

### **3 THREE LOT SUBDIVISION AND CREATION OF EASEMENTS AT 18 TYNONG ROAD, TYNONG**

FILE REFERENCE INT1611047

RESPONSIBLE GENERAL MANAGER Phil Walton

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#### **RECOMMENDATION**

That a Refusal to Grant Planning Permit T150546 be issued for Three (3) lot subdivision and creation of easements at 18 Tynong Road Tynong, Lot 1 PS520645B on the following grounds:

- The subdivision does not maintain and enhance the distinct character and environmental qualities of the Tynong township as such the subdivision inconsistent with strategic directions for the area, particularly Clause 21.03-3 Rural townships.
- The subdivision is inconsistent overall purpose of Clause 32.03 Low Density Residential Zone as the subdivision does not protect and enhance the character of the area.
- The subdivision does not provide suitable regard to the existing pattern of subdivision in the area as such it is contrary to the requirements of the Design and Development Overlay (DDO1).
- The subdivision results in an inappropriate access arrangement for each of the lots.
- The subdivision is contrary to the orderly and property planning of the area

#### **Attachments**

1	Locality plan	1 Page
2	Development plans	2 Pages
3	Letter of objection circulated to councillors only	1 Page

#### **EXECUTIVE SUMMARY:**

APPLICATION NO.:	T150546
APPLICANT:	Dominic Hosie C-/ Nobelius Land Surveyors
LAND:	18 Tynong Road Tynong, Lot 1 PS520645B
PROPOSAL:	Three (3) lot subdivision and creation easements
PLANNING CONTROLS:	Low Density Residential Zone (LDRZ) Environmental Significance Overlay - Schedule 1 (ES01), Design and Development Overlay - Schedule 1 (DDO1), Vegetation Protection Overlay - Schedule 1 (VPO1)

**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. One objection has been received to date.

**KEY PLANNING CONSIDERATIONS:** Subdivision layout, Access arrangement

**RECOMMENDATION:** Notice of Refusal to Grant a Planning Permit

### **BACKGROUND:**

The subject site was subject to a planning permit T0350840 for the subdivision of land associated with the property to the east and south. The subdivision creates the subject site with a lot of 1.2 hectares and a second battle-axed lot noted as the adjoining property (known as 18A Tynong Road) with an area of 2.038 hectares that is partially located within the Green Wedge Zone with 14.5 metre wide carriageway and powerline easement located within the Low Density Residential Zone.

A pre-application meeting was conducted with the applicant with some concerns raised with the applicant with regard to the access arrangements and subdivision layout with the proposed development, with Council officers suggesting a two lot rather than three lot subdivision, based on the minimum lot size that is required by the Low Density Residential Zone being 4000 sqm. The application was lodged and Council officers reiterated these concerns particularly with the confusing and inconsistent access arrangement proposed clearly details in letter dated 13 October 2015. The application has not been amended since the time of lodgement to respond to these concerns.

### **SUBJECT SITE**

The site is located on the east side of Tynong Road approximately 230 metres north of Railway Road in Tynong. The lot is a battle-axed arrangement with a frontage of 16.36 metres to Tynong Road with an east boundary of 96.83 metres with an overall area of 1.2 hectares. The site is not burdened by any easements although is benefitted by a 14.5 metres carriageway and powerline easement on the adjoining property to the south (A-1).

The site does not currently include a crossover providing direct access to the lot with the lot provided with access via the carriageway easement to the south.

The site currently contains four outbuildings with mainly open grassed areas with some vegetation in the eastern portion of the site and established planted vegetation along the Tynong Road frontage.

The topography of the land is generally flat with a gentle slope from south west to the north east.

The main characteristics of the surrounding area are:

- The properties to the east include Green Wedge lots with areas of approximately 2 hectares with access generally provided via the Tynong Road frontages.
- The site adjoining properties to the north, south and abutting the west boundary are located within the Low Density Residential properties including larger lots to the south and rectangular lots to the north that includes narrow allotments that extend to the Green Wedge Zone to the east.
- The development to the north includes dwellings located near the Tynong Road frontage with open grassed areas to the rear of the site.

- The properties on the west side of Tynong Road includes smaller residential allotments in the northern portion of the road located within a Neighbourhood Residential Zone with a school located opposite the site.

## **PROPOSAL**

The proposal includes the subdivision of the land into three (3) lots. Each of the lots are provided with an area of 4,000 square metres with general widths of between 35 – 36.94 metres.

Each of the lots are battle-axed arrangements with Lot 1 providing a frontage of 7.48 metres, Lot 2 with frontage of 5.34 metres and Lot 3 providing with a frontage of 3.54 metres. The southern sections of each of the lots include a proposed carriageway, sewerage, water, electricity, drainage, telecommunications and gas easements in favour of each of the lots (i.e. easement E-1 with a width of 7.48 metres for lot 1, easement E-2 with a width 5.34 metres for lot 2 and easement E-3 with a width of 3.54 metres for lot 3).

The submitted plans indicate access for Lot 3 to be provided via the carriageway easement to the south of the site with access details for the remaining lots not provided on the plans although have noted by the applicant that Lot 1 and 2 will share an access point.

## **PLANNING SCHEME PROVISIONS**

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

The relevant clauses of the SPPF are:

- Clause 11 Settlement
- Clause 12 Environmental and landscape Values
  - Clause 12.01 Biodiversity
  - Clause 12.04-2 Landscapes
- Clause 15 Built environment and heritage
  - Clause 15.01-1 Urban Design
- Clause 16 Housing
  - Clause 16.01-2 Location of residential development

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

The relevant clauses of the LPPF are:

- Clause 21.01 Cardinia Shire Key Issues and Strategic Vision
- Clause 21.02 Environment
- Clause 21.03 Settlement and Housing
  - Clause 21.03-1 Housing
  - Clause 21.03-1 Rural townships
- Clause 22.08 Interim Telecommunications Conduit Policy

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

The relevant provisions/ documents are:

- Clause 52.02 Easements, restrictions and reserves
- Clause 56 Residential Subdivision (only standards of Clauses 56.07-1 to 56.07-4 noted in LDRZ)
- Clause 65 Decision Guidelines

## Zone

The land is subject to the Low Density Residential Zone (LDRZ)

## Overlays

The land is subject to the following overlays:

- Environmental Significance Overlay (ESO1 – Northern Hills)
- Vegetation Protection Overlay (VPO1 – Low Density Residential)
- Design and Development Overlay (DDO1 – Low Density Residential)

## PLANNING PERMIT TRIGGERS

The proposal for a three (3) lot subdivision and creation of easements requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.03-2 Low Density Residential Zone a planning permit is required to subdivide land.
- Pursuant to Clause 42.01-2 Environmental Significance Overlay a permit is required to subdivide land.
- Pursuant to Clause 43.02-3 Design and Development Overlay a permit is required to subdivide land.

Pursuant to Clause 52.02 Easements, Restrictions and Reserves a permit is required prior to a permit proceeding under Section 23 of the Subdivision Act 1988 to create, vary or remove a reserve.

## 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

The notification has been carried out correctly, and Council has received *one* objection to date.

The key issues that were raised in the objection is:

- Impact of three lots sharing the carriageway easement including the care and maintenance of the single lane driveway is fall directly on the adjoining property.
- Without creating a road over the carriageway easement will not support the traffic generated by the additional lots.
- The additional traffic on the current access way is inappropriate as the driveway is currently difficult to pass and requires constant maintenance particularly in the winter.

- The subdivision should not include a carriageway easement that will ensure that lots 1 and 2 can't access the carriageway easement on the adjoining property and would only result in one lot (lot 3) with access to the carriageway easement maintain the traffic flow on the driveway at no higher than its current state.
- Issues with the current electricity arrangement will need upgrading.

## REFERRALS

### *South East Water*

The application was referred to South East Water as a statutory referral. South East Water had no objection to the proposal subject to conditions.

### *AusNet*

The application was referred to AusNet as a statutory referral. AusNet had no objection to the proposal subject to conditions.

### *Melbourne Water*

The application was referred to Melbourne Water as a statutory referral. No response was received

### *APA Group*

The application was referred to APA Group as a statutory referral. No response was received

## DISCUSSION

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

The subject site located within an established township and the subdivision of existing serviced land within the Tynong with the strategic direction of the area to encourage subdivision and development consistent with the existing townships both in terms of character and environmental features. In particular Clause 21.03-3 Rural Townships provides specific objectives to provide for sustainable development of township having regard to environmental and servicing constraints and to maintain and enhance the distinct character and environmental qualities of the townships.

The site is located within the township boundary of Tynong and is located within a low density residential area and even though the proposed subdivision meets the minimum lot area requirement of the low density residential area the proposed lot arrangement is inconsistent with the subdivision pattern of the area and provides a confusing and potentially future conflict with regard to access arrangements for each of the lots. As such the proposal does not achieve the objectives of the strategic direction of the site.

### **Consistency with the existing subdivision pattern**

The Low Density Residential Zone seeks to provide for appropriate residential development to protect and enhance the surrounding area, it is noted that the Planning Scheme Amendment C188 relating to changes to the LDRZ within the municipality retains the existing 0.4 hectare minimum lot area for the area. The Design and Development Overlay DDO1 has a specific purpose in regard to subdivision, which seeks to ensure that the subdivision of land has regard to the existing pattern of subdivision in the area.

The site is located within an area that includes a fairly consistent lot arrangement to the north of the site with larger lots to the south. The properties to the north include lots with narrow frontages with deep lots continuing the Green Wedge Land abutting the eastern boundary of the site. A

number of properties fronting Tynong Road include a number of consolidated lots with some dwellings constructed over lot boundaries.

The proposed subdivision is inconsistent with the surrounding subdivision pattern has been designed to the minimum lot size of 0.4 hectares with limited consideration of the layout, access and future development on the site. The following is summary of the developments response to the relevant decision guidelines of the LDRZ & DD01:

- *Character of the area:* The proposal will result in the provision of three lots in the eastern portion of the low density residential area with development in this area of the LDRZ is not consistent with adjoining development patterns. The irregular 'staggered' battle-axed arrangement will result in a unusable space located along the Tynong Road frontage.

Although the surrounding subdivision pattern does not preclude battle-axed lots (with the subject site currently a battle-axed arrangement), access points along the Tynong Road frontage is generally in excess of 10 metres wide enabling for the establishment of access driveway that can service the lots without the reliance on adjoining carriageway easements. The proposed lot arrangement with varied front boundaries between 3.54 – 7.5 metre is inconsistent with the surrounding development pattern.

Additional concerns with the design and its consistency with the character of the area relate to the requirements under the Clause 32.03-5. These requirements include the need to show each lot with a building envelope and access arrangements to these envelopes. This has not been provided with the detail in terms of access arrangement only provided in a written statement, which provides some difficulties in assessing the functionality of the future access arrangement.

The narrow slithers of land located at the sites frontage have been used to create enough area to meet the minimum subdivision area (4000sqm) as required by the Low Density Residential Zone. These sections of land are not usable and therefore dwellings will be developed on the land at a higher density than what is required by the Low Density Residential Zone. By excluding the areas allocated to E-1, E-2 & E-3 Lot 1 will measure 3267sqm, Lot 2- 3283sqm and Lot 3- 3406sqm, which are significantly less than the minimum lot size set by the zone provisions. As a result, when allotments are developed the sense of spaciousness which the 4000 square metre lot size seeks to promote will not be able to be achieved on the site.

- *Natural environment:* The proposed subdivision will result in the removal of some established planted vegetation along the Tynong Road frontage and will not result in significant trees and subject to the appropriate conditions will provide limited impact on the surrounding natural environment.
- *Provision of utility services:* The lot arrangement has required extensive easements to ensure that the provision of utilities on the site can be adequately serviced with the applicant providing limited detail on if the lots will rely on the power easement on the property to the south, although there was no objection received from the electricity authority.
- *Capability of land to accommodate effluent and wastewater:* The proposed development can be connected to the existing reticulated sewerage system.

### **Access arrangement**

The proposed design creates three battle-axed lots with three carriageway easements and the use of the existing carriageway easement to the property to the south. This arrangement proposes

shared access ways for lots 1 and 2 with lot 3 sharing access with the property to the south and east.

A functional and easily manageable access arrangement has not been achieved by the subdivision design with the use of four separate carriageway easement create difficulties in the future particularly in terms of the maintenance of the shared access ways. The design does not result ease of access to each lot as such is not supported.

Further, the battle-axed lot arrangement for each of the proposed lots lends itself to future occupants to provide individual driveway arrangements, which would result in a cluster of crossovers and driveways along the Tynong Road frontage inconsistent with the character of the area. Further any future fencing of the properties also may cause conflict between the lots, which could have been avoided with a more appropriate subdivision.

The provision of a two lot subdivision with two separated access points contained within the lots would provide a more appropriate subdivision for the site and surrounds.

### **Impacts on adjoining properties & objectors concerns**

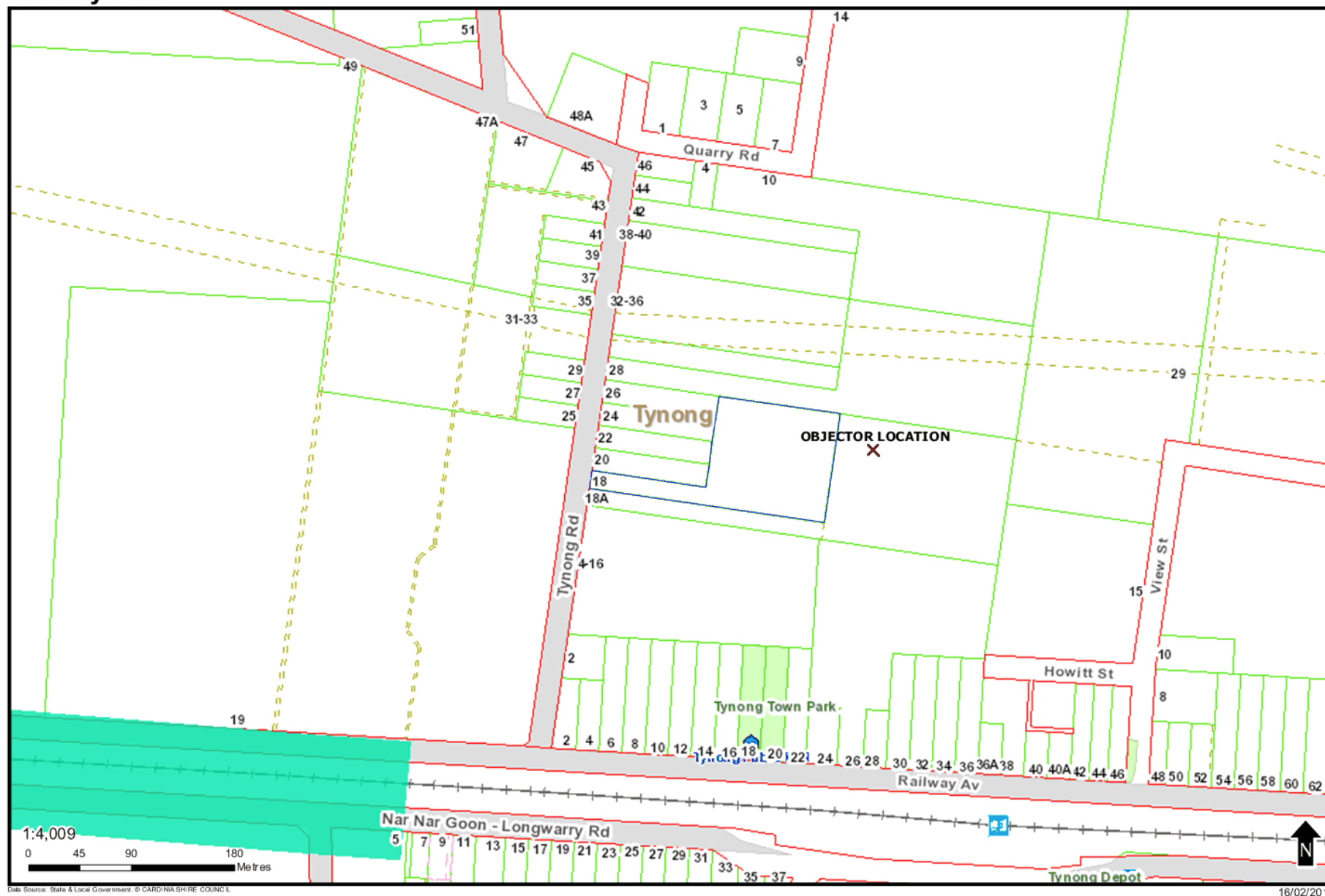
The adjoining green wedge property to the east, which is associated with the carriageway and power easement that is benefited by the current lot have objected to the subdivision. As detailed above the concerns relate to the overuse of the existing single driveway and the ongoing maintenance obligations for the driveway. These concerns are acknowledged with confused access arrangements for each of the proposed lots considered inappropriate and the application should not be supported.

### **CONCLUSION**


The proposed subdivision is inconsistent with the surrounding subdivision patterns and does not provide for appropriate access arrangements for each of the lots as such is not consistent with the orderly and proper planning of the area.



## Locality Plan





PLAN OF SUBDIVISION			EDITION 1	PS 743937 S
<b>LOCATION OF LAND</b>  PARISH: Bunyip TOWNSHIP: SECTION: CROWN ALLOTMENT: 6 (PT) CROWN PORTION: TITLE REFERENCE:  LAST PLAN REFERENCE: Lot 1 PS 520645 B POSTAL ADDRESS: 18 Tynong Road, Tynong (at time of subdivision)  MGA CO-ORDINATES: E: 379 490      ZONE: 55 (of approx centre of land      GDA 94 in plan)      N: 5 784 180			Council Name: Cardinia Shire Council  <b>EXPLANATORY NOTE:</b> WARNING: This plan is unregistered. Alterations may be required by Council and the Registrar of Titles prior to Registration, Nobelius Land Surveyors accepts no responsibility whatsoever for any loss or damage suffered.	
VESTING OF ROADS AND/OR RESERVES			NOTATIONS	
IDENTIFIER	COUNCIL/BODY/PERSON		This is a Spear Plan  <b>SURVEY:</b> This plan is based on survey.  <b>STAGING:</b> This is not a staged subdivision. Planning Permit No.  This survey has been connected to permanent marks No(s).  In Proclaimed Survey Area No.	
Nil	Nil			
NOTATIONS				
DEPTH LIMITATION: DOES NOT APPLY				
EASEMENT INFORMATION				
LEGEND: A - Appurtenant Easement    E - Encumbering Easement    R - Encumbering Easement (Road)				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
A-1	Carriageway	14.50	PS 520645 B	Lot 1 on PS 520645 B
E-1	Carriageway	7.48	This Plan	Lot 2 on This Plan
E-1	Sewerage	7.48	This Plan	Lot 2 & 3 on This Plan
E-1	Water Supply	7.48	This Plan	Lot 2 & 3 on This Plan
E-1	Drainage	7.48	This Plan	Lot 2 & 3 on This Plan
E-1	Telecommunications	7.48	This Plan	Lot 2 & 3 on This Plan
E-1	Gas Supply	7.48	This Plan	Lot 2 & 3 on This Plan
E-2	Carriageway	5.34	This Plan	Lot 1 on This Plan
E-2	Sewerage	5.34	This Plan	Lots 1 & 3 on This Plan
E-2	Water Supply	5.34	This Plan	Lots 1 & 3 on This Plan
E-2	Drainage	5.34	This Plan	Lots 1 & 3 on This Plan
E-2	Telecommunications	5.34	This Plan	Lots 1 & 3 on This Plan
E-2	Gas Supply	5.34	This Plan	Lots 1 & 3 on This Plan
E-3	Carriageway	3.54	This Plan	Lots 1 & 2 on This Plan
E-3	Sewerage	3.54	This Plan	Lots 1 & 2 on This Plan
E-3	Water Supply	3.54	This Plan	Lots 1 & 2 on This Plan
E-3	Drainage	3.54	This Plan	Lots 1 & 2 on This Plan
E-3	Telecommunications	3.54	This Plan	Lots 1 & 2 on This Plan
E-3	Gas Supply	3.54	This Plan	Lots 1 & 2 on This Plan
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