

2 <u>SUBDIVISION OF THE LAND INTO TWO (2) LOTS, 13 NAR NAR GOON-</u> LONGWARRY ROAD, TYNONG

FILE REFERENCE INT1757680

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Jason Gilbert

RECOMMENDATION

That a Notice of Decision to Grant Planning Permit T170069 be issued for the subdivision of the land into two (2) lots at 13 Nar Nar Goon-Longwarry Road, Tynong subject to the conditions attached to this report.

| Attachments | | | |
|-------------|---|----------|--|
| 1 | Locality plan | 1 Page | |
| 2 | Development plans | 4 Pages | |
| 3 | Letters of objection circulated to councillors only | 18 Pages | |

EXECUTIVE SUMMARY:

| APPLICATION NO.: | T170069 |
|------------------------------|---|
| APPLICANT: | Mr Roger Blakeman |
| LAND: | 13 Nar Nar Goon-Longwarry Road, Tynong VIC 3813 |
| PROPOSAL: | Subdivision of the land into two (2) lots |
| PLANNING CONTROLS: | Neighbourhood Residential Zone - Schedule 1 (NRZ1), adjacent to a Road Zone Category 1 (RDZ1) and subject to the Land Subject to Inundation Overlay (LSIO). |
| NOTIFICATION & OBJECTIONS: | The application has been advertised by sending notices to the owners and occupiers of adjoining land and placing one (1) sign on site facing Nar Nar Goon-Longwarry Road. |
| | Six (6) objections have been received to date. |
| KEY PLANNING CONSIDERATIONS: | Neighbourhood character, land subject to inundation, pattern and layout of subdivision, amenity impacts |
| RECOMMENDATION: | Approval |

BACKGROUND:

There is no Planning Permit history for the subject site. The land was zoned Residential 1 Zone (R1Z) prior to the introduction of the Victorian Government's new residential zones via Amendment C187 to the Cardinia Planning Scheme in 2014.



As a result of this amendment, much of the Residential 1 zoned land in the Shire's townships was rezoned to Neighbourhood Residential zone on the basis that the new zone would provide the 'best fit' translation of the character provisions in the planning scheme, seeking to maintain the character of the rural townships.

SUBJECT SITE

The 2072 square metre site is of a rectangular shape and located on the southern side of Nar Nar Goon-Longwarry Road (Main Street), with a frontage of 25.75 metres and a depth of 80.47 metres.

The site contains a single-storey dwelling, which is setback approximately 13 metres from the street. A single vehicle crossing from Nar Nar Goon-Longwarry Road is located towards the eastern side of the northern boundary and a gravel driveway extends along the eastern boundary of the site for a distance of approximately 55 metres.

A garage is located along the western boundary approximately 18 metres to the south of the existing dwelling. Two small sheds are located along eastern boundary approximately 25 metres to the south of the existing dwelling.

The remainder of the site is generally cleared, with established mature and exotic vegetation scattered throughout. Fencing consists of post-and-wire along the boundaries towards the rear of the site, with timber paling fencing along the side boundaries towards the front of the site and no fencing along the front boundary.

The topography of the land is generally flat, with levels ranging between approximately 29.0 metres and 29.5 metres above AHD.

The main characteristics of the surrounding area are:

- East The site is bounded by an approximate 1,622 square metre residential allotment to the east, which contains a single dwelling and associated outbuildings. The front setback contains established vegetation while the rear setback is generally cleared.
- South The site is bounded by an approximate 9.91 hectare allotment to the south, which is used for agricultural purposes.
- West The site is bounded by an approximate 1,622 square metre allotment to the west, which contains a single dwelling, associated outbuildings and scattered vegetation throughout. A two-lot subdivision of this land was approved by Planning Permit T140769 on 17 November 2015.
- North The site is bounded by Nar Nar Goon-Longwarry Road (Main Street) to the north and opposite is the Gippsland railway line.
- The site forms part of a strip of land on the south side of Nar Nar Goon-Longwarry Road zoned Neighbourhood Residential Zone. It contains 18 residential allotments that each contain single dwellings.
- The site of the Pakenham Racing Club is located approximately 500 metres to the west, Tynong Station is located approximately 480 metres to the east, St Thomas Aquinas College is located approximately 100 metres to the north and Tynong Recreation Reserve is located approximately 325 metres to the south.

PROPOSAL

The proposal is for the subdivision of the land into two (2) lots and common property. Lot 1 will contain the existing dwelling and have an area of 1,012 square metres, with a frontage of



approximately 18.55 metres along Nar Nar Goon-Longwarry Road and a maximum depth of approximately 46.72 metres.

Lot 2 will be located at the rear of the site and have an area of 886 square metres, with a width of 25.75 metres and a maximum depth of 34.95 metres.

Common Property will extend along the eastern boundary for a distance of 49.02 metres to provide access for both lots 1 and 2. The common property will have an area of approximately 175 square metres.

The two sheds along the eastern boundary will be removed subject to approval, no other development or vegetation removal is proposed.

It is noted that the above proposal is the amended application. The original proposal consisted of the subdivision of the land into two (2) lots with no common property and each lot to have independent access to Nar Nar Goon-Longwarry Road. It was amended in response to VicRoads' concerns.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- 11.06-2 Green wedges;
- 13.02-1 Floodplain management;
- 15.01-3 Neighbourhood and subdivision design; and
- 15.01-5 Cultural identity and neighbourhood character.

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.03-3 Rural townships; and
- 21.06-1 Design and built form.

Relevant particular/general provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 52.01 Public Open Space Contribution and Subdivision;
- Clause 56 Residential Subdivision;
- Clause 57 Metropolitan Green Wedge Land;
- Clause 65 Decision Guidelines; and
- Clause 66 Referral and Notice Provisions.

Zone

The land is subject to the Neighbourhood Residential Zone - Schedule 1 (NRZ1) and is adjacent to a Road Zone Category 1 (RDZ1).



Overlays

The land is subject to Inundation Overlay (LSIO)

PLANNING PERMIT TRIGGERS

The proposal for the subdivision of the land into two (2) lots requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 32.09-2 of the Neighbourhood Residential Zone, a permit is required to subdivide land;
- Pursuant to Clause 52.29, a permit is required to subdivide land adjacent to a Road Zone Category 1; and
- Pursuant to Clause 44.04-2 of the Land Subject to Inundation Overlay, a permit is required to subdivide land.

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 one (1) sign on site facing Nar Nar Goon-Longwarry Road

Notice of the amended application was given via email to the owners of 11 and 15 Nar Nar Goon-Longwarry Road.

Council has received six (6) objections to date.

The key issues that were raised in the objections are:

- The proposed subdivision is not consistent with the character of the township;
- Loss of privacy as a result of the development of the proposed lots;
- The proposed subdivision does not have adequate fencing and new fencing will be required;
- Increase in noise, traffic and safety impacts;
- Increase in drainage and stormwater issues;
- Concerns regarding the outcome of any development on the lots; and
- Lack of demand for the proposed lots.

REFERRALS

VicRoads

The application was referred to VicRoads as a statutory referral. VicRoads indicated they would object to the original plans as it involved the creation of a second access point to Nar Nar Goon-Longwarry Road.

The applicant subsequently amended their application to delete the second access point and provide common property access to both lots. The amended plans were re-referred to VicRoads, who had no objection subject to conditions.



Melbourne Water

The application was referred to Melbourne Water as a statutory referral, Melbourne Water did not object to the proposal or impose any conditions. As per 57C(1) of the Act, the amended application was not referred to Melbourne Water as it was not considered to adversely affect the interests of Melbourne Water.

Engineering

The application was referred to Council's Engineering Department, who had no objection subject to standard subdivision conditions.

Health

The application was referred to Council's Health Department, who had no objection and did not impose any conditions.

DISCUSSION

Neighbourhood Residential Zone

The subject site is zoned Neighbourhood Residential Zone, which aims to manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.

As mentioned in the background section of this report, the land was rezoned from Residential 1 to Neighbourhood Residential in 2014 as part of the implementation of the Victorian Government's new residential zones. It was determined that the NRZ would provide the 'best fit' translation of the character provisions in the planning scheme to maintain the character of the rural townships.

Under the zone, a planning permit is required to subdivide land, and the relevant decision guidelines include:

- The purpose of this zone;
- The objectives set out in the schedule to this zone;
- Any other decision guidelines specified in a schedule to this zone;
- The pattern of subdivision and its effect on the spacing of buildings; and
- The objectives and standards of Clause 56.

For applications that create a vacant lot capable of development for a dwelling, the zone also requires each lot to contain a minimum amount of 'garden area'. However, the garden area requirements of the zone are not applicable for this application, as it was lodged prior to the introduction of these requirements into the planning scheme by the State Government.

The purpose of this zone

The zone has a number of purposes, including to implement the State Planning Policy Framework (SPPF) and the Local Planning Policy Framework (LPPF), including the Municipal Strategic Statement (MSS) and local planning policies. It also seeks to recognise areas of predominantly single and double storey residential development and to manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.



The proposal is considered consistent with these purposes as the subdivision will deliver an additional residential allotment within the existing settlement of Tynong and within proximity to services and facilities including education, recreation and transport. The subdivision is expected to reinforce the residential nature of the area, and if approved, the zone will not allow more than a single additional dwelling of no more than 2 storeys in height to be constructed without a planning permit.

The objectives set out in the schedule to this zone and any other decision guidelines specified in a schedule to this zone

The schedule to the zone does not contain any specific objectives or decision guidelines.

The pattern of subdivision and its effect on the spacing of buildings

The proposed lots sizes of 1,012 square metres (Lot 1) and 886 square metres (Lot 2) is not inconsistent with the area, with surrounding lots ranging between approximately 621 square metres and 3,491 square metres. The proposed lots are within this range and therefore considered responsive to the existing neighbourhood character.

In terms of spacing of buildings, the area is characterised by dwellings that are setback from the street between approximately 0 metres (19 Nar Nar Goon-Longwarry Road) and 45 metres (21 Nar Nar Goon Longwarry Road). The dwellings generally feature side setbacks of between 2 and 5 metres, with outbuildings located to the rear.

The proposal is not expected to undermine this character, as the frontage will generally remain unaffected, the width of each lot will visually appear to remain within the established range of the area and the proposed boundaries will ensure separation between any future development on proposed Lot 2.

The objectives and standards of Clause 56

A detailed assessment against all relevant provisions of Clause 56 has been completed and the proposal is acceptable. The proposed subdivision is consistent with the requirements of this clause and subject to appropriate conditions will achieve the relevant objectives and standards of this clause.

Land Subject to Inundation Overlay

This overlay identifies land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority, and seeks to that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.

A permit is required to subdivide land affected by the LSIO, and the relevant decision guidelines include:

- Any comments from the relevant floodplain management authority;
- The existing use and development of the land;
- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay; and
- The susceptibility of the development to flooding and flood damage.



The application was referred to Melbourne Water, who did not have any objection nor impose any conditions. The area is an established residential area within the Tynong township and it is considered that appropriate measures to manage and mitigate flood risk can be implemented during the construction stage of any development.

State and Local Policies

Several state and local policies are relevant to this application, including:

- Clause 11.06-2 (Green wedges) seeks to protect the green wedges of Metropolitan Melbourne from inappropriate development. It includes strategies to consolidate new residential development within existing settlements and in locations where planned services are available and green wedge area values can be protected.
- Clause 13.02-1 (Floodplain management) aims to assist the protection of life, property and community infrastructure from flood hazard, with strategies that seek to avoid intensifying the impacts of flooding through inappropriately located uses and developments.
- Clause 15.01-3 (Neighbourhood and subdivision design) has an objective to ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods. It includes strategies for subdivision to emphasise existing cultural heritage values, well designed and attractive built form, and landscape character.
- Clause 15.01-5 (Cultural identity and neighbourhood character) aims to recognise and protect cultural identity, neighbourhood character and sense of place, with strategies that aim to ensure development responds to its context and reinforces special characteristics of local environment and place by emphasising the underlying natural landscape character and the values, needs, and aspirations of the community.
- 21.03-3 (Rural townships) has an objective to maintain and enhance the distinct character and environmental qualities of each of the Shire's townships, with strategies that seek to protect the natural environment and character of each area.
- 21.06-1 (Design and built form) encourages development to into account the character and constraints of the site and wider area and to contribute to the character, identity and sense of place of the area, particularly in newly developing areas.

Due to the reasons discussed above, the application is considered consistent with these policies. The subject land is located within the existing settlement of Tynong and within proximity to services and facilities. The dimensions and areas of the proposed lots are consistent with the established standards for the area and the retention of the existing dwelling within the front lot will ensure the streetscape character remains unchanged.

Clause 52.29 Land Adjacent to a Road Zone Category 1

This Clause applies to land adjacent to a Road Zone Category 1 and aims to ensure appropriate access to identified roads and appropriate subdivision of land adjacent to identified roads. A permit is required to subdivide land adjacent to a road in a Road Zone Category 1.

The relevant decision guidelines include the SPPF and LPPF, the views of the relevant road authority and the effect of the proposal on the operation of the road and on public safety.

The application has been referred to VicRoads, who had no objection subject to conditions. Based on this, the proposal is considered consistent with this Clause.



Clause 52.01 Public Open Space Contribution and Subdivision

Under Clause 52.01, a person who proposes to subdivide land for urban residential purposes must make a contribution to council for public open space of an amount specified in the schedule to this clause. The Schedule specifies an amount of eight per cent and this will be placed as a condition of any planning permit.

Objections

The application has been advertised by sending notices to the owners and occupiers of adjoining land and placing one (1) sign on site facing Nar Nar Goon-Longwarry Road. A response to the key points of the objections is shown below.

The proposed subdivision is not consistent with the character of the township

The proposed lots sizes of 1,012 square metres (Lot 1) and 886 square metres (Lot 2) is not inconsistent with the area, with surrounding lots ranging between approximately 621 square metres and 3,491 square metres, with frontages of approximately 20-45 metres.

Similar applications for two lot subdivisions have been approved at 7 Nar Nar Goon-Longwarry Road (Planning Permit T090326 approved 30 November 2009) and 9 Nar Nar Goon-Longwarry Road (Planning Permit T140769 approved 17 November 2016).

Loss of privacy as a result of the development of the proposed lots

Proposed Lot 1 contains the existing dwelling and therefore any further development is considered unlikely.

Proposed Lot 2 is not located adjacent to any existing dwellings and fencing and vegetation will provide screening from adjoining allotments. Any development of this lot for a single dwelling will be subject to planning and building regulations.

The proposed subdivision does not have adequate fencing and new fencing will be required

Proposed Lot 1 will generally benefit from existing paling fencing along the side boundaries however the existing fencing along the boundaries of proposed Lot 2 consists of post and wire. A condition placed on any planning permit will require the paling fencing to be extend along the entire width of the side boundaries.

Increase in noise, traffic and safety impacts

The proposed second lot is located at the rear of the site and sufficiently setback from surrounding dwellings. The expected use of this additional lot for residential purposes is consistent with the residential nature of the area and not expected to introduce significant noise or traffic impacts.

The application has also been referred to VicRoads, who had no objection subject to conditions.

Increase in drainage and stormwater issues

A condition requiring the preparation of a stormwater management plan is recommended to be placed on any planning permit.



Concerns regarding the outcome of any development on the lots

Any development will be subject to building and planning regulations. The proposed Lot 2 is not located adjacent to any existing dwellings and fencing and vegetation will provide screening from adjoining allotments.

Lack of demand for the proposed lots

This is considered a market issue and not relevant to the assessment of the application.

Clause 65 Decision Guidelines

Clause 65 requires the consideration of a range of matters, including the State Planning Policy Framework and the Local Planning Policy Framework and the purpose and decision guidelines of the relevant zone, overlay or other provisions. Other relevant guidelines of Clause 65 include the orderly planning of the area, the effect on the amenity of the area, and the matters set out in Section 60 of the Act.

The proposal is considered consistent with Clause 65 and will deliver an orderly planning outcome with minimal impact on the amenity of the area.

CONCLUSION

The proposal for the subdivision of the land into two (2) lots is consistent with the purposes and objectives of the Cardinia Planning Scheme. It is recommended that a Notice of Decision to Grant Planning Permit T170069 be issued for the subdivision of the land into two (2) lots at 13 Nar Nar Goon-Longwarry Road, Tynong subject to the following conditions:

CONDITIONS

- 1. The layout of the subdivision, as shown on the approved plans, must not be altered or modified without the consent in writing of the Responsible Authority.
- 2. Prior to the certification of the plan of subdivision, 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.
- 3. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
- 4. Prior to the issue of a Statement of Compliance:
 - a) The owner of the land must provide written confirmation from:
 - i A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - ii A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.



b) The following works must be completed in accordance with plans and specification approved by and to the satisfaction of the Responsible Authority:

I. Provision of property drainage connection points to service both lots in accordance with the approved stormwater management plan.

- II. Appropriate driveway access must be provided to all lots.
- III. Construction of a concrete vehicle crossing to service the proposed common property.
- IV. Remove any structure crossing the boundary between the proposed lots.
- V. Unless already existing, fencing with a minimum height of 1.7 metres must be constructed along the entire length of the eastern and western (side) boundaries of proposed Lot 2 and any unfenced or open-fenced section of the side boundaries along proposed Lot 1. The fencing must consist of timber palings or another material as approved in writing by the Responsible Authority and be constructed at the cost of the permit holder.

VI. The existing sheds marked as 'to be removed' along the eastern boundary must be removed.

- c) Under the Subdivision Act 1988, a sum equivalent to 8 per cent of the site value of all the subject land in the subdivision must be paid to the Responsible Authority.
- 5. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
- 6. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
- 7. The owner of the land must enter into an agreement with:
 - a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

VicRoads Conditions:

- 8. Prior to the issue of a Statement of Compliance:
 - a) All disused or redundant vehicle crossings must be removed and the area (e.g. fence and naturestrip) reinstated to the satisfaction of and at no cost to the Roads Corporation;
 - b) The crossover and driveway are to be sealed and constructed to the satisfaction of the Responsible Authority and at no cost to the Roads Corporation; and
 - c) The access lanes, driveways, crossovers and associated works must be provided and available for use and be:
 - d) Formed to such levels and drained so that they can be used in accordance with the plan; and
 - e) Treated with an all-weather seal or some other durable surface (e.g. concrete).



- 9. Driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (e.g. by spilling gravel onto the roadway).
- 10. Prior to Certification, the Plan of Subdivision must be referred to VicRoads, in accordance with Section 8 of the Subdivision Act 1988.

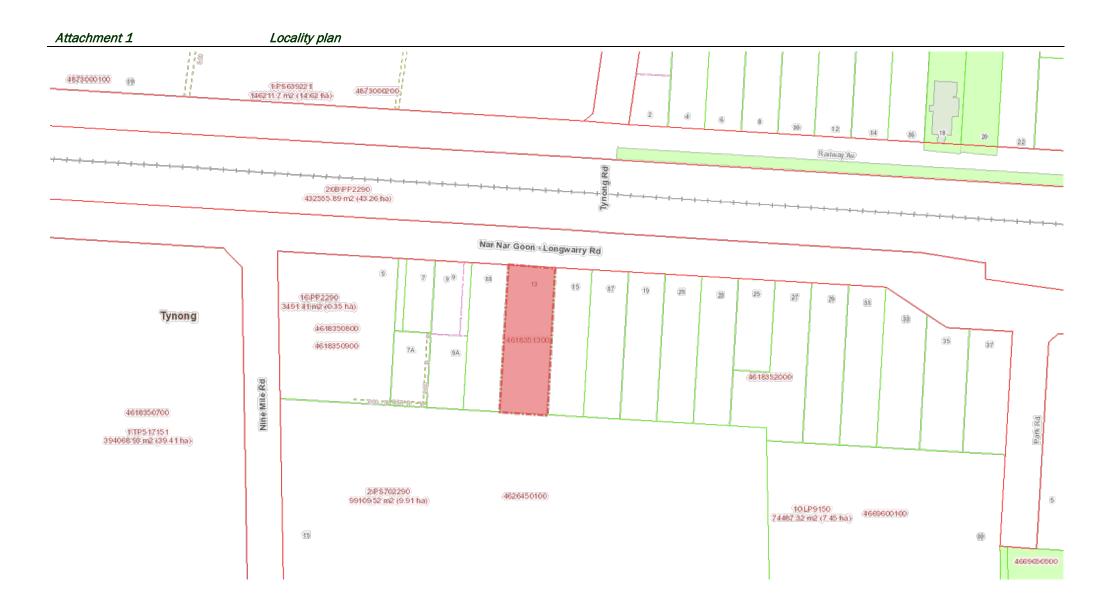
Expiry:

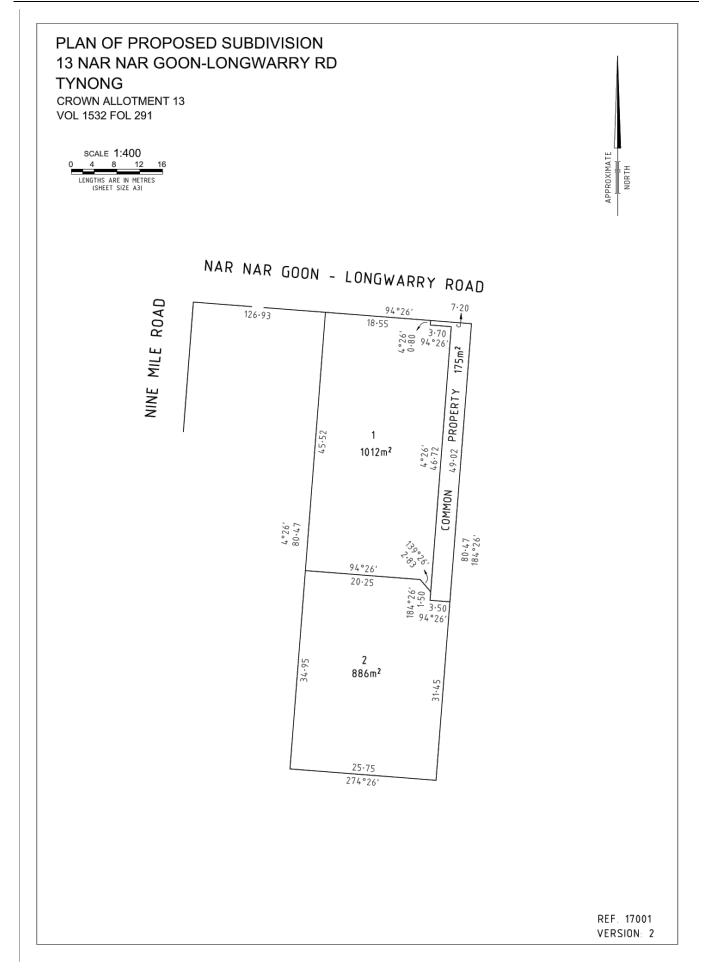
This permit for subdivision will expire if:

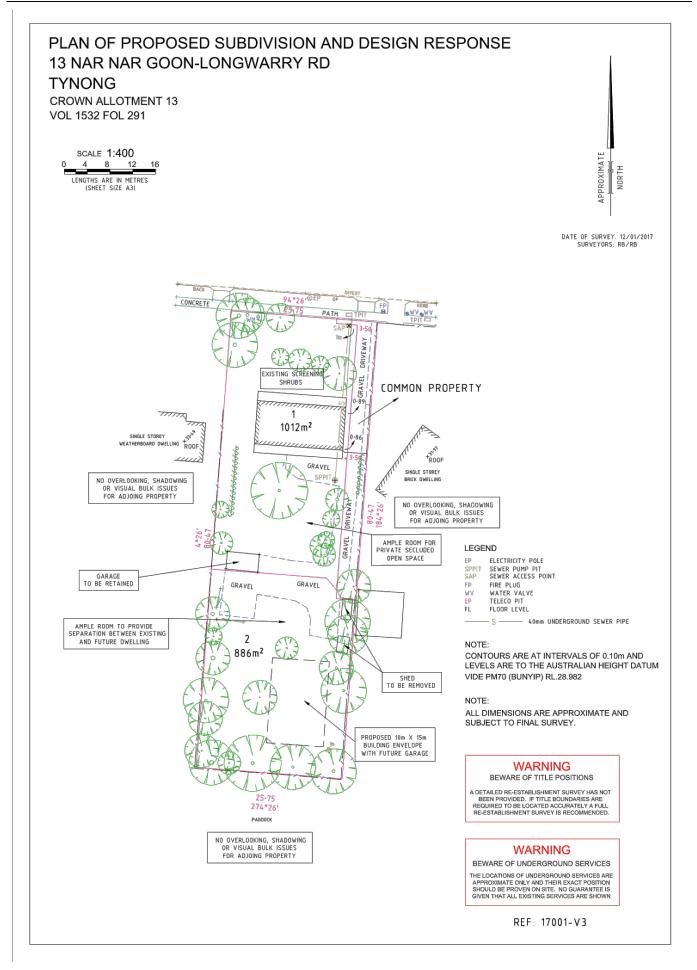
- a) The subdivision is not commenced within two (2) years of the date of this permit; or
- b) The subdivision is not completed within five (5) years of the date of commencement.

In accordance with Section 69 of the *Planning and Environment Act* 1987, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

(Note: The starting of the subdivision is regarded by Section 68(3A) of the *Planning and Environment Act* 1987 as the certification of a plan, and completion is regarded as the registration of the plan.)







Attachment 2

Development plans

