planning Policy Framework, Local Planning Policy Framework, Zone and Particular Provisions.

It is recommended that a Refusal to Grant Planning Permit T160439 be issued for 'The use and development of a Place of Worship' at 90 Soldiers Road, Pakenham South on the following:

1. The proposal is located well outside of an established township or the urban growth boundary inconsistent with:
  - Clause 19.02-4 Distribution of social and cultural infrastructure
  - Clause 21.05-6 Community services and facilities
  - Cardinia Westernport Green Wedge Management Plan – Adopted July 2016.
2. The proposal would undermine the agricultural viability of the land sought to be preserved by:
  - Clause 11.06-7 Green Wedges
  - Clause 14.01-1 Protection of agriculture land
  - Clause 21.04-2 Agriculture
  - Clause 35.04 Green Wedge Zone
  - Clause 57 Metropolitan Green Wedge
  - Cardinia Westernport Green Wedge Management Plan – Adopted July 2016
3. The lack of information provided in relation to traffic management and road maintenance combined with the limited infrastructure in the area does not enable a comprehensive understanding of the potential adverse implications on the immediate road network.

## **1 THE USE AND DEVELOPMENT OF A PLACE OF WORSHIP 90 SOLDIERS ROAD, PAKENHAM SOUTH**

Moved Cr G Moore Seconded Cr R Brown

That a Refusal to Grant Planning Permit T160439 be issued for 'The use and development of a Place of Worship' at 90 Soldiers Road, Pakenham South for the following reason:

1. The proposal is located well outside of an established township or the urban growth boundary inconsistent with:
  - Clause 19.02-4 Distribution of social and cultural infrastructure
  - Clause 21.05-6 Community services and facilities
  - Cardinia Westernport Green Wedge Management Plan – Adopted July 2016.
2. The proposal would undermine the agricultural viability of the land sought to be preserved by:
  - Clause 11.06-7 Green Wedges
  - Clause 14.01-1 Protection of agriculture land
  - Clause 21.04-2 Agriculture
  - Clause 35.04 Green Wedge Zone
  - Clause 57 Metropolitan Green Wedge
  - Cardinia Westernport Green Wedge Management Plan – Adopted July 2016
3. The lack of information provided in relation to traffic management and road maintenance combined with the limited infrastructure in the area does not enable a comprehensive understanding of the potential adverse implications on the immediate road network.

Cd.

## **2 REMOVAL OF VEGETATION AT 105 JETTY ROAD, LANG LANG**

FILE REFERENCE INT1741756

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Vageesha Wellalage

### **RECOMMENDATION**

That a Refusal to Grant Planning Permit T160670 be issued for 'Removal of Roadside Vegetation' at 105 Jetty Road, Lang Lang for reasons set out in this report.

### **Attachments**

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

### **EXECUTIVE SUMMARY:**

APPLICATION NO.:	T160670
APPLICANT:	David Shandley
LAND:	105 Jetty Road, Lang Lang VIC 3984
PROPOSAL:	Removal of roadside vegetation and re-construction of the existing boundary fences
PLANNING CONTROLS:	Rural Conservation Zone Schedule 1 Land Subject to Inundation Overlay Environmental Significance Overlay Schedule 2 (Land along coastal line) Clause 52.17 Native Vegetation
NOTIFICATION & OBJECTIONS:	Notification has not been required to be undertaken under Section 52 of the Planning and Environment Act 1987
KEY PLANNING CONSIDERATIONS:	Clause 52.17 Native Vegetation
RECOMMENDATION:	Refusal

### **BACKGROUND:**

Planning Permit T120045 was issued for Use and development of the land for the purpose of a dwelling, two outbuildings (machinery shed and stables and staff amenities) and use of the land for animal husbandry, excavation in excess of 1m (dam) and fill in excess of 1m – fill pad on 12 November 2012.

### **SUBJECT SITE**

The site is located on the on the northern side of Jetty Road Lang Lang. A crossover is located on the southern alignment of the site and the property is not affected by any easements.

The land currently contains an existing dwelling and associated outbuildings. The property has also been used for agricultural purposes.

The topography of the land is relatively flat.

The main characteristics of the surrounding area are:

- North - The property to the north side of the subject site is a vacant rural allotment used for agricultural purposes.
- South - Access Road (Jetty Road) is located on the southern side of the site.
- East - The property on the eastern side is developed for residential and agricultural purposes and contains a dwelling and outbuildings.
- West - The property towards the western side is being used as a caravan park along the coastal line.

## **PROPOSAL**

Approval is sought for the removal of road side vegetation along the southern and western property boundaries to construct a boundary fence to make that land suitable for cattle grazing.

The application provides limited information with regards to the vegetation proposed to be removed, however it states that the species of the trees is Tea Tree and the extent of vegetation removal has been provided as a patch of approximately 0.054 ha.

## **PLANNING SCHEME PROVISIONS**

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

The relevant clauses of the SPPF are:

- Clause 12.01-1 Protection of Biodiversity
- Clause 12.02-1 Protection of coastal areas

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

The relevant clauses of the LPPF are:

- Clause 21.02-1 Catchment and coastal management
- Clause 21.02-3 Biodiversity

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

The relevant provisions/ documents are:

- Clause 52.17 Native Vegetation
- Clause 65 The Decision Guidelines

## Zone

The land is subject to the **Rural Conservation Zone Schedule 1**

## Overlays

The land is subject to the following overlays:

- Land Subject to Inundation Overlay (Part)

## PLANNING PERMIT TRIGGERS

The proposal for removal of vegetation requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 52.1-2 of Native Vegetation provisions, a planning permit is required for vegetation removal.
- Pursuant to Clause 42.01-2 of Environmental Significance Overlay Schedule 2, a planning permit is required for vegetation removal.

## PUBLIC NOTIFICATION

Public notification has not been carried out as the information provided with the application is not sufficient.

## DISCUSSION

The subject site is located close to the coast line. The property is approximately 39.06ha in size and is currently being developed for residential purposes contain a dwelling and associated outbuildings. The property has also been used for grazing and contains livestock.

The application proposes to remove roadside vegetation along the southern and western boundaries of the site. The southern boundary abuts Jetty Road and the western boundary abuts the coast line and the caravan park located along the coast line.

The application states that the species of the trees is Tea Tree and the biodiversity assessment completed by the applicant states that the extent of the removal is approximately 0.054ha.

The roadside vegetation shown on the site plan is part of Council's roadsides of conservation significance. The first 100m metres of the property, along the Lang Lang coast, supports native coastal vegetation, waterbodies with Council records recognising threatened flora species.

In Council's assessment of the application, Council officers determined that the information provided is insufficient to assess the application.

- In Council's letter dated *10 November 2016*, information in relation to the vegetation in accordance with Clause 52.17 was requested. A response to this request has been submitted on 30 November 2016, however the information was still inadequate.
- In order to obtain more details, Council sent a request for further information on *23 December 2016* and Council had not received a response since this date.

- A final notice was sent on 3 April 2017 requesting the outstanding information to allow a full assessment, however Council has not received a response to date.

The application, with limited information, was assessed by Council's Environment Department and the department was not supportive of the proposed vegetation removal.

It is Council Officers' view that the applicant has been provided with sufficient time and the applicant has failed to provide the information within the prescribed time. As such, Council Officers determined that the application provides insufficient information to make an assessment and therefore must be refused.

## CONCLUSION

It is recommended that a Refusal to Grant Planning Permit T160670 be issued for 'Removal of Roadside Vegetation' at 105 Jetty Road, Lang Lang for on the following grounds:

1. Council Officers determined that the application does not provide adequate information in accordance with Clause 52.17 and Environmental Significance Overlay Schedule 2 in order to assess the application.
2. The application should be refused based on applicant's failure to provide sufficient information.

**REMOVAL OF VEGETATION AT 105 JETTY ROAD, LANG LANG**

Moved Cr G Moore Seconded Cr M Schilling

That a Refusal to Grant Planning Permit T160670 be issued for 'Removal of Roadside Vegetation' at 105 Jetty Road, Lang Lang on the following grounds:

1. Council Officers determined that the application does not provide adequate information in accordance with Clause 52.17 and Environmental Significance Overlay Schedule 2 in order to assess the application.
2. The application should be refused based on applicant's failure to provide sufficient information

Cd.

### **3 PLANNING SCHEME AMENDMENT ACTIVITY REPORT**

FILE REFERENCE INT1741741

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Tracey Parker

#### **RECOMMENDATION**

That the report be noted.

#### **EXECUTIVE SUMMARY**

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

#### **Status of active amendments**

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

<b>Cardinia Planning Scheme Amendment Activity Report</b>						
<b>A/No.</b>	<b>Proponent</b>	<b>Address</b>	<b>Purpose</b>	<b>Exhibition Start</b>	<b>Exhibition End</b>	<b>Status</b>
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 approved with changes and gazetted on 15/06/2017.
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



Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
						Plan Melbourne refresh.
C209 – Part 1	Cardinia Shire Council	Oaktree Drive Road Reserve and part 25 Oaktree Drive & part 62 Cameron Way, Pakenham	Rezone land in the existing Oaktree Drive Road Reserve and part of 25 Oaktree Drive, Pakenham (Lot 1 TP 161356U & Lot 1 TP 159742C) and part of 62 Cameron Way, Pakenham (Lot 1 TP 161189, Lot 1 TP 161190, Lot 1 TP 844663 and Lot 1 TP 161468) from Road Zone Category 2 to Public Park and Recreation Zone.			Submitted to the Minister for Planning for approval on 10/05/2017.
C209 – Part 2	Cardinia Shire Council	Land within the Deep Creek Master Plan area, Pakenham	Apply the LDRZ3, a VPO1 and DDO1 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 LDRZ3 and PPRZ.			10/05/2017: Lapsing.
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	Documents lodged for approval with the Minister for Planning on 18/05/2017.
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.
C226	Cardinia Shire Council	Lot 5 PS32119 5 67 Whiteside Rd Officer, Lot 2 PS32784 5 130 Whiteside Rd Officer	Insert new schedule to the Rural Conservation Zone 3 (RCZ3) to Clause 35.06 to implement Officer Precinct Structure Plan. Amend table 1 in Clause 37.07 of the Urban Growth Zone 3 subclause 2.2 from Rural Conservation Zone to Rural	Thu 22/06/2017	Mon 24/07/2017	On exhibition.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
		and Lot PP PS74606 4 325 Princes Hwy Officer	Conservation Zone Schedule 3.			

### **3 PLANNING SCHEME AMENDMENT ACTIVITY REPORT**

Moved Cr L Wilmot Seconded Cr J Springfield

That the report be noted.

Cd.

## **4 PLANNING MATTERS CURRENTLY THE SUBJECT OF APPEAL AT VCAT AND THEIR OUTCOMES**

FILE REFERENCE INT1741718

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

<b>Hearing Date</b>	<b>App No.</b>	<b>Address</b>	<b>Proposal</b>	<b>Council Decision</b>	<b>Appealed By</b>	<b>Current Status</b>
5/09/17	T160026	44 Ambrose St, Emerald	The subdivision of land into six (6) lots in three (3) stages and creation of a road	NOD - 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
27/7/17	T160150	60 Croft Road Nar Nar Goon	Develop a shed and pergola	Approval	Objector	Upheld Councils decision
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 Decision
20/03/17	T160150	70 Croft Road, Nar Nar Goon North	Development of the land a dwelling extension (pergola) and outbuilding (shed)	NOD - Approval	Objector	Awaiting decision
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 Decision - Further submission sought

**4 PLANNING MATTERS CURRENTLY THE SUBJECT OF APPEAL AT VCAT  
AND THEIR OUTCOMES**

Moved Cr L Wilmot Seconded Cr J Springfield

That the report be noted.

Cd.

## **5 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY**

FILE REFERENCE INT1741721

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Debbie Tyson

### **RECOMMENDATION**

That the report be noted.

### **EXECUTIVE SUMMARY**

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

<b>Central Ward - Applications from 20 May 2017 - 19 June 2017</b>				
22/05/2017	T160246 - PC1	64 Racecourse Road, Pakenham VIC 3810	Plans to Comply - Landscape Plans C1 - The development of the land for a second dwelling	Issued
22/05/2017	T150125 - PC2	4 Johanna Court, Pakenham VIC 3810	Condition 1A & 1B of Planning Permit T150125.	Issued
22/05/2017	T170277	5 Gardiner Street, Pakenham VIC 3810	Removal of the Existing Garage & Shed in the rear yard and proposing a new single storey dwelling to be constructed in the rear of the property (dual occupancy). A sliding door needs to be added into the existing dwelling to allow for access into their proposed secluded open space.	Withdrawn
23/05/2017	T170175	64 Racecourse Road, Pakenham VIC 3810	Subdivision of land into two (2) lots	Issued
23/05/2017	T170148	Corporate Terrace, Pakenham VIC 3810	Construction of ten (10) warehouses and associated buildings and works	Issued
24/05/2017	T160591 - PC1	2 Lavit Lane, Pakenham VIC 3810	Plans to Comply with Condition 1 (Amended Plans) - 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
24/05/2017	T160833	325 Leppitt Road, Pakenham VIC 3810	Proposal to install 2 New 26,000 Litres Water Tanks and associated earthworks	NOD
24/05/2017	T160715 - PC1	14 Watergrass Court, Pakenham VIC 3810	Condition 1A of Planning Permit T160715 - An amended Plan of Subdivision which accurately details the land area of each lot.	Issued

26/05/2017	T170153	8 Southeast Boulevard, Pakenham VIC 3810	The sale and consumption of liquor	Issued
26/05/2017	T160201 - 1	335 McGregor Road, Pakenham VIC 3810	Amended Permit T160201 - To delete conditions 10, 11, 12, 13, 14, 15, 16, 17, 19(c)(d)(e)(f)(g) & 20.	Withdrawn
29/05/2017	T160615 - PC1	9 Corporate Terrace, Pakenham VIC 3810	Plans to Comply with Condition 1 (Landscape Plan) - Construction of two (2) warehouses and associated works	Issued
30/05/2017	T170002	40 Renam Street, Pakenham VIC 3810	The development of sixteen (16) double storey dwellings on lots less than 300 sqm in accordance with the endorsed plans.	Issued
2/06/2017	T160402 - PC1	26 Mullane Road, Pakenham VIC 3810	Plans to Comply - Landscape Plans Condition 1 - Subdivision of the land and Development Plan Overlay - Schedule 5	Issued
2/06/2017	T170134 - PC1	Corporate Terrace, Pakenham VIC 3810	Plans to Comply with Condition 1 (Landscape Plans) - Construction of six (6) warehouses and associated buildings and works	Issued
2/06/2017	T160438	33-35 James Street, Pakenham VIC 3810	Use and development of the land for a Childcare Centre, associated works and a reduction in on-site car parking spaces (7)	Issued
6/06/2017	T160657 - PC1	12-14 John Street, Pakenham VIC 3810	Conditions 1 & 2 Development of seven (7) single-storey dwellings	Issued
6/06/2017	T170340	O` Brien Parade, Pakenham VIC 3810	Refer to attached letter	Withdrawn
7/06/2017	T160053 - PC1	11 Jamieson Court, Pakenham Victoria 3810	Development of the land for three (3) dwellings	Issued
7/06/2017	T160716	20 & 22 Drovers Place, Pakenham VIC 3810	Use of the land for a materials recycling facility	Issued
7/06/2017	T170176	Southeast Business Park, 60 National Avenue, Pakenham VIC 3810	Building and works associated with an existing warehouse.	Issued
7/06/2017	T170142	FY 1/3-5 Purton Road, Pakenham VIC 3810	Eight (8) lot subdivision	Issued
8/06/2017	T160564 - PC2	10 Acacia Court, Pakenham VIC 3810	Landscape Plan - Development of the land for three (3) dwellings on a lot	Issued
13/06/2017	T160310	178 Blue Horizons Way, Pakenham VIC 3810	Construction of three (3) dwellings on a lot	NOD
13/06/2017	T170194	13 Serene Court, Pakenham VIC 3810	Construction of a single dwelling and associated buildings and works	Issued
14/06/2017	T160802 - PC1	11 Jamieson Court, Pakenham VIC 3810	Condition 1	Issued
14/06/2017	T170213	9 Serene Court, Pakenham VIC 3810	Development of the land for a dwelling	Issued
16/06/2017	T160072 - PC1	16 James Street, Pakenham Victoria 3810	Condition 1 - Development of the land for seven (7) dwellings	Issued



<b>Port Ward - Applications from 20 May 2017 - 19 June 2017</b>				
22/05/2017	T150396 - PC1	1 Knights Court, Tynong Victoria 3813	Buildings and works associated with agriculture including horse stables, two water tanks, two rural stores and associated works in Special Use Zone Schedule 3 and Land Subject to Inundation Overlay	Issued
23/05/2017	T170108	225 Chasemore Road, Cardinia VIC 3978	Development of the land for an agricultural building (horse stable)	Lapsed
24/05/2017	T170006 - PC2	386 Fogarty Road, Tynong North VIC 3813	Condition 1 - Use of the land for a Dependant Person's Unit	Issued
25/05/2017	T170023	270 Westernport Road, Lang Lang VIC 3984	Use and development of garden supplies (landscaping business and associated material sales)	Issued
25/05/2017	T170096	300 Settlement Road, Caldermeade VIC 3984	Development of the land for a replacement dwelling	Issued
25/05/2017	T170150	38 Tynong Road, Tynong VIC 3813	Building and works associated with a dwelling within 5 metres of a boundary	NOD
29/05/2017	T160092 - 1	60 Nar Nar Goon Road, Nar Nar Goon VIC 3812	Demolition of a building and the development of buildings and works associated with a Primary School and Place of Worship, in accordance with the approved plans	Issued
29/05/2017	T160245 - PC1	50 Hope Street, Bunyip VIC 3815	Development of the land for three (3) dwellings	Issued
29/05/2017	T170051	120 Edens Road, Caldermeade VIC 3984	The development of the land for an outbuilding	Issued
30/05/2017	T170031	75 Bunyip-Modella Road, Bunyip VIC 3815	The use and development of the land for a dwelling, outbuilding and associated earthworks	Issued
30/05/2017	T170097	54 Doran Road, Bunyip VIC 3815	Construction of an outbuilding	Issued
30/05/2017	T170192	Lot 1 Rosebery Street, Lang Lang VIC 3984	Buildings and works associated with the existing emergency services facility (Fire Station)	Issued
31/05/2017	T170201	61-67 Nar Nar Goon-Longwarry Road, Garfield VIC 3814	Development of the land for an outbuilding	Issued
1/06/2017	T170059	17 Main Street, Bunyip VIC 3815	Use of the land for a restricted place of assembly	Issued
6/06/2017	T150499 - PC1	270 Cardinia Road, Officer South VIC 3809	Major Promotional Signage	Issued
6/06/2017	T160787	515 Dessent Road, Cora Lynn VIC 3814	Two lot boundary re-alignment	Refused
6/06/2017	T170265	385 Caldermeade Road, Caldermeade VIC 3984	2 Lot Boundary Realignment to be in accordance with PS809470C.	Withdrawn

7/06/2017	T130302 - PC3	501 Dore Road, Nar Nar Goon North Victoria 3812	Section 173 Agreement - Use and development of the land for a dwelling, outbuilding (carport) and vegetation removal.	Issued
14/06/2017	T110712 - 3	555 Railway Avenue, Garfield Victoria 3814	Multi lot residential subdivision and removal of native vegetation and the approval of a development plan - Part schedule 6.	Issued
14/06/2017	T160754 - 1	230 Fourteen Mile Road, Garfield VIC 3814	To alter condition 7 of planning permit. Melbourne water has already given approval of the new condition and emailed Cardinia shire the approval letter.	Issued
14/06/2017	T170223	2705 Princes Highway, Tynong North VIC 3813	Buildings and works associated with the existing Outdoor Recreation Facility (including an access road, carpark, entry / amenities building, waterpark and rollercoaster) and the removal of native vegetation.	Issued
15/06/2017	T160440 - PC1	12 Knights Court, Tynong VIC 3813	use and development of a caretaker's house and development of buildings and works associated with animal training & horse stables	Issued
15/06/2017	T170132	24 Hope Street, Bunyip VIC 3815	Subdivision of the land	Issued
15/06/2017	T170247	386 Fogarty Road, Tynong North VIC 3813	Construction of an outbuilding	Issued
16/06/2017	T150635	46 Westernport Road & L3 PS635194, 9 James Street, Lang Lang Victoria 3984	Subdivision of the land into three (3) lots	Issued
16/06/2017	T170367	105 Gunn Road, Garfield VIC 3814	Domestic Building 2nd storey extension consisting of one bedroom with ensuite, extension to existing sunroom and additional decking with ramp	Withdrawn
<b>Ranges Ward - Applications from 20 May 2017 - 19 June 2017</b>				
22/05/2017	T160105 - PC5	191 Rix Road, Officer VIC 3809	Section 173 Agreement - Subdivision of land in accordance with the endorsed plans.	Withdrawn
22/05/2017	T160798 - PC2	20 St Georges Road, Beaconsfield Upper VIC 3808	Section 173 Agreement - Subdivision of the land in to two (2) lots	Issued
23/05/2017	T160105 - PC6	191 Rix Road, Officer VIC 3809	Condition 11 - Subdivision of land in accordance with the endorsed plans.	Issued
23/05/2017	T160155 - PC1	29 Seaview Road, Cockatoo VIC 3781	Development of the land for a dwelling, outbuildings and carport	Issued

23/05/2017	T170094	2 Belgrave-Gembrook Road, Cockatoo VIC 3781	Construction of an outbuilding and associated earthworks	Issued
23/05/2017	T170109	235 Harvie Road, Pakenham Upper VIC 3810	Development of the land for an outbuilding	Issued
23/05/2017	T170118	19 Steane Street, Cockatoo VIC 3781	Development of the land for an outbuilding	Issued
24/05/2017	T160146 - 2	Officer South Road, Officer VIC 3809	Subdivision of the land, associated works (including road-works within land affected by the Land Subject to Inundation Overlay) and creation of restrictions	Refused
24/05/2017	T160646	39 Portchester Boulevard, Beaconsfield VIC 3807	Development of the land for two (2) dwellings	Issued
24/05/2017	T160834	7 Ambrose Street, Emerald VIC 3782	Development of the land for an outbuilding and removal of one tree	Issued
24/05/2017	T170011	224 Kenilworth Avenue, Beaconsfield VIC 3807	Removal of native vegetation in accordance with the endorsed plans.	Issued
24/05/2017	T170061 - PC1	7 Poplar Crescent, Emerald VIC 3782	Vegetation Removal	Issued
24/05/2017	T170299	381 Paternoster Road, Cockatoo VIC 3781	Home Occupancy Permit for Roy & Maria to produce authentic High Quality South African Boerewors sausages at our dwelling. There will be no additional vehicle traffic, environmental impact including waste, water, air or noise pollution. Product will be made indoors between normal working hours with equipment that is virtually silent. (Electric power with manual operation). There is no visible change from public road or neighbors view (No External Changes). Property is an isolated 6 Acre property and building in question is not visible from public road or neighbors due to location on premises + dense gum tree's (far from any Neighbours and no impact to Neighbors or environment). Building was used by two former tenants as Plumbers supply storage and truck repair workshop that would have been noisy whereas our business would not make any noise or be noticeable to any neighbors including traffic.	Withdrawn

25/05/2017	T170103	191 Ure Road, Gembrook VIC 3783	Use and development of the land for a dwelling and outbuilding	Issued
25/05/2017	T170174	1 Halcyon Grove, Cockatoo VIC 3781	Buildings and works associated with an outbuilding (with a reduced setback)	Issued
25/05/2017	T170191	12 Corringham Road, Beaconsfield Upper VIC 3808	Construction of an outbuilding	Issued
26/05/2017	T170107	37 St Georges Road, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding	Issued
29/05/2017	T160865	945 Toomuc Valley Road, Pakenham Upper VIC 3810	The development of the land for an outbuilding & associated earthworks within 100 metres of a dwelling not in the same ownership	Issued
30/05/2017	T170196	336 Brown Road, Officer VIC 3809	Construction of an outbuilding (garage)	Issued
30/05/2017	T170209	183 Split Rock Road, Beaconsfield Upper VIC 3808	Use and development of the land for a dwelling and construction of a building outside the envelope	Issued
31/05/2017	T170133	29 Walford Road, Beaconsfield Upper VIC 3808	Buildings and works associated with Agriculture	Issued
31/05/2017	T170289	75-79 St Georges Road, Beaconsfield Upper VIC 3808	Removal of one (1) pine tree	Issued
1/06/2017	T160614	67-69 Tivendale Road, Officer VIC 3809	Use and development of an education centre (primary & secondary school), childcare centre and associated signage, in stages.	Issued
1/06/2017	T160614 - PC1	67-69 Tivendale Road, Officer VIC 3809	Use and development of an education centre (primary & secondary school), childcare centre and associated signage, in stages.	Issued
2/06/2017	T140401	37 Mary Street, Officer Victoria 3809	Development of the land for seventy-two (72) dwellings (in stages).	Issued
2/06/2017	T160757	5 Buckland Lane, Pakenham Upper VIC 3810	Construction of a dwelling, associated earthworks and the removal of vegetation	Issued
2/06/2017	T170152 - PC1	4A Doery Street, Emerald VIC 3782	Vegetation Removal	Issued
6/06/2017	T160025	5-9 Salisbury Road, Beaconsfield Upper Victoria 3808	Additions and alterations to an existing aged care facility, vegetation removal and associated works	Refused
6/06/2017	T160380 - PC1	2B Beaconsfield-Emerald Road, Emerald VIC 3782	Conditions 1 & 2 - Buildings and works associated with a car park and construction of a fence, display of business identification signage and altering access to a road in a Road Zone Category 1.	Issued

7/06/2017	T140751 - 1	30a Pinnocks Road, Emerald Victoria 3782	The development of the land for a dwelling setback less than 5 metres from a property boundary, within a bushfire management overlay and vegetation removal	Withdrawn
7/06/2017	T170144	6 Peterson Road, Officer VIC 3809	Alterations and additions to a dwelling	Issued
8/06/2017	T140696 - 1	Timbertop Boulevard, Officer Victoria 3809	The use and development of the land for a childcare centre, business identification signage and a reduction in the car parking requirements of Clause 52.06	Issued
8/06/2017	T170105	43 Beaconsfield-Emerald Road, Emerald VIC 3782	Development of the land for an outbuilding 100 metres from a Road Zone Category 1, 5 metres from a property boundary and 100 metres from a dwelling not in same ownership and removal of one tree	Issued
8/06/2017	T170125	2 Lawsons Road, Emerald VIC 3782	Development of the land for a dwelling extension (carport) with a reduced setback	Issued
8/06/2017	T170335	Shop 1/54 McBride Street, Cockatoo VIC 3781	Reduction in Car Parking	Withdrawn
13/06/2017	T160459	Shop 1/13 Kilvington Drive, Emerald VIC 3782	Use of the land for a restricted recreation facility (martial arts centre)	Issued
13/06/2017	T170060	101 Old Princes Highway, Beaconsfield VIC 3807	Development of the land for four (4) dwellings	NOD
14/06/2017	T150821 - PC2	105 Mary Street, Officer VIC 3809	Condition 1 - The development of thirty-eight (38) dwellings and associated works generally in accordance with the endorsed plans	Issued
14/06/2017	T160399 - PC1	105 Mary Street, Officer VIC 3809	Condition 1 - Subdivision of the land into thirty eight (38) lots adjacent to a Road Zone Category 1 in accordance with the endorsed plans.	Issued
14/06/2017	T170356	75-79 St Georges Road, Beaconsfield Upper VIC 3808	Permit to cut into the land to create a flat pad for horse riding.	Withdrawn
15/06/2017	T170098	230 Toomuc Valley Road, Pakenham VIC 3810	The development of the land for an outbuilding within five (5) metres of a property boundary and reflective materials	Issued
15/06/2017	T170359	3 Craik Road, Beaconsfield Upper VIC 3808	Permission to clear vegetation on easement area for the purpose of clearing the easement that has restricted flow	Withdrawn

**5 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY**

Moved Cr L Wilmot Seconded Cr J Springfield

That the report be noted.

Cd.

## **6 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)**

FILE REFERENCE INT1741738

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
<b>715 Gembrook Rd, Pakenham Upper</b>  (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.	Magistrates' Court proceedings further adjourned to <b>23 June 2017 for further mention</b> . The Court will rule on constitutional arguments raised by the accused, then proceed to contested hearing if appropriate. On <b>15 June 2016</b> , VCAT started hearing the owner's application for a declaration as to Existing Use Rights that are said to attach to the land regarding Burning Off and handling of waste timber on the land. The owner asserts that burning off and mulching 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. The accused has a further period to file documents in support of his application, and a Practice Day hearing will be held on <b>21 July 2016</b> to determine the further progress of the case. The property has a 20 year history of litigated planning disputes between 1997 and 2015.
<b>765 Gembrook Rd, Pakenham Upper</b>  (OH:LK:16299)	Native vegetation removal, and earthworks creating driveway and hardstand, in breach of Rural Conservation Zone – Schedule 2, Environmental Significance Overlay Schedule 1, and Clause 52.17	New Magistrates' Court proceeding, alleging that the owner has conducted earthworks that require a permit, and cleared native vegetation, both without a permit. As above, the Magistrates Court proceeding has been adjourned for a ruling on constitutional issues. The Court will give a ruling on constitutional issues on the <b>23 June 2017</b> .
<b>555 Back Creek Rd, Gembrook</b>  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	Magistrates' Court prosecution arising from the creation of a large dam (by earthworks and vegetation removal), contrary to strict environmental controls and Section 173 agreement protecting vegetation on the land. On <b>15 September 2016</b> the Court issued a Warrant for arrest to compel the attendance of the accused. The accused



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		has recently re-located, and we are investigating options to locate him.
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**CONCLUSION**

That the list of current enforcement activities is presented for information.

6 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)

Moved Cr L Wilmot Seconded Cr J Springfield

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

Cd.

Meeting closed at 7.19pm

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Minutes Confirmed  
Chairman