



Cardinia

MINUTES OF TOWN PLANNING COMMITTEE

MONDAY, 5 FEBRUARY 2018

MINUTES OF TOWN PLANNING COMMITTEE

held in the Council Chambers, 20 Siding Avenue, Officer
on Monday, 5 February 2018
The meeting commenced at 7 pm

PRESENT: Mayor, Collin Ross, Chairman

Councillors Michael Schilling, Carol Ryan, Jodie Owen, Graeme Moore, Ray Brown, Jeff Springfield, Leticia Wilmot, Brett Owen

Andrew Paxton (GMPD), Doug Evans (MG)

APOLOGIES:
Nil

DECLARATION OF PECUNIARY AND OTHER INTERESTS
Nil.

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1 AMENDED PERMIT FOR SUBDIVISION OF THE LAND AND CREATION OF A RESERVE

FILE REFERENCE INT186015

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Angela Gleeson

RECOMMENDATION

That a Refusal to Grant Planning Permit T130742 - 2 be issued for subdivision of the land and creation of a reserve at Lot 1 PS 724891 365 Princes Highway, Officer on the following grounds:

- The conditions are considered to be valid in order to achieve a well-planned and orderly development.
- The deletion of the words 'creation of a reserve' within the preamble is to remain. The creation of the reserve is a consequence of the subdivision.
- The deletion of condition 12 (f) is not supported as the footpath connections within and around the reserve linking with the Princes Highway shared trail network are required for the orderly and proper planning of the area.
- The proposed amendment request to delete conditions will have negative impacts upon community safety within public areas and reduce the amenity planned and accessibility for the area.
- The proposed amendment request will diminish the ability to ensure that the required drainage reserve and associated passive open space will be delivered in a manner that benefits the broader community which will prejudice the orderly and proper planning of the area.
- The proposed amendment request will diminish the ability for the development to contribute to community health and well being by encouraging walking and cycling as part of the daily lives of residents, employees and visitors.
- The proposed amendment request will diminish the ability to provide safe and direct movement through and between neighbourhoods by pedestrians and cyclists.

Attachments

1	Aerial locality plan	1 Page
2	Subdivision plans	1 Page
3	Officer Precinct Structure Plan, Plan 11 Open Space Network, Plan 12 Integrated Water Management	2 Pages

EXECUTIVE SUMMARY:

APPLICATION NO.: T130742 - 2

APPLICANT: Bosco Jonson Pty Ltd on behalf of Keymore Pty Ltd

LAND:	Lot 1 PS724891, 365 Princes Highway, Officer
PROPOSAL:	Subdivision of the land and creation of a reserve
PLANNING CONTROLS:	Urban Growth Zone Schedule 3 Applied zone is General Residential Development Contributions Overlay Schedule 4 Clause 43.01-1 Heritage Overlay Clause 52.01 Public Open Space Clause 52.02 Easements Restrictions and Reserves Clause 52.16 Native Vegetation Precinct Plan Clause 52.29 Land Adjacent to a Road Zone Category 1 Clause 52.36 Integrated Transport Planning Clause 56 Subdivision Clause 65 Decision Guidelines Officer Precinct Structure Plan September 2011 Cardinia Creek Conservation Management Plan Officer Native Vegetation Precinct Plan September 2011, Officer Development Contributions Plan and Conservation Management Plan 15 September 2011.
NOTIFICATION & OBJECTIONS:	The application was not required to be advertised under Clause 37.07-13 of the Urban Growth Zone.
KEY PLANNING CONSIDERATIONS:	Urban Growth Zone Schedule 3 (applied zone, General Residential), Officer Precinct Structure Plan September 2011, Community Safety, Health and Well Being, Infrastructure, Melbourne Water drainage network.
RECOMMENDATION:	Refusal

BACKGROUND:

The applicant has lodged an application to amend the planning permit that was issued for the subdivision of land and creation of a reserve. The land is designated as residential with an encumbered reserve along the southern boundary in the Officer Precinct Structure Plan (OPSP).

The planning permit was issued on the 3rd November 2016 for the subdivision of land in stages and creation of a reserve for open space which included the drainage reserve, the lot for the heritage building and remainder of land designated for the residential subdivision. The subdivision was for 51 lots and road network undertaken in two stages. A public open space reserve is proposed in favour of Council with an easement in favour of Melbourne Water and applies to an area over the existing claypits in the south west corner of the site with the proposed reserve provides an area of 1.214 hectares. The lot to be created is irregular in shape with a south boundary on the Princes Highway frontage of 146.4 metres. The land contained a dam referred to as the former claypit dam associated with the former use of the land. The Officer Precinct Structure Plan shows the claypit dam as being within the encumbered open space area and existing retarding basin.

The permit was subsequently amended on the 11th September 2017 to amend and delete some conditions and change the preamble to remove the word 'staged' and amend the address of the land to include the new plan of subdivision PS724891X, which creates lot 1 and the reserve number 1.

The reserve, which is a drainage reserve, was created as a consequence of the planning permit under the provisions of the planning scheme. However, during the course of the application process there were negotiations between Council, Melbourne Water and the landowner regarding the acquisition of the drainage reserve land. Council considered that the creation of the drainage reserve by way of section 35 under the Subdivision Act 1988 was consistent with the intent of the overall subdivision application that included the drainage reserve.

As a result of the above, Council became the owner of the reserve on the 27th May 2016 with Melbourne Water being the beneficiary of the creation and maintenance of the reserve/wetlands, floodway and drainage as specified and set out in the memorandum of common provisions.

The adjoining land to the west of the subject site is known as Timbertop Estate, which also contains another claypit dam, which has been modified into a retarding basin to contain the drainage catchment for the residential development within the Melbourne Water catchment area.

As a result of the subdivision process for the subject site and the adjoining development Timbertop Estate, the applications were referred to Melbourne Water for comment who required that dams on each site be used as retarding basins for the catchment, which is in accordance with the Officer PSP.

The two claypit dams were single entities divided by a former driveway (figure 1). As part of the subdivision process and consultation with Melbourne Water and Council, the claypit dams have now become one singular large retarding basin.

It is worth noting that Timbertop Estate and adjoining subdivisions will be constructing the shared paths along the Princes Highway, which provides for pedestrian and bicycle connectivity across the broader area.

Figure 1 – Shows the subject site to the east and adjoining Timbertop Estate to the west



SUBJECT SITE

The site is located on the north side of Princes Highway, approximately 200 metres east of Timbertop Boulevard in Officer. The land has undergone earthworks over time with the re-sculpturing of the dam/retarding basin previously used as a claypit in association with the heritage building located in

the south east corner of the site. The heritage building includes a brick kiln and associated attached shedding with the heritage overlay applying to the southern section of the site over the existing heritage building and claypits. The remaining land is currently vacant.

The former claypit dam is now land that is within Council's ownership with Melbourne Water being a beneficiary of the reserve for the purpose of a retarding basin and maintenance. The claypit dam has now been joined with the adjoining dam at Timbertop Estate to form a large retarding basin.

The surrounding land is characterised as being predominately developed for residential purposes.

Figure 2 – Taken in 2013



Figure 3 – Taken in 2017



PROPOSAL

Details of the amendment request:

- Delete condition 8 (a) which requires a shared path along the Princes Hwy frontage of the land being shown in a Public Infrastructure land to be endorsed under the permit and implemented by way of a section 173 agreement.

This condition is proposed to be removed as the shared path is to be delivered under the Officer Development Contributions Plan being DCP item DI_TN_01. Therefore, the permit holder is not responsible for the construction or delivery of the said shared path and there is no need for a PIP to list this item. The DCP funds should be used as efficiently as possible and in this case the design and construction of the path in small segments would lead to a very costly and inefficient outcome.

Moreover, the DCP requires a request from the landowner/developer to undertake works in lieu and such action is not appropriate in this case.

- Amend the permit preamble removing the creation of a reserve. The permit address of the land has been amended to be lot 1 on PS724489X which excludes the reserve located to the south west of the site.

In this context the permit does not allow for the creation of the said reserve and therefore the permits preamble should be corrected accordingly.

- Amend the permit address of the land to include the correct land description. The permits correct land description should be lot 1 on PS724489X as illustrated in the title.

- Delete condition 12 (f) which requires footpath connections around the reserve (Melbourne Water maintenance track) being shown on a landscape master plan to be endorsed under the permit. This condition is proposed to be removed for the following reasons:
 - It is already constructed in accordance with Melbourne Water approved civil engineering plans (see attachments 1 & 2)
 - As discussed it is not within the permit address of the land but within the Council reserve (reserve number 1 on PS724891X) affected by easement E-1 in favour of Melbourne Water.
 - The purpose of the reserve is to be a retarding basin and as such the PSP does not provide further extension of the constructed maintenance track.
 - Melbourne Water design does not accommodate any additional path network.
 - Although this item is not a DCP project the DCP recognises that small landowners should not be burdened with the embellishment of reserves.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 9.01 Plan Melbourne 2017-2050: Melbourne Planning Strategy
- Clause 10.04 Integrated decision making
- Clause 11.02-2 Urban Growth (Structure Planning)
- Clause 11.02-3 Planning for growth areas
- Clause 11.02-4 Sequencing of development
- Clause 11.03-1 Open space management
- Clause 11.06-4 Place and identity
- Clause 11.06-5 Neighbourhoods
- Clause 15.01-1 Urban Design
- Clause 15.01-3 Neighborhood and Subdivision Design
- Clause 15.01-4 Design for Safety
- Clause 15.01-5 Cultural Identity and Neighbourhood Character
- Clause 15.03-1 Heritage Conservation
- Clause 15.03-2 Aboriginal Cultural Heritage
- Clause 18.02-1 Cycling
- Clause 19.03-1 Development contribution plans
- Clause 19.03-3 Stormwater

Local Planning Policy Framework (LPPF)

The relevant clauses of the SPPF are:

- Clause 21.01-3 Cardinia Shire key issues and strategic vision; economic development
- Clause 21.02-6 Post contact heritage
- Clause 21.02-7 Aboriginal cultural heritage
- Clause 21.03-2 Urban growth area
- Clause 21.05-1 Infrastructure provision
- Clause 21.05-3 Local roads
- Clause 21.05-5 Pedestrian and bicycle network
- Clause 21.06-1 Design and built form

Relevant particular/general provisions and relevant incorporated or reference documents

The relevant provisions/documents are:

- Clause 52.01 Public Open Space.
- Clause 52.02 Easements, Restrictions and Reserves
- Clause 52.16 Native Vegetation Precinct Plan
- Clause 52.29 Land adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road
- Clause 52.36 Integrated Transport Planning
- Clause 56 Subdivision Site and Context Description and Design Response
- Clause 65.01 and 65.02 Decision Guidelines
- Officer Precinct Structure Plan (September 2011)
- Officer Native Vegetation Precinct Plan (September 2011)
- Officer Development Contributions Plan and Conservation Management Plan (15 September 2011)

Zone

The land is subject to the Urban Growth Zone Schedule 3 with the applied zone is the General Residential Zone.

Overlays

The land is subject to the following overlays:

- Heritage Overlay Schedule 104
- Development Contributions Overlay Schedule 4 (DCPO4) (Clause 45.06) which implements the Officer Development Contributions Plan (September 2011).

PLANNING PERMIT TRIGGERS

The proposal for subdivision of land and creation of a reserve requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- The land is subject to the Urban Growth Zone, pursuant to Part B of the zone where a structure plan applies (approved September 2011) and incorporated into the scheme), the provisions of Clauses 37.07-9 to 37.07-16 apply. Any permit issued must be generally in accordance with the precinct structure plan applying to the land.
- Under the Schedule 3 Section 2.1 the subject site is located and zoned within the General Residential Zone, as such pursuant to Clause 37.07-10 & 37.07-11 the site is subject to these provisions under the Cardinia Planning Scheme, therefore pursuant to Clause 32.08-2 of the General Residential Zone a planning permit is required to subdivide land. The proposed development must meet the requirements of Clause 56.
- Pursuant to Clause 43.01-1 of the Heritage Overlay a permit is required for subdivision.
- Pursuant to Clause 45.06, Development Contributions Plan Overlay Schedule 4 implements the Officer Development Contributions Plan. Clause 2 and 3 contains a summary of the costs and contributions applicable for the area.

- Pursuant to Clause 52.02 a permit is required to create, vary or remove an easement, restriction or reserve.
- Pursuant to Clause 52.29 a permit is required to subdivide land adjacent to a road in a Road Zone, Category 1.

PUBLIC NOTIFICATION

Pursuant to Clause 37.07-9 to 37.07-11 of the Cardinia Planning Scheme the proposal is exempt from the notice requirements of Section 52(1) (a), (b) and (d) of the Planning and Environment Act 1987.

Under the Schedule 3 Section 2.1 the subject site is located and zoned within the General Residential Zone, as such pursuant to Clause 37.07-10 & 37.07-11 the site is subject to these provisions under the Cardinia Planning Scheme, therefore pursuant to Clause 32.08-2 of the General Residential Zone a planning permit is required to subdivide land. The proposed development must meet the requirements of Clause 56.

REFERRALS

Referred to Melbourne Water as part of the original application but not under this request. A response was received on the 5th May 2016 with a range of conditions as follows:

1. Prior to the issue of a statement of compliance for the subdivision:
 - a) The Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
 - b) Engineering plans of the development (in electronic format) are to be forwarded to Melbourne Water for comment/approval. A Certified Survey Plan may be required following our comments on the engineering drawings.
 - c) Evidence confirming that the development has a free draining outfall must be submitted and accepted by Melbourne Water and Council.
 - d) The submission of as constructed flood mapping information may also be required of 1 in 100 year ARI flood levels.
 - e) A section 173 agreement or equivalent must be executed with Council and Melbourne Water to ensure that the filling of the lots and floor levels constructed above applicable flood levels associated with the adjacent retarding basin to Council and Melbourne Water's satisfaction.
2. Pollution and / or sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.
3. Lots adjoining the retarding basin may be filled 300mm above the 1 in 100 year flood level in the retarding basing provided:
 - a) The allotment is graded to 600mm above the flood level at the building envelope, and
 - b) A Section 173 agreement under the Planning and Environment Act 1987 is required to be entered into and placed on title for each allotment filled in this manner requiring the floor level to be 600mm above the retarding basin flood level.
4. All new lots must achieve appropriate freeboard in relation to any local overland flow paths to Council's satisfaction.

5. Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of overland flows.
6. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria either as outlined in Melbourne Water's Land Development Manual, or where appropriate to Council's requirements and standards.
7. Any proposed fencing for new lots that abut a Melbourne Water Drainage Reserve is to be fully funded by the developer. Melbourne Water will not contribute to the cost of any future fencing required by the development.
8. Prior to certification of the subdivision:
 - a) The plan of subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.
 - b) Easements and/or reserves must be shown on the plan of subdivision and must be created over any proposed Melbourne Water assets to the satisfaction of Melbourne Water.
 - c) A Drainage and Storm Water Management Strategy for the overall development shall be provided to Melbourne Water for review.
 - d) Copy of Council's acceptance of the SWMS for any assets under Council's maintenance shall be provided to Melbourne Water for our records.
 - e) The Developer must ensure adequate outfall from the site. A copy of written approval from the relevant affected parties to the satisfaction of Council for the arrangement of appropriate drainage outfall for the subdivision must be provided to Melbourne Water.
 - f) A drainage layout plan for the development must be submitted to Melbourne Water demonstrating the proposed alignment for the 1 in 5 year ARI flows and drainage infrastructure and the overland flow paths directions for the 1 in 100 year ARI flood event.
9. Prior to commencement of works:
 - a) A separate application direct to Melbourne Water's Asset Services team must be made for formal approval: for any stormwater connection to a Melbourne Water asset; before building, planting or installing utility works over, or near, any of Melbourne Water's assets. Asset Services team can be contacted on telephone 9679 6614 or email via assetservices@melbournewater.com.au
 - b) At least 21 days prior to commencement of works, a Site Management Plan detailing pollution and sediment control measures, must be submitted to Melbourne Water.

The application was referred internally to Council's Engineering Department who support the current conditions as issued and that there be no change.

DISCUSSION

State Planning Policy Framework

Clause 15.01-2 Urban Environment, the objective is to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

The policy guidelines for planning to consider are the Safer Design Guidelines for Victoria in assessing the design and built for of new development.

Relevant strategies include:

The public realm, which includes main pedestrian spaces, streets, squares, parks and walkways, should be protected and enhanced.

Safety, new development should create urban environments that enhance personal safety and property security and where people feel safe to live, work and move in at any time.

Landmarks, views and vistas, landmarks, views and vistas should be protected and enhanced or, where appropriate, created by new additions to the built environment.

Pedestrian spaces, design of interfaces between buildings and public spaces, including the arrangement of adjoining activities, entrances, windows, and architectural detailing, should enhance the visual and social experience of the user.

Clause 15.01-3 Neighbourhood and subdivision design, the objective is to ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods.

Strategy is that the development of new residential areas and in the redevelopment of existing areas, subdivision should be designed to create liveable and sustainable communities by:

- Creating compact neighbourhoods that have walkable distances between activities and where neighbourhood centres provide access to services and facilities to meet day to day needs.
- Creating a range of open spaces to meet a variety of needs with links to open space networks and regional parks where possible.
- Contributing to reducing car dependence by allowing for:
 - Convenient and safe public transport.
 - Safe and attractive spaces and networks for walking and cycling.
 - Subdivision layouts that allow easy movement within and between neighbourhoods.
 - A convenient and safe road network.

In response to the above, the Cardinia Planning Scheme and Officer PSP takes into consideration the way in which the drainage reserve and passive open space can function and ultimately be co-located within an urban context to benefit the community. The benefit to the community being that an appropriate footpath network is provided in suitable locations that will provide the walking and cycling network in a setting that people desire in their neighbourhoods.

Clause 18.02 Movement networks to promote the use of sustainable personal transport.

Relevant strategies include:

- Encourage the use of walking and cycling by creating environments that are safe and attractive.
- Develop high quality pedestrian environments that are accessible to footpath-bound vehicles such as wheelchairs, prams and scooters.
- Ensure development provides opportunities to create more sustainable transport options such as walking, cycling and public transport.
- Ensure cycling routes and infrastructure are constructed early in new developments.

Local Planning Policy Framework

Clause 21.05-5 Pedestrian Bicycle Networks objective, is to develop well-located, safe and interconnected pedestrian and bicycle networks within the municipality.

Relevant strategies include:

- A high level of connectivity to provide for safe and efficient pedestrian and bicycle movements to connect railway stations, bus stops, activity centres and major community facilities within the urban growth area and in rural townships.
- Ensure connectivity between new and existing development including pedestrian and bicycle paths.

Design and safety aims to:

- Ensure that new development does not compromise existing and future pedestrian and bicycle networks.
- Encourage passive surveillance over pedestrian and bicycle paths through appropriate siting and design. (CEPTED)

In response to the above, by not providing the footpath within the reserve and shared path within Princes Hwy this will create missing links within a planned area that provides a pedestrian network that connects to the adjoining footpaths in neighbouring subdivisions which compromises the future pedestrian and bicycle networks not providing for adequate connectivity between new and existing development including pedestrian and bicycle paths of the broader area.

Clause 21.06-1 Design and built form, relevant objectives:

Objective 1 is to promote a high standard of design which creates a strong character and identity for the area, provides for a functional built environment, and promotes community and personal safety.

Strategies that are relevant include taking into account the character and constraints of the site and wider area whilst encouraging new development to achieve best practice in design that promotes social wellbeing, economic development and environmental sustainability.

Objective 2 is to provide equity of access for people with disabilities to publicly accessible premises.

Strategies that are relevant is to ensure development is designed to support access for people with disabilities in accordance with Australian Standards, including AS 1428 (Parts 1-4).

In response to the above, the Officer PSP has taken into account the character, outlining the way in which the area is to be developed, by providing a drainage reserve to provide for the stormwater function, as well as incorporating open space for this area. As a result, this provides for a multi-functional built environment, that promotes community health and safety, encouraging greater accessibility through the area.

The proposal fails to achieve best practice design and social wellbeing for all within the community.

Clause 21.06-2 Community safety, relevant objectives:

Objective 1 to improve community safety and the perception of safety in the municipality.

Relevant strategies encouraging development that is consistent with safer design principles, by maximising activity, visibility and surveillance of the public environment by providing safe movement through good connections and access. Private and public spaces should be clearly defined and appropriate management of public spaces to ensure that it is attractive and well used.

In response to the above objective, the proposed amendment does not achieve the objective in that the activity in public spaces and provision of safe movement through good connections is not maximised. The missing paths will create a fragmented footpath network.

Relevant Policies and Strategies:

The following planning policies are relevant to the assessment of this application. The policies and strategies further support and build on the importance of creating neighbourhoods that support safe communities and healthy lifestyles, by taking a whole of population approach to health planning, particularly through municipal public health and wellbeing plans. A summary of each relevant strategy is provided below.

- Plan Melbourne 2017-2050 (Metropolitan Planning Strategy).
 - Direction 5.2 Create neighbourhoods that support safe communities and healthy lifestyles (includes applying CEPTED principles in design of public spaces)
 - Policy 5.2.1 Improve neighbourhoods to enable walking and cycling as a part of daily life, the National Heart Foundation has also developed tools to help local governments plan for better health and community wellbeing across a range of local government policy areas, including the Healthy by Design guidelines, discussed within this report.
- Council's Pedestrian and Bicycle Strategy August 2017 which is yet to be adopted by Council this year, further builds on the importance and emphasis that is placed on providing suitable areas to be used by the community for fitness and recreational activity.
- Councils Healthy By Design, January 2017, seeks to plan and build environments to support healthy living and integrate health into planning to allow people to be able to choose to be active in an environment that is convenient, safe and pleasant.

Council provides significant emphasis on health and recreation and the above strategies are reflective in this, as they share similar principles and guidelines. The strategies seek to promote healthy living through appropriate planning, by ensuring that walking, cycling through providing good footpaths and connectivity, opportunities for physical activity, neighbourhood amenity, accessibility and community safety.

Barriers to walking and cycling often include an incomplete or inadequate footpath network and limited dedicated shared paths which reduces opportunities for recreational walking and cycling. As a result of new residential areas not being developed in sequence, significant gaps can occur in the shared path network. The delivery and the quality of infrastructure should not be compromised and these elements are critical in the successful provision of walking and cycling paths within the Shire.

The drainage reserve has an important role and function and must be used and developed in this manner to its full potential. The overarching purpose of the drainage reserve in this context is to transform an existing claypit dam to serve as an important drainage function and key landmark for pedestrians. Pedestrians can choose to use this area that connects to a linear trail that subsequently connects into a series of shared paths within the area, that also connect seamlessly to key places such as schools, parks, Officer Town Centre, public transport and the Officer Railway Station.

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

Section 4.5 Open space and natural systems applies. The objective of open space is to provide for the following:

- Provide and develop a network of quality, well distributed, multi-functional and appropriately sized open space areas that are well connected to meet the active and passive needs of the community.
- Maximise the integration and sharing of space with publicly accessible encumbered land. This parkland is to be suitable for the intended open space function/s, including maintenance.
- Encourage and promote the early development of open space through subdivision works, the Officer Development Contributions Plan and / or Council's Capital Works Programs.
- Incorporate pedestrian and bicycle paths throughout the open space network.

Plan 11 and 12 of the Officer PSP identifies the site as containing an encumbered drainage reserve with a retarding basin along the southern boundary of the site.

Table 13 Open space categories of the Officer PSP identifies the role of the open space as 'other encumbered land' which:

- To provide for overland flows and stormwater retention.
- To maintain access to services, particularly those underground.

Table 14 Open space planning and design guidelines to be met of the Officer PSP for other encumbered land:

- Publicly accessible encumbered land will only be considered as productive open space where the land is suitable for the intended open space function/s including maintenance.
- A road is to be provided along the edge of all drainage reserves as the interface to development, unless a maintenance track is otherwise provided to the satisfaction of Melbourne Water or the responsible authority.

In response to the above the original application was assessed against the provisions of the Officer PSP including the above sections of the PSP. The site has no noted unencumbered passive open spaces. A 2.05ha local park is provided to the south west of the site within Timbertop Estate and to the east (on the opposite side of Bayview Road) but not part of this application. An encumbered open space drainage reserve, which contains an existing retarding basin is shown within the land along the western and southern boundaries of the site.

The purpose of the drainage (heritage reserve) is to provide for overland flows and stormwater retention and to protect and conserve sites of cultural heritage significance.

Table 14 of the Officer PSP specifies that a road is to be provided along the edge of all drainage reserves as the interface to development, unless a maintenance track is otherwise provided to the satisfaction of Melbourne Water or the responsible authority.

In the assessment of the original application, the applicant has opted to provide part of a road along the northern boundary of the reserve and the remainder will be a maintenance track which doubles as the pedestrian footpath link to the shared path within Princes Highway. Melbourne Water have agreed to this.

To remove condition 12 (f) from the permit will undermine the original intent of the permit condition and the ability to create a permeable and well connected pedestrian friendly path network. Furthermore, should the condition be removed and no path created the residents within the area would have to walk longer distances through adjoining estates to reach the Princes Highway and access the shared path and public transport network.

Officer Development Contributions Plan:

The noted DCP items include and are reflected within the permit:

- The shared path along the Princes Highway, DI_TN_01. The trail is part of the trail network from O'Neill Road to Gum Scrub Creek. The trail is 3m wide reinforced concrete with lighting.
- The trail network is apportioned across the DCP area. The trail provides the new community with a safe and efficient trail network along the public transport network system.

A public infrastructure plan (PIP) condition will be placed on the permit.

A standard condition is placed on permits where the shared path has been required. This enables Council and the landowner/developer to enter into discussions about works in kind for their development and the nexus of the shared path with their development.

Clause 52.02 Easements, restrictions and reserves

A permit is required before a person proceeds under Section 23 of the Subdivision Act 1988 to create, vary or remove an easement or restriction or reserve. It is proposed to create a Melbourne Water reserve consistent with the PSP, Melbourne Water have been in negotiations with the applicant with regard to the acquisition of this land, Melbourne Water have noted that the subdivision accords with their requirements and have no objection to the proposal.

Clause 56.06 Subdivision – Access and Mobility Management

The objectives are to:

- To achieve an urban structure where compact and walkable neighbourhoods are clustered to support larger activity centres on the Principal Public Transport Network in Metropolitan Melbourne and on the regional public transport network outside Metropolitan Melbourne.
- To provide for walking (including persons with impaired mobility), cycling, public transport and other motor vehicles in an integrated manner.
- To contribute to reduced car dependence, improved energy efficiency, improved transport efficiency, reduced greenhouse gas emissions and reduced air pollution.

Clause 56.06-2 - Walking and cycling network objectives

- To contribute to community health and well being by encouraging walking and cycling as part of the daily lives of residents, employees and visitors.
- To provide safe and direct movement through and between neighbourhoods by pedestrians and cyclists.
- To reduce car use, greenhouse gas emissions and air pollution.

Further to the above standard C15 refers to walking and cycling network should be designed to:

- Provide safe walkable distances to activity centres, community facilities, public transport stops and public open spaces.
- Provide an interconnected and continuous network of safe, efficient and convenient footpaths, shared paths, cycle paths and cycle lanes based primarily on the network of arterial roads, neighbourhood streets and regional public open spaces.
- Provide direct cycling routes for regional journeys to major activity centres, community facilities, public transport and other regional activities and for regional recreational cycling.
- Be accessible to people with disabilities.

Clause 56.06-3 - Public transport network objectives

- To provide an arterial road and neighbourhood street network that supports a direct, efficient and safe public transport system.
- To encourage maximum use of public transport.

Clause 56.06-4 - Neighbourhood street network objective

- To provide for direct, safe and easy movement through and between neighbourhoods for pedestrians, cyclists, public transport and other motor vehicles using the neighbourhood street network.

It is apparent as outlined above that a subdivision proposal should meet the relevant objectives of clause 56 of the planning scheme by providing an interconnected and continuous network of safe, efficient and convenient footpaths and shared paths within a neighbourhood.

Melbourne Water:

The Melbourne Water conditions are linked to the creation of the reserve and the overall drainage requirements for the subdivision. It is considered inappropriate to delete the word 'creation of reserve' from the preamble when it is linked to the creation and function of the reserve. Furthermore, there are specific works required to be undertaken as part of the process for the subdivision which the subdivision process has not been commenced and the conditions of the permit acted upon it is considered to be premature to remove the 'creation of reserve' from the preamble.

Response to the amendment request:

Amendment request 1:

Delete condition 8 (a) which requires a shared path along the Princes Hwy frontage of the land being shown in a Public Infrastructure land to be endorsed under the permit and implemented by way of a section 173 agreement.

This condition is proposed to be removed as the shared path is to be delivered under the Officer Development Contributions Plan being DCP item DI_TN_01. Therefore, the permit holder is not responsible for the construction or delivery of the said shared path and there is no need for a PIP to

list this item. The DCP funds should be used as efficiently as possible and in this case the design and construction of the path in small segments would lead to a very costly and inefficient outcome.

Moreover the DCP requires a request from the landowner/developer to undertake works in lieu and such action is not appropriate in this case.

Response:

This is a standard condition placed on the permit and other permits where the shared path has been required. This enables Council and the landowner/developer to enter into discussions about works in kind for their development and the nexus of the shared path with their development and for the efficient and timely construction of infrastructure as development occurs.

Amendment request 2:

Amend the permit preamble removing the creation of a reserve. The permit address of the land has been amended to be lot 1 on PS724489X, which excludes the reserve located to the south west of the site.

In this context the permit does not allow for the creation of the said reserve and therefore the permits preamble should be corrected accordingly.

Response:

The permit address was recently amended as requested as a correction of the permit under section 72 of the Act at the applicants request. The original application that was made to Council included the creation of a reserve, which is created as part of the subdivision process. This does not exclude the reserve as the reserve was created as part of the subdivision process and is shown on the approved subdivision masterplan.

Whilst the permit was subsequently amended on the 11th September 2017 which included changing the preamble to amend the address of the land to include the new plan of subdivision PS724891X, which creates lot 1 and the reserve number 1, during the course of the application process there were negotiations between Council, Melbourne Water and the landowner regarding the acquisition of the drainage reserve land. Council considered that the creation of the drainage reserve by way of section 35 under the Subdivision Act 1988 was consistent with the intent of the overall subdivision application that included the drainage reserve.

Council became the owner of the reserve on the 27th May 2016 with Melbourne Water being the beneficiary of the creation and maintenance of the reserve/wetlands, floodway and drainage as specified and set out in the memorandum of common provisions.

It is not considered necessary to amend the preamble to remove the 'creation of a reserve' as this a consequence of the entire process.

Amendment request 3:

- Amend the permit address of the land to include the correct land description.

The permits correct land description should be lot 1 on PS724489X as illustrated in the title.

Response:

In response to the above, the permit address was recently amended as requested as a correction of the permit under section 72 of the Act at the applicants request.

- Delete condition 12 (f) which requires footpath connections around the reserve (Melbourne Water maintenance track) being shown on a landscape master plan to be endorsed under the permit. This condition is proposed to be removed for the following reasons:
 - It is already constructed in accordance with Melbourne Water approved civil engineering plans (see attachments 1 & 2)
 - As discussed it is not within the permit address of the land but within the Council reserve (reserve number 1 on PS724891X) affected by easement E-1 in favour of Melbourne Water.
 - The purpose of the reserve is to be a retarding basin and as such the PSP does not provide further extension of the constructed maintenance track.
 - Melbourne Water design does not accommodate any additional path network.
 - Although this item is not a DCP project the DCP recognises that small landowners should not be burdened with the embellishment of reserves.

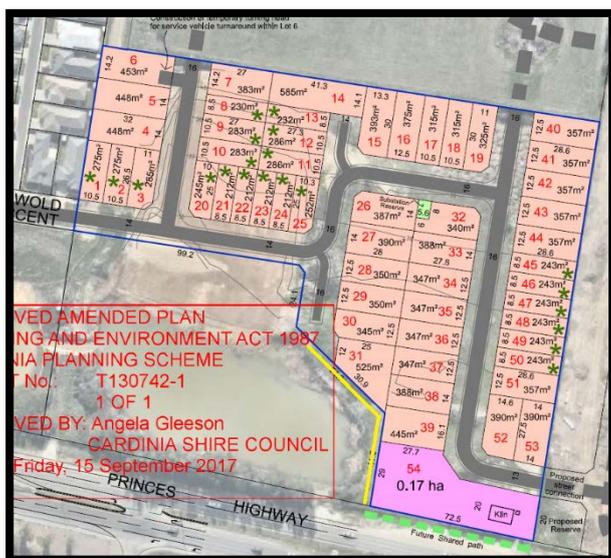
The pathway is required to provide an appropriate pedestrian link between the approved development and the shared pathway network along the Princes Highway. This will enable the residents from within the approved development to walk / cycle to the Officer town centre and school precincts using an appropriate and logical route.

It is not unusual within the course of a subdivision application for developers to be required to provide appropriate pedestrian / cycle linkages outside of their developable land to ensure connectivity for their future residents as there is a need and nexus. If the developer did not subdivide the land, then these items would not be required to be provided.

The Melbourne Water maintenance track is separate to a footpath as the permit condition describes. The maintenance track will not serve the purpose of connecting the internal footpath network with the shared pathway along the Princes Highway. The standard on construction of the maintenance track will not be acceptable or conducive to enable "all abilities" use. Therefore, in addition to the gravel maintenance which appears to already be provided on the land, a proper concrete footpath is required to be constructed.

As a course of the planning application process, the subject of the road around the drainage reserve was extensively discussed with the permit applicant to the point that a subdivision layout that provides a road along the northern extent and partly along the north east part of the boundary was provided however, the road comes to a 'dead end'. In order for Melbourne Water to obtain access and to also provide a highly connected pedestrian link to Princes Highway, the permit was issued with a condition being 12 (f) to ensure that a pedestrian footpath was to be provided from the internal road network around the eastern boundary of the land connecting to the shared path on the Princes Highway. (Figure 2 shows a yellow line of the extent of the footpath from the road)

Figure 2



CONCLUSION

The Officer Precinct Structure Plan (PSP) identifies the subject site as a drainage reserve and a planning permit was issued for the entire land parcel which included the reserve, the lot for the heritage building and residential subdivision. Table 13 Open Space of the Officer Precinct Structure Plan, categorises the role of encumbered land being the retarding basin to provide for the overland flows and stormwater retention and to maintain access to services, particularly those underground.

Table 14 Open space planning and design guidelines that must be met for other encumbered land (including drainage), stipulates that a road is to be provided along the edge of all drainage reserves as the interface to development, unless a maintenance track is otherwise provided to the satisfaction of Melbourne Water or the responsible authority.

Whilst there is no specific footpath identified within the Officer PSP, the PSP is a performance based document based on a combination of objectives plans and tables and does not mean that certain key elements should not be provided by the owner of the land or developer. Other relevant provisions of the planning scheme refer to what the essentials are in creating a community with a sound and well planned neighbourhood for the community.

Council Officer's stand by the conditions of the permit and do not consider it necessary to remove the conditions as requested. The conditions are standard and lead to a positive outcome for the site.

1 AMENDED PERMIT FOR SUBDIVISION OF THE LAND AND CREATION OF A RESERVE

Moved Cr B Owen Seconded Cr M Schilling

That a Refusal to Grant Planning Permit T130742 - 2 be issued for subdivision of the land and creation of a reserve at Lot 1 PS 724891 365 Princes Highway, Officer on the following grounds:

- The conditions are considered to be valid in order to achieve a well-planned and orderly development.
- The deletion of the words 'creation of a reserve' within the preamble is to remain. The creation of the reserve is a consequence of the subdivision.
- The deletion of condition 12 (f) is not supported as the footpath connections within and around the reserve linking with the Princes Highway shared trail network are required for the orderly and proper planning of the area.
- The proposed amendment request to delete conditions will have negative impacts upon community safety within public areas and reduce the amenity planned and accessibility for the area.
- The proposed amendment request will diminish the ability to ensure that the required drainage reserve and associated passive open space will be delivered in a manner that benefits the broader community which will prejudice the orderly and proper planning of the area.
- The proposed amendment request will diminish the ability for the development to contribute to community health and well being by encouraging walking and cycling as part of the daily lives of residents, employees and visitors.
- The proposed amendment request will diminish the ability to provide safe and direct movement through and between neighbourhoods by pedestrians and cyclists.

Cd.

Before consideration of this Item the Mayor advised that an amended Planning Application had been received and that therefore the application detailed in this Item would be withdrawn and not considered at this meeting.

2 USE AND DEVELOPMENT OF THE LAND FOR A DWELLING AT 18 BOTTOMLEY DRIVE EMERALD

FILE REFERENCE INT186022

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Vageesha Wellalage

RECOMMENDATION

That a Refusal to Grant Planning Permit T170301 be issued for Use and Development of the land for a dwelling at 18 Bottomley Drive, Emerald Victoria for reasons set out in this report.

Attachments

- | | | |
|---|---|---------|
| 1 | Locality plan | 1 Page |
| 2 | Development plans (original plans submitted with the application) | 6 Pages |
| 3 | Letters of objection circulated to councillors only | 4 Pages |

EXECUTIVE SUMMARY:

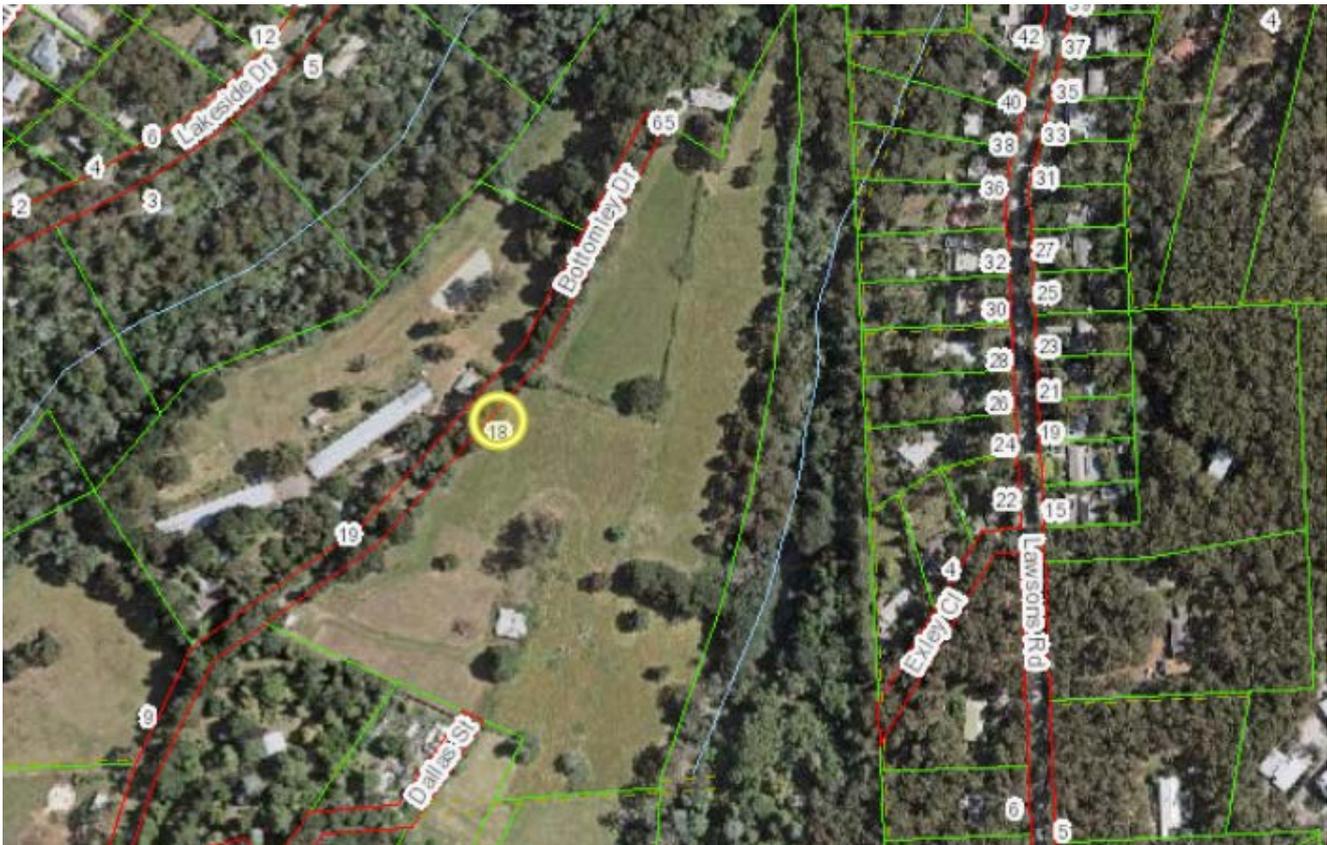
APPLICATION NO.:	T170301
APPLICANT:	Ms Maria Lewis
LAND:	18 Bottomley Drive, Emerald VIC 3782
PROPOSAL:	Use and development of the land for a dwelling
PLANNING CONTROLS:	Green Wedge A Zone Schedule 1 Bushfire Management Overlay, Environmental Significance Overlay Schedule 1
NOTIFICATION & OBJECTIONS: the	The application has been advertised pursuant to Section 52 of <i>Planning and Environment Act 1987</i> by sending notices to adjoining land owners and occupiers and placing a sign on site. Three objections have been received to date.
KEY PLANNING CONSIDERATIONS:	Proximity of the dwelling to neighbouring broiler farms. The negative visual impact of the dwelling
RECOMMENDATION:	Refusal

BACKGROUND:

An application for a planning permit (T160048) for a dwelling and an outbuilding to be used as a horse training facility was refused by Council at the TP Meeting 4 July 2016. This application does not vary greatly from the refused application.

Council Officers met with the applicant prior to their purchasing of the property and before this planning permit application being lodged, Council Officers detailed the previous refusal, the refusal by VCAT of the neighbouring property and the difficulties in gaining a planning permit for this subject site.

SUBJECT SITE



The site is located on the southern side of Bottomley Drive Emerald. A crossover is located on the north alignment of the site, the land has a vacant shed and predominately clear of vegetation. The topography of the land is undulating towards the east.

The main characteristics of the surrounding area are:

- North Bottomley Drive abuts the site to the north, abutting this road is an existing broiler farm with two broiler sheds.
-
- South, East and West The properties abutting the subject land are developed as rural lifestyle properties containing dwellings
-
- North west A VCAT decision at 9 Bottomley Drive saw the tribunal refuse an application to use and develop the land for a house as the dwelling would be located within the buffer distance set out in the Broiler Code of Practice

PROPOSAL

Approval is sought for the use and development of the land for a dwelling and agricultural/rural activities such as growing vegetables and animal husbandry (free range cattle). The agricultural component of the application is as of right in the zone therefore, does not require planning approval.

The plans submitted to Council indicates that the proposed dwelling is sited with a setback of 60 metres from Bottomley Drive and 20 metres from the southern boundary. The dwelling will have a distance of 100 metres from the closest broiler shed located at 19 Bottomley Drive Emerald.

The dwelling is proposed to be 490 square metres with floor space comprising of four bedrooms, two bathrooms, study, laundry, kitchen, one double garage and one single garage, guest bedroom, alfresco and a carport. It is to be single storey in built form having a total building height of 5.58 metres and constructed of limestone walls with green Colorbond roof.

PLANNING SCHEME PROVISIONS

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- Clause 11.05-3 Rural Productivity
- Clause 13.04-2 Air Quality
- Clause 14.01-1 Protection of Agricultural Land
- Clause 16.02-1 Rural Residential Development

Local Planning Policy Framework (LPPF)

The relevant clauses of the SPPF are:

- Clause 21.03-3 Rural townships

Relevant particular/general provisions and relevant incorporated or reference documents

The relevant provisions/documents are:

- Clause 65 – Decision Guidelines
- Clause 65 – Referral and Notice Provisions

Zone

The land is subject to the Green Wedge A Zone Schedule 1

Overlays

The land is subject to the following overlays:

- Environmental Significance Overlay Schedule 1
- Bushfire Management Overlya

PLANNING PERMIT TRIGGERS

The proposal for use and development of the land for a dwelling requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.05-1 of Green Wedge A Zone, a planning permit is required to use the land for a dwelling.
- Pursuant to Clause 35.05-1 of Green Wedge A Zone, a planning permit is required for buildings and works associated with a Section 2 Use (dwelling and outbuilding) and earthworks.
- Pursuant to Clause 44.06-1 of Bushfire Management Overlay, a permit is required for buildings and works associated with 'accommodation'.

PUBLIC NOTIFICATION

The application has been advertised as per 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 3 objections to date. The key issues that were raised in the objections are:

- Impact on views hence devaluing the surrounding properties
- Proposal does not meet the buffer distance required from the broiler farm
- Impact of the existing broiler farm on the proposed sensitive use (dwelling) due to separation distance provided, potential odour complaints from the new residents and impact on the continuation of the broiler farm.

REFERRALS

CFA

Originally, the applicant did not submit a Bushfire Management Statement (BMS) as required under the Planning Scheme. Although advised that this requirement cannot be waived the applicant requested referral to the CFA anyway. The application was referred to CFA as a statutory referral and the CFA requested additional information (BMS) in support of the application.

After sometime the applicant submitted the same BMS that was submitted as part of the previously refused application in 2016.

This BMS is not consistent with the proposed development plans of this application as it related to a different proposal and it was two years old, therefore the information was not referred back to CFA as it did not meet the requirements as per the Scheme.

EPA

The application was referred to the EPA for comment. The EPA was not satisfied that the buffer distance provided is sufficient in that the proposal encroaches upon an existing land use with adverse amenity impacts.

The EPA advised that appropriate weight should be given to protecting existing broiler farm operations and it is within Council's discretion to refuse an application for a new use or development if Council considers that it would adversely impact the existing broiler farms capacity to operate in accordance with existing approvals or existing use rights.

DISCUSSION

The proposal has been assessed against all relevant Clauses of Cardinia Planning Scheme and determined to be inappropriate for the site.

According to the current planning scheme, Intensive Animal Husbandry, such as a Broiler Farm is a prohibited use in the Zone. The broiler farm located at 19 Bottomley Drive abutting the subject site has been established with a planning permit, P887, being issued on 18 December 1973, thus can lawfully continue to operate as a broiler farm.

However, according to the requirements of the Victorian Boiler Code 2009, the broiler farm would not be able to expand due to the inability of meeting the buffer distances. The refusal of the sensitive use, in this case the proposed dwelling, is due to the potential to impact the broiler farm operation, such as odour, noise, traffic movement and so forth on the proposed sensitive use.

Victorian Broiler Code and Green Wedge A Zone

The Victorian Code for Broiler Farms 2009 advises that Responsible Authorities should consider the impacts of existing broiler farm emissions when deciding on applications for proposed sensitive land use developments, and ensure the separation distance is as large as reasonably possible. The code provides a formula to calculate the buffer distance based on the bird numbers:

Formula 1:

The separation distance for a Class A or Class B broiler farm must be at least 250m or as otherwise calculated in accordance with the following formula (whichever is larger):

$$D=27 \times N^{0.54}$$

D=Separation Distance (metres)

N= farm capacity /1000

In order to calculate the buffer distance, the bird numbers has to be established. The broiler code provides the following:

Farm capacity and existing farms

Sometimes it will be necessary to validate the capacity of an existing farm. Where possible, the existing farm capacity is defined within a valid planning permit. Where the existing farm capacity has not been defined within a valid planning permit, the existing farm capacity can be established from (in order of priority):

1. A current contract or other formal documentation that establishes the bird numbers on farm
or
2. The area of the existing shed floor and determining bird numbers based on a placement density of 21.5 birds/m²

Council requested formal information on bird numbers to be provided as part of the application however, no formal evidence have been provided to date. As such, Council pursued under the second point to calculate the bird numbers based on the floor area of the existing broiler sheds.



According to Council aerial images (as above), the total floor area of the two broiler sheds are 2442.95 square metres. According to the Victorian Broiler Code, the maximum capacity per square metres is 21.5 birds. Therefore, the maximum capacity of the broiler farm is calculated as below:

$$(2442.95 \text{ m}^2) \times (21.5 \text{ birds}) = 52523.45 \text{ birds.}$$

Hence, the buffer distance has been calculated as per below:

$$D = 27 \times \text{No.}_{.54}$$

$$D = 27 \times (\text{Farm Capacity}/1000) 0.54$$

$$D = 27 \times (52523.45/1000) 0.54$$

$$D = 27 \times (52.52) 0.54$$

$$D = \mathbf{229.26 \text{ metres}}$$

The proposed dwelling at 18 Bottomley Drive should, according to the Victorian Code for Broiler Farms, have a separation distance of **229** metres from the 52,000 capacity bird broiler farm at 19 Bottomley Drive.

The separation distance for the proposed dwelling in this instance is approximately **100** metres from the closest broiler shed which is not considered to be as large as reasonably possible as per the requirements of the Code of Practice.

The Victorian Code for Broiler Farms 2009 details that *“Although the separation distance requirements found in the “Classification of broiler farms” section of this code apply only to the development or expansion of broiler farms, they can be used as a guide to identify locations of a future sensitive use that may be adversely affected by broiler farm emissions”*. The Code goes on further to say that *“The separation distance provided by the new dwelling should be as large as reasonably possible taking into account the likely additional risk of exposure to odour”*.

The primary issues in the consideration of this application are the proximity of this sensitive land use (dwelling) to an existing broiler farm, and whether the applicant has made sufficient effort to locate the dwelling as far as possible away from the farm.

While it is acknowledged that a large portion of the subject site is within the buffer distance of the neighbouring broiler farm, there is the potential to locate a dwelling in the north-eastern corner and south-eastern corners of the lot, which would result in it being outside of the buffer distance and a considerable distance from the broiler farm. The following picture illustrates the possible locations that the dwelling could be placed while meeting the buffer distances.



In discussions with the applicant during the planning permit process, the applicant has mentioned that those locations will not be suitable to accommodate the dwelling, as doing so will then make it challenging to meet the relevant bushfire regulations.

Council agrees that siting the dwelling outside the buffer area may result in higher costs to build, however it can be achieved and throughout the planning process Council has indicated that support would be more forthcoming if one of these locations were selected.

The EPA in its consideration of the application stated the following:

“EPA considers the current separation distance of approximately 100 metres proposed to be insufficient to mitigate possible adverse impacts due to the proximity of the broiler farm.

“It is EPA’s view that the existing dwellings do not warrant disregarding the restrictions and recommendations of the Code, and it is EPA’s understanding that the existing dwellings are not as close as the proposed dwelling to the broiler sheds. It is also EPA’s understanding that many of the existing dwellings have a significant vegetation buffer that could assist in reducing odour impacts”

In the case *Holder vs Cardinia Shire Council* in relation to the application for a dwelling at 9 Bottomley Drive the member stated the following:

“The important principle involved is keeping potentially incompatible uses apart. The Code provides guidance on how far apart they should be kept..... It is immaterial, having regard to the purpose of the separation, and for that matter of the Code, whether new broiler farms are kept away from existing houses, or new houses kept away from existing broiler farms. The purpose is defeated by establishing new houses in close proximity to broiler farms, just as it would be defeated by establishing new broiler farms in close proximity to existing houses.”

It is considered that the ‘buffer distance’ is a vital element to assess when allowing a sensitive use near a broiler farm. The reason behind this consideration is that a sensitive use, particularly a dwelling near a broiler farm, could raise issues in relation to odour, traffic movements (transporting

birds in and out of the site), and appearance. On the other hand, it would also put a burden on the broiler farm to operate in a manner to minimise impacts on the neighbouring dwellings.

A fundamental element of good planning is to avoid incompatible land uses in close proximity to each other. The development of a dwelling at the proposed location is considered not acceptable as it is within the buffer zone of the broiler farm. In the case *Holder vs Cardinia Shire Council*, the member stated the following:

“The first thing to be said about this proposition is that it is, after all, an argument for bad planning. Good planning keeps incompatible uses separate. It is not a reason for bad planning that the incomer is a volunteer. It is good planning to protect foolish volunteers from themselves.”

Having considered the aforementioned factors allowing a dwelling in the proposed location would not result in a good planning outcome.

Objector's concerns

The owners of the broiler farm have placed an objection mentioning the adverse impact of the broiler farm on the proposed dwelling. This is due to the odour generated by the broiler farm. Council considers the proposed buffer distance to be insufficient to minimise the impacts generated by the broiler farm. The applicant has not provided a response to the potential noise and odour impact of the broiler farm on the proposed residential use.

The main concerns of other objections were the close proximity of the proposed dwelling to the southern boundary which impacts the views of the adjoining properties and the potential to devalue the properties. It has been established in VCAT that views is not a planning consideration nor the consideration of devaluing of properties.

CONCLUSION

Council has requested several times that the applicant sites the dwelling in accordance with the buffer zone requirements. The past application, which was refused by Council, EPA non-support, the VCAT precedent and Council concerns, all warrant that the proposed dwelling, with a close proximity to the existing broiler farm, is not appropriate for the site.

The applicant has not supplied a current Bushfire Management Statement that reflects the present proposal, this must be submitted as per the requirements of the Planning Scheme. Support of the proposal cannot be provided due to insufficient information provided.

It is therefore recommended that the use and development of a dwelling at 18 Bottomley Drive, Emerald be refused on the following grounds:

1. The proposal is inconsistent with the requirements of Victorian Broiler Code and may create future land use conflicts between potentially conflicting land uses and developments.
2. The proposal is contrary to the State Planning Policy Framework
3. The application does not provide sufficient information

**2 USE AND DEVELOPMENT OF THE LAND FOR A DWELLING AT 18
BOTTOMLEY DRIVE EMERALD**

Before consideration of this Item the Mayor advised that an amended Planning Application had been received and that therefore the application detailed in this Item would be withdrawn and not considered at this meeting.

3 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY

FILE REFERENCE INT186014

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted.

EXECUTIVE SUMMARY

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

Central Ward					
Date	Permit No	Location	The Proposal	The Decision	Lodged Date
21/11/2017	T170725	80 Grandvue Boulevard, Pakenham VIC 3810	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	03 November 2017
21/11/2017	T170754	89 Grandvue Boulevard, Officer VIC 3809	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	14 November 2017
22/11/2017	T160690	110 Pakenham Road, Pakenham VIC 3810	Subdivision of the land, associated works, removal of native vegetation and altering access to a road in a Road Zone Category 1	NOD	11 October 2016
22/11/2017	T170558	Botany Way, Pakenham VIC 3810	Development of the land for eight (8) dwellings and subdivision of land into eight (8) lots.	Issued	22 August 2017
27/11/2017	T170628	34 Meaby Drive, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued	28 September 2017
28/11/2017	T120565 - PC2	Debra Avenue, Pakenham Victoria 3810	Use and development of the land for a supermarket, licensed premises (packaged liquor) shops and a reduction in the car parking requirement of Clause 52.06	Issued	24 November 2017
28/11/2017	T170642	Services Central, 6B Henry Street, Pakenham VIC 3810	Business advertising signage	Issued	02 October 2017
29/11/2017	T170171	122 Ahern Road, Pakenham VIC 3810	Subdivision of the land into two (2) lots	NOD	24 March 2017
1/12/2017	T170500	70 Gardenia Street, Pakenham VIC 3810	Development of the land for an additional dwelling	Issued	02 August 2017
5/12/2017	T060603 - 2	55 Abrehart Road, Pakenham Victoria 3810	Subdivision and removal of native vegetation	Issued	31 October 2017
5/12/2017	T150782 - 1	50 Lakeside Boulevard, Pakenham VIC 3810	The use of the existing building as a place of worship and food and drink premises (café) and business identification signage, generally in accordance with the approved plans	NOD	20 July 2017

5/12/2017	T170230	11 Henty Street, Pakenham VIC 3810	Construction of five (5) dwellings and associated buildings and works; Reduction of the number of car spaces required under Clause 52.06 (1 visitor space)	NOD	02 May 2017
5/12/2017	T170533	9 Jamieson Court, Pakenham VIC 3810	Development of the land for two (2) dwellings	Issued	11 August 2017
5/12/2017	T170740	32 Montalto Drive, Pakenham VIC 3810	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	08 November 2017
5/12/2017	T170672	21 Cuttler Street, Pakenham VIC 3810	Development of the land for a dwelling	Issued	09 October 2017
5/12/2017	T170768	26 Montalto Drive, Pakenham VIC 3810	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	24 November 2017
7/12/2017	T130758 - PC2	5 Spencer Place, Pakenham Victoria 3810	Landscape Plan - The development of the land for the puprose of five (5) dwellings, generally in accordance with the approved plans	Issued	16 October 2017
7/12/2017	T160761	2-6 Worthington Boulevard, Pakenham VIC 3810	Use and development of the land for a child care centre, reduction in car parking, advertising signage and to alter access to a Road Zone Category 1.	Issued	22 November 2016
7/12/2017	T170255	13 Anderson Street, Pakenham VIC 3810	Construction of four (4) dwellings and associated buildings and works	Issued	10 May 2017
7/12/2017	T170801	43 Princes Highway, Pakenham VIC 3810	Use and development of the land for the purposes of a childcare centre and alternation of access to a road in Road Zone, Category 1.	Withdrawn	07 December 2017
8/12/2017	T170744	17 Cuttler Street, Pakenham VIC 3810	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	13 November 2017
9/01/2018	T170792	26 Davidson Street, Pakenham VIC 3810	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	07 December 2017
10/01/2018	T170788	5 Roy Ross Court, Pakenham VIC 3810	Development of the land for a garage	Issued	02 December 2017
11/12/2017	T170180 - PC1	12 Rogers Street, Pakenham VIC 3810	Condition 1 - Development of the land for four (4) dwellings	Issued	02 November 2017
14/12/2017	T170718	37 Kenneth Road, Pakenham VIC 3810	Buildings and works (dwelling) within the Significant Landscape Overlay – Schedule 6	Issued	06 November 2017
18/12/2017	T170595	11A Meeking Drive, Pakenham VIC 3810	Development of the land for an outbuilding	Issued	01 September 2017
18/12/2017	T170619	31 Sapphire Crescent, Pakenham VIC 3810	Subdivision of Land into Two Lots	Issued	26 September 2017
18/12/2017	T170659	3 Rogers Street, Pakenham VIC 3810	Use of the land for a medical centre (chiropractic) and associated business identification signage	Issued	09 October 2017
19/12/2017	T160084 - 1	108-110 Princes Highway, Pakenham VIC 3810	Buildings and works associated with existing hotel, display of an internally illuminated sign and an increase to the area where liquor is allowed to be consumed or supplied	Issued	27 June 2017

20/12/2017	T160402 - PC3	26 Mullane Road, Pakenham VIC 3810	Subdivision of the land and Development Plan Overlay - Schedule 5	Withdrawn	27 October 2017
20/12/2017	T170286	35 Elwood Avenue, Pakenham VIC 3810	Development of the land for two dwellings	Issued	19 May 2017
20/12/2017	T170653	75 Station Street, Pakenham VIC 3810	Subdivision Permit	Issued	05 October 2017
20/12/2017	T170726	78 Grandvue Boulevard, Pakenham VIC 3810	Buildings and works (dwelling) within the Significant Landscape Overlay - Schedule 6	Issued	08 November 2017
21/12/2017	T170282	63 Thwaites Road, Pakenham VIC 3810	Development of land for two (2) dwellings	Issued	19 May 2017
21/12/2017	T170283	61 Thwaites Road, Pakenham VIC 3810	Development of land for two (2) dwellings	Issued	19 May 2017
8/01/2018	T160402 - PC4	26 Mullane Road, Pakenham VIC 3810	Design Guidelines to comply with Condition 13K of Planning Permit T160402	Issued	31 October 2017
8/01/2018	T170255 - PC1	13 Anderson Street, Pakenham VIC 3810	Condition 1, landscape plan	Issued	18 December 2017
8/01/2018	T170413 - PC1	9 Acacia Court, Pakenham VIC 3810	Amended Plans to comply with Condition 1 of Planning Permit T170413	Issued	13 December 2017
9/01/2018	T160604 - PC1	3 Park Orchard Drive, Pakenham VIC 3810	Condition 1- (Con. 01 C1P) Development of the land for twenty- three (23) dwellings and reduction in car parking requirements of Clause 52.06 in accordance with the approved plans.	Issued	24 August 2017
9/01/2018	T160604 - PC3	3 Park Orchard Drive, Pakenham VIC 3810	(Con. 07 WMP) - Development of the land for twenty-three (23) dwellings and reduction in car parking requirements of Clause 52.06 in accordance with the approved plans.	Issued	09 January 2018
9/01/2018	T160604 - PC4	3 Park Orchard Drive, Pakenham VIC 3810	Development of the land for twenty- three (23) dwellings and reduction in car parking requirements of Clause 52.06 in accordance with the approved plans.	Issued	09 January 2018

Port Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
21/11/2017	T170528	56a Hope Street, Bunyip VIC 3815	Vary the conditions of a Section 173 Agreement	Issued	11 August 2017
23/11/2017	T170492	20 & 22 Drovers Place & 4 Ridge Place, Pakenham VIC 3810	Display of business identification signage	Issued	01 August 2017
23/11/2017	T170655	234 Bessie Creek Road, Nar Nar Goon North VIC 3812	Alterations and additions to an existing dwelling (veranda)	Lapsed	04 October 2017
27/11/2017	T170535	230 Main Drain Road, Koo Wee Rup VIC 3981	Development of the land for an outbuilding	Issued	15 August 2017
27/11/2017	T170543	177 Nine Mile Road, Tynong VIC 3813	Development of the land for an outbuilding	Issued	15 August 2017
27/11/2017	T170734	10 Gwen Meredith Drive, Bunyip VIC 3815	Development of the land for an outbuilding	Issued	08 November 2017

28/11/2017	T170528 - PC1	56a Hope Street, Bunyip VIC 3815	Vary the conditions of a Section 173 Agreement	Issued	28 November 2017
28/11/2017	T170767	47 Railway Avenue, Bunyip VIC 3815	I'd like to apply for an extension of permit no. T150424 - Subdivision of land into 2 Lots	Withdrawn	28 November 2017
29/11/2017	T170223 - 4	2705 Princes Highway, Tynong North VIC 3813	Amendment to Planning Permit T170223 by amending Condition 4	Issued	27 November 2017
29/11/2017	T170580	FY 19/99 Bald Hill Road, Pakenham VIC 3810	Use of the land for materials recycling with ancillary service industry and car sales	Issued	29 August 2017
1/12/2017	T170188 - PC1	54 Garfield Road, Garfield VIC 3814	Section 173 Agreement - Subdivision of the land into two (2) lots and removal of native vegetation	Issued	23 November 2017
1/12/2017	T170470	20 Nagle Crescent, Maryknoll VIC 3812	Development of the land for an outbuilding	Issued	21 July 2017
4/12/2017	T170466 - PC1	335 McCraws Road, Catani VIC 3981	Development of the land for an agricultural building	Issued	24 November 2017
5/12/2017	T160790 - PC1	11 Industrial Drive, Pakenham VIC 3810	Development of the land for Industry (pre-cast concrete manufacturing), ancillary offices, associated display area, display of advertising signage and reduction in on-site car parking (61 spaces)	Issued	05 December 2017
5/12/2017	T170637	102 Hope Street, Bunyip VIC 3815	Use and development of the land for a dwelling and associated earthworks	Issued	26 September 2017
5/12/2017	T170654	95 Nash Road, Bunyip VIC 3815	Removal of native vegetation	Issued	10 October 2017
6/12/2017	T160583 - PC1	70 Trevor Road, Nar Nar Goon North VIC 3812	Plans to comply with Condition 5 of Planning Permit T160583	Issued	29 November 2017
6/12/2017	T170472	2305 Ballarto Road, Cardinia VIC 3978	Development of land with an outbuilding (two sheds)	Issued	24 July 2017
7/12/2017	T170163 - PC2	15 Beswick Street, Garfield VIC 3814	Condition 1 - Development of the land for two (2) dwellings	Issued	16 October 2017
7/12/2017	T170223 - PC3	2705 Princes Highway, Tynong North VIC 3813	Buildings and works associated with the existing Outdoor Recreation Facility (including an access road, carpark, entry / amenities building, waterpark and rollercoaster) and the removal of native vegetation.	Issued	05 December 2017
7/12/2017	T170352	FY 1/10 Bate Close, Pakenham VIC 3810	Display business identification signage and two major promotional signs	Issued	05 June 2017
7/12/2017	T170707	7 Violet Street, Bunyip VIC 3815	Build outside the envelope	Withdrawn	31 October 2017
8/12/2017	T170314 - PC1	23 Cameron Way, Pakenham VIC 3810	Development of a dwelling to the rear of the existing dwelling and alterations and additions to the existing dwelling	Issued	23 November 2017
8/12/2017	T170544	Corporate Terrace (Proposed Lot 20 PS748318 Tarmac Way), Pakenham VIC 3810	Subdivision of Land into Two (2) Lots	Issued	16 August 2017
8/12/2017	T170663	2 Beswick Street, Garfield VIC 3814	Development of the land for a shed	Lapsed	10 October 2017

8/12/2017	T170627	50 Cameron Way, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Lapsed	21 September 2017
11/12/2017	T170341	830 Nar Nar Goon- Longwarry Road, Garfield VIC 3814	Use of the land Intensive Animal Husbandry (free range poultry farm)	NOD	02 June 2017
12/12/2017	T130069 - 3	Corporate Terrace, Pakenham VIC 3810	Development of the land for multi-unit warehousing, associated offices and car parking; Reduction of the number of car parking spaces required under Clause 52.06	Issued	19 July 2017
12/12/2017	T170223 - 2	2705 Princes Highway, Tynong North VIC 3813	Amendment to T170223 by amending Condition 3 to allow for an increase in vehicle numbers	Issued	12 October 2017
12/12/2017	T170465	440 Bayles-Cora Lynn Road, Cora Lynn VIC 3814	Development of additions and alterations to a dwelling and an outbuilding	Issued	20 July 2017
13/12/2017	T170293	3545 South Gippsland Highway, KOO WEE RUP VIC 3981	Construction of an access to RDZ1 (South Gippsland Highway)	Issued	22 May 2017
13/12/2017	T170434	930 Koo Wee Rup- Longwarry Road, Bayles VIC 3981	Development of land for a Rural Store	Issued	14 July 2017
13/12/2017	T170475	130 Hobson Road, Rythdale VIC 3810	Development of the land for an outbuilding	Issued	24 July 2017
13/12/2017	T170478	42 Pinehill Drive, Pakenham VIC 3810	Subdivision of Land into Two Lots	Issued	25 July 2017
13/12/2017	T170501	Campbell Street, Pakenham VIC 3810	Use and development of the land for Industry (Manufacturing)	Issued	02 August 2017
13/12/2017	T170534	38 Gardner Street, Koo Wee Rup VIC 3981	Subdivision of the land into three (3) lots	Issued	14 August 2017
13/12/2017	T170794	383 Fogarty Road, Maryknoll VIC 3812	Development of the land for an above ground swimming pool and associated fencing	Issued	04 December 2017
13/12/2017	T170803	170 No 4 Drain Road, Bayles VIC 3981	Extension to existing dwelling	Withdrawn	05 December 2017
14/12/2017	T170630	4 Stacey Street, Bunyip VIC 3815	Two (2) lot subdivision	Issued	06 October 2017
14/12/2017	T170656	350 McDonalds Track, Lang Lang VIC 3984	Re-subdivision (boundary realignment) of the land into two lots Reason for Revision: Re-subdivision (boundary realignment) of the land into two lots	Issued	06 October 2017
15/12/2017	T170545	Corporate Terrace (proposed Lot 19 PS7487318 Tarmac Way Pakenham), Pakenham VIC 3810	Subdivision of Land into Two (2) Lots.	Issued	16 August 2017
15/12/2017	T170546	Corporate Terrace (Proposed lots 1-6 PS735759), Pakenham VIC 3810	Subdivision of Land into Six (6) Lots	Issued	16 August 2017
15/12/2017	T170800	Corporate Terrace (Proposed 18 Tarmac Way), Pakenham VIC 3810	Construction of two (2) warehouses with ancillary offices	Issued	06 December 2017
18/12/2017	T170399	17 Nar Nar Goon- Longwarry Road, Garfield VIC 3814	Subdivision of the land into two (2) lots	Issued	26 June 2017

18/12/2017	T170552	195 Browning Road, Nar Nar Goon VIC 3812	Development of the land for an outbuilding (shed), Dwelling alterations and Additions	Issued	17 August 2017
18/12/2017	T140153 - PC1	2 Flett Street, Bunyip Victoria 3815	Section 173 Agreement - The subdivision of the land into three (3) lots	Issued	13 November 2017
19/12/2017	T170612	70-80 Bald Hill Road, Pakenham VIC 3810	Development of the land for buildings and works in an Industrial 1 Zone (Installation of three (3) silos)	Issued	12 September 2017
20/12/2017	T170049 - PC1	1 Gwen Meredith Drive, Bunyip VIC 3815	Variation of a covenant	Withdrawn	05 December 2017
21/12/2017	T170112 - PC1	30 Exchange Drive, Pakenham VIC 3810	Amended Plans for Endorsement	Issued	09 November 2017
21/12/2017	T170470 - PC1	20 Nagle Crescent, Maryknoll VIC 3812	Development of the land for an outbuilding	Issued	18 December 2017
21/12/2017	T170474	1380 Koo Wee Rup- Longwarry Road, Catani VIC 3981	Use of the land for a dwelling, Development of land for a dwelling, Development of land for outbuildings, alteration of access from a Road Zone Category 1 and associated works.	Issued	24 July 2017
21/12/2017	T170625	40 Wattletree Road, Bunyip VIC 3815	Subdivision of the land into (2) lots	Issued	20 September 2017
21/12/2017	T170631	9 Ravendene Court, Maryknoll VIC 3812	Development of the land for a dwelling and outbuilding	Issued	09 October 2017
22/12/2017	T150603 - PC1	49 Tynong Road, Tynong Victoria 3813	Earthworks associated with agriculture and the construction of a dam and removal of native vegetation	Issued	18 December 2017
22/12/2017	T170380 - PC1	21 Southeast Boulevard, Pakenham VIC 3810	Construction of seven (7) warehouses and associated buildings and works; Reduction in the number of car parking spaces required (13 space reduction)	Issued	01 December 2017
22/12/2017	T170458	105 Boundary Drain Road, Koo Wee Rup VIC 3981	Development of land for a dwelling and earthworks	Issued	19 July 2017
22/12/2017	T170512	95 Garfield North Road, Garfield North VIC 3814	Development of Dwelling Additions and Alterations.	Issued	07 August 2017
22/12/2017	T170702	18 Pinehill Drive, Pakenham VIC 3810	Development of the land for the purpose of a shed	Issued	31 October 2017
22/12/2017	T170737	515 Dalmore Road, Cardinia VIC 3978	Development of the land for buildings associated with crop raising (temporary seasonal worker accommodation)	Issued	10 November 2017
22/12/2017	T170809	Corporate Terrace, Pakenham VIC 3810	Construction of two (2) warehouses and associated buildings and works	Issued	08 December 2017
4/01/2018	T170780	415 Bennett Road, Cora Lynn VIC 3814	Development of the land for the installation of two (2) water tanks and associated works.	Issued	30 November 2017
8/01/2018	T170422 - 1	10 Gardner Street, Koo Wee Rup VIC 3981	Amendment to Condition 7a of Planning Permit T170422 to allow for subdivision to proceed prior to development; amendment to proposed plan of subdivision to accord with the approved development plans of Planning Permit T170119	Issued	19 September 2017

8/01/2018	T170647	Corporate Terrace, Pakenham VIC 3810	Construction of sixteen (16) warehouses and associated buildings and works	Issued	03 October 2017
8/01/2018	T170810	50 Cameron Way, Pakenham VIC 3810	Subdivision of the land into two (2) lots	Issued	23 December 2017
9/01/2018	T170082 - PC1	490 Westernport Road, Lang Lang VIC 3984	Condition 1 - Earthworks associated with a dam (including drain and sump) and the removal of vegetation	Issued	05 December 2017
9/01/2018	T170745	1430 Nar Nar Goon-Longwarry Road, Bunyip VIC 3815	Development of the land for a dwelling extension	Issued	13 November 2017
10/01/2018	T170711	Corporate Terrace, Pakenham VIC 3810	Subdivision of the land into ten (10) lots	Lapsed	01 November 2017
10/01/2018	T170757	18 Sharnet Circuit, Pakenham VIC 3810	Subdivision of the land into four (4) lots and common property	Issued	23 November 2017

Ranges Ward

Date	Permit No	Location	The Proposal	The Decision	Lodged Date
21/11/2017	T050071 - 1	3 Silvan Court, Emerald Victoria 3782	Amend the planning permit pursuant Section 72 of the Planning Environment Act 1987 in following manner: The permit preamble is to change from: 'To use and develop the land for the purpose of constructing a second dwelling to be used as a manager's residence' To: 'The development of a second dwelling'	NOD	16 September 2016
21/11/2017	T170237 - PC1	259 Belgrave-Gembrook Road, Emerald VIC 3782	Development of the land for a dwelling	Issued	02 November 2017
21/11/2017	T170347 - PC1	3 Roy Ross Court, Pakenham VIC 3810	Condition 1 - Use and development of the land for a dwelling and outbuilding	Issued	03 November 2017
21/11/2017	T170484	65 Boyd Road, Gembrook VIC 3783	Development of the land for an outbuilding (garage)	Issued	24 July 2017
21/11/2017	T170570	3 Niki Place, Officer VIC 3809	Installation and use of twenty (20) electronic gaming machines	Refused	24 August 2017
22/11/2017	T130737 - 1	21 Paternoster Road, Emerald Victoria 3782	Amended Permit - Use and development of the land for a rural store and associated earthworks	Issued	15 March 2017
22/11/2017	T160501	225 Rix Road, Officer VIC 3809	Development of the land for thirty two (32) dwellings and associated works	Withdrawn	05 August 2016
22/11/2017	T170402	Brennan Avenue, Beaconsfield Upper VIC 3808	Use and development of the land for a dwelling, associated earthworks and an outbuilding	NOD	07 July 2017
23/11/2017	T170758	16 Old Princes Highway, Beaconsfield VIC 3807	To amend the planning permit to change what the permit allows. From 'To re-subdivide Lot 8 and part of Common Property on SP37595E creating Lot 9' to now just creating new lot 9 out of part of common property only.	Withdrawn	21 November 2017
24/11/2017	T160693	46 Tivendale Road, Officer VIC 3809	Staged subdivision and associated works	Refused	19 October 2016
24/11/2017	T170448	46 Mountain Road, Cockatoo VIC 3781	Alterations and additions to an existing dwelling	Issued	19 July 2017

24/11/2017	T170666	Timbertop Boulevard, Officer VIC 3809	Use, development and subdivision of the land for eight (8) lots and a reduction in car parking requirements	Refused	05 October 2017
27/11/2017	T170332	232 Telegraph Road, Beaconsfield Upper VIC 3808	Development of the land for a dwelling and earthworks	Issued	29 May 2017
30/11/2017	T140401 - PC1	37 Mary Street, Officer Victoria 3809	Condition 1 - Development of the land for seventy-two (72) dwellings (in stages).	Issued	13 September 2017
30/11/2017	T170536 - 1	1 Carawa Street, Cockatoo VIC 3781	Development of the land for a dwelling	Issued	03 November 2017
30/11/2017	T170563	26 Salisbury Road, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding and associated earthworks	Issued	21 August 2017
30/11/2017	T170574	130 Thewlis Road, Pakenham VIC 3810	Development of the land for a telecommunications facility	NOD	24 August 2017
1/12/2017	T150399 - PC1	10 Ferres Road, Emerald Victoria 3782	Use and development of the land for a Dependent Person's Unit	Issued	02 June 2016
1/12/2017	T170395 - PC1	1 Innes Road, Gembrook VIC 3783	Development of the land for a dwelling and removal of two (2) trees	Issued	20 October 2017
5/12/2017	T170186 - PC1	2 Ann Street, Beaconsfield VIC 3807	Use and development of land for a medical centre.	Issued	09 August 2017
5/12/2017	T170315 - PC1	555 O`Neil Road, Beaconsfield VIC 3807	Building and works for the construction of an outbuilding (carport)	Issued	20 November 2017
5/12/2017	T170548	24 Tivendale Road, Officer VIC 3809	Advertising signage	Issued	15 August 2017
7/12/2017	T140111 - PC1	456 Evans Road, Cockatoo VIC 3781	Conditions 1A, B, C and D of Planning Permit T140111.	Issued	08 September 2017
7/12/2017	T160720 - PC1	15 Belgrave Avenue, Cockatoo VIC 3781	Conditions 13 & 17 - Development of the land for a dwelling and associated earthworks, and vegetation removal	Issued	30 June 2017
7/12/2017	T170073 - PC1	Parker Road, Gembrook VIC 3783	Plan of Subdivision amended to be in accordance with Condition 1 of Permit T170073.	Issued	15 November 2017
7/12/2017	T170448 - PC1	46 Mountain Road, Cockatoo VIC 3781	Condition 1 plans - Develop land for a dwelling	Issued	27 November 2017
7/12/2017	T170499	95 Woori Yallock Road, Cockatoo VIC 3781	Development of the land for alterations and additions to an existing dwelling and the development of the land for an outbuilding	Issued	02 August 2017
7/12/2017	T170518 - PC1	198 Toomuc Valley Road, Pakenham VIC 3810	The development of the land for a carport and dwelling extension (verandah)	Issued	20 November 2017
7/12/2017	T170539	18 Margaret Road, Avonsleigh VIC 3782	Earthworks	Issued	14 August 2017
7/12/2017	T170789	3 Twain Street, Officer VIC 3809	Build one single storey dwelling of 125.19m ² on lot that is 256m ² . The lot has not been placed under the small lot code by developer. Rear setback is 3060mm, front setback 3800mm.	Withdrawn	07 December 2017
8/12/2017	T170066	6 Sutherland Road, Beaconsfield Upper VIC 3808	Development of the land for a second dwelling.	Withdrawn	10 February 2017

8/12/2017	T170328 - 1	75-79 St Georges Road, Beaconsfield Upper VIC 3808	The development of the land for an outbuilding within 20 metres of a road, within 100 metres of a dwelling not in the same ownership and the gross floor area of all outbuildings on the land are in excess of 120 square metres in floor area.	Issued	13 November 2017
8/12/2017	T170420	250 Belgrave- Gembrook Road, Cockatoo VIC 3781	Development and use of the land for a dependent persons unit	Issued	30 June 2017
9/12/2017	T170681	160 Harvie Road, Pakenham Upper VIC 3810	Earthworks (Swimming Pool)	Withdrawn	20 October 2017
11/12/2017	T120111 - PC2	62 Rix Road, Officer Victoria 3809	Con. 04 Section 173 Agreement (for path and land) - Building and works to an existing school (including a Performing Arts Centre)	Issued	05 June 2017
11/12/2017	T170304	7-9 Haupt Place, Beaconsfield Upper VIC 3808	Development of the land for a dwelling, three outbuildings, associated earthworks and vegetation removal	Issued	24 May 2017
11/12/2017	T170509	Road reserve in front of, 28 Beaconsfield- Emerald Road, Beaconsfield Upper VIC 3808	Indigenous tree removal	Issued	24 August 2017
11/12/2017	T170559 - PC1	371 Beaconsfield- Emerald Road, Guys Hill VIC 3807	Development of a shed for storage of personal vehicles	Issued	01 December 2017
11/12/2017	T170670	27 Bridge Road, Officer VIC 3809	Construction of a double storey dwelling with lock up garage	Withdrawn	11 October 2017
12/12/2017	T170636	16 Kooyong Close, Officer VIC 3809	Subdivision of the land into six (6) lots	Issued	26 September 2017
13/12/2017	T160268 - PC1	Yackatoo Road, Beaconsfield Upper VIC 3808	Use and development of the land for a dwelling, outbuilding, vegetation removal and earthworks	Issued	19 October 2017
13/12/2017	T160268 - PC2	Yackatoo Road, Beaconsfield Upper VIC 3808	Condition 7 - Use and development of the land for a dwelling, outbuilding, vegetation removal and earthworks	Issued	24 October 2017
13/12/2017	T160268 - PC3	Yackatoo Road, Beaconsfield Upper VIC 3808	Use and development of the land for a dwelling, outbuilding, vegetation removal and earthworks	Issued	26 October 2017
13/12/2017	T170814	120-122 Woori Yallock Road, Cockatoo VIC 3781	Two (2) Lot Subdivision, as per attached proposed Plan.	Withdrawn	13 December 2017
14/12/2017	T120440 - 1	29 Church Street, Emerald Victoria 3782	The development of the land for the purpose of an outbuilding with a reduced setback, the removal of five (5) trees and associated earthworks generally in accordance with the approved plans.	Issued	16 October 2017
14/12/2017	T170019 - PC1	21 Auhl Road, Emerald VIC 3782	Development of the land for a dwelling, earthworks and vegetation removal	Issued	30 August 2017
14/12/2017	T170019 - PC2	21 Auhl Road, Emerald VIC 3782	Offset management plan - Development of the land for a dwelling, earthworks and vegetation removal	Withdrawn	07 December 2017
14/12/2017	T170563 - PC1	26 Salisbury Road, Beaconsfield Upper VIC 3808	Development of the land for an outbuilding and associated earthworks	Issued	01 December 2017

15/12/2017	T170443	174 Thewlis Road, Pakenham VIC 3810	Development of the land for an Outbuilding (shed)	Issued	12 July 2017
16/12/2017	T170649	400A Belgrave- Gembrook Road, Emerald VIC 3782	Development of the land for a place of assembly	Issued	02 October 2017
18/12/2017	T160291 - PC3	68-72 Main Street, Gembrook VIC 3783	Amended plans to comply with Condition 24 of Planning Permit T160291	Issued	15 December 2017
18/12/2017	T160800	34 First Avenue, Cockatoo VIC 3781	Construction of a dwelling, outbuilding, water tank and associated earthworks	Issued	02 December 2016
18/12/2017	T160863	9 Harpfield Road, Beaconsfield Upper VIC 3808	Use and development of the land for a dwelling and associated earthworks and vegetation removal	Issued	23 December 2016
18/12/2017	T170316	17 Kilvington Drive, Emerald VIC 3782	Buildings and works for an extension to the existing office and associated car parking	Issued	01 June 2017
18/12/2017	T170321 - 1	84 Main Street, Gembrook VIC 3783	Subdivision of the land into two (2) lots	Issued	07 December 2017
18/12/2017	T170641	66 Starling Road, Officer VIC 3809	Advertising signage	Lapsed	28 September 2017
18/12/2017	T170684	47 Macclesfield Road, Emerald VIC 3782	Alteration and addition to existing dwelling	Issued	20 October 2017
19/12/2017	T150634 - PC3	115 Peck Road, Officer VIC 3809	Plans to comply with Condition 22	Issued	04 August 2017
19/12/2017	T170325	Parker Road, Gembrook VIC 3783	Use and development of the land for a dwelling, outbuilding and associated earthworks	Issued	18 May 2017
19/12/2017	T170339	945 Toomuc Valley Road, Pakenham Upper VIC 3810	Development of the land for a replacement dwelling and associated earthworks, conversion of the existing dwelling to a non-habitable outbuilding and removal of vegetation.	Issued	02 June 2017
19/12/2017	T170582	12 Caroline Avenue, Cockatoo VIC 3781	Buildings and works for an outbuilding associated with accommodation	Issued	29 August 2017
20/12/2017	T160541 - PC1	Brisbanes Road, COCKATOO VIC 3781	Section 173 - Re-subdivision of land in to two (2) lots (boundary re-alignment)	Issued	18 October 2017
20/12/2017	T170156	105 Orchard Road & 51 Orchard Road, Gembrook VIC 3783	Subdivision of the land (Boundary realignment of three (3) lots) and removal of a building and effluent envelope restriction on Lot 2 PS739800	Issued	15 March 2017
20/12/2017	T170604	409 Princes Highway, Officer VIC 3809	Use of the land for a Veterinary Centre, buildings and works and business identification signage	Issued	11 September 2017
20/12/2017	T170729	16 Station Avenue, Emerald VIC 3782	Development of the land for a carport	Issued	08 November 2017
20/12/2017	T170819	2-4 Steane Street, Cockatoo VIC 3781	Permit to remove one (1) tree	Withdrawn	14 December 2017
21/12/2017	T160521	Starling Road, Officer VIC 3809	Development and subdivision of the land for dwellings, removal and creation of easements	Issued	16 August 2016
21/12/2017	T170818	226 Beaconsfield- Emerald Road, Beaconsfield VIC 3807	Construction of outbuilding	Issued	18 December 2017

22/12/2017	T120566 - PC1	24-26 View Hill Road, Cockatoo VIC 3781	Condition 1 of Planning Permit T120566.	Issued	24 February 2017
22/12/2017	T170087	105 Lewis Road, Beaconsfield Upper VIC 3808	Use and development of the land for a dwelling	Issued	20 February 2017
4/01/2018	T170484 - PC1	65 Boyd Road, Gembrook VIC 3783	Development of the land for an outbuilding (garage)	Issued	05 December 2017
8/01/2018	T140635 - PC4	150 Rix Road, Officer Victoria 3809	T140635 PC4 - (Con. 01 C1P) Condition 1 Plans	Issued	13 December 2017
8/01/2018	T170240	320 & 250 Belgrave- Gembrook Road, Gembrook VIC 3783	Re-subdivision of three lots into two lots and creation of a reserve	Issued	03 May 2017
8/01/2018	T170669	18 Avon Road, Avonsleigh VIC 3782	Development of the land for alterations and additions to an existing dwelling and the addition of a detached covered deck (pergola).	Issued	10 October 2017
8/01/2018	T170700	390 Beaconsfield- Emerald Road, Dewhurst VIC 3808	Earthworks	Issued	27 October 2017
9/01/2018	T170643	14 Pakenham Road, Cockatoo VIC 3781	Development of the land for alterations and additions to an existing dwelling	Issued	28 September 2017
9/01/2018	T170645	5 Pioneer Way, Officer VIC 3809	Subdivision Permit.	Issued	03 October 2017
9/01/2018	T170818 - PC1	226 Beaconsfield- Emerald Road, Beaconsfield VIC 3807	Construction of outbuilding	Issued	21 December 2017
9/01/2018	T180016	75-79 St Georges Road, Beaconsfield Upper VIC 3808	Convert the existing crushed rock drive way cross overs to concrete	Withdrawn	09 January 2018

3 PLANNING MATTERS DEALT WITH BY OFFICERS UNDER DELEGATION AUTHORITY

Moved Cr J Owen Seconded Cr R Brown

That the report be noted.

Cd.

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

FILE REFERENCE INT186013

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Debbie Tyson

RECOMMENDATION

That the report be noted.

Attachments

Nil.

EXECUTIVE SUMMARY

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

Hearing Date	App No.	Address	Proposal	Council Decision	Appealed By	Outcome
30/5/18	T17037I	33 Officer Road, Officer	Place of worship, vegetation removal	Approval	Objectors	Waiting on hearing
14/5/18	T170024	1 Station Street Officer	Buildings and works and use of a hotel, sale and consumption of liquor, installation and use of land for eighty (80) electronic gaming machines	Refusal	Applicant	Waiting on hearing
10/04/18	T990164-2	100 School Road, Bayles	Amendment to Planning Permit for the use and development of the land as a rural store by amending conditions 3, 5, 4 and 13 and the endorsed plans.	Refusal	Applicant	Waiting on hearing
22/01/18	T970402	455 Westernport Road, Lang Lang	Amended permit- delete condition 5 and use and development of a dwelling	Refusal	Applicant	Waiting on hearing
18/10/17	T160108	65 Moody Street, Koo Wee Rup	Subdivision of land into 19 lots	Refusal	Applicant	VCAT overturned Council decision - Permit issued
23/11/17	P160025	5-9 Salisbury Road Beaconsfield Upper	Additions and alterations to an existing aged care facility and vegetation removal	Refusal	Applicant	Waiting on Decision

Hearing Date	App No.	Address	Proposal	Council Decision	Appealed By	Outcome
10/01/18	T110314	36 Bunyip Modella Road, Bunyip	Storage facility and native vegetation removal	Approval	Objector	VCAT upheld Councils decision – Permit issued
20/12/17	T160760	54 Rosebery St, Lang Lang	Variation of a restrictive covenant	Refusal	Applicant	Applicant withdraw Appeal
7/12/17	T160772	368 O'Neil Road Officer	Use and development of the land for a telecommunications facility and vegetation removal	Refusal	Applicant	Mediation before VCAT hearing – Permit issued
28/11/17		13 May Road, Beaconsfield	Extension of time – Hotel and EGMs	Refusal	Applicant	Waiting on Decision

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

Moved Cr J Owen Seconded Cr R Brown

That the report be noted.

Cd.

5 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

FILE REFERENCE INT185915

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Tracey Parker

RECOMMENDATION

That the report be noted.

EXECUTIVE SUMMARY

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

Status of active amendments

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

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
C205	EDM Group	80 McDonalds Track Lang Lang	Rezone part of the land at 80 McDonalds Track, Lang Lang (Lot 3 on PS542732), and Lots 1 and 2 (PS542732) Westernport Road, Lang Lang, from Farming Zone to Industrial 1 Zone, apply Schedule 20 to the Development Plan Overlay to this land and concurrently consider, under Section 96A of the Planning and Environment Act 1987, a planning permit application to subdivide the land at 80 McDonalds Track, Lang Lang into two (2) lots.	02/11/2017	04/12/2017	Exhibition period completed - 2 submissions received. Currently being reviewed.
C209 - Part 1	Cardinia Shire Council	Oaktree Drive Road Reserve and part 25 Oaktree Drive & part 62 Cameron	Rezone land in the existing Oaktree Drive Road Reserve and part of 25 Oaktree Drive, Pakenham (Lot 1 TP 161356U & Lot 1 TP 159742C) and part of			Approved. Gazetted on 09/11/2017.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
		Way, Pakenham	62 Cameron Way, Pakenham (Lot 1 TP 161189, Lot 1 TP 161190, Lot 1 TP 844663 and Lot 1 TP 161468) from Road Zone Category 2 to Public Park and Recreation Zone.			
C220	Cardinia Shire Council	Beaconsfield	Implements the key objectives of the Beaconsfield Structure Plan December 2013 (expires March 2019) by applying the Design and Development Overlay (DDO) to the Princes Highway Gateway Precinct (Proposed DDO5), Beaconsfield Point Precinct (Proposed DDO6) and Woodland Grove Precinct (Proposed DDO7).	09/11/2017	11/12/2017	Exhibition period completed - 4 submissions received. 1 submission objecting. Council meeting scheduled for 22/01/2018. Panel hearing will follow in February.
C223	Cardinia Shire Council	231 Dalmore Road, Dalmore	Amends the Schedule to the Heritage Overlay at Clause 43.10 by applying heritage controls to land at 231 Dalmore Road, Dalmore (H0275). This Amendment will facilitate the restoration of the hall and its use as a dwelling.	Thu 20/07/2017	Mon 21/08/2017	Approved. Gazetted on 21/12/2017.
C225	Cardinia Shire Council	270 Cardinia Road Officer South	To amend Clause 37.07 to the Urban Growth Zone Schedule 2 to: - Insert a new plan 1 showing the change of designation of the land from service business to commercial to facilitate a health precinct and change a portion of land designated for service business to residential to increase the			14/02/2017: Awaiting information from the applicant to finalise amendment documentation prior to seeking authorization from the Minister for Planning to prepare an amendment.

Cardinia Planning Scheme Amendment Activity Report						
A/No.	Proponent	Address	Purpose	Exhibition Start	Exhibition End	Status
			amount of residential land in the Cardinia Road Precinct Structure Plan. - Include residential aged care facility and retirement villages as section 2 uses.			
C226	Cardinia Shire Council	Lot 5 PS321195 67 Whiteside Rd Officer, Lot 2 PS327845 130 Whiteside Rd Officer and Lot PP PS746064 325 Princes Hwy Officer	Insert new schedule to the Rural Conservation Zone 3 (RCZ3) to Clause 35.06 to implement Officer Precinct Structure Plan. Amend table 1 in Clause 37.07 of the Urban Growth Zone 3 subclause 2.2 from Rural Conservation Zone to Rural Conservation Zone Schedule 3.	Thu 22/06/2017	Mon 24/07/2017	Panel Report received on 05/01/2018 is currently being reviewed.

5 PLANNING SCHEME AMENDMENT ACTIVITY REPORT

Moved Cr J Owen Seconded Cr R Brown

That the report be noted.

Cd.

6 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)

FILE REFERENCE INT185898

RESPONSIBLE GENERAL MANAGER Andrew Paxton

AUTHOR Owen Hardidge

RECOMMENDATION

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

EXECUTIVE SUMMARY

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

BACKGROUND

Where breaches of the Planning Scheme are detected, the breaches may give rise to criminal liability, which may result in infringements being issued, or charges being filed in the Magistrates Court of Victoria.

If Council cannot obtain appropriate remediation by consent, Council undertakes enforcement action at the Victorian Civil and Administrative Tribunal (VCAT).

VCAT enforcement actions will usually be delayed until Magistrates' Court proceedings are completed.

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

CURRENT ENFORCEMENT CASES

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

Property Address	Nature of Contravention	Status
2705 Princes Hwy, Tynong North (OH:LK:17356)	Removal of native vegetation in Council road reserve, in breach of Environmental Significance Overlay (42.01) and Native Vegetation Particular Provisions (52.17). Breach of planning permit condition relating to protection of remnant vegetation	On 18 January 2018 , the company that owns this property appeared in the Magistrates Court at Dandenong. Through their officers, the company pleaded guilty to 5 offences against the Planning and Environment Act, relating to: <ol style="list-style-type: none"> 1. Native vegetation removed on the roadside reserve 2. Native vegetation removed within the subject site 3. Breaches of the Planning permit aimed at protecting Native Vegetation during the first stage of development.

		<p>The Court fined with company a total of \$45,000 fines, and granted a stay of 2 months. The Court did not record a conviction, in recognition of the agreed remediation that has already commenced.</p> <p>Council and the owner have agreed to the making of an Enforcement Order which requires the owner to manage the road reserve for 10 yrs</p>
<p>715 Gembrook Rd, Pakenham Upper</p> <p>(ref: OH:AB:14130)</p>	<p>Construction of retaining wall without building permit.</p>	<p>FOR INFORMATION ONLY – no on going <i>planning enforcement</i> matters relating to property</p> <p>MAGISTRATES COURT CASE relating to unpermitted building work (retaining wall) –</p> <p>On 21 December 2017, the Magistrates Court delivered judgement in this matter, finding the charges proven. The owner was fined \$1500, without conviction, and ordered the owner to pay in excess of \$15,000 costs.</p> <p>The owner has appealed the decision. A County Court appeal hearing at Melbourne will be heard on 31 Jan 2018.</p> <p>The property has a 20 yr history of litigated planning disputes between 1997 and 2015.</p>
<p>765 Gembrook Rd, Pakenham Upper</p> <p>(OH:LK:16299)</p>	<p>Native vegetation removal, and earthworks creating driveway and hardstand, in breach of Rural Conservation Zone – Schedule 2, Environmental Significance Overlay Schedule 1, and Clause 52.17</p>	<p>Magistrates' Court proceeding, alleging that the owner has conducted earthworks that require a permit, and cleared native vegetation, both without a permit.</p> <p>The mater is set down for a 2-day contested hearing from May 2nd 2018.</p>
<p>230 Telegraph Rd, Beaconsfield Upper</p> <p>OH:LK:17351</p>	<p>Native vegetation removal, in breach of Clause 52.17 (Native Vegetation) and Clause 42.04-2 (Environmental Significance Overlay – Schedule 1)</p>	<p>On 7th December 2017, the owner appeared in the Dandenong Magistrates Court..He pleaded guilty to wrongful removal of native vegetation.</p> <p>The Court sentenced the owner to a 2 yr Adjourned Undertaking (Good Behaviour Bond), with a condition requiring him to comply with the Council land remediation plan. He was ordered to pay Council costs of \$122.</p>
<p>60 Hillbrick Rd, Garfield</p> <p>OH:JALF:17371</p>	<p>Earthworks affecting drainage and flow of water, without a permit/in breach of issued permit, contrary to Environmental Significance Overlay – Schedule 1</p>	<p>VCAT enforcement order application has been filed and is listed for Practice Day hearing on 2 February 2018.</p>

555 Back Creek Rd, Gembrook EH:LK:16272	Native vegetation removal, and earthworks creating a dam, in breach of Section 173 agreement and the scheme. Rural Conservation Zone – Sch 1, Environmental Significance Overlay – Sch 1, Bushfire Management Overlay, and Clause 52.17	Magistrates’ Court prosecution arising from the creation of a large dam (by earthworks and vegetation removal), contrary to strict environmental controls and Section 173 agreement protecting vegetation on the land. On 15th September 2016 the Court issued a Warrant for arrest to compel the attendance of the accused. The matter is adjourned indefinitely, pending Victoria Police execution of the warrant.
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CONCLUSION

The list of current enforcement activities is presented for information.

GLOSSARY OF TERMS

Practice day 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.

Mention hearing

A mention hearing is a brief hearing, where the Court or VCAT lists the matter for brief hearing. If the case can be dealt with swiftly, it will be dealt with at a Mention hearing. For more lengthy matters (such as contested hearings) the case will be further adjourned. In the Magistrates’ Court, the Court may hear a “guilty plea” during a mention hearing.

Administrative 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.

Adjournment

A court or Tribunal will adjourn a case when the matter is deferred until another date. This can occur for a number of reasons, and is at the discretion of the Magistrate or VCAT member.

Land Management Plan

These plans are used to describe actions that will remediate the land, and commonly describe rehabilitation following unlawful vegetation removal. This plan will then become mandatory, by being incorporated into an Enforcement Order or a Section 173 agreement. The contents of the Plan will be decided by Council’s Environment Team, or Vegetation Management officer.

Contested hearing / Full hearing

A contested (or “full” hearing) means the matter is disputed by the accused/respondent, and Council and the respondent will fully present and test each other’s evidence and/or submissions. A contested (of “full”) hearing is effectively a “trial”.

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.

6 PLANNING ENFORCEMENT MATTERS (INCLUDING MAGISTRATES' COURT PROSECUTIONS)

Moved Cr J Owen Seconded Cr R Brown

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

Cd.

Meeting closed at 7.09pm

Minutes Confirmed
Chairman