

## **7 SALE OF LAND 20 AND 30 HAMILTON ROAD**

FILE REFERENCE INT189681

RESPONSIBLE GENERAL MANAGER Derek Madden

AUTHOR Doug Evans

### **RECOMMENDATION**

That, as previously resolved and in accordance with the adopted masterplan for Pepi's land, Council resolves that following the hearing of submissions received in accordance with sections 189 and 223 of the Local Government Act 1989 to proceed with the sale of land and authorises the Chief Executive Officer to:

- Effect the sale of the land by a public sale process and the property will not be sold for less than the market value of the land;
- Execute all documentation associated with the sale; and
- Advise the submitters of this decision.

### **Attachments**

1	Locality Plan	1 Page
2	Plan of subdivision	3 Pages
3	Submissions received	4 Pages
4	Minutes of meeting to hear submissions	2 Pages
5	Council Report 18 March 2013	22 Pages

### **EXECUTIVE SUMMARY**

This report recommends that Council, following the hearing of submissions in relation to the proposal to sell part of the former Pepi's site at 20 and 30 Hamilton Road, Emerald (shown on the attached locality plan) proceed with the sale of the land. The Plan of Subdivision, as attached, shows the land proposed for sale as Lot 2 and 3 PS702042V (Land) being part of the Pepi's site.

### **BACKGROUND**

Council acquired "Pepi's land" at 16-24 Beaconsfield-Emerald Road, Emerald on 14 October, 1999 by way of a land exchange with the then Minister for Planning and Local Government. Council transferred to the Minister Lawson's Road Reserve adjoining the Emerald Secondary College and Chambers Reserve in Pakenham Upper in consideration for Pepi's land.

Since acquisition of the land several parts have been sold, portion was sold to Lucas Land Co Pty Ltd (formerly Hello Hello Pty Ltd), a portion was sold to Mr & Mrs Pepi (in accordance with the Land Exchange Agreement) and portion was sold to two adjoining property owners following discontinuance of a government road being the unused extension of Hamilton Road. A further lot was sold by public auction after an approach to the Country Fire Authority suggesting that the lot would be suitable as a site for the proposed new CFA station in Emerald was declined.

Council subsequently resolved to re-purchase the land previously sold to Lucas Land Pty Ltd and at that stage also resolved to further subdivide two lots adjoining Hamilton Road and sell these two lots to partially recoup the expenses involved in the re-purchase of the land. Also at that time Council formally adopted a master plan, dated 21 June 2004, for Pepi's Land which provided

amongst other activities an area abutting Hamilton Road designated as a suitable option for residential development.

Council resolved at its meeting held on 18 March 2013 to proceed with the sale of the two blocks in Hamilton Road. The procedures involved in obtaining a planning permit for the subdivision and subsequent issue of titles for the two lots was delayed and the titles were only released late in 2017. Due to the period that had elapsed between the public notification given in 2013 and the release of titles in 2017 Council was required to give further public notice of the intention to sell the land, this notice appeared in the local newspapers on 18 October 2017 and two objections to the sale were subsequently received.

The entire Pepi's site is currently known as Certificate of Title Vol. 10797 Fol. 684 and is more particularly described as Lot 1 PS 501792U. The land is zoned rural conservation with a minimum lot size of 15 hectares, however as the land is contained in three allotments the planning scheme provides for the re-subdivision of existing allotments. Nearby properties in Hamilton Road are predominately residential properties of between 1000 – 4000 square metres.

The Land proposed for sale is substantially cleared of vegetation, west facing with adequate clearance from the gully and waterways. Land capability assessments have been undertaken and in relation to the lots proposed for sale, the results of the assessment show they are suitable for residential development.

## **POLICY IMPLICATIONS**

The State Government developed guidelines for the sale of Council land, known as “Local Government Best Practice Guidelines for the Sale and Exchange of Land” (the Guidelines). This document provides guidance for the sale of Council land but Council is not bound by the Guidelines. The Guidelines provide that all sales or transfers should be in the best interest of the community. Furthermore, the Guidelines propose that all sales should be by a market tested sales campaign. As such if a decision is made for Council to sell the Land it is proposed that an independent real estate agent be appointed to sell the Land by public auction.

## **RELEVANCE TO COUNCIL PLAN**

The relevant Council Plan objective is that ‘We continue to plan and manage the natural and built environment for future generations’. The objective is to be achieved through balancing the needs of development, the community and the environment.

## **CONSULTATION/COMMUNICATION**

Council gave public notice on 18 October 2017 in accordance with Sections 189 and 223 of the Local Government Act 1989 of the proposal to sell the land. Two submissions were subsequently objecting to the sale. These submissions were heard by a Committee established for this purpose and the minutes of that meeting are attached.

Copies of the submissions are attached.

The concerns raised by the objectors are the same concerns previously raised. In response to these concerns the following comments are provided:

- **Loss of open space**

Of a 28.61 hectare site it is proposed that 3.5 hectares will be sold and the remaining 25.12 hectares retained as open space for both passive and active recreational activities.

- **Traffic concerns on Hamilton Road and Cloverleigh Close**

Additional traffic generated by two extra residences is expected to have negligible impact and will not change the road functionality. Council has undertaken to undertake improvements to Hamilton Road to both improve the road surface and to increase sight lines around the bend near these two blocks of land.

- **Concerns in relation to contamination of the Land.**

A detailed land capability assessment and environmental audit of the land has been undertaken and these reports acknowledge the presence of dieldrin in the soil, but that the levels of dieldrin were within acceptable limits.

Based on the assessments the following land uses pose low and acceptable risks:

- low density residential scenarios.
- low density residential scenario including consumption of home grown produce – fruit, vegetables and eggs.
- -Open space/Recreational.
- -Keeping of goats or cows for milk for domestic purposes where less than 50% of milk consumed is produced at the site.
- -Keeping cows, lambs, pigs or chickens for meat production for domestic purposes if less than 10% of the meat consumed by residents is produced at the site.

- **Effect on wildlife**

Council is aware that 20 Hamilton Road is home to a large Wombat and works on this site may effect this habitat. Accordingly to protect this habitat a condition has been placed on the permit issued to the Council that requires the Council enter into a Section 173 agreement that requires the applicant, prior to the commencement of works associated with the construction of any driveway to Lot 2, to engage a suitably qualified zoologist to inspect the proposed driveway alignment, to capture and relocate any native fauna found on or within the driveway alignment. The zoologist must be present for the whole period when the earthworks are occurring for the driveway to remove to capture and relocate any remaining fauna, to the satisfaction of the Responsible Authority.

It is considered this requirement will effectively protect this habitat.

## **FINANCIAL AND RESOURCE IMPLICATIONS**


If Council does not proceed with the sale a shortfall will exist in the budgeted cash balance of \$750,000 and this would be required to be replenished through other sources of revenue.

## **CONCLUSION**

The submissions should be considered by Councillors and a decision made in light of the information provided within this report.

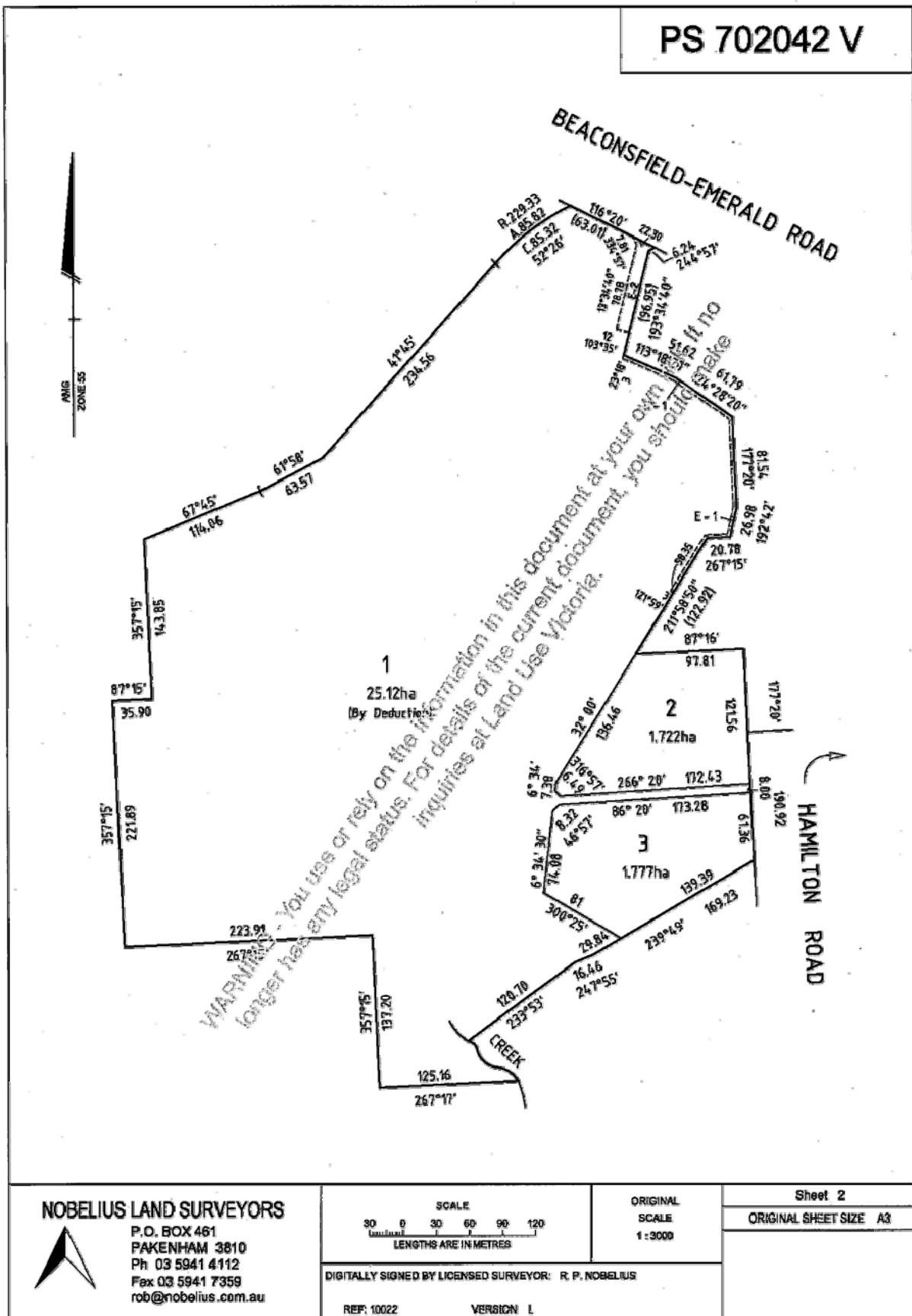
Locality Map - 20 and 30 Hamilton Road Emerald



PLAN OF SUBDIVISION		LV USE ONLY	PS 702042 V															
<b>LOCATION OF LAND</b> PARISH : Gembrook TOWNSHIP : Emerald SECTION : A CROWN ALLOTMENT : TITLE REFERENCE : LAST PLAN REFERENCE : Lot 1 on PS 740739N Lot 1 on PS 439766Q Lot 2 on PS 501792U  POSTAL ADDRESS : Hamilton Road, Emerald 3782 (At time of subdivision)  MGA94 Co-ordinates (of approx centre of land in plan)		Council Name: Cardinia																
		<b>NOTATIONS</b>																
<b>VESTING OF ROADS AND/OR RESERVES</b>		This is a Spear Plan																
<table border="1"><thead><tr><th>IDENTIFIER</th><th>COUNCIL/BODY/PERSON</th></tr></thead><tbody><tr><td>NII</td><td>NII</td></tr></tbody></table>		IDENTIFIER	COUNCIL/BODY/PERSON	NII	NII	Other Purpose of Plan: The carriageway Easement E-1 created on PS 439766 Q merges on registration of this Plan.												
IDENTIFIER	COUNCIL/BODY/PERSON																	
NII	NII																	
<b>NOTATIONS</b>																		
DEPTH LIMITATION: DOES NOT APPLY																		
Survey: This plan is based on survey.  This survey has been connected to permanent marks no(s) In Proclaimed Survey Area No. ---																		
STAGING      This is not a staged subdivision. Planning Permit No.																		
<b>EASEMENT INFORMATION</b>																		
<b>LEGEND:</b> A - Appurtenant Easement    E - Encumbering Easement    R - Encumbering Easement (Road)																		
Easements and rights implied by Section 1(2) of the Subdivision Act 1988 apply to the whole of the land in this plan																		
<table border="1"><thead><tr><th>Easement Reference</th><th>Purpose</th><th>Width (Metres)</th><th>Origin</th><th>Land Benefited/in Favour Of</th></tr></thead><tbody><tr><td>E-1</td><td>Drainage</td><td>3</td><td>PS 501792 U</td><td>Cardinia Shire Council</td></tr><tr><td>E-2</td><td>Carriageway</td><td>See Plan</td><td>PS 501792 U</td><td>Lot 3 on PS 501792 U</td></tr></tbody></table>				Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/in Favour Of	E-1	Drainage	3	PS 501792 U	Cardinia Shire Council	E-2	Carriageway	See Plan	PS 501792 U	Lot 3 on PS 501792 U
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<b>NOBELIUS LAND SURVEYORS</b>  P.O. BOX 461 PAKENHAM 3810 Ph 03 5941 4112 Fax 03 5941 7359 rob@nobelius.com.au		DIGITALLY SIGNED BY LICENSED SURVEYOR: R.P. NOBELIUS																
REF: 10022		VERSION L																
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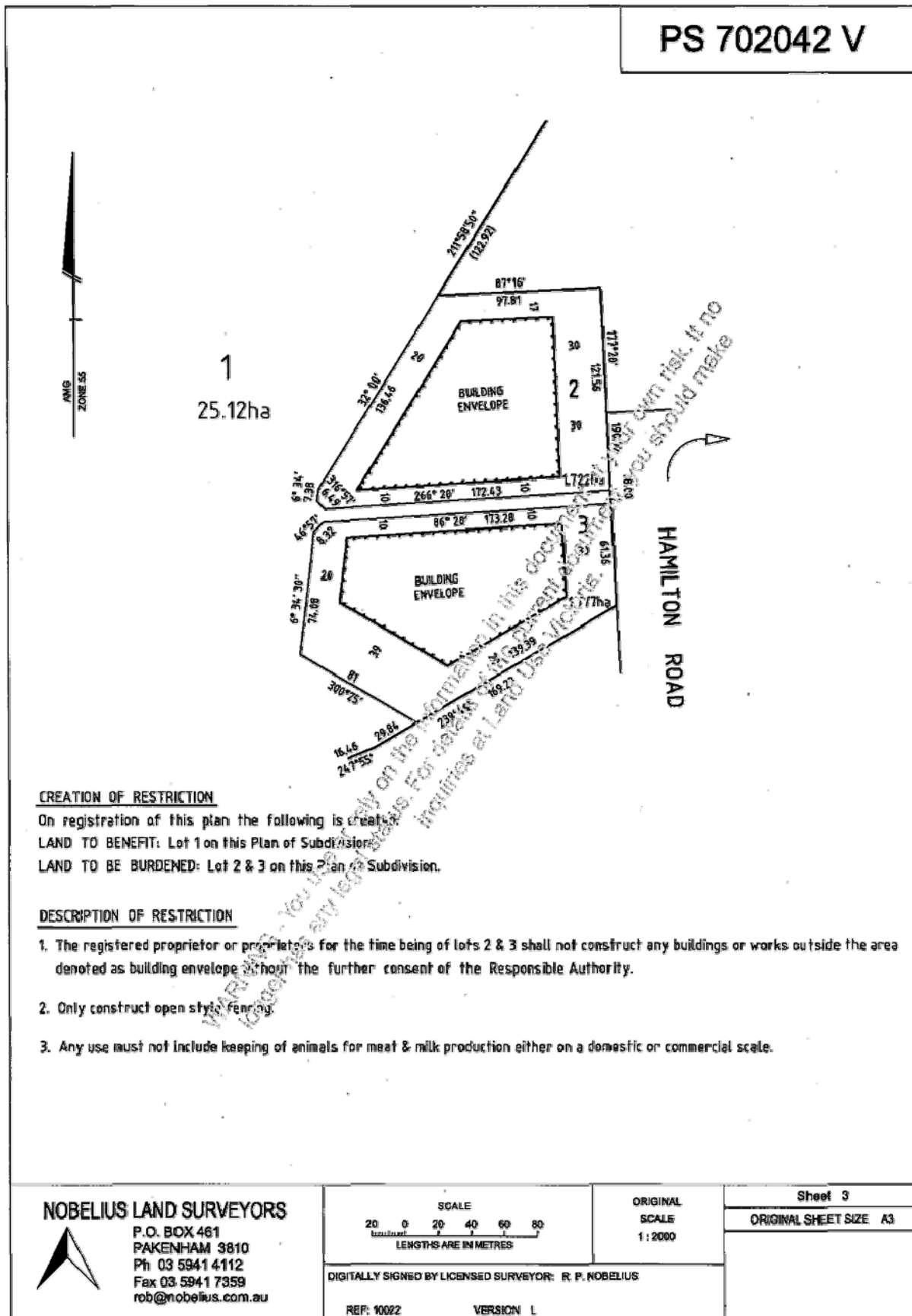
Signed by: Robin Peter Nobellus (Nobellus Land Surveyors Pty Ltd) Surveyor's Plan Version (Version L) SPEAR Ref: S016199E 04/03/2016

Signed by Council: Cardinia Shire Council, Council Ref: S11/120, Original Certification: 10/12/2015, Recertification: 17/03/2016, S.O.C.: 17/03/2016



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***OBJECTION Re: Notice of intention to sell land at 20 and 30 Hamilton Road,  
Emerald***

Janene and Terry Swalwell, 36 Hamilton Rd, Emerald

14 November 2017

As owners of a neighbouring Property, 36 Hamilton Rd, Emerald , we wish re-iterate and to lodge an objection to the proposed subdivisions of land in Hamilton Road. If there is an opportunity we would welcome a chance to present our concerns to Council Officers.

**SUMMARY OF OBJECTIONS**

1. Loss of public open space.
2. Additional traffic problems in Hamilton Road and Cloverleigh Avenue.
3. Issue of chemical contamination.
4. Loss of protection for wildlife habitat.

**EXPLANATION OF OUR OBJECTIONS.**

**Loss of public open space.**

The original sale of land to Lucas Holdings was strongly opposed by the community because of the loss of public space. This was expressed at a very well attended public meeting and by the large number of objections lodged with Council

The Council decision to buy back the land was seen at the time, and on the information made public, as a returning of the land to the community. There was no mention made that I have been able to find that the repurchase was subject to subdivision and sale of part of the land. It also appears that following the resumption of part of the Hamilton Road reserve land sales were made that meant that land, originally part of the Pepi's property, was sold along with the Road reserve.

Therefore the total area of land available to the community has already been diminished by land sales conducted by Council and this proposed sale would further decrease public access areas. No information has been made public as to why the subdivision is financially necessary.

**Additional traffic problems in Hamilton Road and Cloverleigh Avenue.**

The officer comment on this matter in an earlier Council response referred to two additional residents if the subdivision occurs. It is unlikely that the proposed blocks would only have one resident per block. It is probable that there would be at least two adults and, given the size of the properties and the public transport availability in Emerald, at least two cars per site (and additional cars for any extra car-driving residents). At best this is an increase of over 25% in the normal traffic pattern of Hamilton Rd. It also ignores any traffic generated by anybody accessing Pepi's land from Hamilton Rd as well as associated parking problems.

Hamilton Road is quite dangerous given its general narrowness in the section approaching Cloverleigh Ave which makes it necessary to have two wheels in the gutter when two cars have to pass. It is even worse at the bend. Unless the vegetation on the inside of the bend is maintained it is particularly dangerous to anyone not knowing the road. The junction of Hamilton Rd and Cloverleigh Ave is made more dangerous by the way the hedge along Cloverleigh Ave on the corner property has been allowed by Council. That forces any pedestrian to walk on the road and any car exiting Hamilton Rd has to drive well forward into the intersection to see any oncoming traffic.

#### **Issue of chemical contamination**

The Council Response to the original proposal states that a land capability assessment was undertaken. However, it does not specify that it measured dieldrin levels and their potential impact on future residents. References to such assessments that I have found relate to water quality matters. Without an unequivocal statement from Council that dieldrin levels have been measured and are safe, this matter remains an argument against the advisability of subdivision and raises the potential liability of Council should associated health problems arise with any purchaser.

#### **Wildlife**

We are aware of wildlife on both Lots 2 and 3. There are a number of wombat burrows on the area designated as the building envelope for this Lot. Swamp wallabies also inhabit the wooded section at the south western corner of the block and graze on the open area during the evening. Currently their habitat is protected as public land but this would change if the Application proceeds. The amenity of the remaining public land for wildlife and for public purposes will thus be diminished whatever Council intends.

Janene Swalwell

Terry Swalwell

Debra Cooper  
29 Hamilton Road  
Emerald VIC

16/11/2017

ATTENTION MR. GARY McQUILLAN

**RE: OBJECTION TO THE SALE OF PEPI'S LAND,  
20 and 30 Hamilton Road, Emerald**

ATTENTION MR. GARY McQUILLAN

16/11/2017

Debra Cooper  
29 Hamilton Road  
Emerald VIC

As a long term resident of Hamilton Road in Emerald I am extremely concerned about the proposed sale of the section of Pepi's Land on Hamilton Road. I have been living here for over 30 years, raising five children in a street with a lovely, peaceful and rural outlook. When we first bought our home, Pepi's land was owned by Sam Pepi and being farmed with a rotation of potato crops followed by beef cattle. **This land was contaminated with an extremely high level of dieldrin**, which forced the cessation of the property being used for farming. When Mr. Pepi looked into selling the land &/or subdividing it for residential purposes, he was told that neither he, nor the generations to follow would be able to sell the land for residential purposes due to the high level of dieldrin contamination. The government bought the property from Sam Pepi, handing it to the then Shire of Pakenham in exchange for some other public land (used for sports). Pepi's land, we were told, was to be used for public open space and would never be sold for residential or commercial use. This situation was disregarded when, **against public sentiment** (at a public consultation meeting where 59 of 60 residents voted against the sale), a sizeable parcel of Pepi's land was sold to Lucas Holdings (Chris and Marie's Plant Farms) for around \$340,000. Other sections of Pepi's Land were sold off at the same time to adjoining property owners along Beaconsfield Road for a total of approximately \$175,000. Some years later, the shire bought the piece of land they had sold to Lucas Holdings back, for a much larger amount, which I am led to believe was in the vicinity of \$1,300,000.

Had this land not been sold in the first place, we would not be in the situation where the shire wants to recoup some of the money it 'lost' on this sale and re-purchase. This would be, I believe, gross mismanagement of public assets.

Pepi's land affords a lovely view for residents and tourists driving along Beaconsfield-Emerald Road as well as passengers on the Puffing Billy railroad. Once this land is sold and houses built it cannot go back. Emerald will lose a piece of its history, a landmark and an area with enormous potential to benefit all its residents.

The walking trail development on the town side of Pepi's, while being a much used asset, has seen many wombat burrows destroyed and others disturbed. Allowing that entire area to be off leash has further affected wildlife. Wildlife is struggling with the urban sprawl as it is, without further subdivisions here. The Hamilton Road side of Pepi's is currently home to wombats and subdivision and building would put them at further risk. The planting of a continuation of a green corridor for wildlife would be a better use of this section of Pepi's Land, linking the adjacent 'Land for Wildlife' property with Nobelius and Emerald Lake Park. Pepi's property has on it native wildlife including a rare breed of fish in the spring-fed dams and creek, wallabies & wombats. Potential run off from the building of homes and development of properties could impact on this fragile ecosystem. As there is already an issue with habitat loss creeping into the hills area, this is yet another reason not to sell any more of the land off, retaining the remaining property, both sides of the waterway.

As a Hamilton Road resident I have very serious concerns regarding increased traffic on Hamilton Road, which is already dangerous enough. There is a sharp bend in the narrow road and there have been many very close calls with cars almost colliding. The corners of Beaconsfield-Emerald and Cloverleigh Roads is also a very dangerous one, particularly turning into Cloverleigh Road coming from the Emerald end of Beaconsfield-Emerald Rd. Also the corner of Cloverleigh and Hamilton Roads is dangerous and there have been many near misses, including with children on bikes. These intersections have been raised with council on other occasions as residents on both roads have been concerned for their safety. Any increase in residential properties along these roads would only add to the danger of a serious collision or a child being hit while playing, riding a bike or walking. The increase in traffic would also increase the current level of corrugations, pot-holes and dust on the road.

If there is an opportunity I would welcome a chance to present my concerns to Council Officers.

Yours Sincerely,  
Debra Cooper  
29 Hamilton Road,  
Emerald.



## Meeting Minutes

Meeting:	20 & 30 Hamilton Road Emerald	Date:	15 January 2018		
Chair:	Cr Brett Owen	Location:	Civic Centre, Room 1.02		
Minute taker:	Fiona Shadforth	Start	3pm	End:	3.40pm
Participants:	Cr Brett Owen, Cr Leticia Willmot, Fiona Shadforth, Terry & Janene Swalwell, Debra Cooper				
Apologies:	Janene Swalwell				
Meeting outcome statement:	Section 223 Committee Hearing for the sale of 20 and 30 Hamilton Road Emerald				

## Minutes

Open – Fiona Shadforth

Fiona welcomed submitters to the meeting and advised that new matters that were not in the original submission could not be raised.

Speaker – Mr Terry Swalwell

- Concerns about loss of Open Space. This is the major concern.
- Sam Pepi used dieldrin on land and, because of that, was unable to continue with potato farming and couldn't graze animals either. Paid out by Govt because of that advice.
  - Understanding was that the land could never be subdivided.
  - Land transferred from State Govt to Local Govt.
  - Land then sold to Chris & Marie Plant farm – many local objections to this sale. Sale was not managed well by Council.
  - Sold back to Council and residents were unaware that part of the land would be sold
  - Concerns of the privacy/confidentiality surrounding the sale back to Council.
  - They would like further details regarding the sale back to Council.
- Cr Owen explained that it was a land swap rather than a sale.
- Unhappy about the road discontinuance and other lots sold without advertising that occurred years previously – point of this was Council not being transparent and these are concerns regarding the land generally
- Great concerns about the traffic as Hamilton Road is very narrow and can be quite dangerous. Concerns of larger vehicle during constructions
- Property on cnr Hamilton and Cloverleigh contributes to a more dangerous road due to hedge planted in road reserve. Council has advised that this ok. Hedge also forces pedestrians on to the road.
- Major concerns about the dieldrin and the associated contamination.

- What is the risk to Council if the contamination creates health risk to the occupants of the parcels? Can dieldrin cause issues from touching the soil or dust being inhaled?
- What sort of restrictions would be on the Planning Permit? Restriction of fruit or vegetable growing?

**Speaker – Ms Debbie Cooper**

- Sam Pepi was told that neither he nor future generations of his family would be able to subdivide the land due to the dieldrin. Ms Cooper holds great concerns regarding contamination.
- Concerns about road safety particularly with machinery entering and leaving the road during development
- Concerns about the safety of wildlife, in particular, wombat burrows being destroyed
- Wombat burrows on each parcel of land as well as swamp wallabies and densely populated with birdlife in the treed area.
- The development in the area puts the area at risk of becoming too developed and not in keeping with the amenity of the area.
- Concerns of the Planning restrictions being changed and more than one dwelling on the parcels in the future, particularly due to the easement in between the parcels which could be used as an access point.
- Community feel is that once these sorts of subdivisions go through, more will development will be approved and the whole landscape will be changed.

**Close – 3.30 pm**

Speakers were thanked and advised that a response would be sent out to address concerns and reported to Council shortly.

*The results of the hearing will be reported to a future Council Meeting for a decision*

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**GENERAL COUNCIL MEETING - 18 MARCH 2013**

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**4 SALE OF COUNCIL LAND - PART 16-22 BEACONSFIELD  
EMERALD ROAD, EMERALD (PEPI'S LAND)****FILE REFERENCE** INT1316102**RESPONSIBLE GENERAL MANAGER** Derek Madden**AUTHOR** Jaala Frankcombe**RECOMMENDATION**

That as previously resolved and in accordance with the adopted masterplan for Pepi's land Council resolves that following the hearing of submissions received in accordance with sections 189 and 223 of the Local Government Act 1989 confirms to proceed with the sale of land and authorises the Chief Executive Officer to:

1. Affect the sale of the land by a public sale process and the property will not be sold for less than the market value of the land;
2. Execute all documentation associated with the sale; and
3. Advise the submitters of this decision.

**Attachments**

1	Locality Plan	1 Page
2	Plan of subdivision	1 Page
3	Submissions	0 Pages
4	Minutes of meeting to hear submission 9 July 2012	10 Pages
5	Minutes of meeting to hear submissions 29 August 2012	4 Pages
6	Previously adopted masterplan, 2004	1 Page
7	Concept plan included in Draft Emerald Community Facilities Spatial Plan	1 Page

**EXECUTIVE SUMMARY**

This report recommends that Council, following the hearing of submissions in relation to the amended proposal to sell part of the former Pepi's site at 16-22 Beaconsfield-Emerald Road, Emerald (shown on the attached locality plan) proceed with the sale of the land. The draft plan of subdivision, as attached, shows the land proposed for sale as Lot 2 and 3 PS702042V (Land) being part of the Pepi's site.

If Council does not proceed with the sale a shortfall will exist in the budgeted cash balance of \$750,000 and this would require to be replenished through other sources of revenue.

**BACKGROUND**

Council acquired "Pepi's land" at 16-24 Beaconsfield-Emerald Road, Emerald on 14 October, 1999 by way of a land exchange with the then Minister for Planning and Local Government. Council transferred to the Minister Lawson's Road Reserve adjoining the Emerald Secondary College and Chambers Reserve in Pakenham Upper in consideration for Pepi's land.

**GENERAL COUNCIL MEETING - 18 MARCH 2013**

Since acquisition of the land several parts have been sold, portion was sold to Lucas Land Co Pty Ltd (formerly Hello Hello Pty Ltd), a portion was sold to Mr & Mrs Pepi (in accordance with the Land Exchange Agreement) and portion was sold to two adjoining property owners following discontinuance of a government road being the unused extension of Hamilton Road. A further lot was sold by public auction after an approach to the Country Fire Authority suggesting that the lot would be suitable as a site for the proposed new CFA station in Emerald was declined.

Council subsequently resolved to re-purchase the land previously sold to Lucas Land Pty Ltd and at that stage also resolved to further subdivide two lots adjoining Hamilton Road and sell these two lots to partially recoup the expenses involved in the re-purchase of the land. Also at that time Council formally adopted a master plan, dated 21 June 2004, for Pepi's Land (see attached) which provided amongst other activities an area abutting Hamilton Road designated as a suitable option for residential development.

More recently the draft Emerald Community Facilities Spatial Plan (spatial plan), dated June 2012 (see attached), went out for public consultation, in line with the Pepi's Land Masterplan. The spatial plan does not incorporate the two lots proposed for residential development as clearly identified in the masterplan.

The entire Pepi's site is currently known as Certificate of Title Vol. 10797 Fol. 684 and is more particularly described as Lot 1 PS 501792U. The land is zoned rural conservation with a minimum lot size of 15 hectares, however as the land is contained in three allotments the planning scheme provides for the re-subdivision of existing allotments. Nearby properties in Hamilton Road are predominately residential properties of between 1000 – 4000 square metres.

The Land proposed for sale is substantially cleared of vegetation, west facing with adequate clearance from the gully and waterways. Land capability assessments have been undertaken and in relation to the lots proposed for sale, the results of the assessment show they are suitable for residential development.

**POLICY IMPLICATIONS**

The State Government developed guidelines for the sale of Council land, known as "Local Government Best Practice Guidelines for the Sale and Exchange of Land" (the Guidelines). This document provides guidance for the sale of Council land but Council is not bound by the Guidelines. The Guidelines provide that all sales or transfers should be in the best interest of the community. Furthermore, the Guidelines propose that all sales should be by a market tested sales campaign. As such if a decision is made for Council to sell the Land it is proposed that an independent real estate agent be appointed to sell the Land by public auction.

**RELEVANCE TO COUNCIL PLAN**

The relevant Council Plan objective is that "We continue to plan and manage the natural and built environment for future generations". The objective is to be achieved through balancing the needs of development, the community and the environment.

**CONSULTATION/COMMUNICATION**

Council gave public notice in the week commencing 28 May in accordance with sections 189 and 223 of the Local Government Act 1989 and heard submissions in regard to this notice.

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**GENERAL COUNCIL MEETING - 18 MARCH 2013**

Four submissions were received and minutes of the hearing of submissions by the Special Committee established for this purpose, are attached. Furthermore, as two of the submitters were unable to attend the hearing of submissions, they were invited to a meeting with officers to discuss their concerns (see attachment 5 – minutes of meeting). These submitters spoke in support of their submissions.

The members of the Special committee and officers have considered the major issues raised by all the submitters as follows:

- **Issue – Concerns that the level of open space is greatly reduced and should funds be used for replacement open space**  
Officer comment – Of a 28.61 hectare site it is proposed that 3.5 hectares will be sold and the remaining 25.12 hectares are proposed for open space. Section 20(4) of the Subdivision Act 1988 refers to a requirement to replace open space if land is sold, however this relates to land that has been vested in Council for open space purposes, which refers to land that has been set aside as a development contribution as part of a subdivision of land. The Pepi's land is not classified as open space in accordance with this section of the Subdivision Act.
- **Issue – Concern that sections of the Pepi's land had previously been sold.**  
Officer comment – The sections of land in the area that were sold in 2004 didn't form part of the Pepi's land, they were a section of road and this road was discontinued and sold to abutting owners at that time as it was unused and was no longer required for the purpose it was set aside for.
- **Issue - Traffic concerns in relation to increased traffic flows with two extra houses in the street**  
Officer comment – Additional traffic generated by two extra residents are expected to have negligible impact and will not change the road functionality.
- **Issue - Loss of views for residents of Hamilton Road**  
Officer comment - It is understood that new houses may be in the line of vision however as the fall of the land from existing residential allotments to the new allotments created, is substantial it is considered that there would be no major impact on view. However, the sighting of improvements will be further considered with the establishment of building envelopes.
- **Issue - Concerns in relation to contamination of the Land.**  
Officer comment – A land capability assessment has been undertaken and it shows the land is suitable for residential development.

**FINANCIAL AND RESOURCE IMPLICATIONS**

If Council does not proceed with the sale a shortfall will exist in the budgeted cash balance of \$750,000 and this would be required to be replenished through other sources of revenue.

**CONCLUSION**

The submissions should be considered by Councillors and a decision made in light of the information provided within this report.



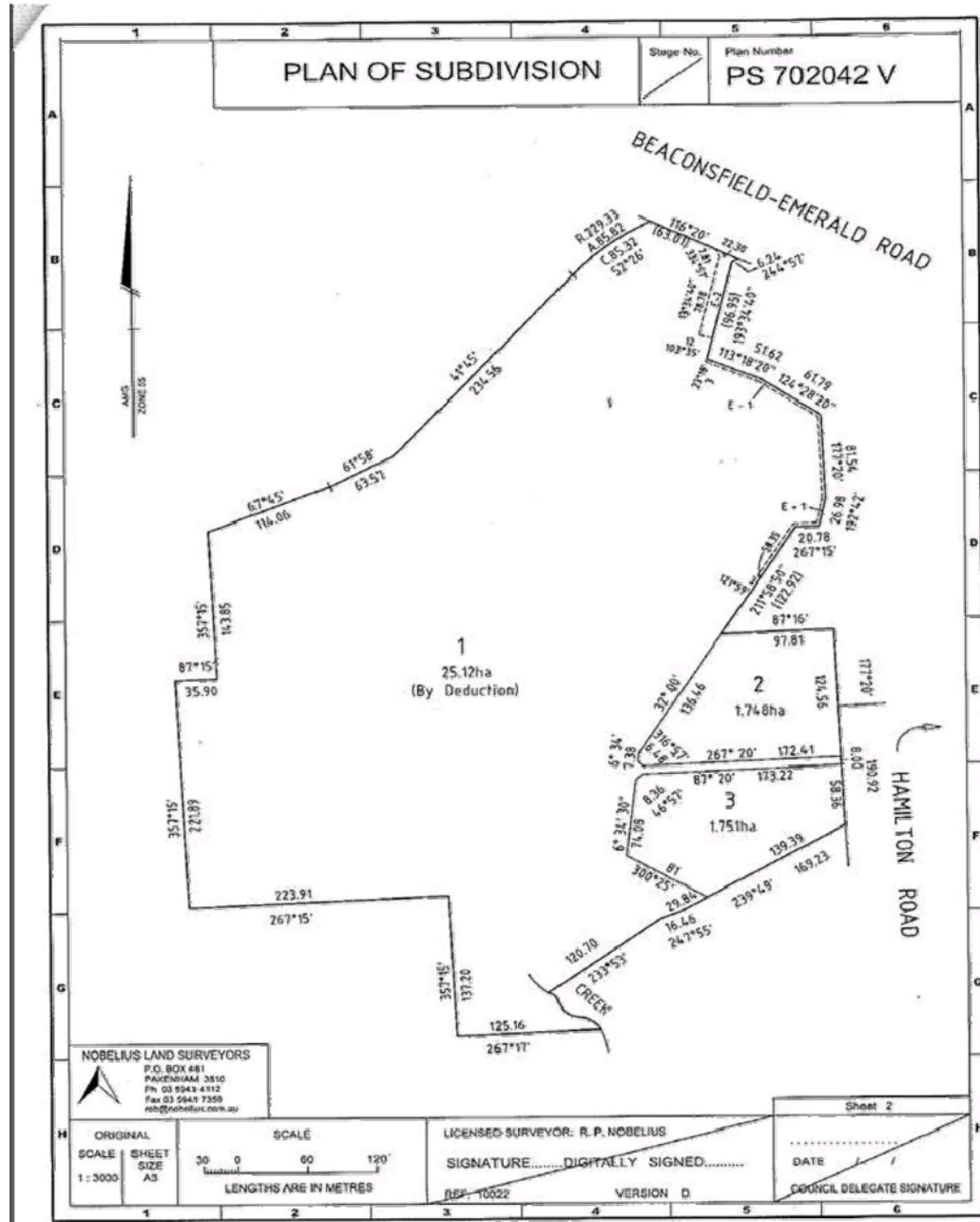
## Attachment 2

## Plan of subdivision

## COUNCIL REPORT - 17 December 2012



## ATTACHMENT 2 – PLAN OF SUBDIVISION



**Attachment 3****Submissions**

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**COUNCIL REPORT - 17 December 2012**

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**ATTACHMENT 3 – SUBMISSIONS**23<sup>rd</sup> June, 2012Karen Westwood  
25 Hamilton Road  
Emerald 3782Mr Garry McQuillan  
Chief Executive Officer  
Cardinia Shire Council  
PO Box 7  
Pakenham 3810Re: Objection to proposed sale of land  
Notice of intention to sell land, Lot 2 and 3 PS 702042V Hamilton Rd, Emerald

I write this letter with great disappointment in our local council, and honestly wonder it is worthwhile at all. It seems from recent dealings with council from our original objection to the sale of the abovementioned land, that a decision regarding the sale of this land was made some time ago and we are merely going through a procedure that will make the sale of this land legal. Section 223 of the LG Act on the proposed sale or exchange of land states that the council must be genuinely receptive to the best offer for that land, either on a price basis or alternative use basis – but it does seem that public notice requirement has been done as a mere 'procedural technicality' and there has been no real request to seek alternative uses.

We are objecting to not only the sale of this land, but also the council members that have a conflict of interest in this matter. Does it not seem ridiculous that the very council members that want the sale of this land to go through are the ones hearing the objections? One of the councillors at a recent meeting where the initial sale was approved, (until this was re-subdivided) said himself that it was decided this land needed to be sold when council bought back the portion of land from Lucas Land Holdings, to help offset the costs. I also refer to council meeting minutes from 21<sup>st</sup> of November 2011, which states in reference to Pepi's land & the site within this that was sold to Lucas Land Co, 'council purchased the land back from Lucas in 2010 on the basis that Council would subdivide the land and sell two lots in order to offset some of the costs of the purchase.' – does that not indicate the decision has already been made regardless of community views.

The reason my husband and I moved to Emerald in 1997 was because of the open space, we specifically checked with council to find out what the land directly across from our property (the abovementioned land) was to be used for. We were advised by council that the land could never be developed for residential purposes for many reasons, and therefore we proceeded to purchase our property. I note that we have been yet to receive a response from council regarding this part of our initial objection.

If this sale does now go ahead and is developed for residential purposes, as desired by the council, then the council have mislead us. Whether the council believes it or not, this land sale will affect us directly & in many ways. Firstly our street will have increased traffic, I know this for a fact as there

## COUNCIL REPORT - 17 December 2012



have already been cars in the street looking at the land – I see them from my front windows. If these properties do sell, I would imagine, as would be the norm these days that we would increase traffic by at least 4 more resident's cars and then the extra traffic they generate – a substantial change when our road remains so narrow and we have such a sharp bend in the road.

What will happen on a road that can only fit one car in parts when the building commences? Have you thought about the increased damage to the road because of trucks (our road is not maintained appropriately now as it is), the holdups that the residents will face because of these vehicles on such a narrow road. This may not seem like a big deal to council and I'm sure you'll tell me it's only for a limited time, but so is my children's youth – if this only takes a year or two, you're taking away those years from my children when they can safely ride their bikes on the dirt road outside our house, or walk a few houses up the street to their friend's houses. You take away part of their childhood, when you assured us, as property owners, this would not happen.

Clearly the days of the neighbours and us standing out the front watching the wombat on the edge of the road in front of our properties will be gone – what about that wombat? Does the council need to fix its own mistakes so badly that it will sacrifice these moments that residents of a town like Emerald are lucky enough to have, these moments that become more & more rare with each generation because greedy or stupid councils make too many equally as stupid decisions, you simply re-zone the land regardless of the environmental affects.

Rural conservation sounds so fantastic, it makes the council sound like it's committed to the town of Emerald, and committed to the environment and open space that attracts so many people to Emerald. It astounds me that you will so easily give this up, that one of the only open spaces left in Emerald would be given up for more property, and that all of the reasons we were given all those years ago, have just gone because you're looking to make a quick buck.

Surely your own Vision for Emerald 'to protect and enhance the unique character of Emerald as a place of great natural beauty...', as stated in the Emerald District Strategy, was worth more than the paper it was written on.

If the sale is to go through, what guarantee do we have that there will not be any further development? Is it the same guarantee that we got from council in 1997 when we initially enquired as to what this land could be used for, because clearly that was not worth much.

I invite you to come and stand on my front deck, or perhaps in my lounge room, master bedroom, maybe my office, or my daughter's bedroom, even our kids playroom – the view is amazing, it's what we bought all those years ago, and it's what you're telling me now doesn't matter – you advise us that the fall off is substantial enough that it won't matter, but the houses will still be there & in sight instead of the space & natural beauty we have now, the traffic will still be greater, certainly not negligible and it will change the charm of not only our property & but Emerald as a whole.

It states under section 20(4) of the SD Act, public open space can only be sold if the council has provided for replacement public open space – can you please advise where this space will be purchased in our town? And where the replacement land was originally purchased when the portion of land was sold to Lucas Land Holdings (although I suppose as you've purchased this back, it replaces itself)?

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I envisage an open space where residents of Emerald can go for a picnic, take a walk, watch the wildlife and enjoy all Emerald really has to offer, natural beauty. I truly believed that this was also the vision of the council for Emerald, as one of the key objectives for the Emerald district (as stated in the Emerald District Strategy) was 'to provide and effectively manage open space to meet the active and passive recreational needs of a wide range of user group.' This plan certainly doesn't provide for either of these needs, there just isn't enough open space left, and I can tell you if I wanted to look at the roof of a house I would not have picked Emerald to purchase my family home.

Also included in these same key objectives was the objective 'to contain residential development within the existing residential zoned land.' So I'm sure you can understand my disappointment to hear plans have changed since it was stated in the general reports of the council meeting on the 21<sup>st</sup> of November 2011, and the Emerald District Strategy adopted by council on the 15<sup>th</sup> of June 2009, with reference to Pepi's land (as a whole) that 'the land is zoned rural conservation....'.

I would hope you could find another way to fix your budget issues, don't be the council that has residents rally to remove them at the next elections – have some courage to do the right thing for Emerald and the open space that should remain, and stand by your own vision that seems to have been forgotten while you forge ahead to re-coup costs.

I also find it disappointing that other development projects in the shire are funded by council without the sale of such areas, why do we have to lose such an asset to fund any further works on the site?

I would like to be heard in relation to this matter, and really hope to see some more impartial bodies present at this meeting before we proceed to VCAT.

I look forward to a new hearing date, and hope that we are given adequate notice of this meeting. Perhaps you could also consider discussing this matter with the residents instead of all communications being written or 'heard'. I'm sure we'd all appreciate some conversation or debate around why this sale is so important and what alternatives could be for the land.

Karen Westwood

**Attachment 3****Submissions**

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**COUNCIL REPORT - 17 December 2012**

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34 Hamilton Rd

Emerald

21 June 2012

Mr Garry McQuillan

CEO Cardinia Shire.

I am writing to you regarding Pepi's Land. It has just been brought to our attention that some of the land is to be subdivided.

We oppose the subdivision as we believe it should stay as public land as was the original intent. We do not understand why Council is so keen on selling the land given that it is the flattest section of the land and more useful for picnicking etc than the steeper sections. Once it is sold it is lost as public land.

In our previous objection we raised our concern over increased traffic on Hamilton Rd itself without widening and increased safety work on the blind corners. As we wrote that this road is extremely narrow in parts and only wide enough for cars to pass slowly with one being in the gutter. There is already enough traffic without increasing it more unless more work is done. There was no real information on traffic matters in the reason for the rejection of our previous objection.

If Council continues to proceed with the subdivision we would like the opportunity to address our concerns in a face to face discussion with Council.

Yours sincerely,

Thomas Harding

Jennifer Cullen

## Attachment 3

## Submissions

**COUNCIL REPORT - 17 December 2012**

PO Box 77,  
Emerald, Vic 3782.

14 June 2012

Mr. Garry McQuillan  
CEO Cardinia Shire

**OBJECTION TO THE SALE OF PART OF PEPI'S LAND, HAMILTON ROAD,  
EMERALD  
Reference Lots 2&3 Hamilton Rd. P.S.702042V**

We wish to lodge our objection to the proposed subdivision of land in Hamilton Road. As well, we are keen to expand on our reasons for objecting at the promised hearing.

We lodged an objection to the previous subdivision plan. We acknowledge that the change of access is an improvement. However we do not believe that the statements dismissing our concerns are sufficient to allay them.

**SUMMARY OF OBJECTIONS**

1. Loss of public open space.
2. Apparent change from original concept plan proposal.
3. Additional traffic problems in Hamilton Road and Cloverleigh Avenue.
4. Inadequate rationale for the imperative of the sale.
5. Issue of chemical contamination. (Wait for report)

**EXPLANATION OF OUR OBJECTIONS.**

**Loss of public open space.**

The original sale of land to Lucas Holdings was strongly opposed because of the loss of public space. This was strongly expressed at a very well attended public meeting and by the large number of objections lodged with Council. Subsequent to that it appears that there was a further sale of land to Lucas Holdings. It is interesting to note that local people with whom I have discussed this matter were equally unaware that this was done.

The Council decision to buy back the land was seen at the time, and on the information made public, as a returning of the land to the community. There was no mention made at the time that I have been able to find that the repurchase was subject to subdivision and sale of part of the land. It also appears that following the resumption of part of the Hamilton Road reserve land sales were made that meant that land, originally part of the Pepi's property, was sold along with the Road reserve.

Therefore the total area of land available to the community has already been diminished and the proposed sale further decreases the area. I am not sure whether any of these sales and the sale of the block neighbouring original at the homestead impacts on the number of subdivisional areas available for the entire Pepi's land. If so it could create a problem for the current proposal.

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Council officers response that there still remains 25.12 ha does not address our concern over that loss of 12% of the total amount.

**Apparent change from original concept plan proposal.**

This concern was not addressed in the response. As stated our recollection is that the draft concept plan suggested one block of land on Hamilton Road be sold. This was also strongly opposed and as a result it was not proceeded with. At the November 2011 Council meeting that endorsed the subdivision proposal, mention was made of the concept plan without specifying the number of lots it proposed therefore giving the impression it was for two blocks. Our request in the e-mail to Council to clarify the proposal in the concept plan was not answered at that time, neither has it been answered since.

We were informed that there would be a new concept plan developed but have received no information on the process or the timeline.

**Additional traffic problems in Hamilton Road and Cloverleigh Avenue.**

The officer comment on this matter referred to 2 residents. It is unlikely that the proposed blocks would only have one resident per block. It is more likely that there would be at least two adults and given the size of the properties and the public transport availability in Emerald, at least two cars per site. In other words is an increase of over 25% in the normal traffic pattern. This ignores any traffic generated by anybody accessing Pepi's land. It was noted that there were traffic counters placed in Hamilton Road and it would be instructive for us to have access to and interpretation of their findings. We reiterate that Hamilton Road is, as currently constructed, quite dangerous given its narrowness and the bend. The officer comment regarding the work at the intersection of Hamilton and Cloverleigh is very broad and lacks any indication of time. We point out that we have been waiting for well over a year for Council to follow up concerns over hedges encroaching on the nature strip reserve of Cloverleigh Avenue at the junction with Hamilton Road. Neither that being addressed or redesigning the intersection would in themselves address safety aspects for both vehicles and pedestrians caused by the narrowness (4 m in some parts) of the Road.

**Inadequate rationale for the sale.**

This was not addressed in the response. Our request for information on the amounts paid by Lucas Holdings and then the amount paid by Council to resume the land was declined because of the matter being "Commercial in Confidence". Without that information we and fellow ratepayers have no grounds to understand why Council apparently decided at the time of the repurchase to pursue a subdivision.

Janene Swalwell

Terry Swalwell

**Attachment 3****Submissions**

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**COUNCIL REPORT - 17 December 2012**

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28<sup>th</sup> June, 2012Debra Cooper  
29 Hamilton Road  
Emerald 3782Mr Garry McQuillan  
Chief Executive Officer  
Cardinia Shire Council  
PO Box 7  
Pakenham 3810Re: Objection to proposed sale of land  
Notice of intention to sell land, Lot 2 and 3 PS 702042V Hamilton Rd, Emerald

I am joining my neighbours in objecting to the sale of this land. It is wrong and undemocratic that the very council members who want the sale of this land to go through, are the ones hearing the objections? One of the councillors at a recent meeting where the initial sale was approved, said it was decided this land needed to be sold when council bought back the portion of land from Lucas Land Holdings, to help offset the costs. The council meeting minutes from 21<sup>st</sup> of November 2011, states in reference to Pepi's Land & the site within this that was sold to Lucas Land Co, 'council purchased the land back from Lucas in 2010 on the basis that Council would subdivide the land and sell two lots in order to offset some of the costs of the purchase.' – does that not indicate the decision has already been made regardless of community views.

Adding to this, the fact that the Cardinia Council's recent map (Emerald strategy plan for Pepi's land including proposed netball facilities) shows the boundary to Pepi's Land excluding the above mentioned two blocks which indicates council have concluded subdivision and sale will go ahead, regardless of public consultation or resident/rate-payers wishes. The submission and hearing of objections has not as yet been completed, so how can you rewrite the boundaries of this property? This may yet go to a VCAT hearing, so aren't council 'jumping the gun'?

My family of 7 moved to Hamilton Road in 1984 because of the quiet road, open space, country atmosphere, beautiful semi-rural surrounding, wildlife and birdlife. The blocks of land proposed for subdivision are of environmental and community importance and once built on this cannot be regained.

When we first moved to Emerald, Pepi's was owned and worked by the Pepi family. The land had a very high dieldrin contamination level and was bought by the government (CSIRO was responsible for telling the farm owners to use dieldrin) as the Pepi family could no longer grow potatoes or run the herds of beef cattle which they had done. The government handed this property over to the then Pakenham Shire Council on the agreement that this land would be public open space, zoned

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rural/conservation. Cardinia Shire has sold off parcels of this property and then, at considerable loss bought part of that back. There was enormous public objection to the initial hand over of the land adjoining Beaconsfield Road and Puffing Billy Railway to Chris and Marie's Plant Farm (Lucas Holding's), but council went ahead anyway, not just leasing it to them, but selling that valuable piece of land to them. Now Council is patting itself on the back saying they have purchased the land to be used by the Emerald Community and that they propose to relocate the netball facilities to this location. This would give the impression to some that the land was never in the ownership of the shire. There is no mention of the debacle of land sale and buy-back at a loss. Why should we pay for council's mess up by losing another part of Pepi's land to development, this time on Hamilton Road?

My neighbours were advised by council that the land could never be developed for residential purposes for many reasons, and therefore they proceeded to purchase their property. If this sale does now go ahead and is developed for residential purposes, as desired by the council, then the council have misled the residents of our road.

The sale of this land will affect us in many ways. Firstly our street will have increased traffic. If sale of these properties does proceed there would be an increase in traffic by at least 4 more residents cars. The extra traffic will create a significant change when our road is already so narrow and we have such a sharp bend in the road. The turn into Cloverleigh Road from Beaconsfield Road and the turn into & out of Hamilton Rd from Cloverleigh Road are already quite dangerous. Visibility at the corner coming from Hamilton into Cloverleigh is obstructed by a large hedge on the reserve. There have already been many accidents and near misses on our road, both with cars and pedestrians over the years.

What will happen on a road that can only fit one car in parts when the building commences? There will be increased damage to the road because of trucks (our road is not maintained appropriately now as it is), the holdups that the residents will face because of these vehicles on such a narrow road will cause much disruption. This may continue for a few years which will affect the young years of my neighbours children and my grandchildren. This takes away those years from these children when they can safely ride their bikes on the dirt road outside our houses, or walk a few houses up the street to their friend's houses. You take away part of their childhood, when you assured us, as property owners, this would not happen.

Clearly the days of the neighbours standing out the front watching the wombat on the edge of the road in front of our properties will be gone. It has been delightful over the years to watch my children grow up with the beauty and freedom that our street has given us, and then to see their children, my grandchildren, doing the same. Now my grandchildren play with my neighbour's children who are of similar ages. Does the council need to fix its own mistakes so badly that it will sacrifice these moments residents of a town like Emerald are lucky enough to have, these moments that become more & more rare with each generation because greedy councils make bad decisions. You simply re-zone/subdivide and allow development of the land regardless of the environmental effects.

Rural conservation sounds so fantastic, it makes the council sound like it's committed to the town of Emerald, and committed to the environment and open space that attracts so many people to Emerald. It astounds me that you will so easily give this up, that one of the only publicly owned

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open spaces left in Emerald would be given up for more privately owned property, and that all of the reasons we were given years ago, have just gone because you're looking to make a quick buck.

Surely your own Vision for Emerald 'to protect and enhance the unique character of Emerald as a place of great natural beauty...', as stated in the Emerald District Strategy, was worth more than the paper it was written on.

If the sale is to go through, what guarantees do we have that there will not be any further development? Future private land owners, on the present public land, may in time apply to council to subdivide their properties further. This would again add to the further destruction of Emerald's unique character. No matter how much reassurance may be given that this would not happen, how could we possibly believe that you would honour this?

You have said the fall off is substantial enough that buildings won't impact the views from the properties opposite, of which mine is one. But there is not a great slope until you get down near the dams. The houses will be in sight instead of the space & natural beauty we have now, the traffic will be greater, and it will change the charm of not only our properties, but Emerald as a whole. The view across the paddocks is quite pretty as you drive into or out of Emerald and this will be changed forever, to its detriment, by the building of dwellings on Pepi's Land. Part of the appeal of Emerald township has been the picturesque approaches in and out of the town. Let's not lose it.

The vision of public open space where residents of Emerald can go for a picnic, take a walk, watch the wildlife and enjoy all Emerald really has to offer with its natural beauty so close to town is to be highly valued and maintained. I truly believed that this was also the vision of the council for Emerald, as one of the key objectives for the Emerald district (as stated in the Emerald District Strategy) was 'to provide and effectively manage open space to meet the active and passive recreational needs of a wide range of user groups.' The plan to subdivide and sell off Lots 1 & 2 Hamilton Road certainly doesn't enhance these needs, there just isn't enough open space left. If we had wanted to look at the roof of a house we would not have picked Emerald to purchase our family home.

Also included in these same key objectives was the objective 'to contain residential development within the existing residential zoned land.' So I'm sure you can understand my disappointment to hear plans have changed since it was stated in the general reports of the council meeting on the 21<sup>st</sup> of November 2011, and the Emerald District Strategy adopted by council on the 15<sup>th</sup> of June 2009, with reference to Pepi's land (as a whole) that 'the land is zoned rural conservation....'.

Please have the courage to do the right thing for Emerald and the open space that should remain, and stand by your own vision that seems to have been forgotten while you forge ahead to re-coup costs.

I would like to be heard in relation to this matter, and really hope to see some more impartial bodies present at this meeting before we proceed to VCAT.

I look forward to a new hearing date, and hope that we are given adequate notice of this meeting. Perhaps you could also consider discussing this matter with the residents instead of all communications being written or 'heard'. I'm sure we'd all appreciate some conversation or debate around why this sale is so important and what alternatives could be for the land. A public meeting of

**Attachment 3****Submissions**

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**COUNCIL REPORT - 17 December 2012**

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residents and ratepayers in an Emerald Public Meeting Place would be a welcome forum for others to share their views.

May I add that I fully agree with my neighbours and all they have written in their submissions in objecting to the proposed sale of Lots 1 & 2 Hamilton Road, Emerald.

Pepi's Land is already, due to council sell offs, a smaller piece of land than the original property given to the Shire. What is now left needs to be retained in full as public open space. It has so much potential. The proposal of netball courts at the top of the property, walking tracks, seating, canopy and understory plantings etc are fantastic plans which I would like to mostly applaud, (with the exception of dogs off leads which are detrimental to the 'wildlife corridor' this land provides). However, I truly believe that most residents in Emerald would agree that the whole of this property should be retained and developed for public, environmental and conservation use which was its original purpose when given to the shire and not sold off to private land owners.

Yours most sincerely

Debra Cooper

**Attachment 4      Minutes of meeting to hear submission 9 July 2012**

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**COUNCIL REPORT - 17 December 2012**



**ATTACHMENT 4 – MINUTES OF HEARING 9 JULY 2012**



**MINUTES OF SUBMISSION HEARING  
COMMITTEE MEETING**

**Monday 9 July 2012**

**COUNCIL REPORT - 17 December 2012**

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Minutes of Special Committee meeting held at the Cardinia Shire Offices, Henty Way, Pakenham on Monday 9 July 2012 commencing at 7.00pm to consider submissions received in accordance with section 189 and section 223 of the Local Government Act 1989 regarding the Notice of Intention to sell the part of the land 16-22 Beaconsfield-Emerald Road, Emerald being Lot 2 and 3 on PS702042V.

**PRESENT:** Cr Ed Chatwin, Chairman  
Cr Graeme Legge  
Michael Ellis  
Jaala Frankcombe

**APOLOGIES:** Terry & Janene Swalwell, Debra Cooper

**SUBMITTERS:** Karen Westwood  
Thomas Harding & Jennifer Cullen  
Terry & Janene Swalwell  
Debra Cooper

**Open – Cr Chatwin**

Cr Chatwin welcomed submitters to the hearing and advised of the process and rules of the hearing. Each submitter would have 10 minutes to speak in support of their objection

**Speaker – Karen Westwood 7.05pm – 7.15pm total time 10 minutes**

Mrs Westwood began by raising her concerns regarding the short notice of the hearing and that it was being held during school holidays when many people may be away on holidays.

Believes Council are only holding the hearing as procedural technicality and the proposal will go ahead regardless of their objections.

She referred to Section 223 of the Local Government Act which states that Council must be genuinely receptive to the best offer for the land, either on a price basis or alternative use basis.

She is also concerned that the Councillors who want this sale of land to proceed are the Councillors hearing the objections.

**COUNCIL REPORT - 17 December 2012**

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Mrs Westwood referred to the minutes of the Council meeting held on 21<sup>st</sup> November 2011 with reference to Pepis land and believes it indicates that Council have already made a decision to sell the land regardless of the objections.

Mrs Westwood lives directly opposite the site at 25 Hamilton Road and was advised by Council that the land would never be developed for residential purposes, she questioned whether there would be any guarantees that there would be no further developments in the future or any restrictions would be placed on the land. She understood that the land is zoned Rural Conservation not Residential.

She has already noticed an increase in Council vehicles attending the site and is concerned for the safety of children walking to their friend's houses, questioning how the trucks would get access during building works if the proposal were to go ahead.

Mrs Westwood went on to refer to Section 20(4) of the Subdivisions Act which states that public open space can only be sold if Council has provided for replacement public open space, she questioned what land will be replacing this site.

Mrs Westwood stated she envisaged an open space where residents of Emerald could go for a picnic and watch the wildlife and enjoy the natural beauty the town has to offer and if she wanted to look at her neighbour's roof she would move to Pakenham. She also referred to the Emerald District strategy whereby the vision was to provide and effectively manage open space....

In closing Mrs Westwood hoped that Council would seriously consider her objection and her points made and would hope that she does not have to take the matter to VCAT.

**Speaker** – Jennifer Cullen 7.15pm – 7.22pm total time 7 minutes

Ms Cullen began by stating that she and her husband have only been in the area for 12 months and is located right next door to the subject site at 34 Hamilton Road.

She stated that she had not had any notification of the hearing until the morning of, by telephone, after requesting notification in writing.

Ms Cullen stated she bought the property for the peaceful and rural area.

Ms Cullen said the Hamilton Road is a major concern to her as she has already seen an accident between 2 vehicles and feels children will not be able to play outside safely with the increase in traffic.

The boundary is also a concern to her as she does not want a house right next door.

## **COUNCIL REPORT - 17 December 2012**

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**Close** – Cr Chatwin 7.27pm

Cr Chatwin thanked the speakers and advised all concerns would be considered.

**COUNCIL REPORT - 17 December 2012**

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**ATTACHMENT 5 - MINUTES OF MEETING 29 AUGUST 2012**

**Present:** Jaala Frankcombe (Council Property Officer)  
Jeanette Blackwood (Council Property Contractor)  
Terry Swalwell (Submitter)  
Debra Cooper (Submitter)

**Speaker:** Terry Swalwell

Mr Swalwell raised the following concerns:

- Loss of most useable public open space due to the slope of the land. Due to the slope of the land majority of it cannot be used for passive recreation.
- Very concerned regarding the increase in traffic and dangers at the corner of Hamilton Road and Cloverleigh Avenue which is not of adequate width for 2 cars to pass.
- The Pepis family were advised it would not be possible to subdivide the land, due to the dieldren contamination that exists, for at least 50-100 years.
- Requested further evidence of dieldren contamination reports.

**Speaker:** Debra Cooper

Ms Cooper raised the following concerns:

- Increase in traffic, at least 4 cars, is a major concern. Loves the environment and would like to preserve the open space and wildlife.
- Spoke to a member of the original Pepis family who were advised they would not be able to subdivide for 50-100 years due to dieldren contamination and inevitably had to sell to the government.
- Cattle are affected by dieldren – children could also be at risk if they eat the soil. Further research into this needs to be done.
- Concerned purchasers may use the land for inappropriate use such as a double story mansion which would be out of keeping with the area.
- Does not want to see Emerald as a commercial hub – this is not the essence of Emerald.
- Should this subdivision proceed will it be subdivided even further in the future?
- No notification/consultation with adjoining owners other than an advert in the paper which could have easily been missed.
- Rare species of fish in the dams/creek and a lot of wildlife that would be affected.
- The local schools take students to Pepis Land to do planting etc., where else can this be done in other towns? This is what makes Emerald special.