

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports**

**FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

**Portfolio: Planning**

**Distribution: Public**

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**Summary**

Address of the land	14 Barreenong Road, Cottles Bridge
Ward	Bunjil
Site area	7,590 square metres
Proposal	Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation
Application number	412/2016/05P
Date lodged	26 July 2016
Applicant	BT Walsh
Zoning	Rural Conservation Zone (Schedule 3)
Overlay(s)	Environmental Significance Overlay (Schedule 1) Bushfire Management Overlay
Reason for being reported	Called in by Ward Councillor
Number of objections	Two
Key issues	<ul style="list-style-type: none"> <li>• Consistency with use and development within policy framework and the purposes and design guidelines of the Rural Conservation Zone (Schedule 3)</li> <li>• Appropriate management of the bushfire risk</li> <li>• Extent of native vegetation removal and modification</li> <li>• Dwelling design</li> </ul>
Recommendation	Issue a Notice of Decision to Refuse to Grant a Permit

Future Nillumbik Committee agenda

14 March 2017

4. Officers' reports

FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge

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**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports**

**FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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<b>Recommendation</b>
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**That the Committee (acting under delegation from Council): issue a Notice of Decision to Refuse to Grant a Permit to the land located at 14 Barreenong Road, Cottles Bridge, for the use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation, on the following grounds:**

- 1. The proposed use of the land for a dwelling on a substandard sized lot is not consistent with the intended purpose and decision guidelines of the Rural Conservation Zone and the proposal does not seek to use the land to protect and enhance the environmental and landscape value of the site as found at Clause 35.06 of the Nillumbik Planning Scheme.**
- 2. The proposed use of the land for a dwelling on a substandard sized lot is not consistent with Clause 11.06-4 (Green Wedges), Clause 21.04 (Vision Strategic Framework), Clause 21.05-1 (Settlement and Housing) and Clause 21.05-2 (Rural Land Use).**
- 3. The proposal will not result in an acceptable planning outcome as outlined in the decision guidelines of Clause 65 (Decision Guidelines), having regard to the orderly planning of the area, the degree of fire hazard, and the extent of vegetation to be removed.**

**Attachments**

1. Subject site and surrounds
2. Plans 1 to 7

**Subject site and surrounds**

1. The key features of the subject land and surrounds are as follows:
  - The subject site is particularly described as Vol. 06646, Folio 176, Crown Allotment 16B Section B Parish of Greensborough. There are no encumbrances on title and no easements are shown on the Title Plan.
  - The subject site is a shallow triangular shaped parcel of land, located on the northern side of Barreenong Road, Cottles Bridge, approximately 145 metres from the intersection with Cottlesbridge-Strathewen Road. The site has the dimensions 235 metres by 152 metres by 118 metres, and an area of approximately 0.76 hectares (7,590 square metres).
  - The site is largely covered by native vegetation, with the exception of two dams, and an existing cleared section of land all located in the north-eastern portion of the property. The site is currently unused and contains no buildings.
  - Access to the site is gained via an existing crossover in the south-eastern corner of the property, which extends into an informal bare earth access track which extends in a northerly direction.

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports****FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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- The site is located mid-way up a moderate to steep slope facing north-west, which extends from a creek line in the adjacent property to the west. The land contains the steepest portions of the hillside, including some sections up to 15 degrees. Adjacent parcels of land have a more gentle topography.
  - The land is part of a densely vegetated and ecologically well connected landscape, as it is connected to tracts of forested areas to the north, west, and south. In terms of classification of the vegetation, the submitted flora and fauna assessment identifies that the majority of the subject site falls within State Biosite 5257 Pittles Paddock – Cottles Bridge. This Biosite has been recognised as having State significance, and contains remnant vegetation of the Ecological Vegetation Class (EVC) 22 Grassy Dry Forest, and EVC 47 Valley Grassy Forest. 'Pittles Paddock' is also classified as having State fauna significance based on the rarity of fauna known to inhabit the site, and diversity of species recorded.
  - As with the subject land, the surrounding properties are also zoned Rural Conservation Zone (Schedule 3) and contain similar steep topography, and features existing remnant vegetation. Notably, the subject site is one of the smallest in terms of area in the immediate locality, with land to the north-east and south-east being used as rural living areas with multi-hectare allotments containing bushland and grassland areas used for grazing. Further north and north-east are larger areas of contiguous bushland associated with Kinglake National Park.
  - Adjoining the subject site to the east, 10 Barreenong Road, is developed with a single detached dwelling with outbuildings located to the north.
  - The properties located on the opposite (southern) side of the road, at 5 and 25 Barreenong Road, are developed with single detached dwellings surrounded by domestic areas including in-ground swimming pools, with the balance of the sites covered in native vegetation.
  - The land adjoining the subject site to the west forms part of a five lot subdivision at 142 Barreenong Road. Each of the five lots have an established domestic envelope for development, outbuildings and wastewater, with the balance of each lot set aside to protect the remnant bushland, to be managed under a Trust for Nature covenant.
  - Barreenong Road is a through road constructed of gravel. It provides access and egress in two directions. The site is located near the intersection of Cottlesbridge-Strathewen Road and Mine Road/ Hildebrand Road.

**Details of proposal**

2. Refer to the attached plans.
3. Key features of the proposal include:
  - Dwelling and Garage/Shed

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports****FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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- Use and development of the land for a double storey three bedroom dwelling with a separate detached garage/ shed located to the south-west.
  - The dwelling and garage/shed are to be located in the south-eastern section of the site, in close proximity to the Barreenong Road frontage.
  - The lower ground floor plan of the dwelling features one bedroom, a master bedroom with walk in robe and ensuite, and laundry room.
  - The ground floor plan features a bedroom, separate bathroom, and open plan kitchen, dining area, and lounge. Two balconies are proposed, with the smaller of the two adjoining the northern edge of the lounge room, and the second along the eastern edge of the lounge room/ dining area and extending over the entire lower ground floor area.
  - The proposed dwelling has a modern architectural style with a simple 'cross' shaped layout extending in the direction of compass points, flat roof profile, and lengths of unbroken wall treated with fenestration and wall cladding. The dwelling will be constructed on a slab, and the northern section of the ground floor will be cantilevered in a northerly direction over the lower ground floor. It will be constructed of clay bricks, with vertical metal wall cladding, vertical rust panel cladding, and a flat roof profile in corrugated material with 'grey' tones. Balcony balustrades will be glass.
  - The maximum height of the dwelling will be six metres, and owing to its position across the contours and the slope of the land, it will be below the adjacent road level and dominant tree height.
  - The dwelling will be located in the south-eastern portion of the site, close to the Barreenong Road frontage, with the following setback distances from the closest boundaries:
    - South 11.1 metres
    - West 11.5 metres
  - The separate double garage/shed will be located to the south-west of the proposed dwelling, and will be setback 10.8 metres from the southern boundary (Barreenong Road).
  - A new 3.5 metre wide crushed rock semi-circular driveway is proposed, which will enter the site via the existing crossover in the south-eastern corner, and extend across the southern face of the dwelling leading to the double garage/ shed, before exiting at a new access point onto Barreenong Road. The driveway will have a maximum gradient of one in eight.
  - As the subject site cannot provide the defendable space of Table 2 to Clause 52.47 (Planning for Bushfire) due to property size constraints, a private bushfire shelter in the form of a fire bunker is proposed. It will be located on the opposite side of the driveway (immediately to the south of the dwelling) setback 4.2 metres from the roadside reserve associated with the Barreenong Road frontage.

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports****FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

- A dedicated CFA fire fighting water tank, together with a domestic water tank, are proposed to be located to the west of the dwelling.
- A septic tank and effluent disposal field with an area of 560 square metres, to be located to the west of the dwelling.
- Connection is available to the power supply.
- There is no reticulated water available to the site.

**Earthworks**

- In terms of earthworks, the lower ground floor has been sited parallel with contour lines to minimise cut and fill. Nevertheless, it will be necessary to undertake 89 cubic metres of site cut to accommodate the lower ground floor. The ground floor will require 14.8 cubic metres of fill under its southern section, where the front entrance presents to the access driveway.
- The detached garage/shed is also sited along the contour lines to minimise cut and fill, and will require 15.3 cubic metres of site cut.
- The private bushfire shelter (in the form of a fire bunker) will require 10.9 cubic metres of site cut and the the new driveway will require 61.3 cubic metres of site cut.
- All earthworks will be supported by either local stone or 'rust' panelling retaining walls.

**Vegetation removal**

- Removal of a total of 0.384 hectares of remnant native vegetation identified as remnant patches, including:
  - Removal of 70 trees from both the construction and domestic zone, and the effluent area.
  - Removal of trees and vegetation associated with providing defensible space with a minimum depth of 40 metres, extending up to the north-western property boundary (maximum distance of 36 metres from the edge of the proposed dwelling) and a five metre canopy separation.
- The Offset and Land Management Plan submitted with the application and prepared by Practical Ecology, proposes to provide an area to the west of the dwelling on the subject site in which vegetation and habitat will be managed purely for conservation purposes, in order to meet (in part) the Native Vegetation offset obligations. The offset management zone is proposed to encompass an area of approximately 0.14 hectares.

**Planning history**

4. No previous planning permits have been issued for the site. The subject site was established without the need for a planning permit, as there was historically two lots on one title, so the former owners had the lots separated.

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports**

**FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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**Planning controls****Zoning**

5. The subject land is zoned Rural Conservation Zone (Schedule 3) in accordance with the Nillumbik Planning Scheme. Under this zone (Clause 35.06), a permit is required for use, construct or carry out a building or works associated with the development of the land for a dwelling.

**Overlays**

6. The subject land is affected by the Bushfire Management Overlay. Under this overlay, (Clause 44.06), a permit is required to construct a dwelling, or construct or carry out works associated with accommodation.
7. The subject land is also affected by the Environmental Significance Overlay (Schedule 1). Under this overlay (Clause 42.01), a permit is required to construct a dwelling, or construct or carry out works, and also to remove, destroy or lop any vegetation including dead vegetation.

**Particular provisions**

8. Clause 52.06 (Car Parking) applies to the application. This clause seeks to ensure that before a new use commences, there is the provision of an appropriate number of car parking spaces; that car parking does not adversely affect the amenity of the locality; and that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use. In accordance with Table 1 Car Parking Requirement of Clause 52.06, a three bedroom dwelling must provide a minimum of two vehicle parking spaces.
9. Under the provisions of Clause 52.17 (Native Vegetation), a permit is required to remove, destroy or lop native vegetation on land which, together with all contiguous land in one ownership has an area greater than 0.4 hectares. The purpose of this provision is to ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.
10. Clause 52.47 (Planning for Bushfire) aims to ensure that development is only permitted if the risk to life, property and community infrastructure can be reduced to an acceptable level and to apply specify requirements for buildings, works and subdivision on land to which the Bushfire Management Overlay applies. If a planning permit is required pursuant to the Bushfire Management Overlay, all requirements of this clause must be met.
11. Clause 57 (Metropolitan Green Wedge Land) applies to all land outside an Urban Growth Boundary, and seeks to protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values. In accordance with the table of uses listed at Clause 57.01-1, the use of the land for the purposes of a dwelling is allowed if it is the only dwelling on the lot.

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports****FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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12. Clause 65 (Decision Guidelines) outlines general decision guidelines that must be considered when assessing an application. These guidelines include the purpose of the zone or other provision, the orderly planning of the area, and the effect on the amenity of the area.

**Relevant planning policies**

13. State Planning Policies which are relevant to this application include:
- Clause 11.04-6 Green Wedges
  - Clause 12.01 Biodiversity
  - Clause 12.04 Significant Environment and Landscapes
  - Clause 13.05 Bushfire
  - Clause 16.02-1 Rural residential development
14. The Local Planning Policies which are relevant to this application include:
- Clause 21.05-1 Settlement and Housing
  - Clause 21.05-2 Rural Residential use
  - Clause 21.05-3 Environment, Conservation and Landscape
  - Clause 22.04 Siting and Design Policy for Buildings and Works in Non-Urban Areas
  - Clause 22.13 Wildfire Management Policy

**Policy context**

15. When considered as a whole, the strategic policy context discourages small-scale rural residential development. In particular, development which may have a detrimental impact on landscape and environmental values.
16. Within Melbourne's Green Wedge areas, strategic policies seek to protect environmental, landscape, and scenic values and the consolidation of new residential development within existing settlements.
17. Underpinning this is the Rural Conservation Zone, which is not a zone which encourages rural residential type development. There is no mention of residential development among the purposes of the Rural Conservation Zone. Indeed, the whole thrust of the Rural Conservation Zone provisions is focused on the protection and enhancement of environmental, ecological, and landscape attributes of the area. It emphasizes that any development must be consistent with sustainable land management practices. Under the zone, all land uses are subordinate to the environmental values of the land, and the minimum lot size is tailored to suit the environmental features and values of the land.



**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports****FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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18. These issues were tested at the Victorian Civil and Administrative Tribunal (VCAT) in *Masten Bennett and Associates v Nillumbik SC [2010] VCAT 90* (relating to a property in Buttermans Track in St Andrews) where the Tribunal acknowledged that even though much of Nillumbik is within the Rural Conservation Zone (Schedule 3), this should not create an expectation that such land is suitable for rural residential land use. In its decision, the Tribunal determined that the provisions of the Rural Conservation Zone (Schedule 3) seek to restrict the numbers and presence of buildings in rural areas, as the preservation of landscape is the overarching objective.
19. Moreover, in both State and Local planning policy, priority is given to ensuring that any new development in areas affected by the Bushfire Management Overlay avoids bushfire risk to people and property, with the State policy giving more weight to the protection of human life.

**Public consultation****Advertising**

20. The application has been advertised by way of the posting of notices to the owners and occupiers of neighbouring properties and the erection of a notice on-site.

**Objections**

21. As a result of advertising, a total of two written objections have been received. These objections can be summarised as follows:
- The application seeks to construct a dwelling on a lot that is smaller than the minimum lot size of eight hectares.
  - Neighbourhood character – the proposed dwelling is contrary to the mudbrick dwellings typically found in the area.
  - Traffic and associated dust pollution from the dirt roads will be exacerbated.
  - Additional access points to Barreenong Road will be steep, and located on a blind bend in the road, which may be dangerous.
  - The proposal does not have adequate car parking spaces.
  - Loss of trees, vegetation and associated habitat in an ESO1, and the ongoing impact on fauna.
  - Setbacks – the proposed dwelling is too close to the road, creating a negative visual impact.
  - Bushfire impacts – high fuel load around the property and ability of fire truck to access the site.
  - Building logistics – building machinery and delivery trucks may cause erosion and impact on vegetation on the roadside.
  - Impact on waterway of effluent disposal system.
  - Loss of runoff and ability to fill farm dams associated with the development of the site.

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports**

**FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

**Planning application conference**

22. No planning application conference was held for this application, however the applicant has provided a written response to the concerns raised by the objectors, which was circulated to them.

**Referrals****Internal**

23. The application was referred to various business units or individuals within Council for advice on particular matters. The following is a summary of the relevant advice:

<b>Council Unit</b>	<b>Comments</b>
Sustainability and Environment Unit	<p>The site is within the North East Regional Organisation of Councils (NEROC) Site 69 which is of State faunal and high habitat significance.</p> <p>The site is covered in remnant vegetation, mostly representing Grassy Dry Forest with some Valley Grassy Forest on the lower slopes. The site has a few large old trees, with most trees being relatively small. There are two dams on site which provide habitat for local frogs and provide water source for fauna.</p> <p>An offset plan has been provided as it has been determined that there may be scope to meet some of the offsetting requirements on site, however there is limited room available. Most offsetting will be achieved off-site by way of a third party.</p> <p>The proposal will result in the loss of 0.384 hectares of vegetation, which is more than 50% of the site. The loss of this vegetation is significant, as the vegetation is remnant and the subject site is part of a broader habitat corridor.</p> <p>While the proposal meets the requirements of Clause 52.17 (Native Vegetation) and the Environmental Significance Overlay (Schedule 1), it is difficult to support the loss of 0.384ha of native vegetation in an area considered to have high conservation value.</p>
Infrastructure Development Unit	No concerns identified, however requested conditions on any permit issued relating to drainage and crossover and driveway construction.

**External**

24. The application was referred to the following statutory referral authority/authorities for advice on particular matters. The following is a summary of the relevant advice:

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports**

**FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

<b>Authority</b>	<b>Comments</b>
CFA	No objection subject to conditions on any permit issued.
Department of Environment, Land, Water and Planning (DELWP)	No objection subject to conditions on any permit issued.

**Planning assessment****Introduction**

25. The provision of a dwelling on this site presents a range of challenges. It is located outside the Urban Growth Boundary and as indicated by the inclusion within the Bushfire Management Overlay, it is subject to bushfire risk. The land contains habitat of very high conservation significance. In the face of these challenges, a proposal for use or development must present an overall benefit when considered as a whole.
26. The following have been identified as the key planning issues in relation to the assessment of this planning application:
- Consistency with use and development within the policy framework and the purposes and decision guidelines of the Rural Conservation Zone Schedule 3
  - Appropriate management of the bushfire risk
  - Extent of native vegetation removal and modification
  - Dwelling design.
27. Assessment of these issues, together with a response to objections received, will be discussed in the remainder of this report.

**Consistency with use and development within the policy framework and the purposes and decision guidelines of the Rural Conservation Zone (Schedule 3)**

28. The State and Local planning policies provide guidance as to what is intended in this part of the Green Wedge. In accordance with the State planning policy, the subject site is located within Green Wedge land, which seeks to protect these areas from inappropriate development, protect areas of environmental, landscape and scenic values. The policies acknowledge that a balance must be struck in the interests of net community benefit and sustainable development.
29. Objectives for Green Wedge areas contained within Clause 11.04-7 (Green Wedges) of State planning policy promotes the protection of environmental, landscape and scenic values and the consolidation of new residential development within existing settlements. These objectives are reinforced through the provisions of Clause 57 (Metropolitan Green Wedge Land).

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports****FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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30. The emphasis in the Rural Conservation Zone is to conserve and permanently maintain, rather than to anticipate change. The provisions of the Rural Conservation Zone (Schedule 3) are clear that all land uses are subordinate to the environmental values of the land. The rural landscape in Nillumbik is highly valued, and rural residential land use must be considered in the context of whether residential land use will promote, manage and encourage the recognised values of the area. Rural residential land use is not an automatic entitlement. To this end, the Rural Conservation Zone (Schedule 3) adopts a minimum lot size of 8 hectares for development of land for the purposes of a dwelling. The subject site has an area of 0.76 hectares, which is substantially below the minimum lot size.
31. The VCAT decision *Beaton v Nillumbik SC* [2013] VCAT 2130 (relating to land in Buttermans Track, Christmas Hills) determined that there was no basis for an applicant to assume that because the land is already a small lot, that a dwelling is an acceptable use and should be permitted, subject to all other relevant planning considerations being satisfied. Caution must be applied when considering an application on an existing lot which is well below the minimum lot size for both use and development. This is primarily because restricting residential development in non-urban areas is paramount to maintaining the values of the Green Wedge.
32. These issues were discussed by VCAT in the decision *Weingartner v Nillumbik SC* [2016] VCAT 1359 (relating to land in Overbank Road, Eltham) where the Tribunal pointed out that the Rural Conservation Zone is one of the suite of rural zones, and it is not within the group of residential or rural residential zones. None of the six Rural Conservation Zone purposes make reference to residential or housing development, and all to a greater or lesser extent have an environmental and landscape focus.
33. In this decision, the Tribunal found that the key themes or directions that emerge from a review of the relevant planning policies, as well as zone and overlay controls, are that Green Wedge land is to be protected from use and development that would diminish its environmental, conservation, and landscape values, and residential development is to be contained within existing urban zones on land within the Urban Growth Boundary. Specifically, the Tribunal stated (at paragraph 28) that:
- Development on small rural lots below the zone minimum is to be limited, unless exceptional circumstances exist.
  - Continued development of dwellings in green wedge areas undermines the values and characteristics of the green wedge/ non-urban areas.
  - Development of isolated small lots in rural zones for rural living or other incompatible uses is discouraged.
34. With regard to the subject application, allowing a dwelling on this site where the lot size of 0.76 hectares and is substantially less than the minimum allowed by the Rural Conservation Zone (Schedule 3), and is contrary to the State and Local planning policies which discourage residential development on small lots within the non-urban, green wedge areas.

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports**

**FN.005/17      Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

**Appropriate management of the bushfire risk**

35. The subject site is characterised by remnant forest and woodland vegetation, which is broken up by grassy open spaces. The topography must also be considered as the subject site contains the steepest slopes of the local area, with some sections as much as 15 degrees.
36. The bushfire hazard landscape assessment, which provides information on the bushfire hazard more than 150 metres away, has identified that the surrounding landscape is generally undulating topography dominated by grazing, horticulture and sections of bushland.
37. To the west and north-west there is bushland on the adjoining properties, while the area to the north-east and south-east is a rural living area with multi-hectare allotments consisting of bushland and grassland areas used for grazing.
38. Historically, the surrounding area has been subject to significant bushfire events. The nearby areas to the north suffered from very high intensity fire during Black Saturday in 2009 with catastrophic consequences for the local communities. While the subject site itself does not have record of bushfire, it is apparent that the land is subject to significant bushfire risk.
39. According to the submitted Bushfire Management Statement, prepared by Practical Ecology and submitted with the application, the landscape around the subject site is best placed within landscape type three. While there are substantial fuel loads in close proximity to the site, which could result in neighbourhood scale destruction as residents reside in close proximity to the fragments of forest, the broader landscape, in particular to the north and west is predominantly grassland.
40. In accordance with the Bushfire Management Statement submitted in December 2016, the dwelling will have a minimum bushfire attack level of BAL-40. A defensible space to a distance of 40 metres, or the property boundary, is specified. In addition, the dwelling cannot be occupied until a private bushfire shelter is constructed on the same land as the dwelling.
41. Defensible space (a distance of 40 metres or to the property boundary) is proposed, where vegetation will be modified and managed in accordance with requirements, including that the canopy of trees must be separated by at least five metres. The application has been referred to the CFA for comment who have advised that the Bushfire Management Statement (as submitted in December 2016) is satisfactory and should be endorsed to form part of any permit issued.
42. Maintenance of the defensible space in the manner required by the CFA is central to the implementation of bushfire protection measures. These measures include clearance of vegetation and continuous management of the land. It is apparent that the proposal is close to the limit of what would be supported, given the necessity to create defensible space to the property boundary, install a fire bunker, and construct the dwelling to a BAL-40.

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports****FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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43. Although there are mitigating circumstances in relation to the subject site, such as CFA support for the proposal, and the relatively open grazing land to the north and west which would indicate that bushfire risk can be reduced to a suitable level, there remains concern over the inability to meet the defensible space requirements within the property boundary, and a reliance on vegetation management on the adjoining privately held properties.
44. Accordingly, it is considered appropriate to apply the precautionary principle when assessing the risk to life, property and community infrastructure from bushfire, and not support this application.

**Extent of native vegetation removal and modification**

45. The Environmental Significance Overlay (Schedule 1) has been applied to the subject site and surrounding area, and has been applied to sites of faunal and habitat significance.
46. Environmental objectives to be achieved make specific reference to protecting and enhancing sites of faunal and habitat significance, and regional and strategic habitat links identified in Beardsell's 1997 Sites of Faunal and Habitat Significance in North East Melbourne. It is also identified as being part of a strategic habitat link.
47. In addition, the report prepared by Practical Ecology and submitted with the application identifies two habitat zones. Habitat Zone 1 comprises 0.11 hectares of Valley Grassy Forest (EVC47). Habitat Zone 2 occupies the majority of the site, having an area of 0.55 hectares, and comprises Grassy Dry Forest (EVC22).
48. The Grassy Dry Forest (EVC22) is classified as being of "least concern". No threatened flora was found on site in the surveys undertaken. As such, assessment becomes a question of the impact of the proposal on the site's role as a habitat link, and its connectivity with the surrounding landscape.
49. A thin strip of Woodland occurs on the adjoining side of Barreenong Road to the north of the property. Woodland also occurs on the eastern side of Barreenong Road and extends into the adjacent property.
50. The Municipal Strategic Statement (MSS) identifies that long term protection of native species and ecosystems requires large areas of high quality native vegetation interconnected by a network of habitat corridors. The objectives of the Environmental Significance Overlay seek to maintain these habitat links.
51. Construction of a dwelling, garage, driveway, associated earthworks and 560 square metre effluent envelope, together with the provision of defensible space for bushfire management purposes requires the removal of 0.384 hectares of native vegetation.
52. The submitted Practical Ecology report identifies that a total of 70 trees will be removed. In order to offset this, 0.14 hectares of the site will be set aside as the Offset Management Zone, where vegetation and habitat will be managed purely for conservation purposes.

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports****FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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53. Although the loss of vegetation on the subject site would be regrettable, it is evident from the submitted plans and vegetation assessment, and from the support provided by DELWP that the loss of vegetation can be adequately offset both on and off the subject site. Further, it is expected that the remaining vegetation on site will be improved should the land be resided on.
54. An ecological assessment requires the avoidance and minimisation of vegetation loss in the first instance. Given the extent of vegetation cover on this site, it would be difficult to avoid any vegetation loss. In order to reduce the extent of vegetation loss the proposal will use the existing crossover and access, assisting in minimising vegetation loss. Furthermore, the applicant has nominated to retain trees within the effluent disposal field, which has been counted as a total loss of vegetation. Overall, it is accepted that a net gain outcome could be achieved albeit that a portion of this offset would need to be provided on off-site.

**Dwelling design**

55. The location and design of buildings is important in influencing the landscape of rural areas, and Clause 22.04 (Siting and Design of Buildings and Works in Non-Urban Areas) pertains to the siting and design of dwellings. The proposed dwelling contains a high degree of architectural merit, and has sought to embrace elements such as siting, design and materials selection at the outset.
56. The dwelling and driveway, being located down below the level of Barreenong Road, will not create a dominant feature in the landscape in the view of anyone travelling along the street.
57. While the siting will involve a certain amount of cut and fill, with retaining walls to be built along the southern edge of the new driveway, and also adjacent to the lower ground floor of the proposed dwelling, these features create a limited degree of formality in the landscape. This is because the dwelling has been sited parallel with the contours of the land, and therefore requires reduced extent of earthworks.
58. The dwelling design has sought to minimise adverse impacts associated with its height and colours through the use of a flat roof profile, and materials and colour palette featuring clay brick, grey render, and glass balustrade.
59. The positive attributes of the architectural design of the dwelling and its siting on the land, nevertheless, do not outweigh the provisions of the planning scheme, and on balance the proposal does not produce an acceptable planning outcome.

**Response to objections received**

60. The written objections have raised a number of concerns with respect to the proposed development. Issues regarding construction of a dwelling on a lot smaller than the minimum lot size, loss of trees, vegetation and associated habitat, bushfire impacts have been discussed in earlier sections of this assessment. A response to those issues not previously discussed and addressed is included below.

**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports**

**FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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**Neighbourhood character – the proposed dwelling is contrary to the mudbrick dwellings typically found in the area**

61. In terms of dwelling design, it is not considered necessary to replicate the style of the mudbrick dwellings typically found in the area. Planning policies seek to ensure that dwelling design is sited having regard to the characteristics and topography of the land, and seeks to utilise muted tones and colours within the palette associated with the dwelling to ensure it blends within the natural environment.

**Traffic and associated dust pollution from the dirt roads will be exacerbated**

62. The addition of vehicles associated with one dwelling to existing traffic movements on Barreenong Road will be unlikely to cause significant levels of dust pollution.

**Additional access points to Barreenong Road will be steep, and located on a blind bend in the road, which may be dangerous**

63. Council's Infrastructure Development Unit has reviewed the proposal and has not raised any issues associated with the location or gradient of the proposed access points to Barreenong Road.

**The proposal does not have adequate car parking spaces**

64. In accordance with Clause 52.06 (Car Parking), before a new use commences (such as use of the land for the purposes of a dwelling) the requisite number of car parking spaces in accordance with Table 1 must be provided. Given that the proposal is for a three bedroom dwelling, a minimum of two car parking spaces must be provided. A separate double garage is included as part of the proposal, and therefore the requirements of this clause have been met.

**Setbacks – the proposed dwelling is too close to the road, creating a negative visual impact**

65. The proposed dwelling is setback a minimum of 11 metres from the road, and owing to the topography of the site, will sit below the level of the road. It has also been designed with a flat roof, and so is unlikely to cause a visual impact.

**Building logistics – building machinery and delivery trucks may cause erosion and impact on vegetation on the roadside**

66. Building logistics are a matter for the relevant builder and/or building surveyor to consider

**Impact on waterway of effluent disposal system**

67. The proposed effluent disposal system has been designed to adequately treat and contain wastewater from the proposed development, and it will therefore not impact upon the waterway.

**Loss of runoff and ability to fill farm dams associated with the development of the site**

68. While there will be some impact and reduction in runoff associated with the development of the site, it is unlikely to prohibit the farm dams from receiving runoff from the balance of the site outside the domestic zone.



**Future Nillumbik Committee agenda****14 March 2017****4. Officers' reports**

**FN.005/17      Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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**Conclusion**

69. The application seeks to use the site for the purposes of a dwelling, and undertake buildings and works associated with the construction of a dwelling, garage, and driveway, including removal of vegetation and earthworks. The application was advertised and two written objections were received. The key planning issues to consider relate to response to State and Local planning policy, extent of vegetation removal, bushfire management and dwelling design.
70. Despite the support of authorities dealing with bushfire and native vegetation, consideration must be given to Clause 10.04 (Integrated Decision Making) of the planning scheme which requires decision makers to endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.
71. On balance, the proposal fails to adequately respond to the policy expectations of the Rural Conservation Zone. While the granting of a planning permit for a dwelling would benefit the landowners, in the context of the relevant planning policy considerations and the broader community there would be a cost. State and Local planning policies consistently discourage residential development on small lots on non-urban land within the Green Wedge.
72. In light of the above planning assessment, the application warrants refusal, as reflected in the officer recommendation.

Attachment 1  
Confidential s89(2)