



# Cardinia

**MINUTES OF TOWN PLANNING COMMITTEE**

**MONDAY, 7 MARCH 2016**

## MINUTES OF TOWN PLANNING COMMITTEE

held in the Council Chambers, 20 Siding Avenue, Officer  
on Monday, 7 March 2016

The meeting commenced at 7.00pm

**PRESENT:**

Mayor, Jodie Owen, Chairman

Councillors Kate Lempriere, Graeme Moore, David Young, Collin Ross,  
Leticia Wilmot, George Blenkhorn, Brett Owen

Messrs Garry McQuillan (CEO), Mike Ellis (GMAS), Derek Madden (GMCS),  
Phil Walton (GMPD), Doug Evans (MG)

**APOLOGIES:**

Cr Tania Baxter

**DECLARATION OF PECUNIARY AND OTHER INTERESTS**

Nil.

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## **1 CARDINIA PLANNING SCHEME AMENDMENT C206**

FILE REFERENCE INT1610980

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Tracey Parker

### **RECOMMENDATION**

That Council:

- Receive and consider all submissions received during the exhibition of Planning Scheme Amendment C206
- In accordance with Section 23 of the Planning and Environment Act 1987, all submissions received be referred for consideration to an independent panel to be appointed by the Minister for Planning.
- That all late submission to Amendment C206 be accepted by Council

### **Attachments**

- 1 Summary of submissions 5 Pages

### **EXECUTIVE SUMMARY**

Amendment C206 seeks to rezone Pepis land in Emerald and to concurrently consider a planning permit application to develop the land for the purpose of a netball court and club rooms.

The amendment seeks to rezone the land from the Rural Conservation Zone to Public Park and Recreation Zone. The amendment also seeks to remove the Environmental Significance Overlay, which will allow for the consistent application of this overlay within the Cardinia Planning Scheme with this overlay not applied to public use zones within Emerald.

The concurrent permit application seeks to use and develop the land for the purpose of netball courts and club rooms.

The amendment was placed on public exhibition for a period of one month, and 21 submissions were received. Council officers recommend that the submissions be referred to an independent planning panel to be appointed by the Minister for Planning.

### **BACKGROUND**

Council has purchased the land at 16 Beaconsfield-Emerald Road, Emerald, known as Pepi's Land and has undergone a rigorous community consultation process to develop a strategic direction for the site that would enable the development of the site for public purposes consistent with community requirements and to achieve Council overall objectives to provide improved health and wellbeing for all.

The use of Pepi's land as public open space was noted in Emerald District Strategy June 2009 with further work to be completed to provide direction to community facilities within Emerald. Council through a consultative process formulated the Emerald Community Facilities Spatial Plan June

2012 which was a long term plan to identify the future location of Council community facilities. This plan recommended the preparation of a master plan for Pepi's Land.

A master plan for the land has been developed through a consultation process including a number of key stakeholders, the community and was developed through a steering committee process. The Pepi's Land Master Plan was adopted by Council on 16 March 2015. The master plan indicates that given the terrain of the land and the geotechnical characteristics of the soil, it has been found that there is adequate space for the provision of four netball courts, club house style building, road access, car park, overflow parking and children's playground.

The amendment including the rezoning of the land and the removal of one of the overlays allows for the full implementation of the Pepi's Land Master Plan including the construction of the netball courts that cannot be achieved under the current zone.

## **POLICY IMPLICATIONS**

The amendment is consistent with the Cardinia Planning Scheme. The State Planning Policy Framework which seeks to support the objectives of planning in Victoria which are outlined under Section 4 of the Planning and Environment Act 1987. These objectives include providing 'for the fair, orderly, economic and sustainable use, and development of land' and 'to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community'.

This amendment supports these objectives by implementing the Victorian Planning Provisions through the appropriate zoning of Council owned land to a Public use and provides for the consistent application of overlays within the Cardinia Planning Scheme.

The amendment also supports a number of objectives of the State Planning Policy Framework including:

- Clause 11.03-1 (Open Space Planning) which seeks to assist the creation of a diverse and integrated network of public open space commensurate with the needs of the community ;
- Clause 11.04-7 (Green Wedges) which provides for the protection of the green wedges of Metropolitan Melbourne from inappropriate development;
- Clause 12.01-2 (Native vegetation management) aims to ensure that permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.
- Clause 12.04-1 (Environmentally sensitive areas) seeks to protect and conserve environmentally sensitive areas.
- Clause 12.04-2 (Landscapes) provides for the protection of landscapes and significant open spaces that contribute to character, identity and sustainable environments.
- Clause 13.05-1 (Bushfire planning strategies and principles) seeks to assist the strengthen community resilience to bushfire.

It also implements the objectives of Plan Melbourne including:

- Initiative 3.4.1 (Making Neighbourhoods Pedestrian-friendly) seeks to increase more pedestrian routes or connections in a given area.
- Initiative 3.4.2 (Create a Network of High-Quality Cycling Links) seeks to ensure High-Quality Cycling Links.
- Directions 4 (Liveable Communities) provides built environments which promote increased physical activity by delivering facilities or physical activity (such as sports grounds, swimming centres and playgrounds). Supports healthy by design principles. Encourages the development of 20- minute neighbourhoods.

- Initiative 4.5.2 (Provide New Neighbourhood Parks and Open Space) increases the quantity and quality of public open space and of leisure, recreation and sporting facilities.
- Initiative 5.2.1 (Increase the protection and restoration of biodiversity areas) aims to protect and restore areas of biodiversity significance.

Further the amendment will allow for appropriate community infrastructure for the Emerald community by implementing the objectives of the Municipal Strategic Statement including:

- Clause 21.01-2 (Key Influences) ensures infrastructure which meets the needs of the existing and future community and protects environmentally significant and significant landscape value areas.
- Clause 21.01-3 (Key Issues) provides for the provision of infrastructure which meets the needs of the existing and future community.
- Clause 21.01-4 (Strategic Vision) aims to foster the sustained wellbeing of the community and environment in the Cardinia Shire and recognise and protect the diverse and significant environmental and cultural heritage values in the municipality.
- Clause 21.02-2 (Landscape) protects the Puffing Billy Scenic Corridor by ensuring sensitive building design, protecting vegetation important to character and minimising land fragmentation.
- Clause 21.02-3 (Biodiversity) aims to maintain and re-establish areas wildlife corridors and establish a net-gain in native vegetation.
- Clause 21.02-5 (Open Space) aims to ensure adequate unrestrained open space areas which are well linked, provide of walking and cycling trails, have a sense of identity, are co-located with community and recreational facilities which are included within the Public Park and Recreation Zone.
- Clause 21.03-3 (Rural townships) aims to ensure developments works and vegetation protection complement the rural character of a township.
- Clause 21.05-1 (Infrastructure provision) provides for the timely provision of an adequate level of physical and social which is necessary to foster economic development, ensure the wellbeing of the community and protect the environment.
- Clause 21.05-5 (Pedestrian and bicycle network) aims to develop well-located, safe and interconnected pedestrian and bicycle networks which are well connected between new and existing development providing for important recreational pursuits.
- Clause 21.05-6 (Community services and facilities) aims to provide a reasonable level of community facilities including local recreational facilities which allow for a diverse range of age groups.

Other strategic documents that have been adopted by Council provide a clear support for the rezoning of Pepi's Land with a summary of the documents directions including:

- Recreational Open Space Strategy (2002) where it is noted to utilise Pepi's Land as an open space link.
- Emerald District Strategy (June 2009) which seeks to; utilise Pepi's Land as public open space with passive recreational facilities which meets the needs of a wide range of users; provide for the long term management of the environmental and conservation values of open space reserves; provides a legible and permeable interlinked open space network; foster a Council-Community partnership approach towards achieving a strong, healthy, resilient and integrated community; protect the Puffing Billy scenic corridor; contribute to the 'cultural heritage trail' and provide civic and community focussed uses, public open space, playground and recreational uses and facilities, non-active uses, with associated carparking.
- Emerald Community Facilities - Spatial Plan (June 2012) including: developing a plan incorporating all of Pepi's Land; considering different types of recreation and community uses on the site; considering the important of planning overlays and zoning; considering the

importance of the site and its location to other public/community spaces; providing extensive vegetation enhancement works; providing a passive trail network and providing for the relocation of 4 netball courts from Worrell Recreation Reserve.

- Play Space Strategy (2014) through providing play spaces in the currently undersupplied Emerald Area; provides a range of play opportunities (for a range of ages) by providing both formal and unstructured open space area and natural features and provides play spaces within 500m of households.
- Municipal Public Health and Wellbeing Plan (2013-2017) though; providing for active travel opportunities; encouraging local healthy sporting environments; providing open spaces with good surveillance, safe pedestrian access, walking paths, trees for shade and accessible public amenities and allowing for a potential increase physical activity within the Shire by allowing for greater levels of access to areas of public open space.
- Healthy By Design Guidelines are implemented through; utilising site topography, encouraging increased physical activity by ensuring that the built environment within township of Emerald naturally supports active lifestyles; providing a well-planned network of walking and cycling routes; providing an active environment that is convenient, safe, and pleasant for people; provides open space within 400m of dwellings (closest property 35m); providing large local parks within safe and comfortable walking distance from dwellings (e.g. 800m); allows for landscaping of public and open space which provides pleasant environments for people to sit meet and talk, specifically at viewing locations.; provides for a range of facilities to create active recreation opportunities for all ages; provide exercise and training equipment along the existing walking paths to encourage more vigorous activity and provides a space allocated to potential future community gardens with the provision of water if demand arises.

## RELEVANCE TO COUNCIL PLAN

The rezoning implements a number of directions of Council Plan including improved health and wellbeing for all through the provision of active and passive recreation facility to meet the needs of residents, increases opportunities for participation in a range of sport, recreation and leisure activities and develop new parks gardens and reserves in a sustainable manner. The Council Plan nominates works on Pepi's Land as a specific outcome including:

- 2014-2015 - Complete design of netball facilities and other active recreation facilities and commence northern trail.
- 2015-16 - Complete northern activity trail and exercise station. Commence construction of netball facilities subject to external funding.

## CONSULTATION/COMMUNICATION

The process for creating the Master Plan, which this amendment seeks to implement, involved the creation of the Pepi's Land Master Plan Steering Committee. This committee consisted of council officers, Ranges Ward councillors, Johns Hill Landcare group and the Emerald Village Committee, all of whom had input into its formulation. The Emerald Netball Club also submitted comments as a key stakeholder.

The amendment was placed on public exhibition from 4 January to 8 February 2016. Letters were sent to effected land owners and occupiers, and relevant servicing authorities and the township committee. In total approximately 230 letters were sent. In addition notices were placed in the local papers.

Notice was also placed on councils web site and information regarding the amendment was placed in the Emerald Library.

To date 1 supporting submission and 20 opposing submissions were received. In addition letters of no objection were received from the CFA and Melbourne Water.

Most of the submissions object to the amendment. Council officers still recommend the support of the amendment and therefore referral of the submissions to an independent panel is required.

Attachment A includes a detailed summary of the submissions received. In summary the key elements of objection are:

- Increased traffic in the area
- Removal of the ESO will impact on the flora and fauna of the area
- The netball courts will only benefit a small portion of the community
- Insufficient community consultation
- Lack of community support for the proposal
- Not consistent with Emerald District Strategy
- The MPHWP can be achieved without moving the netball courts from Worrell Reserve
- Possible vandalism and antisocial behaviour in the area.
- Non compliance with State and Local Planning Policy Framework
- Impact on outlook from adjacent dwellings
- Noise and flood light impacts
- Cost to community to relocate netball courts

As detailed earlier in the report the redevelopment of the Pepi's land has undergone extensive community consultation through the development of the Recreational Open Space Strategy (2002), the Emerald District Strategy (June 2009) and the Emerald Community Facilities - Spatial Plan (June 2012) which identify the need for openspace facilities within the Emerald area and the development of Pepis land to facilitate this. Council has also adopted the Masterplan for the protection of the site for openspace and recreational purposes. On this basis the rezoning of the land to PPRZ and the approval of the development of netball courts and a club rooms is considered appropriate.

The environmental factors of the site will be protected and enhanced with significant landscaping works to occur on the site.

In relation to the development of the netball courts and club rooms, it is not considered that the facility will significantly impact on the amenity of surrounding land owners and will not impact on traffic movements in the area.

On the basis of the submissions received it is recommended that the matter be referred to an independent panel to consider the content of the objections received.

## **FINANCIAL AND RESOURCE IMPLICATIONS**

Council will be required to pay for the amendment process; however, this can be sufficiently covered by the budget for Planning Policy and Projects.

## **CONCLUSION**

Amendment C206 seeks to rezone the site known as Pepi's Land to reflect the public ownership and use and will ensure the full implementation of the Pepi's Land Master Plan.

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Following exhibition of the amendment 1 supporting submission and 20 opposing submissions were received. To fully allow the consideration of these submissions it is recommended that Council resolve to seek an independent panel appointed by the Minister for Planning.



## Summary of submissions Amendment C206 – Pepi's Land

	Summary
1	<ul style="list-style-type: none"> <li>The money should be spent rejuvenating the existing netball courts</li> <li>The location is too far out of town, it will not be easily accessible for the public</li> <li>The cut and fill will be an eye sore for residents in the area</li> <li>Pepi's land is the only lead off area suitable for dog walking</li> <li>The noise from the netball will echo through the valley</li> </ul>
2	<ul style="list-style-type: none"> <li>There will be an increase in traffic on Beaconsfield-Emerald Road</li> <li>Request that 'no standing' signs be introduced on both sides of Beaconsfield-Emerald Road near the sporting complex so traffic flow is not impeded</li> <li>Request that boom gates be installed at the Puffing Billy line on Beaconsfield-Emerald Road due to the increase in traffic</li> </ul>
3	<ul style="list-style-type: none"> <li>Supports the amendment as it stands to ensure Pepi's meets community needs</li> </ul>
4	<ul style="list-style-type: none"> <li>Does not wish to see land donated for community use sold off for a development which will only benefit a small part of the community</li> <li>Object to the removal of the ESO, the flora and fauna deserve continued protection</li> <li>The land is a beautiful open space, the netball courts will mean it is not attractive anymore</li> <li>Most of the time the courts will be unused, so why build them to take away land that is used regularly by community members</li> <li>The leash free area is a very important facility for dog owners</li> </ul>
5, 7, 8, 16, 20, 21	<ul style="list-style-type: none"> <li>Not happy with the extent of the community consultation for the following reasons: <ul style="list-style-type: none"> <li>Notification letters were delivered during the school holidays</li> <li>Notification letters were received up to 10 days apart, meaning some residents had less time to make a submission</li> <li>A number of residents living in streets adjacent to Pepi's land did not receive letters</li> <li>The communication methods utilised by Council have contributed to a selective engagement, marginalising key stakeholders</li> <li>Print media, the library, website and social media were ineffective engagement methods</li> <li>Council has not met its obligations for stakeholder consultation under both the Local Government Act and the Subdivision Act</li> </ul> </li> <li>The amendment is inconsistent with the strategy for Pepi's land identified in the Emerald District Strategy (2009)</li> <li>The Recreational Open Space Strategy (2000) nominates Pepi's land as a high priority open space linkage between Gembrook and Emerald, rather than preserve this Council has continually reduced this land asset over the past fifteen years</li> <li>Considering the failures in the community consultation process it can't be determined that this decision is based on wider community demand as specified in the Master Plan Directions</li> <li>Council's Play Space Strategy 2014 objectives can be achieved independently of the netball courts being relocated from Worrell Reserve</li> <li>The Municipal Public Health and Wellbeing Plan 2013-2017 objectives can be achieved independently of the netball courts being relocated from Worrell Reserve</li> <li>Healthy by Design guidelines can still be applied to the remaining facilities on Pepi's land, independent of the netball courts being relocated from Worrell Reserve</li> <li>Council's justification for the removal of the ESO is inadequate, it should consider: <ul style="list-style-type: none"> <li>The basis for why the ESO was originally applied</li> <li>What has changed and warrants the removal of the ESO</li> <li>Have the changes been function of natural cycle or human intervention</li> <li>Are the changes in the best long term interests of the Emerald community and the environment</li> </ul> </li> <li>Is supportive of pepi's land being a passive recreation area, but not an active recreation area</li> <li>The Environmental Site Assessment did not consider the land being used for active recreation</li> <li>Concerned about the changing land use and the impacts on fauna such as wombats and echidnas, Council needs to commit to rehabilitate the area to ensure the long term protection of wildlife</li> </ul>

	Summary
	<ul style="list-style-type: none"> <li>• The current safety and security measures at the existing Emerald netball facility are currently ineffective. The area is peppered with litter and there have been instances of antisocial behaviour</li> <li>• The establishment of an active recreation facility is not consistent with the Master Plan Directions of protecting and enhancing the environmental values of the site</li> <li>• Clarity is required on: <ul style="list-style-type: none"> <li>– The types of activities the facility can be used for</li> <li>– Will the service or consumption of alcohol be permitted</li> <li>– When the facility can be used</li> <li>– What noise abatement guidelines will be implemented</li> <li>– What light abatement guidelines will be implemented</li> <li>– How will stakeholders be engaged in any future proposed changes</li> </ul> </li> <li>• The cost of the facility is high and the extent of the community that will benefit is relatively small</li> <li>• Bushfire risk - The proposal shifts the netball courts to more than 500m from the place of last resort</li> <li>• The proposal is inconsistent with SPPF Clauses 11.03-1 (Open Space Planning), 11.04-7 (Green Wedges), 12.04-1 (Environmentally Sensitive Areas) and 12.04-3 (Landscapes) In relation to the proposed development, car parking, noise and light pollution, security, vandalism, graffiti, litter and negative visual amenity, impacts on habitat and displacement of wildlife</li> <li>• The proposal is inconsistent with SPPF Clause 13.05-1 Bushfire Planning Strategies and Principles <ul style="list-style-type: none"> <li>– Moving the netball courts from a bushfire safe area to an at risk area</li> </ul> </li> <li>• The proposal is inconsistent with LPPF Clauses: <ul style="list-style-type: none"> <li>– 21.02-3 Key Issues – In relation to the development of an active recreation facility, car parking, active recreational activity and the negative environmental, social and land use impacts the amendment will introduce</li> <li>– 21.02-5 Open Space – The current netball courts are located within an existing active recreation precinct, separating the courts from this precinct is counterintuitive and inconsistent with Clause 21.02-5</li> <li>– 21.05-5 Pedestrian &amp; Bicycle Network – There have been no formal pedestrian crossings included to allow crossing Beaconsfield-Emerald Road. The master plan does not provide for lighting on pedestrian walkways of emergency alert features.</li> </ul> </li> <li>• The amendment does not adequately address the issue of traffic management around the Puffing Billy railway crossing on Beaconsfield-Emerald Road</li> <li>• The amendment does not quantify the likely impact on vegetation as a result of the widening of Beaconsfield-Emerald Road to accommodate the turning lanes and any bus parking areas</li> <li>• Road engineering – Longstanding road quality issues on Hamilton Road which will be exacerbated by increased traffic volumes</li> <li>• Road engineering – Longstanding yield confusion at the intersection of Hamilton Road and Cloverleigh Avenue, with neither road posted with a Give Way or Stop sign</li> <li>• Road engineering – Longstanding issues relating to the dangerous intersection/accident blackspot at the intersection of Beaconsfield-Emerald Road and Cloverleigh Avenue</li> <li>• Suggested improvements: <ul style="list-style-type: none"> <li>– Retain the entire public land asset as open space community reserve</li> <li>– Retain the Environmental Significance Overlay</li> <li>– If the current zoning can't be retained, apply the alternate zoning proposed by Johns Hill Landcare Group (outlined in submission 19)</li> </ul> </li> </ul>
5 (PS)	<ul style="list-style-type: none"> <li>• Walks past Pepi's land daily to and from work and asserts that it assists with mental wellbeing. Believes it is unfair that the netball courts are being imposed on the community, when they did not choose that as part of their lifestyle. Has severe concerns with the increase in traffic and buses on Beaconsfield-Emerald Road</li> </ul>
6	<ul style="list-style-type: none"> <li>• The amendment exposes the land to risk from erosion, over development, destroying natural beauty, and destroying habitat</li> <li>• The walking track and car parking council put in in 2014 has disturbed the wombats and echidnas and forced some of them to relocate, this amendment will put further stress on the animals</li> <li>• These netball courts will be separated from the existing sports and recreation precinct</li> <li>• Concerned about noise pollution and flood lighting</li> </ul>

	Summary
	<ul style="list-style-type: none"> <li>Concerned about the negative social impact (loitering, littering, graffiti, intimidating behaviour by youths) of the development, as occurs as the current netball facilities in Emerald</li> <li>There is a lack of police presence in Emerald, they don't have the capacity to be able to patrol netball courts at all hours</li> <li>Requires clarification on; what the nature of the use will be, will there be noisy functions, what is the frequency and hours of use, will there be service of alcohol</li> <li>Concerned about traffic and buses especially the safety of children walking along Beaconsfield-Emerald road</li> <li>There was a lack of community consultation carried out</li> <li>The selling of the two blocks of land to private developers will result in overdevelopment, further impacting the native animals</li> </ul>
7 (PS)	<ul style="list-style-type: none"> <li>Our outlook will be substantially impacted. We will be exposed to noise and light pollution. The open space is an important part of the area we choose to live in</li> </ul>
8 (PS)	<ul style="list-style-type: none"> <li>We need to protect public open space as our biodiversity is rapidly diminishing. The netball courts will ruin the lovely view and peace of the area. There needs to be consideration of habitat loss of the biodiversity that uses the area.</li> </ul>
9	<ul style="list-style-type: none"> <li>There is some concern about potential loss of privacy and increases noise from the netball courts</li> <li>Overall support the development of Pepi's land as per the Master Plan as it can only be positive for the township of Emerald</li> </ul>
10	<ul style="list-style-type: none"> <li>The amenity and the opportunity for people to use the area for passive recreation would be greatly diminished by the netball courts</li> <li>Would prefer a simple park and off leash dog area</li> </ul>
11	<ul style="list-style-type: none"> <li>The amendment is not supported for the following reasons: <ul style="list-style-type: none"> <li>Reduction in the area of land available for recreational purposes</li> <li>The introduction of disruptive elements such as noise and light</li> <li>Congestion between the proposed carpark entrance and the railway crossing</li> <li>The removal of the ESO will put the habitat of the local wombat population at risk</li> <li>It is contrary to several aspects of the SPPF</li> <li>Council has not adequately responded to all concerns of the residents</li> </ul> </li> </ul>
12	<ul style="list-style-type: none"> <li>Oppose the removal of the ESO as Pepi's land is an important wildlife corridor between Emerald and Gembrook. Further digging and building will disturb the wildlife.</li> <li>The rezoning will heighten the risk of the land being sold off for commercial use</li> <li>Oppose that \$3.1 million is being spent on four courts for a club that only has six teams in it. It would be cheaper to fix the existing courts and clubhouse.</li> <li>Concerns in relation to traffic, in particular buses full of school kids and their safety.</li> <li>The communication for this project has been very poor</li> </ul>
13	No submission attached.
14	<ul style="list-style-type: none"> <li>Pepi's is part of a wildlife corridor linking Cardinia reservoir, Emerald Lake Park and Wrights forest, maintaining a conservation zone protects that concept</li> <li>The argument for a rezoning into a public use zone appears to be so Council does not have to consult with the community for future infrastructure on Pepi's land is a concern</li> <li>There has been no discussion on whether any other suitable sites have been considered such as joint use facilities with local schools</li> <li>The plans do not provide information on how the development would be constructed, maintained and run</li> <li>The dieldrin contamination of the land is not considered, the earthworks may increase risks from dieldrin</li> <li>Car parking and construction of the courts could create issues with drainage in an area that has had land slides</li> </ul>

	Summary
	<ul style="list-style-type: none"> <li>• Run-off into the creek and dams is a concern</li> <li>• The visual impact of the pavilion, fencing and earthworks will detract from the passive recreation focus</li> <li>• Light and noise pollution is a concern</li> <li>• There is no indication of bus parking</li> <li>• Traffic congestion is a concern</li> </ul>
15	<ul style="list-style-type: none"> <li>• The amendment goes against what is outlined in Council documents such as the Recreational Open Space Strategy 2000 and the Emerald District Strategy 2009</li> <li>• The assertion that the PPRZ will ensure community ownership and protection of the land is considered incorrect</li> <li>• The PPRZ will open the site up to further development</li> <li>• Unimpressed with the extent of the community consultation</li> <li>• Requesting a reason as to why the established courts at Worrell Reserve are being removed and why relocation of these to an established facility such as Chandler Reserve is not more appropriate</li> </ul>
16 (PS)	<ul style="list-style-type: none"> <li>• The amendment is not in line with the natural and historical significance of the area</li> <li>• The value of owning a dwelling within the vicinity of Pepi's land relates to the experience of the natural existing conditions including views, vistas, flora, fauna and ambience</li> <li>• The proposal would destroy these positive elements, through: <ul style="list-style-type: none"> <li>– Forced migration of native wildlife</li> <li>– Reduction of native flora</li> <li>– Introduction of vehicles, sports, recreation, loitering, noise pollution</li> <li>– Introduction of an additional traffic congestion point</li> <li>– Increased traffic on Beaconsfield-Emerald Road</li> </ul> </li> </ul>
17	<ul style="list-style-type: none"> <li>• Proposal should have been more widely promoted through signage and local press</li> <li>• Since introducing the walking paths the site has been used much more for passive recreation, Council should continue to support this, not change the use</li> <li>• The report gives limited reasons provided as to how it complies with various guidelines</li> <li>• A sports stadium servicing a single interest group does not achieve goals of planning, particularly if accompanied by a large car park</li> <li>• No details are given about linkages between Pepi's and Worrell reserve</li> <li>• A better long term vision would be to keep it as it is</li> </ul>
18	<ul style="list-style-type: none"> <li>• Object to removing the ESO</li> <li>• The amount of development that has occurred already has upset the wombats</li> </ul>
19	<ul style="list-style-type: none"> <li>• Concerned about the implication of the proposal on the environmental values of the land</li> <li>• Pepi's land is a key component of a wildlife corridor linking Cardinia Dam Reserve to Hogan Park &amp; Pepi's Land, and to Emerald Lake Reserve and Wrights Forest, then Bunyip State Forest through to Gembrook. The Committee has been revegetating the west of Pepi's transforming the open grass paddock to provide that link. The proposed development detracts away from this environmental link.</li> <li>• The proposal restricts the capacity for the planning environmental corridor and has no consideration for this wildlife corridor</li> <li>• Concerned that the new planning zone will result in a lower threshold of protection of the native environment and avoids public consultation</li> <li>• Rezoning suggested by Johns Hill Landcare group states the land along the two watercourses should not be rezoned to PPRZ but rather it should be rezoned PCRZ, the balance of the site should be rezoned PPRZ</li> <li>• The two parcels of public land adjoining the western boundary of pepi's land should be included in the amendment to ensure consistent planning controls</li> <li>• There appears to be a lack of detail in the planning permit application, there is a concern that the footprint of the infrastructure is at risk of becoming significantly larger</li> <li>• The following details do not appear to have been addressed in the planning permit application: <ul style="list-style-type: none"> <li>– Review or comment from the CFA</li> </ul> </li> </ul>

	Summary
	<ul style="list-style-type: none"> <li>– A reference to a Bushfire Management Plan</li> <li>– A compliant CFA access road</li> <li>– Fire water tank storage</li> <li>– A noise abatement plan</li> <li>– Water reuse considerations</li> <li>– A scheme for water runoff containment</li> <li>– Detail design for bus parking</li> <li>– A traffic management plan for Beaconsfield-Emerald Road</li> <li>– The Public Space Carpark/Netball Carpark interface</li> <li>– A carpark capacity study</li> <li>– Details for landscape protection</li> <li>– Details for the site cut to the northern boundary</li> <li>– Does not deal with the significant fill to the south side</li> <li>– The lack of public toilets</li> <li>– Orientation of courts is not suitable for senior competitions (sunpath issues)</li> <li>– A lack of runoff area between courts</li> <li>– No details for night competition lights</li> <li>– No reference to an Environmental Impact Statement</li> <li>– There has been no comment from Puffing Billy</li> <li>– Does not deal with the pathway/clearance for the proposed future wildlife corridor from Cardinia Reservoirs to Emerald Lake Park</li> <li>• It is recommended that the facility be sited at the Emerald High School grounds and used as a shared facility</li> </ul>
20 (PS)	<ul style="list-style-type: none"> <li>• Change should not be pursued where the environmental, social and/or cost impacts outweigh the benefits</li> <li>• Emerald already has a sports and active recreation precinct, this facility should remain</li> <li>• The introduction of an active recreational facility on a passive recreational area with such high environmental sensitivities, characteristics and values if completely inappropriate</li> </ul>
21 (PS)	<ul style="list-style-type: none"> <li>• The local wildlife need areas like Pepi's land as a corridor</li> <li>• There are already 2 designated sports areas where this facility would be better suited - Worrell Reserve or Chandler Reserve</li> <li>• Concerned about the noise - whistles, crowds, cars</li> <li>• Concerned about lights being on at night time</li> <li>• Surprised that the proposal complies with Puffing Billy guidelines</li> <li>• Would prefer for natural flora and fauna to be planted throughout the park with more seating to ensure it is a tranquil place</li> </ul>

## **1 CARDINIA PLANNING SCHEME AMENDMENT C206**

Moved Cr B Owen Seconded Cr L Wilmot

That Council:

- Receive and consider all submissions received during the exhibition of Planning Scheme Amendment C206
- In accordance with Section 23 of the Planning and Environment Act 1987, all submissions received be referred for consideration to an independent panel to be appointed by the Minister for Planning.
- That all late submission to Amendment C206 be accepted by Council

Cd.

## **2 EXTENSION TO OUTBUILDING AT 1921 WELLINGTON ROAD, MENZIES CREEK**

FILE REFERENCE INT1611040

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Jason Gilbert

### **RECOMMENDATION**

That a Notice of Decision to Grant Planning Permit T150540 be issued for buildings and works to extend an existing outbuilding within 100m of a dwelling not in the same ownership in the Rural Conservation Zone- Schedule 2, Environmental Significance Overlay- Schedule 1 and Bushfire Management Overlay at L4 PS074703, 1921 Wellington Road, Menzies Creek, subject to the conditions attached to this report.

### **Attachments**

- |   |  |         |
|---|--|---------|
| 1 | Locality map                                       | 1 Page  |
| 2 | Development plans                                  | 3 Pages |
| 3 | Letter of objection circulated to councillors only | 2 Pages |

### **EXECUTIVE SUMMARY:**

APPLICATION NO.: T150540

APPLICANT: Ben Marshall

LAND: 1921 Wellington Road, Menzies Creek 3159

PROPOSAL: Buildings and works to extend an existing outbuilding within 100m of a dwelling not in the same ownership in the Rural Conservation Zone- Schedule 2, Environmental Significance Overlay- Schedule 1 and Bushfire Management Overlay

PLANNING CONTROLS: Rural Conservation Zone - Schedule 2 (RCZ2) and adjacent to a Road Zone Category 1 (RDZ1)  
Bushfire Management Overlay (BMO) and Environmental Significance Overlay - Schedule 1 (ESO1)

NOTIFICATION & OBJECTIONS: Notice was provided by way of letters to the owners and occupiers of adjoining properties

One (1) objection has been received to date

KEY PLANNING CONSIDERATIONS: Built form outcomes, bushfire management, rural development, impact on views

RECOMMENDATION: Approval

### **BACKGROUND:**

- Planning Permit T050221 issued on 5 July 2005 for the development of the land for the purpose of a dwelling extension and outbuilding (shed).
- Notice of Application for Enforcement Order sent 11 April 2007 in relation to failure to comply with Condition 13 of Planning Permit T050221 (which required two outbuildings along the western boundary to be removed). This matter was later resolved.
- Application for Planning Permit T120189 received on 3 April 2012 for the construction of access to a Road Zone Category 1 and vegetation removal. This application was withdrawn on 3 July 2012.
- Planning Enforcement Notice sent on 20 June 2012 in relation to a complaint regarding a home occupation at the subject site.
- Planning Permit T120150 issued on 4 September 2012 for the development of the land for the purpose of an extension the existing outbuilding (similar to the application currently under consideration).
- Planning Enforcement Notice sent on 3 October 2012 regarding non-compliance with Condition 12 of Planning Permit T050221 (which required a five metre buffer area to be planted between the outbuilding and the western property boundary).
- Application to Amend Planning Permit T120150 received on 17 October 2012. Application lapsed on 13 May 2013 after further information not being received by the due date.
- Planning Permit T140183 issued on 4 September 2014 for the development of the land for alterations and additions to existing dwelling.

## SUBJECT SITE

The approximate 4.02 hectare site is generally of a rectangular shape and located on the northern side of Wellington Road, with a road frontage of approximately 110.63 metres and maximum depth of approximately 415.05 metres.

A crossover to Wellington Road is located along the south-east boundary and a drainage easement is located towards the rear of the site.

The site currently contains a single dwelling, which is setback approximately 77.9 metres from Wellington Road and approximately 12.8 metres from the north-east (side) boundary. A swimming pool is located on the eastern side of the dwelling and there are two water tanks to the north of the dwelling.

The site also contains three outbuildings: one is located close to the dwelling on the east side; another is located to the north-west of the dwelling; and a larger outbuilding is located to the south-west of the dwelling and approximately 5 metres from the south-western (side) boundary. The dwelling and larger outbuilding are accessed via a gravel driveway.

Landscaping has been undertaken around the dwelling, and there is moderate to dense vegetation coverage to the front (south-east) and rear (north-west) of the site, which consists mainly of established native trees.

The topography of the land slopes gently from the south to the north-west, with levels ranging between approximately 210 metres and 170 metres above AHD.

The main characteristics of the surrounding area are:

- **North-East:** An approximate 7.58 hectare, triangular- shaped allotment is located to the north-east, and used for rural residential and agricultural activities. It includes a dwelling, outbuildings and agricultural buildings, a ménage, and two dams. There is established vegetation towards the north-western and southern boundaries.



- **North-West:** An approximate 17.39 hectare, irregular-shaped allotment is located to the north-west, and used for rural residential and agricultural activities. It contains a single dwelling and outbuilding. The remainder of the land features a mix of cleared and vegetated areas.
- **South-West:** An approximate 3.99 hectare, rectangular-shaped allotment is located to the south-east and used for rural residential purposes. It contains a single dwelling and dam. The remainder of the land features a mix of cleared and vegetated areas.
- **South-East:** Wellington Road is located to the south-east and opposite is a densely-vegetated 2.26-hectare parcel of land that has not been developed.
- The subject site forms part of a large area of land zoned Rural Conservation and located between Menzies Creek and Clematis, in the north-western corner of the Shire. This area features large allotments that generally range between approximately 1-20 hectares and support rural residential and agricultural activities.
- Further to the south is Cardinia Reservoir, which is zoned Public Use.

## PROPOSAL

The proposal is for buildings and works to extend an existing outbuilding. The extension involves a 'lean-to' carport that will be attached to the northern side of the existing outbuilding, which is setback 5 metres from the western (side) boundary. The carport will measure 12 metres in length by 6 metres in width, providing a footprint of 72 square metres.

The carport will be open-sided on the eastern side and enclosed on the northern and western sides with Colorbond cladding of 'Ironstone' grey/blue colour (the southern side will be attached to the existing outbuilding).

The carport will have a wall height of 4.0 metres and a maximum height of approximately 4.625 metres, with a 5-degree pitched Colorbond roof of 'Ironstone' colour.

The carport will feature crushed rock floor materials and will be constructed atop an existing fill pad.

No vegetation removal is proposed however the carport is within 4.5 metres of an existing 10-metre-high Stringybark tree

## PLANNING SCHEME PROVISIONS

### State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- 11.04-7 Green wedges;
- 12.04-2 Landscapes; and
- 13.05-1 Bushfire planning strategies and principles.

### Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.02-2 Landscape;

- 21.02-4 Wildfire management; and
- 21.03-3 Rural townships.

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

The relevant provisions/ documents are:

- Clause 52.29 Land Adjacent to a Road Zone;
- Clause 57 Metropolitan Green Wedge Land;
- Clause 65 Decision Guidelines; and
- Clause 66 Referral and Notice Provisions.

### **Zone**

The land is subject to the Rural Conservation Zone – Schedule 2 (RCZ2) and adjacent to a Road Zone Category 1 (RDZ1).

### **Overlays**

The land is subject to the following overlays:

- Environmental Significance Overlay – Schedule 1 (ES01); and
- Bushfire Management Overlay (BMO).

### **PLANNING PERMIT TRIGGERS**

The proposal for buildings and works to extend an existing outbuilding requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.06-5 of the Rural Conservation Zone, a permit is required to construct a building or carry out works associated with a use in Section 2;
- Pursuant to Clause 35.06-5 of the Rural Conservation Zone, a permit is required to construct a building or carry out works within 100 metres of a dwelling not in the same ownership;
- Pursuant to Clause 42.01-2 of the Environmental Significance Overlay, a permit is required to construct a building or construct or carry out works; and
- Pursuant to Clause 44.06-1 of the Bushfire Management Overlay, a permit is required to construct a building or carry out works associated with Accommodation.

### **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.

The notification has been carried out correctly, and Council has received one (1) objection to date.

The key issues that were raised in the objection are:

- The existing outbuilding is highly visible;
- The existing outbuilding blocks out any view of the skyline and landscape

- The existing outbuilding frequently emits noise from music, machinery and vehicles at all times of the day and night
- The proposed extension will exacerbate noise and light problems; and
- The Colorbond cladding of the proposed extension does not match the cladding of the existing outbuilding, which will increase the visual impact of the building.

The application was advertised with the following description:

Buildings and works to extend an existing outbuilding within 100m of a RDZ1 and a dwelling not in the same ownership in the RCZ2 and where the gross floor area of all outbuildings on the land exceeds 150sqm in the ESO1 and BMO

This has since been changed to:

Buildings and works to extend an existing outbuilding within 100m of a dwelling not in the same ownership in the RCZ2, ESO1 and BMO.

The proposal description was changed as the proposal was initially incorrectly identified as being within 100 metres from the Road Zone and the 150sqm floor area does not need to be included within the description.

Re-advertising is not necessary as there are no additional permit triggers and the change to the description involved a re-wording only.

## REFERRALS

### Country Fire Authority (CFA)

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

## DISCUSSION

The proposal for buildings and works to extend an existing outbuilding within 100m of a dwelling not in the same ownership in the Rural Conservation Zone- Schedule 2, Environmental Significance Overlay- Schedule 1 and Bushfire Management Overlay is considered to be consistent with the aims and objectives the Cardinia Planning Scheme.

### Rural Conservation Zone – Schedule 2 (RCZ2)

A key purpose of this zone is the protection and conservation of the environmental values and landscape qualities of the land, including habitat of botanical and zoological significance, and the conservation of natural resources, including native vegetation, waterways and soils. The zone also seeks to provide for agricultural use consistent with the conservation of environmental and landscape values of the area.

With an area of approximately 4.02 hectares, the subject site is considered capable of containing the proposed extension to the outbuilding without undermining the environmental values or landscape qualities of the land or surrounding area.

The proposed extension is located approximately 40 metres from a neighbouring dwelling to the west, which is less than the 100 metres required under the zone. Despite this, the proposed extension will be partially screened by the existing outbuilding and mature vegetation. It is also noted that the setback of the proposed extension from the neighbouring dwelling is the same as that of the existing outbuilding that was previously approved under permit T050221 in 5 July 2005.

The proposal meets all other setback requirements of the zone (such as from the road and the boundaries) and while the setback from the neighbouring dwelling is not met, this is not a reason

for refusal in itself. It simply triggers the need for a planning permit to ensure that the siting is appropriate and meets the objectives of the overlay.

The proposed extension will have a height of between 4.0 and 4.625 metres, compared to the maximum 8.09-metre height of the existing outbuilding. The relatively small size and scale of the proposed extension combined with the use of non-reflective materials (Colorbond) and the use of a colour ('Ironstone' grey/blue) that is considered sympathetic to the environment will help to ensure the extension blends in with the landscape and minimises visual impact.

The proposed extension will be located on an existing fill pad which is cleared and was constructed as part of the existing outbuilding. A 10-metre high eucalyptus tree is located within 4.5 metres of the proposed extension and while the extension will encroach on part of the tree protection zone, it will not encroach the structural root zone. Council's Environment Department suggested a condition be placed on any planning permit to ensure the protection of the tree's roots during construction.

Due to the relatively minor disturbance to the land, the proposal is not expected to have any impact on the flora or fauna of the area.

Based on the setbacks, size and location of the shed, along with appropriate colours and materials and partial screening from surrounding properties, it is considered that the proposal minimises any adverse impacts on landscape features, major roads and vistas.

The proposal is also considered to meet the decision guidelines of this zone in terms of its compatibility with surrounding land uses. The design and style of the outbuilding reinforces the agricultural and rural residential nature of the area and is not expected to have any impact on the use or development of surrounding properties. The majority of surrounding properties have been developed in a similar way to the subject site, with single dwellings and large and/or multiple outbuildings or agricultural buildings.

### **Environmental Significance Overlay – Schedule 1**

The Environmental Significance Overlay – Schedule 1 aims to protect and enhance the significant environmental and landscape values in the northern hills area of the municipality. The decision guidelines of this overlay cover a number of matters, including design and siting, impact on ridgelines and views, and environmental issues.

The proposed 72-square metre extension of the existing 240-square metre outbuilding will result in a floor area of 312 square metres. This is in addition to two other smaller outbuildings located elsewhere on the site.

Due to the size of the site and rural nature of the area, this is not considered excessive or detrimental to the character of the area. A number of properties in the surrounding area also have outbuildings that exceed the 120-square metre permit requirement of the ESO1 and large outbuildings are reflective of the rural/agricultural character of the area.

The use of a low pitched roof (5 degrees), subdued colours and non-reflective materials is sympathetic to the landscape and will help to soften the appearance of the building. The screening provided by the existing outbuilding and vegetation and the setback of more than 40 metres from the nearest neighbouring dwelling will ensure the outbuilding does not dominate the landscape or detract from the landscape and environmental values of the area.

The proposal does not require any earthworks and is located in a cleared area, which will help to avoid or minimise any impacts on flora and fauna.

### **Bushfire Management Overlay**

Pursuant to Clause 44.06-4 of the Bushfire Management Overlay, the application was referred to the CFA (a Determining Authority). The CFA had no objection to the proposal, subject to conditions.

It is considered that all aspects of personal and property safety have been considered as part of the application and that provided the development is constructed in accordance with the CFA requirements, the potential risk to life and property will be minimised.

### **Clause 57 Metropolitan Green Wedge Land**

The subject site forms part of the metropolitan green wedge land and as such, the objectives of Clause 57 must be taken into consideration. It is considered that the proposal will not detract from or diminish the environmental, conservation, landscape or natural resource values of the land. The proposed development has been located in a cleared area of the land to avoid vegetation impacts and is considered compatible with the non-urban character of the area.

Clause 57 does not impose any additional conditions or restrictions that affect the proposal.

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

It is considered that the proposal complies with the relevant State and Local Planning Policies, including the Municipal Strategic Statement.

The application responds to clauses 12.01 and 21.02-3 (Biodiversity), as the proposal minimises impacts on biodiversity by avoiding the need for any vegetation removal.

By avoiding vegetation impacts and through the use of non-reflective materials and subdued colours, the proposal also meets other relevant clauses, such as 12.04-2 and 21.02-2 (Landscape), as key features of the landscape are protected and maintained.

Clause 11.04-7 (Green wedges) aims to protect the green wedges of Metropolitan Melbourne from inappropriate development. It includes a strategy to protect areas of environmental, landscape and scenic value. As discussed, the proposal is located in a cleared area and no earthworks or vegetation removal is required. It is generally well screened and the siting is considered suitable as it does not impact upon important views or vistas.

Clause 21.03-3 (Rural townships) of the Planning Scheme aims to retain and enhance the character of existing rural townships. The proposal responds to this with a building that attempts to blend in with the landscape and cause minimal visual impact to surrounding properties and the character of the area.

In line with clauses 13.05 (Bushfire) and 21.02-4 (Wildfire management), the application gives consideration of environmental risks such as bushfire, with appropriate measures that have been approved by the CFA (subject to conditions).

### **OBJECTION**

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. Council has received one (1) objection to date from the occupier of 1919 Wellington Road, which is adjoins the south-east side of the subject site.

A response to each of the key issues that were raised in the objection is below:

- The existing outbuilding is highly visible and the existing outbuilding blocks out any view of the skyline and landscape
  - The existing outbuilding was approved under planning permit and does not form part of this application.
  - The issue of views is dealt with in *Healy v Surf Coast SC* (VCAT P362/2005), where the Tribunal refined a number of principles with regard to view. The proposal is considered to be consistent with these principles as the loss of any view is not considered unreasonable as the objector will still have significant access to views.

- The existing outbuilding frequently emits noise from music, machinery and vehicles at all times of the day and night
  - The existing outbuilding was approved under Planning Permit T050221 and had conditions that restricted it being used for commercial purposes (unless compliant with the Home Occupation provisions. If these conditions are not being complied with, or if a restricted or prohibited use is taking place, Council's Planning Enforcement Department can follow up. It is noted that Council's Enforcement Department has previously followed up on such concerns.
- The proposed extension will exacerbate noise and light problems
  - No lighting is shown on the plans (and no planning permit is required for lighting) however a condition will be placed on any planning permit to ensure any lighting does not have negative impacts on surrounding properties.
  - The proposed carport is for the storage and parking of machinery, which is not expected to generate noise. A condition will be placed on any planning permit to ensure the outbuilding is not being used for prohibited uses, such as commercial activities. Noise is also regulated under Local Laws and Environment Protection Regulations and action can be taken accordingly.
- The Colorbond cladding of the proposed extension does not match the cladding of the existing outbuilding, which will increase the visual impact of the building.
  - The Colorbond cladding is considered to be non-reflective and the selected 'Ironstone' colour is considered subdued and suitable for the environment. While the Colorbond cladding of the proposed outbuilding is not same as the existing timber clad outbuilding, the two materials have a similar rural style of nature and the colours are considered complementary. The proposed outbuilding will also be partially screened by existing vegetation and the existing outbuilding.
  - The Colorbond cladding matches the Colorbond roofing of the dwelling extension, as well as part of the existing outbuilding, which features corrugated iron roofing and partial corrugated iron wall cladding (the remainder being vertical timber).

## CONCLUSION

The proposal is consistent with the purposes and objectives of the relevant provisions of the Cardinia Planning Scheme. The proposed development is considered appropriate for the subject site and surrounding area and is not expected to diminish the character or environmental values of the area. Due to the above reasons, the application should be supported subject to conditions.

## CONDITIONS

1. The development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
2. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
3. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

4. The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building, including the roof, must be of a non-reflective nature.
5. The proposed outbuilding may only be used for the storage of vehicles and goods for domestic purposes, or purposes related to rural activities being carried out on the property. The building may not be used for human habitation or for any business except in accordance with the home occupation provisions of the planning scheme.
6. When carrying out earthworks to install the supporting posts and/or footings within the Tree Protection Zone of the existing tree shown on drawing number TP3, the works must be completed by hand, and large roots (>50mm diameter), if encountered must be left intact. If any smaller roots are to be cut, they must be severed cleanly to prevent infection or fungus entering the severed roots.
7. External lighting must be designed, baffled and located so as to not detrimentally effect on adjoining land to the satisfaction of the Responsible Authority.
8. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority.
9. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
10. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.
11. If any proposed buildings or works encroach over any part of the existing septic tank system, including buffer zones, the system must be relocated to the satisfaction of Council.
12. If the septic tank system must be relocated, prior to any alteration works commencing a Permit to Alter must be obtained from Council. An application for a permit must include a report from a licensed plumber which details:
  - a) The position, type and condition of the present septic tank system including wastewater dispersal details;
  - b) Whether the existing septic tank system has been desludged within the last three years; and
  - c) That the septic tank system, once altered, is capable of containing all wastewater from the proposed, and existing buildings, on site in accordance with the EPA Septic Tank Code of Practice and Council requirements.

Please note that additional drainage, or other works, may still be required to ensure that all wastewater is treated and contained on-site.

### **CFA Conditions**

#### *Defendable Space Requirement*

13. Defendable space must be created for a distance of 10 metres around the proposed building or to the property boundary, whichever is the lesser, where vegetation (and other flammable materials) during the declared fire danger period will be managed in accordance with the following:
  - a) Grass must be short cropped.
  - b) All leaves and vegetation debris must be removed at regular intervals.
  - c) Flammable objects must not be located close to the vulnerable parts of the building.

- 
- d) Shrubs must not be located under the canopy of trees.
  - e) Trees must not overhang or touch any elements of the building.
  - f) The canopy of trees must be separated by at least 2 metres.
  - g) There must be a clearance of at least 2 metres between the lowest tree branches and ground level.



## **2 EXTENSION TO OUTBUILDING AT 1921 WELLINGTON ROAD, MENZIES CREEK**

Moved Cr L Wilmot Seconded Cr K Lempriere

That a Notice of Decision to Grant Planning Permit T150540 be issued for buildings and works to extend an existing outbuilding within 100m of a dwelling not in the same ownership in the Rural Conservation Zone- Schedule 2, Environmental Significance Overlay- Schedule 1 and Bushfire Management Overlay at L4 PS074703, 1921 Wellington Road, Menzies Creek, subject to the following conditions:

### **CONDITIONS**

1. The development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
2. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
3. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.
4. The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building, including the roof, must be of a non-reflective nature.
5. The proposed outbuilding may only be used for the storage of vehicles and goods for domestic purposes, or purposes related to rural activities being carried out on the property. The building may not be used for human habitation or for any business except in accordance with the home occupation provisions of the planning scheme.
6. When carrying out earthworks to install the supporting posts and/or footings within the Tree Protection Zone of the existing tree shown on drawing number TP3, the works must be completed by hand, and large roots (>50mm diameter), if encountered must be left intact. If any smaller roots are to be cut, they must be severed cleanly to prevent infection or fungus entering the severed roots.
7. External lighting must be designed, baffled and located so as to not detrimentally effect on adjoining land to the satisfaction of the Responsible Authority.
8. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority.
9. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
10. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.
11. If any proposed buildings or works encroach over any part of the existing septic tank system, including buffer zones, the system must be relocated to the satisfaction of Council.
12. If the septic tank system must be relocated, prior to any alteration works commencing a Permit to Alter must be obtained from Council. An application for a permit must include a report from a

licensed plumber which details:

- a) The position, type and condition of the present septic tank system including wastewater dispersal details;
- b) Whether the existing septic tank system has been desludged within the last three years; and
- c) That the septic tank system, once altered, is capable of containing all wastewater from the proposed, and existing buildings, on site in accordance with the EPA Septic Tank Code of Practice and Council requirements.

Please note that additional drainage, or other works, may still be required to ensure that all wastewater is treated and contained on-site.

### **CFA Conditions**

#### *Defendable Space Requirement*

13. Defendable space must be created for a distance of 10 metres around the proposed building or to the property boundary, whichever is the lesser, where vegetation (and other flammable materials) during the declared fire danger period will be managed in accordance with the following:
  - a) Grass must be short cropped.
  - b) All leaves and vegetation debris must be removed at regular intervals.
  - c) Flammable objects must not be located close to the vulnerable parts of the building.
  - d) Shrubs must not be located under the canopy of trees.
  - e) Trees must not overhang or touch any elements of the building.
  - f) The canopy of trees must be separated by at least 2 metres.
  - g) There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

Cd.

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

FILE REFERENCE INT1611047

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Samantha Zimbler

#### **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 Overly - 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 in 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.



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

Moved Cr G Moore Seconded Cr D Young

That this application be deferred for consideration at the next Town Planning Committee Meeting to allow further discussions with the applicant.

Cd.

## **4 TWO LOT SUBDIVISION AND VARIATION OF COVENANT PS702072L AT 14 CHANDRA CLOSE, PAKENAHM**

FILE REFERENCE INT1611059

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Vageesha Wellalage

### **RECOMMENDATION**

That a Refusal to Grant Planning Permit T150618 be issued for Lot:15 PS702072 at 14 Chandra Close Pakenham on the following grounds:

- The proposed variation would create an unreasonable detrimental impact on the adjoining properties.
- The proposed subdivision is not consistent with the existing and preferred neighbourhood character of the area.

### **Attachments**

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

### **EXECUTIVE SUMMARY:**

APPLICATION NO.:	T150618
APPLICANT:	Michael Reddie
LAND:	Lot:15 PS702072; 14 Chandra Close Pakenham
PROPOSAL:	Subdivision of the land into two (2) lots in General Residential Zone and variation of covenant PS702072L
PLANNING CONTROLS:	General Residential Zone Development Contributions Plan Overlay Schedule 1
NOTIFICATION & OBJECTIONS:	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 and placing a sign on site. Council has received two (2) objections to date.
KEY PLANNING CONSIDERATIONS:	Impact of the proposed subdivision and variation of covenant on the adjoining properties Appropriateness of the subdivision and variation of covenant
RECOMMENDATION:	Refusal

### **BACKGROUND:**

There is no relevant planning permit history for the site.

## SUBJECT SITE

The site is located on the northern side of Chandra Close Pakenham.

A crossover is located on the eastern alignment of the site and there is an easement on the north western corner of the site.

The site currently is vacant.

The topography of the land is relatively flat.

The main characteristics of the surrounding area are:

- North                Vacant
- South                Access Road (Chandra Close)
- West                 Residential
- East                 Aurora Court

## PROPOSAL

Approval is sought for the subdivision of land into two lots and variation of covenant.

### *Subdivision*

The subject site is approximately 693 square metres in size and is proposed to be subdivided into two lots having land areas of 352 square metres and 342 square metres. Both the proposed lots have been provided with a building envelope each. Proposed Lot 1 will gain access from Chandra Close and proposed Lot 2 will gain access from Aurora Court via a proposed crossover. An easement has been created along the northern boundary of the proposed Lot 1 with a width of 1.2 metres for sewerage purposes and the existing easement on the north western corner will be retained.

### *Variation of covenant*

The subject site is affected by a covenant PS702072L. The covenant states the following:

The registered proprietors for the time being of all lots must not:

*“Build any building other than a building that agrees with the Building Design Guidelines, endorsed as part of Planning Permit T070313A, without the approval of the responsible authority”*

Point 4 of the relevant design guidelines state the following:

*“Dwelling Density*

*No more than one dwelling may be constructed per lot (lots 1-37, 42-65, 68-79)”*

This application seeks to amend the Covenant PS702072L by rewording the covenant ("Land to be Burdened") as follows:

Current: All lots except lots 38, 39, 40, 41, 66 & 67

To: All lots except lots **15**, 38, 39, 40, 41, 66 & 67

## **PLANNING SCHEME PROVISIONS**

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

The relevant clauses of the SPPF are:

- Clause 11.02-1 Supply of urban land
- Clause 15.01-3 Neighbourhood and subdivision design
- Clause 15.01-5 Cultural identity and neighbourhood character

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

The relevant clauses of the LPPF are:

- Clause 21.03-1 Housing

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

The relevant provisions/ documents are:

- Clause 65 – The Decision Guidelines

### **Zone**

The land is subject to the General Residential Zone

### **Overlays**

The land is subject to the following overlays:

- Development Contributions Plan Overlay Schedule 1

## **PLANNING PERMIT TRIGGERS**

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

- Pursuant to Clause 32.08-2 of General Residential Zone, a planning permit is required for subdivision of land.

Pursuant to Clause 52.01 of Easements, Restrictions and Covenants a planning permit is required for variation of restriction.

## **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 on site

Although posting a notice on the newspaper is required for variation of covenant under the Planning and Environment Act, this has not been completed due to Council's decision to refuse the application.

The notification has been carried out correctly, and Council has received 2 objections to date.

The key issues that were raised in the objections are:

- Potential privacy and overlooking issues caused by future dwellings
- Overshadowing
- Building scale and neighbourhood character of future dwellings
- Type of residents/tenants vs owners/occupiers
- Loss of property value
- Additional Traffic and parking issues

## REFERRALS

- No referrals were required.

## DISCUSSION

State and local Planning Policy Framework, Zone and Overlays

The subdivision proposal fails to respond to the strategic directions of the Cardinia Planning Scheme. The subdivision would result in an inappropriate subdivision layout which would impact on the adjoining properties and the existing subdivision pattern. The existing subdivision pattern in Chandra Close and its surrounding streets are predominantly developed with one dwelling on a lot.

The subject lot has been created as part of the Pakenham Hills Estate. The estate contains a number of lots designated for single dwelling per lot including the subject site. The estate also contains a number of lots that are set aside for multi dwelling development. As such, the proposed estate has been created with a preferred character and it is expected that any multi dwelling developments will be located within the area designated for that purpose to avoid unnecessary fragmentation of the lots within the estate. In addition to that, the immediate area surrounding the subject property is predominantly developed with single dwelling per lot, therefore, the proposed subdivision is not consistent with the preferred character of the area.

### *Variation of covenant*

The proposed variation to the covenant will allow the development of each approved lot.

Section 60 of the Planning and Environment Act 1987 sets out the matters to be considered in making a decision on a planning permit application and includes requirements in relation to applications for the removal or variation of restrictive covenants which are set out below:

*“The responsible authority must not grant a permit which allows the removal or variation of a restriction (within the meaning of the Subdivision Act 1988 ) unless it is satisfied that the owner of any land benefited by the restriction (other than an owner who, before or after the making of the application for the permit but not*

*more than three months before its making, has consented in writing to the grant of the permit) will be unlikely to suffer—*

- (a) financial loss; or*
- (b) loss of amenity; or*
- (c) loss arising from change to the character of the neighbourhood; or*
- (d) any other material detriment—*

*as a consequence of the removal or variation of the restriction. “*

Section 60 (2) of the Planning and Environment Act 1987 establishes a much more onerous test to be satisfied before a permit may be granted for the removal or variation of a restrictive covenant, as it relates to any detriment of any kind (including any perceived detriment).

The application seeks a permit for two aspects, the subdivision of the land into two lots and the variation of the restrictive covenant that does not allow more than one dwelling on the land. Two (2) objections have been received in relation to the application from owners who are benefited of the restrictive covenant. The restrictive covenant PS702072L, and therefore the provisions of Section 60 (2) of the Planning and Environment Act 1987 apply. In light of the objections that have been received from owners who are benefited by the restrictive covenant, it is considered that Council is not able to be satisfied that the owner of any land benefited by the restriction will be unlikely to suffer any detriment of any kind (including any perceived detriment) as a consequence of the removal or variation of the restriction.

It is considered that the owners of land benefited by the restriction are likely to suffer detriment of any kind (including perceived detriment) arising from change to the character of the neighbourhood; as a consequence of the removal of the restriction, as such should not be supported.

#### *Objectors concerns*

In total two residents objected to the proposed subdivision. The concerns of the residents have been suitably addressed above and throughout the report which Council recognises and supports their concerns in relation to the proposal in addition to areas of noncompliance with the Cardinia Planning Scheme.

#### **CONCLUSION**

The proposed subdivision of the land is unresponsive to the surrounding neighbourhood character, existing subdivision pattern and does not meet the relevant objectives and standards of Cardinia Planning Scheme. Furthermore the variation of the covenant to allow a dwelling to be constructed within proposed lot two is inappropriate and would cause material detriment to the adjoining and surrounding residents who are beneficiaries of the covenant. Council recommends that the application be refused for reasons discussed throughout the report.



**4 TWO LOT SUBDIVISION AND VARIATION OF COVENANT PS702072L AT  
14 CHANDRA CLOSE, PAKENAHM**

Moved Cr L Wilmot Seconded Cr K Lempriere

That a Refusal to Grant Planning Permit T150618 be issued for Lot:15 PS702072 at 14 Chandra Close Pakenham on the following grounds:

- The proposed variation would create an unreasonable detrimental impact on the adjoining properties.
- The proposed subdivision is not consistent with the existing and preferred neighbourhood character of the area.

Cd.



## **5 USE AND DEVELOPMENT OF THE LAND FOR A RESTRICTED RECREATION FACILITY (SHOOTING RANGE) AT 1100 KOO WEE RUP ROAD PAKENHAM**

FILE REFERENCE INT1611052

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Samantha Zimblar

### **RECOMMENDATION**

That Planning Permit T150554 be issued for the Use and Development of the Land for a Restricted Recreation Facility (shooting range) at 1110 Koo Wee Rup Road, Pakenham (to be known as Lot 15 PS134749, Industrial Drive Pakenham) subject to the conditions attached to this report.

### **Attachments**

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

### **EXECUTIVE SUMMARY:**

APPLICATION NO.:	T150554
APPLICANT:	Southern Cross Firearms (Aust)
LAND:	1110 Koo Wee Rup Road Pakenham (to be known as Lot 15 PS134749, Industrial Drive Pakenham)
PROPOSAL:	Use and Development of the Land for a Restricted Recreation Facility (shooting range).
PLANNING CONTROLS:	Industrial 1 Zone Development Plan Overlay (DPO10)
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.  No objections have been received to date, with nine (9) separate letters of support and list of persons providing 'electronic' support.
KEY PLANNING CONSIDERATIONS:	Building form and Site Layout, Noise, amenity impacts, parking provision & security
RECOMMENDATION:	Grant a Planning Permit

### **BACKGROUND:**

The subject site has recently undergone a subdivision approval to create the proposed lot, the title for this lot has not been released.

## SUBJECT SITE

The current title is located on the north east corner of Koo Wee Rup Road and Greenhills Road in Pakenham. The proposed lot, which makes up the subject site is located on the south side of Industrial Drive approximately 250 metres west of Exchange Drive.

The proposed lot is generally rectangular in shape with a frontage of 48 metres and depth of 99 metres with an overall area of 4,752 square metres.

The site is currently vacant with the title of the property yet to be released. The Industrial Drive and crossovers are under construction. The topography of the land is relatively flat.

The main characteristics of the surrounding area are:

- The surrounding lots are associated with the future industrial subdivision that has been approved on the site and include varied lot areas with lots on the south side of the roadway similar to the subject site.
- Properties further north are established industrial area.
- Land to the west is the Koo Wee Rup Road reserve with land further west earmarked for future industrial and commercial purposes.
- Land to the south on the south side of Green Hills Road is land within the Green Wedge Zone
- The proposed lot is in excess of 500 metres from any dwelling and is well separated from all residential land.

## PROPOSAL

The proposal is summarised as:

### Use

The proposed use includes a restricted recreation facility, which is defined as:

*Land used by members of a club or group, members' guests, or by the public on payment of a fee, for leisure, recreation, or sport, such as a bowling or tennis club, gymnasium and fitness centre. It may include food and drink for consumption on the premises, and gaming.*

The proposal is for a shooting range that will cater for members within the surrounding area and incorporates a training room, club room, indoor shooting range and ancillary retail fire arm sales and a cafeteria. The proposal use does not incorporate gaming machines or liquor licence. The applicant has noted that the site will provide for a maximum of 50 persons at one time with an average of 10 – 20 patrons and 5 employees.

The proposed hours of operation have been noted by the applicant as:

- Monday - Sunday: 8.00 am – 10.30 pm

### Site layout

The proposal includes the provision of car parking within the front setback and along east boundary with access provided via the east section of the site frontage. The proposal building is to be setback 28.7 metres from the site frontage, 17.6 metres from the east boundary, with construction

to the west boundary and setback of 5.664 metres from the south (rear) boundary. The proposed loading bay is proposed on the south east corner of the building.

### **Building form and internal layout**

The building includes a width a maximum width 35.4 metres and depth of 64.6 metres with internal floor area of approximately 2,160 square metres. The building includes two long shooting ranges with adjacent 'ready' room and first aid room, with a café/retail area of 255 square metres with associated kitchen area. The internal layout includes a number of meeting rooms and clubroom, with common amenities and staff facilities. Access to the building is located on the east side of the building.

The proposed building provides an industrial form with an overall height of 6 metres with a low profile angled roof with a general wall height of 5 metres. The development plans do not provide clearly detail of the materials proposed although the applicant has noted that it will be constructed of painted concrete walls with a number of windows located along the northern elevation with some architectural design features along the façade of the building.

### **Car parking and access**

The proposal includes a total of fifty-four (54) parking spaces on the site including twenty-one (21) spaces within the front setback and remaining spaces along the east boundary and east wall of the building. The proposal includes driveways in an inverted 'L' shape with a crossover on the eastern side of the site frontage. The proposal includes two disabled parking spaces adjacent to the entrance of the building.

### **Landscaping**

The proposal includes landscaping areas within the front setback surrounding the proposed parking and driveway areas.

### **Fencing**

The proposal incorporates a 2.1 steel picket fence along the north, south and east boundaries and along the west boundary where the building is not constructed on the boundary. The proposal includes a gate with an associated card reader to allow control of access and exist to the site.

### **Signage**

The proposal has not noted any proposed signage.

## **PLANNING SCHEME PROVISIONS**

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

The relevant clauses of the SPPF are:

- Clause 11 Settlement
  
- Clause 13 Environmental Risks
  - Clause 13.04-1 Noise Abatement
  
- Clause 15 Built Environment and Heritage
  - Clause 15.01-1 Urban Design
  
- Clause 17 Economic Development
  - Clause 17.02-1 Industrial Land Development
  - Clause 17.02-2 Design of industrial development

### Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.04-1 Employment
- Clause 21.04-4 Industry

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

The relevant provisions are:

- Clause 52.06 Car parking
- Clause 52.07 Loading and Unloading of Vehicles
- Clause 65 Decision Guidelines
- Proposed Industrial Subdivision Design Guidelines – 110 Healesville-Koo Wee Rup Road Pakenham, February 2008

### Zone

The land is subject to the Industrial 1 Zone.

### Overlays

The land is subject to the following overlays:

- Development Plan Overlay (DPO10)

### PLANNING PERMIT TRIGGERS

The proposal for the use and development for a restricted recreation facility (shooting range) requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 33.01-1 of the Industrial 1 Zone a planning permit is required for the use of a restricted recreation facility.
- Pursuant to Clause 33.01-4 of the Industrial 1 Zone a planning permit is required for buildings and works.
- Pursuant to Clause 52.06-2 of the Car Parking provision for a new use must be provided to the satisfaction of the Responsible Authority

### 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 no objections to date.

## REFERRALS

### *Environment Protection Authority (EPA)*

The application was referred to the EPA for comment. EPA had no objection to the proposal subject to conditions.

### *Victoria Police*

The application was referred to Victoria Police for comment. Victoria Police had no objection to the proposal with no specified conditions.

### *South East Water*

The application was referred to South East Water for comment. South East Water had no objection to the proposal noting that a statement of compliance has not been issued for the site and noted that any construction within 1 metre of a sewerage asset would require approval from the authority. Although easements have not been determined, a proposed asset may be located along the east boundary of the site. The proposed building is setback from the east boundary as such only car parking areas would be constructed within the easement and future approvals could be sought to allow for this construction. This will be included as a notation on the permit.

## DISCUSSION

### *Appropriateness of the use*

The proposed use is not a conventional industrial use although the location of this use within an industrial area is considered appropriate as it will ensure minimal offsite amenity impacts. The proposed use requires a larger floor area than can generally be found in more conventional business areas and separation from residential properties would lessen the impact on the surrounds hence the industrial floor spaces are considered desirable for the proposed use. Appropriate restrictions in terms of the numbers of patrons and hours of operation can ensure that the development does not detrimentally impact future industrial development surrounding site.

This type of use is not uncommon in industrial areas, notably a similar use has been established within the municipality (i.e. other restricted recreation facilities such as gymnasiums, dance studios and the like). These uses provide no significant detrimental impact to the surrounds to the surrounding industrial uses and enable the establishment of a business contributing to the local economy.

The proposal has shown appropriate noise attenuation devices to minimise impacts on the surrounding uses. Further security arrangements have been detailed by the applicant to ensure that the operations of the shooting range and ancillary firearm sales will be conducted in accordance with Victoria Police requirements, which will be reinforced through permit conditions.

Overall it is considered proposed use will have limited off site amenity impacts within the area in that the operation of the use with parking on site generally achieved (see below for more comment).

### *Site layout, building form, landscaping and fencing*

The proposed site layout and building form is generally consistent with the surrounding industrial development including minimum setbacks provided in excess of 20 metres and landscaping strip in excess of 3 metres along the site frontage. The proposed building form includes an overall height of 6 metres consistent with general industrial development in the wider site context with the design including the presentation of the development provides a façade that provides some visual interest along the Industrial Drive frontage.

One concern with the development plans is that they do not specifically include a building materials and colour schedule, this can easily be addressed through permit conditions.

The proposed landscaping and fencing along the site frontage and common boundaries are provided with an appropriate arrangement with a landscape plan submitted as part of this application.

These design features show that the proposal is consistent with the requirements of the Industrial Subdivision Design Guidelines. These guidelines are to be incorporated into the future title, with the applicant providing information that indicates approval of the Design Panel associated with the future restriction.

Overall the proposed use and development, subject to minor additional details is appropriate for the site and surrounds and is consistent with the requirements of the Cardinia Planning Scheme.

#### *Car parking and loading/unloading of vehicles*

Pursuant to Clause 52.06-5 of the Cardinia Planning Scheme the use of restricted recreation facility does not include any specified parking rate as such the parking provision is at the discretion of the Responsible Authority. The proposed development incorporates a parking area for fifty-four (54) parking spaces. The applicant has noted that the maximum persons on the site at any one time is likely to be 50 with average of 10 – 20 patrons and 5 staff which will easily be accommodated on the site. The restriction to the number of patrons on the site to a maximum of 50 and 5 staff will virtually provide one parking space for each person on the site as such it is considered that the development achieves the objectives of Clause 52.06 relating to car parking.

The proposed development includes a loading bay consistent with the minimum requirements of Clause 52.07.

#### *Amenity impacts and noise attenuation*

As noted above the subject site is setback over 500 metres from any dwelling (located in an industrial zone to the south west). The one concern with this type of use relates to the potential noise impacts particularly for the firing range. The applicant has submitted sufficient information that indicates the building structure are purpose built for this type of use and has additionally submitted an acoustic report that indicates that the provision of 200mm solid concrete walls and roof to maximise the noise reduction will ensure that noise levels are minimised and will not increase noise for residential properties.

The proposed car parking and traffic management for the proposed use and development can be adequately accommodated on the site without detrimentally impacting on the future industrial uses or impacting on the amenity of the wider site context.

As such it is considered that the proposed development has minimised any off site amenity impacts and satisfies the requirements of the Cardinia Planning Scheme.

## **CONCLUSION**

The proposed use and development is appropriately located with the design providing an appropriate site layout, building form and car parking with no detrimental impacts on the surrounding properties.

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**CONDITIONS****Plans Required**

1. Before the development starts, a schedule of construction materials, external finishes and colours to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.
2. Before the development starts, a stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted for the approval of the Responsible Authority. The stormwater management plan must be prepared by a suitably qualified person and show details of the proposed stormwater works including all existing and proposed features that may have impact (including trees to be retained, crossings, services, fences, abutting buildings, existing boundary levels etc). All works must be undertaken in accordance with the approved stormwater management plan.
3. Before the use starts, a management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be consistent with the endorsed plan(s) and include:
  - a. Operations and management of the site to meet the Victoria Police requirements including Licensed Firearms Dealer Reference Guide and storage requirements for licensed firearms dealer.
  - b. Staffing and other measures which are designed to ensure the orderly arrival and departure of patrons.
  - c. Security measures to employed to ensure the security of staff, patrons and general public.
  - d. Signage to be used to encourage responsible off-site patron behaviour.
  - e. The training of staff in the management of patron behaviour.
  - f. Measures to control noise emissions from the premises.
4. The layout of the site and the size of the proposed buildings and works, as shown on the approved plans, must not be altered or modified without the consent in writing of the Responsible Authority.
5. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
6. The use of the premises must not be changed without the written consent of the Responsible Authority.
7. Except with the written consent of the Responsible Authority, the use may operate only between the hours of:
  - a. Monday - Sunday: 8.00 am – 10.30 pm
8. The subject land must not be used by more than five (5) staff and fifty (50) patrons at any one time except with the prior written consent of the Responsible Authority.

9. The development must not be occupied and use may not commence until titles have been issued for the subject site.
10. Prior to the occupation of the building the permit holder must:
  - a. Surface all proposed access, circulation and parking areas with concrete, asphalt or other approved hard surfacing material and delineate the parking areas to the satisfaction of the Responsible Authority. These areas must be maintained to the satisfaction of the Responsible Authority.
  - b. Complete the landscaping in accordance with the approved landscape plan to the satisfaction of the Responsible Authority.
  - c. Connect to the reticulated sewerage to the satisfaction of the Responsible Authority.
  - d. Undertake all works in accordance with the approved stormwater management plan to the satisfaction of the Responsible Authority.
  - e. Before the development is occupied a *commercial/industrial* standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
11. Before the occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose, including that any dead, diseased or damaged plants are to be replaced.
13. The loading and unloading of vehicles must always be carried on entirely within the site and must not interfere with other traffic.
14. Before the development is occupied, direction signs and direction pavement markings are to be installed as shown on the approved plans. Once works are completed, the area must be maintained to the satisfaction of the Responsible Authority.
15. Vehicles under the control of the operator of the building, including staff vehicles, must not be parked in any nearby road.
16. The areas shown on the approved plan for car parking, access and landscaping must not be used for any other purpose and maintained to the satisfaction of the responsible authority.
17. The dimensions and layout of the proposed access and parking areas for cars must be in accordance with the requirements of Clause 52.06 of the Cardinia Planning Scheme.
18. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority.
19. Stormwater works must be provided on the site so as to prevent overland flows onto adjacent properties.



20. All wastewater must be discharged into the reticulated sewerage system to the satisfaction of the responsible authority.
21. All earthworks must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion to the satisfaction of the Responsible Authority.
22. Construction and post-construction activities must be in accordance with the EPA Publication 275 Construction Techniques for Sediment Pollution Control 1991 or as amended.
23. Noise emissions from the premises must comply with the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) no. N-1.
24. The development must be constructed in accordance the Environmental Noise Assessment (Engineered Acoustics, Keith H Porter, 27 August 2015) and incorporate 200m solid concrete walls.
25. The amenity of the area must not be detrimentally affected by the use or development through the:
  - a. Transport of materials, goods or commodities to or from the land;
  - b. Appearance of any building, works or materials;
  - c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil; or
  - d. Presence of vermin.
26. The exterior colour and cladding of the buildings must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building must be of a non-reflective nature to the satisfaction of the Responsible Authority.
27. External lighting of the areas set aside for car parking, access lanes and driveways must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
28. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
29. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes.

### **Permit Expiry**

In accordance with Section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:

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

In accordance with Section 69 of the *Planning and Environment Act 1987*, the Responsible Authority may extend the periods referred to if a request is made before the expiry date or within three months afterwards.

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**Notes:**

Any construction of existing or proposed easement must be approved by the relevant authority, it is noted that any construction within 1 metre of a South East Water asset will require approval from this authority.

Any proposed advertising signs must comply with the provisions of the Cardinia Planning Scheme. Advertising signs which do not comply with the provisions of the Cardinia Planning Scheme will require a planning permit.

A Building Permit will be required for this development and to obtain a building permit you will need to contact a registered building surveyor.

Any commercial enterprise involving handling of food or drink must contact the Environmental Health Department for further advice concerning legislative requirements.

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

## **5 USE AND DEVELOPMENT OF THE LAND FOR A RESTRICTED RECREATION FACILITY (SHOOTING RANGE) AT 1100 KOO WEE RUP ROAD PAKENHAM**

Moved Cr G Blenkhorn Seconded Cr C Ross

That Planning Permit T150554 be issued for the Use and Development of the Land for a Restricted Recreation Facility (shooting range) at 1110 Koo Wee Rup Road, Pakenham (to be known as Lot 15 PS134749, Industrial Drive Pakenham) subject to the following conditions:.

### **Plans Required**

1. Before the development starts, a schedule of construction materials, external finishes and colours to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.
2. Before the development starts, a stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted for the approval of the Responsible Authority. The stormwater management plan must be prepared by a suitably qualified person and show details of the proposed stormwater works including all existing and proposed features that may have impact (including trees to be retained, crossings, services, fences, abutting buildings, existing boundary levels etc). All works must be undertaken in accordance with the approved stormwater management plan.
3. Before the use starts, a management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be consistent with the endorsed plan(s) and include:
  - a. Operations and management of the site to meet the Victoria Police requirements including Licensed Firearms Dealer Reference Guide and storage requirements for licensed firearms dealer.
  - b. Staffing and other measures which are designed to ensure the orderly arrival and departure of patrons.
  - c. Security measures to employed to ensure the security of staff, patrons and general public.
  - d. Signage to be used to encourage responsible off-site patron behaviour.
  - e. The training of staff in the management of patron behaviour.
  - f. Measures to control noise emissions from the premises.
4. The layout of the site and the size of the proposed buildings and works, as shown on the approved plans, must not be altered or modified without the consent in writing of the Responsible Authority.
5. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.

6. The use of the premises must not be changed without the written consent of the Responsible Authority.
7. Except with the written consent of the Responsible Authority, the use may operate only between the hours of:
  - a. Monday - Sunday: 8.00 am – 10.30 pm
8. The subject land must not be used by more than five (5) staff and fifty (50) patrons at any one time except with the prior written consent of the Responsible Authority.
9. The development must not be occupied and use may not commence until titles have been issued for the subject site.
10. Prior to the occupation of the building the permit holder must:
  - a. Surface all proposed access, circulation and parking areas with concrete, asphalt or other approved hard surfacing material and delineate the parking areas to the satisfaction of the Responsible Authority. These areas must be maintained to the satisfaction of the Responsible Authority.
  - b. Complete the landscaping in accordance with the approved landscape plan to the satisfaction of the Responsible Authority.
  - c. Connect to the reticulated sewerage to the satisfaction of the Responsible Authority.
  - d. Undertake all works in accordance with the approved stormwater management plan to the satisfaction of the Responsible Authority.
  - e. Before the development is occupied a *commercial/industrial* standard concrete vehicle crossing/s as shown on the approved plans must be constructed to the approval and satisfaction of the Responsible Authority.
11. Before the occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority and used for no other purpose, including that any dead, diseased or damaged plants are to be replaced.
13. The loading and unloading of vehicles must always be carried on entirely within the site and must not interfere with other traffic.
14. Before the development is occupied, direction signs and direction pavement markings are to be installed as shown on the approved plans. Once works are completed, the area must be maintained to the satisfaction of the Responsible Authority.
15. Vehicles under the control of the operator of the building, including staff vehicles, must not be parked in any nearby road.
16. The areas shown on the approved plan for car parking, access and landscaping must not be used for any other purpose and maintained to the satisfaction of the responsible authority.
17. The dimensions and layout of the proposed access and parking areas for cars must be in accordance with the requirements of Clause 52.06 of the Cardinia Planning Scheme.

18. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain discharged to an outlet in the street or to an underground pipe drain to the satisfaction of the Responsible Authority.
19. Stormwater works must be provided on the site so as to prevent overland flows onto adjacent properties.
20. All wastewater must be discharged into the reticulated sewerage system to the satisfaction of the responsible authority.
21. All earthworks must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion to the satisfaction of the Responsible Authority.
22. Construction and post-construction activities must be in accordance with the EPA Publication 275 Construction Techniques for Sediment Pollution Control 1991 or as amended.
23. Noise emissions from the premises must comply with the requirements of the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) no. N-1.
24. The development must be constructed in accordance the Environmental Noise Assessment (Engineered Acoustics, Keith H Porter, 27 August 2015) and incorporate 200m solid concrete walls.
25. The amenity of the area must not be detrimentally affected by the use or development through the:
  - a. Transport of materials, goods or commodities to or from the land;
  - b. Appearance of any building, works or materials;
  - c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil; or
  - d. Presence of vermin.
26. The exterior colour and cladding of the buildings must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building must be of a non-reflective nature to the satisfaction of the Responsible Authority.
27. External lighting of the areas set aside for car parking, access lanes and driveways must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
28. The site must be so ordered and maintained as not to prejudicially affect the amenity of the locality by reason of appearance.
29. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes.
30. Alcohol must not be consumed on the premises at any time.

### Permit Expiry

In accordance with Section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:

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

In accordance with Section 69 of the *Planning and Environment Act 1987*, the Responsible Authority may extend the periods referred to if a request is made before the expiry date or within three months afterwards.

### Notes:

Any construction of existing or proposed easement must be approved by the relevant authority, it is noted that any construction within 1 metre of a South East Water asset will require approval from this authority.

Any proposed advertising signs must comply with the provisions of the Cardinia Planning Scheme. Advertising signs which do not comply with the provisions of the Cardinia Planning Scheme will require a planning permit.

A Building Permit will be required for this development and to obtain a building permit you will need to contact a registered building surveyor.

Any commercial enterprise involving handling of food or drink must contact the Environmental Health Department for further advice concerning legislative requirements.

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

Cd.

## **6 PLANNING AMENDMENT ACTIVITY REPORT**

FILE REFERENCE INT1610966

RESPONSIBLE GENERAL MANAGER Phil Walton

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.

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#### **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>						
A/No.	Proponent	Address	Purpose	Exhibition		Status
				Start	End	
C161	Cardinia Shire Council	Various properties	Authorisation No. A02138: The amendment proposes to: (1) Introduce permanent heritage overlays for the places and precincts listed in the study. (2) Insert the Cardinia Local Heritage Study Review May 2011 as a reference document at Clause 21.09-7. (3) Insert incorporated plans for residential, commercial, Great Southern Railway, the Maryknoll township and Bayles Hall precincts identified in the study at Clause 43.01-2. (4) Amend Planning Scheme Maps 10HO and 18HO to fix a mapping anomaly affecting H055 as it relates to the Maryknoll	25/01/2012	27/02/2012	Amendment approved without changes and gazetted on 21/01/2016.

CARDINIA PLANNING SCHEME AMENDMENT ACTIVITY REPORT						
A/No.	Proponent	Address	Purpose	Exhibition		Status
				Start	End	
			<p>Township.</p> <p>(5) Correct a number of mapping anomalies associated with existing precincts and places.</p> <p>(6) Correct a number of anomalies associated with the existing Schedule to the Heritage Overlay.</p> <p>(7) Introduce a new schedule (SL07) to the Significant Landscape Overlay and apply it to land at 4 Edenmont Road, Emerald.</p>			
C162	Cardinia Shire Council	Various properties	To protect significant trees in Cardinia Shire with a Heritage Overlay.	30/01/2014	28/02/2014	Amendment approved with minor changes on 10/02/2016. Awaiting gazettal.
C188	Cardinia Shire Council	Cardinia Shire	The amendment proposes to introduce Schedules 2 and 3 to the Low Density Residential Zone and numbers the existing unnumbered schedule to the Low Density Residential Zone to Schedule 1. It also rezones all of the land within the Urban Growth Boundary of Gembrook and Upper Beaconsfield that is currently zoned Rural Living Zone to the Low Density Residential Zone and apply a number of overlays to the land.	14/05/2015	15/06/2015	03/12/2015: Panel Report received.
C189	Cardinia Shire Council	Koo Wee Rup township	Amends the Municipal Strategic Statement to incorporate the Koo Wee Rup Township Strategy (November 2014).	05/03/2015	06/04/2015	Adopted by Council on 19/10/2015. Awaiting Minister's approval.
C198	Cardinia Shire Council	Beaconsfield	Amends the Municipal Strategic Statement to incorporate the Beaconsfield Structure Plan into the Local Planning Policy Framework.	07/08/2014	08/09/2014	Adopted by Council on 20/04/2015. Awaiting Minister's approval.
C204	Cardinia Shire Council	Various sites	Corrects a number of zoning anomalies.	28/05/2015	29/06/2015	Amendment approved with changes on 07/01/2016. Awaiting gazettal.



CARDINIA PLANNING SCHEME AMENDMENT ACTIVITY REPORT						
A/No.	Proponent	Address	Purpose	Exhibition		Status
				Start	End	
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.	07/01/2016	08/02/2016	Objections received.
C207	Cardinia Shire Council	Cardinia Shire	Implements the Cardinia Shire Gaming Policy Review December 2015 by introducing a Gaming Local Planning Policy and amending the Schedules to prohibit gaming machines in all strip shopping centres and a number of shopping complexes.	22/10/2015	23/11/2015	Amendment approved without changes on 10/02/2016. Awaiting gazettal.
C209	Cardinia Shire Council	Pakenham Golf Course	Rezone of part of the golf course from Public Park and Recreation Zone to Low Density Residential Zone and apply a schedule to allow a minimum lot size of 2000m <sup>2</sup> .	22/10/2015	23/11/2015	Report went to Council on 21/09/2015 recommending that Council seek authorisation from the Minister for Planning under Section 9(2) of the Planning and Environment Act 1987 to prepare Amendment C209.

## **6 PLANNING AMENDMENT ACTIVITY REPORT**

Moved Cr L Wilmot Seconded Cr K Lempriere

That the report be noted.

Cd.

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

FILE REFERENCE INT1611480

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Samantha Zimbler

### **RECOMMENDATION**

That the report be noted.

### **EXECUTIVE SUMMARY**

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

#### *Central*

**Records between 16/01/16-19/02/2016**

<b>Date</b>	<b>Permit No</b>	<b>Location</b>	<b>The Proposal</b>	<b>The Decision</b>
18/01/2016	T160002	1 Wadsley Avenue, Pakenham	Subdivision of the land into two (2) lots	Permit Issued
20/01/2016	T150740	19 Grattan Way, Pakenham	Buildings and works (retaining wall) within the SLO6	Permit Issued
21/01/2016	T150095	Henty Way, Pakenham	AMENDED PERMIT - Use and development of the land for a medical centre	Amendment Issued
29/01/2016	T150133	Arlington Avenue, Pakenham	AMENDED PERMIT - Staged multi-lot Subdivision (Stages 6 to 9); construction of single dwelling on a lot in the Comprehensive Development Zone; buildings and works within the Land Subject to Inundation and Special Building Overlay.	Amendment Issued
1/02/2016	T150548	2 Robin Court, Pakenham	Subdivision of the land into two (2) lots	NOD Issued
2/02/2016	T150365	5 Anderson Street, Pakenham	Development of the land for two dwellings (dwelling extension and second dwelling)	NOD Issued
4/02/2016	T150755	47 King Street, Pakenham	Subdivision of the land into ten (10) lots	Permit Issued
4/02/2016	T150389	89 Bluehills Boulevard, Pakenham	The subdivision of land into two (2) lots	NOD Issued
5/02/2016	T150244	150A Duncan Drive, Pakenham	To proceed under Section 24A of the Subdivision Act 1988 (removal of reserve status of Reserve 6 as shown on 129638) and removal of easement	Amendment Issued
5/02/2016	T150804	16 Montalto Drive, Pakenham	Buildings and works (dwelling) within the Significant Landscape Overlay - Schedule 6	Permit Issued

8/02/2016	T150626	11 Spaniel Lane, Pakenham	The subdivision of the land into two (2) lots	Amendment Issued
8/02/2016	T150627	12 Spaniel Lane, Pakenham	Amended Permit - Subdivision of the land into two (2) lots	Amendment Issued
8/02/2016	T150384	36 Silver Gum Drive, Pakenham	Development of the land for three (3) dwellings	Permit Issued
8/02/2016	T150750	7 Osborn Grove, Pakenham	The subdivision of the land into five (5) lots	Permit Issued
9/02/2016	T150777	155 Dore Road, Pakenham	The development of the land for an outbuilding (detached activity room)	Permit Issued
9/02/2016	T150778	16 Sharnet Circuit, Pakenham	Buildings and works for three (3) warehouses within the IN1Z	Permit Issued
9/02/2016	T150089	Henry Road, Pakenham	Development of the land for ten (10) dwellings with a reduction of visitor spaces	Permit Issued
11/02/2016	T150545	27 Henty Street, Pakenham	Development of the land for three (3) dwelling & garages	Permit Issued
12/02/2016	T150798	56 Bald Hill Road, Pakenham	Display of advertising signage (including business identification signs; one floodlit pole sign and other signs) on land within the IN1Z	Permit Issued
16/02/2016	T160010	11 Heyington Way, Officer	Building and works (dwelling) within the Significant Landscape Overlay - Schedule 6	Permit Issued
16/02/2016	T150458	5 Johanna Court, Pakenham	The development of the land for an outbuilding with a reduced setback in a Design and Development Overlay-Schedule 1	Permit Issued
18/02/2016	T160002-1	1 Wadsley Avenue, Pakenham	Amended - Subdivision of the land into two (2) lots	Permit Issued
18/02/2016	T160062	29 Davidson Street, Pakenham	Buildings and works (dwelling) within the Significant Landscape Overlay - Schedule 6	Permit Issued
18/02/2016	T150775	6 Lavit Lane, Pakenham 3810	Subdivision of the land into twelve (12) lots	Permit Issued
18/02/2016	T150681	62 Bald Hill Road, Pakenham	Buildings and works for a warehouse in an industrial 1 zone	Permit Issued
18/02/2016	T150435-1	71 & 77 Racecourse Road, Pakenham	Amended - Subdivision of the land (Boundary Realignment) and creation of an easement	Permit Issued

**Port****Records between 16/01/16-19/02/2016**

Date	Permit No	Location	The Proposal	The Decision
18/01/2016	T150499	270 Cardinia Road, Officer South	Major Promotional Signage	Permit Issued
19/01/2016	T150646	145 Eight Mile Road, Nar Nar Goon	Use and development of the land for a rural store	Permit Issued

22/01/2016	T150660	1860 Main Drain Road, Vervale	Use and development of the land for a rural store	Permit Issued
27/01/2016	T150685	1500 Main Drain Road, Cora Lynn	Use and development of the land for a rural store	Permit Issued
29/01/2016	T150682	55 Wingadee Road, Maryknoll	Development of the land for an outbuilding (garage) and associated earthworks within the Green Wedge A Zone and Environmental Significance Overlay	Permit Issued
8/02/2016	T160004	Unit 2/27 Jefferson Road, Garfield	The development of the land for a dwelling extension (verandah & deck) on a lot less than 300 square metres	Permit Issued
10/02/2016	T150832	310 Officer South Road, Officer South	Buildings and works for an outbuilding (shed) extension exceeding 100 square metres and within 100m of a dwelling not in common ownership.	Permit Issued
11/02/2016	T150743	11 Knights Court, Tynong	Use and development of the land for a dwelling and buildings and works associated with agriculture for horse stables used associated with a horse training facility	Permit Issued
11/02/2016	T150579	Corporate Terrace, Pakenham	Subdivision of land into four (4) lots	Permit Issued
16/02/2016	T150321	110 Denhams Road, KWR	Storage units	Permit Issued
18/02/2016	T150787	25 Richards Road, Nar Nar Goon	The development of the land for an outbuilding within five (5) metres of a property boundary in the DD01	Permit Issued

### Ranges

#### Records between 16/01/16-19/02/2016

Date	Permit No	Location	The Proposal	The Decision
18/01/2016	T150694	14 Russell Street, Emerald	Construction of an outbuilding (double garage) within the BMO	Permit Issued
18/01/2016	T150771	66 Beaconsfield-Emerald Road, Emerald	The development of the land for an extension to an existing dwelling within ten (10) metres of a road and within thirty (30) metres of a Road Zone Category 1 in DD01	Permit Issued

21/01/2016	T120221	18 Kennedy Rd, Avonsleigh	AMENDED PERMIT - The use and development of the land for a single dwelling; outbuilding; and associated earthworks	Amendment NOD Issued
22/01/2016	T150784	5 Boronia Crescent, Cockatoo	Subdivision of the land (boundary re-alignment)	Permit Issued
25/01/2016	T150730	3 Elm Crescent; Emerald	Construction of a carport (within 5m of a boundary) in the DDO1	Permit Issued
25/01/2016	T090453	8 Rouen Road, Cockatoo	Use & development of the land for a supermarket/liquor storage; vegetation removal and reduction in carparking.	Amendment Issued
29/01/2016	T150623	118 Yackatoo Road, Beaconsfield Upper	Earthworks (exceeding 1 metre) for a dam within the RCZ2 and ESO1	Permit Issued
29/01/2016	T160013	270 Red Hill Road, Emerald	The development of the land for an outbuilding within five (5) metres of a property boundary and within 100 metres of a dwelling not in the same ownership in the Rural Conservation Zone and Environmental Significance Overlay Schedule 1	Permit Issued
3/02/2016	T150700	23 View Street, Avonsleigh	Development of the land for an outbuilding (within 5 metres of the property boundary and within 10 metres of the road) in Design and Development Overlay Schedule 1	Permit Issued
4/02/2016	T150566	15 Valley Drive, Beaconsfield Upper	Development of the land for a dwelling and earthworks (exceeding 1 metres) in Design and Development Overlay Schedule 1 and Bushfire Management Overlay	Permit Issued
4/02/2016	T150597	9 Valley Drive, Beaconsfield Upper	Development of land for an outbuilding (garage) and associated earthworks in the Bushfire Management Overlay and Design and Development Overlay.	Permit Issued
5/02/2016	T140672	24 Tivendale Road, Officer	Subdivision of the land into two (2) lots; creation of access to a Road Zone Category 1 and creation of	Permit Issued

			easements	
5/02/2016	T150186	85 Mary Street, Officer	AMENDED PERMIT - Development of the land for 69 dwellings	Amendment Issued
8/02/2016	T150697	4 Kitchener Parade, Cockatoo	Development of the land for a dwelling extension within the Bushfire Management Overlay and Design and Development Overlay	Permit Issued
9/02/2016	T140500	155 Peck Road, Officer	Subdivision of land; removal of native vegetation and associated works (including road-works) on land affected by the Land Subject to Inundation Overlay	Permit Issued
9/02/2016	T150717	225 Split Rock Road, Beaconsfield Upper	Buildings and works for a replacement dwelling (exceeding 7 metres above natural ground level) and earthworks (exceeding 1 metre) in a Green Wedge A Zone (Schedule 1) and Environmental Significance Overlay (Schedule 1)	Permit Issued
9/02/2016	T150229	26 Williamson Road, Gembrook	Development of the land for a dwelling (located within 10 metres of the road) and an outbuilding (within 30 metres of a Road Zone Category 1) and vegetation removal and earthworks (exceeding 1 metre) in Bushfire Management Overlay; Design and Development Overlay Schedule 1 and Vegetation Protection Overlay Schedule 1	Permit Issued
9/02/2016	T150648	280 Beaconsfield-Emerald Road, Beaconsfield	Buildings and works associated with a dwelling including two outbuildings and inground swimming pool in a Green Wedge A Zone(Schedule 1) exceeding 7 metres in height above natural ground level;gross floor area of outbuildings exceeding 120 square	Permit Issued

			metres in floor area; vegetation removal; and earthworks exceeding (1) one metre in an Environmental Significance Overlay (Schedule 1)	
9/02/2016	T150692	48 Skyline Drive, Officer	Buildings and works (dwelling) within the Significant Landscape Overlay	Permit Issued
9/02/2016	T150093	5-7 Devon Avenue, Cockatoo	The development of the land for a dwelling (exceeding 7 metres in height) and associated earthworks (exceeding 1 metre) within the Significant Landscape Overlay and Design and Development Overlay	Permit Issued
9/02/2016	T150765	Officer South Road, Officer	Superlot Subdivision and Removal of Easement	Permit Issued
12/02/2016	T150768	1310 Pakenham Road, Mount Burnett	Buildings and works for a dwelling extension and outbuilding within 100m of a dwelling not in the same ownership and within 5m of a boundary within the GWZ2; Buildings and works for an outbuilding (gross floor area of all outbuildings on the land exceeds 120sqm) within the ESO1	Permit Issued
12/02/2016	T130749	325 Princes Highway, Officer	AMENDED PERMIT - Use and development of the land for the purpose of a restaurant; the sale and consumption of liquor (Restaurant and Café Licence) and associated car parking	Amendment Issued
12/02/2016	T160052	9 Heyington Way, Officer	Buildings and works (dwelling) within the Significant Landscape Overlay - Schedule 6	Permit Issued
12/02/2016	T150803	Cardinia Creek Road, Emerald	Removal of native vegetation	Permit Issued



16/02/2016	T150067	24 Tivendale Road, Officer	Multi-lot residential subdivision (and balanced lot) adjacent to a Road Zone Category 1 and within a Land Subject to Inundation Overlay, removal of easements, creation of easements and associated works in accordance with the endorsed plans	Permit Issued
16/02/2016	T150759	7/6-10 Old Princes Highway, Beaconsfield	Business Identification Signage	Permit Issued
16/02/2016	T150431	Timbertop Boulevard, Officer	Multi lot subdivision	Permit Issued
18/02/2016	T150708	13 Avon Road, Avonsleigh 3782	Use and development of the land for a Rural Store within 100m of a dwelling not in the same ownership in the RCZ2	Permit Issued
18/02/2016	T160016	275 Red Hill Road, Beaconsfield Upper	Development of the land for earthworks associated with a swimming pool	Permit Issued
18/02/2016	T150732	8 Beaconsfield Avenue, Beaconsfield	Buildings and works associated with an existing office in an Industrial 1 Zone	Permit Issued

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

Moved Cr L Wilmot Seconded Cr K Lempriere

That the report be noted.

Cd.

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

FILE REFERENCE INT1611478

RESPONSIBLE GENERAL MANAGER Phil Walton

AUTHOR Samantha Zimbler

### **RECOMMENDATION**

That the report be noted.

### **Attachments**

*Nil.*

### **EXECUTIVE SUMMARY**

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

Hearing Date	App No.	Proposal	Address	Council Decision	Appeal By	Status/ VCAT Decision
12 Jan 2016	T150096	Two lot subdivision	2 Connassidy Close, Beaconsfield	Refusal	Appeal by applicant	Hearing held, permit refused
2 Feb 2016	T080447-1	Removal of condition regarding age limit	Vista Ct, Gembrook	Refusal	Appeal by applicant	Withdrawn by applicant
Mediation – 30 Nov 2015, Hearing – 23 Mar 2016	T140675	Subdivision	325 Princes Hwy, Officer	Failure to determine	Appeal by applicant	Awaiting hearing
17 May 2016	T150371	Major promotion sign	20 Racecourse Rd, Pakenham	Refusal	Appeal by applicant	Awaiting hearing
29 Feb 2016	T150230	Retail premises	795 Princes Hwy, Pakenham	Refusal	Appeal by applicant	Awaiting hearing
06-Jul-16	T150725	Development of the land for Major Promotional Signage	20 Lecky Road, Officer	Refusal	Applicant	Awaiting hearing
18-Jul-16	T150194	Development of the land for three (3) dwellings on the lot	Henry Road Pakenham	Refusal	Applicant	Awaiting hearing

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

Moved Cr L Wilmot Seconded Cr K Lempriere

That the report be noted.

Cd.

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

FILE REFERENCE INT1611474

RESPONSIBLE GENERAL MANAGER Phil Walton

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
41 Burton Rd, Beaconsfield Upper	Vegetation removal and use of land as contractor's depot without a permit	<p>VCAT enforcement proceedings filed. Practice day hearing 20 Nov 2015. Possible contested hearing deferred to June 2016, to enable planning applications to be considered.</p> <p>Respondents have filed applications for planning permission regarding non-conforming uses. Currently with Planning department.</p>
205 O'Briens Rd, Bayles	Ongoing materials recycling issue on Green Wedge Land. Continuing failure to comply with VCAT enforcement order.	Magistrates' Court prosecution for failure to comply with VCAT order commenced. Listed for next mention 10 March 2016.
715 Gembrook Rd, Pakenham Upper	Alleged land use (burning off) and building breaches, that relates to extensive and complex planning history of the site.	<p>Magistrates' Court proceeding adjourned to 15 June 2016, to allow accused to file application in VCAT for declaration as to existing use rights.</p> <p>Magistrates' Court proceeding may be delayed pending determination of this issue.</p> <p>Council commenced Building and Local Law prosecution of the owner, arising from construction and commercial-scale burn offs on the site.</p> <p>The owner asserts that burning off activities are protected by the planning scheme, and the prosecution will have to litigate this issue in some form.</p>

Property Address	Nature of Contravention	Status
		The property has a 17 year history of litigated planning disputes between 1997 and 2015.
168 Brown Rd, Pakenham	Native vegetation removal, contrary to Environmental Significance Overlay, Green Wedge Zone and cl 52.17.	Magistrates' Court prosecution for alleged vegetation removal contrary to the scheme.  Matter to be adjourned into March 2016 (date TBA) to allow accused to prepare remediation plan.
67 Payne Rd, Beaconsfield	Earthworks (fill) in excess of permit / without a permit, contrary to Green Wedge Zone and Environmental Significance Overlay.	Magistrates' Court prosecution listed for first mention 25/2/2016.

## CONCLUSION

The list of current enforcement activities is presented for information.

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

Moved Cr L Wilmot Seconded Cr K Lempriere

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

Cd.

Meeting closed at 7.27pm

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Minutes Confirmed  
Chairman