

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P1332/2020
PERMIT APPLICATION NO. 189/2019/02P

CATCHWORDS

Section 82 of the *Planning & Environment Act 1987*; Nillumbik Planning Scheme;
School Expansion (RCZ3, ESO1, BMO): access/ traffic; tree removal; off-site amenity impacts.

APPLICANT	Brendan Skiba
RESPONSIBLE AUTHORITY	Nillumbik Shire Council
REFERRAL AUTHORITIES	Country Fire Authority; Department of Environment, Land, Water & Planning; & Department of Transport
RESPONDENT	Glenvale School Melbourne Pty Ltd
SUBJECT LAND	395-415 Ironbark Road, Yarrambat
HEARING TYPE	Hearing
DATE OF HEARING	19 May 2021
DATE OF ORDER	8 July 2021
CITATION	Skiba v Nillumbik SC [2021] VCAT 733

ORDER

- 1 The decision of the Responsible Authority is varied.
- 2 In permit application 189/2019/02P a permit is granted and directed to be issued for the land at 395-415 Ironbark Road, Yarrambat on the conditions set out in Appendix A. The permit allows:
 - Use and development of the land for a Primary School and Secondary School, including staged construction of buildings and associated car parking, removal of native vegetation, and a reduction in the on-site bicycle parking in accordance with the endorsed plans.

Tracy Watson
Member



APPEARANCES

For Applicant	Brendan Skiba, in person.
For Responsible Authority	Karen McPherson, town planner.
For Referral Authorities	No appearance.
For Respondent	Chris Taylor, solicitor. Mr Taylor called expert evidence from: Charmaine Dunstan, traffic engineer.

INFORMATION

Description of Proposal	It is proposed to use and develop the land for the purposes of a primary and secondary school; to remove native vegetation and to reduce the on-site bicycle parking spaces. The proposal seeks to accommodate a progressive increase in student numbers up to a maximum of 150 students (60 primary and 90 secondary), and 26 staff members (of which 16 will be teaching staff members).
Nature of Proceeding	Application under Section 82 of the <i>Planning and Environment Act 1987</i> – to review the decision to grant a permit.
Planning Scheme	Nillumbik.
Zone and Overlays	Clause 35.06 – Rural Conservation Zone, Schedule 3. Clause 42.01 – Environmental Significance Overlay, Schedule 1. Clause 44.06 – Bushfire Management Overlay.
Permit Requirements	Clause 35.06-1 – Use land for a primary and secondary school. Clause 35.06-5 – Construct or carry out buildings or works. Clause 42.01-2 – Construct a building or construct or carry out works; and remove vegetation that is not identified as a ‘pest plant’. Clause 44.06-2 - Construct a building or construct or carry out works. Clause 52.17-1 – Native vegetation removal. Clause 52.34-2 – To reduce the on-site bicycle parking.



Relevant Scheme, policies and provisions	Includes Clauses 12,13, 15, 18, 19, 21.05, 22.04, 22.05, 22.13, 35.06, 42.01, 44.06, 51.02, 52.06, 52.17, 52.34, 53.02, 65 and 71.02.
Land Description	The subject site is located on the south-west corner of Ironbark Road and Pioneer Road in Yarrambat. The subject site is a large, irregular shaped allotment with an overall site area of 8.8 hectares. Existing development on the subject site includes a range of single storey buildings and other school-related infrastructure. Much of the site remains undeveloped and is heavily treed.
Tribunal Inspection	25 June 2021.



REASONS¹

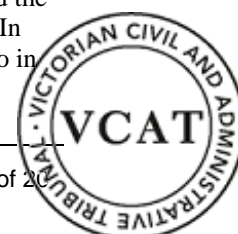
What is this proceeding about?

- 1 Mr Skiba lodged an application for review with the Tribunal against the Nillumbik Shire Council's Notice of Decision to Grant a Permit (NOD) which was issued on 21 July 2020.
- 2 Mr Skiba raised a number of issues of concern, and my reasons will respond to each of them in turn. Ultimately, I need to decide if the proposal is, on balance, an acceptable planning outcome. In other words, my role is not to assess alternative options but rather to make a decision on the proposal before me. This mandate contrasts to aspects of Mr Skiba's submission, where he was seeking alternative options to be investigated, and the advancement of more detailed analysis. I am satisfied that the level of information and the extent of supporting documentation forming part of the permit application material are more than adequate. In other words, I do not agree with Mr Skiba's argument that the Council was negligent in issuing the NOD given the level of detail provided in the permit application material.
- 3 I need to decide whether a permit should be granted and, if so, what conditions should be applied. Having considered the statements of grounds, the submissions and the expert evidence, together with the applicable policies and provisions of the Nillumbik Planning Scheme, I have decided to vary the decision of the Responsible Authority.

Is the native vegetation removal acceptable?

- 4 Mr Skiba objected to the removal of any trees within 50 metres of Pioneer Road as he considered that the retention of trees within this location would provide a visual and acoustic buffer to his property.
- 5 An arborist's report was submitted with the permit application which addressed this issue. This report was then reviewed/ assessed by both the Council and the relevant referral authorities, and the proposed tree removal was supported.
- 6 I am satisfied that the design intent for the siting of the new school buildings and car parking areas included a key objective to minimise tree removal. The proposed buildings and parking areas are sited in a 'cluster' layout and are generally positioned in the cleared areas of the subject site. The proposed buildings are located as far as practicable to coincide with the siting of the existing buildings and parking and access areas.
- 7 The proposed design response does not result in the loss of any high value trees (being either individual trees or groups of trees) and seeks to minimise

¹ The submissions and evidence of the parties, any supporting exhibits given at the hearing, and the statements of grounds filed; have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

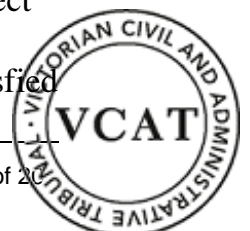


the loss of moderate retention value trees. Consequently, the vast majority of proposed tree removal is confined to trees with a low protection value. Further, the proposed tree removal will be appropriately offset as per the requirements of Condition 14 of the permit. The permit also includes appropriate conditions to manage the protection of the retained trees located proximate to the proposed buildings and works.

- 8 Moreover, the intention to minimise the loss of native vegetation needs to be counter balanced against the need to appropriately manage bushfire risks through measures such as the creation of defendable space. Again, the proposal seeks to minimise the amount of tree loss by reducing the required defendable space distance through increasing the construction standard of the buildings from Bushfire Attack Level (BAL) 12.5 to BAL 29.
- 9 In addition, the proposed location of the on-site car parking is setback off the Pioneer Road interface such that the effect of a treed buffer along this edge is retained (with only Tree Group No. 106 requiring removal). I find that this will provide an appropriate visual buffer to the residential properties located on the eastern side of Pioneer Road. The northern section of the car park will also be planted with an avenue of new trees along its eastern edge. It is also noteworthy that as trees are not solid structures, they do not have acoustic attenuation characteristics.
- 10 Overall, I am satisfied with the Council's assessment and conclusions regarding the issue of tree removal and find that the loss of native vegetation has been acceptably minimised in accordance with the relevant policies and provisions of the planning scheme.

Can stormwater runoff be appropriately managed?

- 11 Mr Skiba's submission was that insufficient information has been provided to demonstrate that the increased stormwater runoff caused by the development can be contained on site. Mr Skiba calculated that the proposal results in 8,298m² of new impervious area, and he is not convinced that the subject site has the capacity to absorb the stormwater runoff created by such a decrease in the site's permeability.
- 12 The level of fine detail in regards to this issue which Mr Skiba is seeking, is not typically provided at the planning permit stage. That is why only an indicative Site Storm Water Design report (prepared by R Bliem and Associates Pty Ltd) was included as part of the permit application material.
- 13 The Council's Drainage Engineers consider that the increase in stormwater discharge can be fully managed on site, and will therefore not impact on the surrounding area. Further, Mr Taylor submitted that the additional stormwater runoff can be piped from a 40m³ storage tank to the existing dam located north-west of the proposed buildings. This issue needs to be considered in the context of the very substantial treed nature of the subject site, with the proposed buildings and hard surfaces only occupying a relatively small proportion of the site's overall area. I am therefore satisfied



that this issue can be appropriately managed by way of permit conditions, and I accept the Council's position that stormwater can be contained on site.

Are the traffic and parking impacts of the proposal acceptable?

- 14 Mr Skiba submitted that the current configuration and width of Pioneer Road is too narrow to safely accommodate existing traffic levels, never lone the increased traffic that will be generated by the proposal.
- 15 Mr Skiba's position was that all access/ egress to the subject site should be from the more suitable Ironbark Road. He also submitted that the proposed minibus system is inappropriate and will be difficult to enforce.
- 16 Ms Dunstan, who is a well-regarded and experienced traffic engineer, has prepared a detailed traffic and parking expert witness statement as part of this proceeding. Ms Dunstan also specifically responded to the parking and traffic issues raised by Mr Skiba. Indeed, nothing was revealed during Ms Dunstan's cross examination that caused me to doubt her analysis and conclusions.
- 17 I therefore adopt and accept the conclusions of Ms Dunstan. In essence, she concluded that the traffic impacts of the proposed school expansion are acceptable and can be accommodated by the nearby road network, and that there are no traffic engineering reasons why a planning permit for the proposed school expansion should be refused.
- 18 The effect of some of the conditions on the Council's NOD is to allow for vehicles to enter the subject site from Pioneer Road, using the existing entry point, and to exit the subject site to either Pioneer Road (from the new proposed access point) or to Ironbark Road (from the existing access point). Further the Council's NOD seeks to limit the Ironbark Road access point for exiting in a left-turn out only. This arrangement would require additional works on Pioneer Road and Ironbark Road to provide left and right turn lanes.
- 19 Ms Dunstan's evidence was that the cost of the works required to implement the Ironbark Road left-out turn only, as endorsed by the Council's NOD, is disproportionate to the scale of the proposed school expansion and, more importantly, is unnecessary.
- 20 In some respects, Ms Dunstan's evidence accorded with Mr Skiba's arguments about the width of Pioneer Road, as her evidence was that if Pioneer Road was used as an exit point it should be widened to at least 5.5 metres between Ironbark Road and the southernmost school access point. While Ms Dunstan does acknowledge the narrow width of Pioneer Road, her evidence was that:

However, the [traffic] volumes on Pioneer Road are low. The proposal to implement a minibus transportation plan could reduce the traffic to a level below what the 70-student school would have generated historically. In my view, widening Pioneer Road to 5.5m



for simultaneous two-way access should not be required in the context of my preferred alternative vehicle access arrangement.

- 21 Ms Dunstan's expert evidence was that an alternative vehicle access arrangement should be implemented. This alternative vehicle access/egress arrangement is illustrated in Figure 26 of her expert evidence statement and shows all traffic entering the site from one point off Pioneer Road, and then all traffic exiting the site (either turning left or right) from Ironbark Road.
- 22 Ms Dunstan's evidence was that this alternative vehicle access arrangement has a number of benefits, with an improved site distance being the critical advantage. Her evidence was that, the alternative arrangement:
- Directs all traffic to exiting the school at Ironbark Road at a location where the sight distance is greater than at Pioneer Road, a safer arrangement. This is a better outcome in my view in the context of the modest traffic volumes to be generated by the school.
- There is no need to ban the right-turn out of school access. There are no sight distance issues and there is ample capacity for this turn. Given the queues and delays turning right into Pioneer Road are minimal (even if only parents picked-up/dropped-off children at the school), there is no interaction between queues of traffic turning right into Pioneer Road and right turns out of the school.
- 23 I endorse Ms Dunstan's alternative vehicle access arrangement, and I have modified the permit conditions accordingly. Ms Dunstan's Figure 26 indicates that either of the two existing crossovers to Pioneer Road or the proposed new crossover could be selected as the single entry point. However, I have specified that the proposed new crossover is to be used, with the other two existing crossovers to be removed. Because of the more northern location of the new crossover, this outcome will ensure that any traffic approaching the subject site from Ironbark Road will not travel past the northern boundary of Mr Skiba's property.
- 24 Subject to the modifications of the permit conditions to implement Ms Dunstan's alternative vehicle access arrangement, I am therefore satisfied that the traffic impacts of the proposal are acceptable.
- 25 It is proposed to provide 46 on-site car spaces which is 17 spaces more than the Clause 52.06 requirement of 29 car spaces. The proposed Site Plan also indicates the capacity for an additional 7-space car park. This means that there is no permit trigger for car parking under Clause 52.06-3 of the planning scheme.
- 26 I also wish to note that the current plans do not include any bicycle parking, however a condition of the permit requires the provision of 10 spaces, which Ms Dunstan says is an appropriate number.



Is the visual impact of the proposed buildings acceptable?

- 27 Mr Skiba submitted that the proposed buildings are sited too close to Pioneer Road, that the two-storey height is inappropriate, and that the proposed architectural style is too contemporary.
- 28 In essence, the planning scheme seeks to ensure that the siting, design, height, form, and materials/ colours of the proposed buildings are responsive to and respectful of the physical context of the subject site and the valued landscape character of the area. This character-related planning outcome also needs to be balanced against an appropriate design response to any identified bushfire, flood and erosion risks.
- 29 As already discussed, I have found that the siting of the buildings are appropriate in terms of the extent of the proposed tree removal, and that views to these buildings will continue to be filtered by the retained trees along the Pioneer Road interface. In addition, a landscape plan has been prepared by Land Design Partnership which shows extensive additional canopy tree planting.
- 30 The closest proposed building to the Pioneer Road interface is the Senior School building which features a minimum setback of 39.8 metres, with a maximum setback of 55.3 metres. Further, the only two-storey high building is the proposed Technology Centre (with an overall height of 9.7 metres) which has a minimum setback from Pioneer Road of 70.8 metres. The proposed Technology Centre building is also visually buffered by the respective single storey buildings to the north (being the Gymnasium building), to the east (being the Senior Learning/ Administrative/ Arts Centre building) and to the west (being the Junior Learning building).
- 31 The proposed setbacks, combined with the existing and proposed landscaping will ensure that the new built form is appropriate to its bushland/ rural setting and will not result in any unreasonable visual impacts. The proposed buildings are clustered together and will be viewed in the context of a landscaped background and foreground, so that they are not unduly visually prominent.
- 32 I consider that the proposed contemporary design is appropriate for the school use given the extensive setbacks proposed. This contemporary design will be a comfortable fit to the natural setting and rural character of the area, with the use of muted tones and non-reflective materials assisting in this regard.

What conditions are appropriate?

- 33 The draft conditions were discussed at the hearing, and further submissions were accepted from the parties in accordance with the verbal directions I gave at the hearing. I have considered the further written submissions received from Mr Skiba dated 8 June 2021, from Council dated 30 May 2021 and from the respondent dated 24 May 2021 and 29 June 2021.



- 34 The conditions included in the permit at Appendix A reflect the discussions at the hearing, these further submissions and my findings.

Conclusion

- 35 For the reasons outlined above, I endorse the conclusions of the Nillumbik Shire Council that the proposed use and development should be granted conditional planning permission, subject to the modifications of the Council's NOD conditions to accord with the expert traffic engineering evidence.

Tracy Watson
Member



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO:	189/2019/02P
LAND:	395-415 Ironbark Road, Yarrambat

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Use and development of the land for a Primary School and Secondary School, including staged construction of buildings and associated car parking, removal of native vegetation, and a reduction in the on-site bicycle parking in accordance with the endorsed plans.

CONDITIONS:

- 1 Before the development and/or use commences, three copies of amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the plans received on 22 November 2019 and prepared by dwp (versions B, F and G) but modified to show:
 - (a) The location of one disabled car parking space site with the appropriate shared zone in accordance with the Australian Standards.
 - (b) The location of 10 bicycle spaces.
 - (c) The removal of the proposed grounds maintenance shed unless otherwise agreed with the Responsible Authority and the CFA.
 - (d) The modification of the car park footprint to ensure the retention of trees numbered 102 and 103 (Group) as detailed in the Arborist report prepared by Arbor Survey dated 19 March 2019, unless otherwise agreed by the Responsible Authority and / or further arborist advice is provided demonstrating that this is not required.
 - (e) The modification of the car park to create an island around Tree 2 to ensure its retention. No more than 10% of the tree protection area should be covered by hard surfacing, unless otherwise agreed by the Responsible Authority and / or further arborist advice is provided demonstrating that this is not required.



- (f) Removal of the existing vehicle access points to Pioneer Road (both the entry and exit) such that the only vehicle entry point to the subject site is from the proposed new access point (as positioned on the Masterplan), and any consequential carparking reconfiguration.
 - (g) All car spaces complying with the dimensions of Clause 52.06-9 of the Nillumbik Planning Scheme and the relevant Australian Standards (being AS2890.1-2004 – Part 1; and AS2890.6-2009 – Part 6). This includes increasing the aisle widths of car spaces 6-15 from 6.0 metres to 6.1 metres.
 - (h) The grades of accessways and car parking areas such that they comply with Clause 52.06 of the Nillumbik Planning Scheme and the relevant Australian Standard (AS2890.1-2004).
 - (i) Swept path diagrams for the minibus and waste collection vehicles to enter the site, travel through the car park and exit the site onto Ironbark Road.
 - (j) A staging plan showing the proposed stages of development.
 - (k) Three copies of Tree census as required by Condition 5 below.
 - (l) A Landscape Plan as required by Condition 6 below.
 - (m) Exact location and measurements of the Tree Protection Zone and associated tree protection fencing for all trees shown on the plans to be retained as required by Condition 9 below.
 - (n) A Construction Management Plan as required by Condition 13 below.
 - (o) A Traffic and Car Park Management Plan as required by Condition 19 below.
 - (p) An Amended Bushfire Management Plan as required by Condition 39 below.
- 2 The development and/or use as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
 - 3 The development and associated works in Stage 1 must be completed prior to the commencement of subsequent stages as shown on the endorsed staging plan to the satisfaction of the Responsible Authority.
 - 4 Prior to each stage of development commencing fully dimensioned plans of the proposed buildings and/or works proposed must be submitted to and approved by the Responsible Authority.
 - 5 Before the development and/or use commences a Tree Census identifying the trees to be retained and removed for the development and to meet CFA canopy separation requirements. This should be prepared based on the arborist's tree numbering and considered by the ecologist to ensure that trees with good habitat value are retained to the satisfaction of the Responsible Authority.



- 6 Before the development and/or use commences, three copies of a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must take into account the requirements of the CFA in regards to tree canopy separation and location of shrubs. When approved, the plan will be endorsed and will then form part of this permit. The landscaping plan must be generally in accordance with the landscape concept plan dated 18 March 2019 prepared by Land Design Partnership. The plan must show:
- (a) A survey of all existing vegetation and natural features;
 - (b) The area or areas set aside for landscaping;
 - (c) A schedule of all proposed trees, shrubs/small trees and ground cover. This schedule shall include a mixture of exotic plants and plants selected from the Council document 'Live Local Plant Local' showing the botanical and common name of each plant, the quantity to be planted, the pot size and spacing;
 - (d) The location of each species to be planted and the location of all areas to be covered by grass, lawn or other surface material;
 - (e) Paving, retaining walls, fence design details and other landscape works including areas of cut and fill;
 - (f) Appropriate irrigation systems;
 - (g) The provision of a minimum of 12 indigenous canopy trees throughout the development as appropriate, including in the front setback area of the proposed buildings.
- 7 Unless with the prior written consent of the Responsible Authority, before the use commences, the landscaping works shown on the endorsed plans for the relevant stage must be carried out, completed and maintained to the satisfaction of the Responsible Authority.
- 8 Only trees marked "tree to be removed" on the endorsed plans are permitted to be removed, to the satisfaction of the Responsible Authority.
- 9 Prior to each stage of the development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the trees marked on the endorsed plans as being retained must have a Tree Protection Zone to the satisfaction of the Responsible Authority. The fencing associated with this Tree Protection Zone must meet the following requirements:
- (a) Extent
The tree protection fencing is to be provided to the extent of the Tree Protection Zone, calculated as being a radius of 12 x Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009)



If works are shown on any endorsed plan of this permit within the confines of the calculated Tree Protection Zone, then the Tree Protection Fencing must be taken in to only the minimum amount necessary to allow the works to be completed.

(b) Fencing

All tree protection fencing required by this permit must be erected in accordance with the approved Tree Protection Zone.

The Tree Protection Fencing must be erected to form a visual and physical barrier and must be a minimum height of 1.5 metres and of chain mesh or similar fence with 1.8 metre support posts (e.g. treated pine or similar) every 3-4 metres, including a top line of high visibility plastic hazard tape erected around the perimeter of the fence.

(c) Signage

Fixed signs are to be provided on all visible sides of the Tree Protection Fencing clearly stating “Tree Protection Zone – No Entry”, to the satisfaction of the Responsible Authority.

(d) Irrigation

The area within the Tree Protection Zone and Tree Protection Fencing must be irrigated during the summer months with 1 litre of clean water for every 1cm of trunk girth measured at the soil/trunk interface on a weekly basis.

(e) Provision of Services

Unless with the prior written consent of the Responsible Authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any Tree Protection Zone, to the satisfaction of the Responsible Authority.

(f) Access to Tree Protection Zone

Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).

- 10 Prior to the commencement of the approved works (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the erected tree protection fences must be inspected and approved by the Responsible Authority.

Once erected to the required standard, the tree protection fencing shall be maintained in good condition and may only be removed upon completion of all development works, to the satisfaction of the Responsible Authority.

- 11 The following actions must not be undertaken in any tree protection zone as identified in this permit, to the satisfaction of the Responsible Authority:



- (a) Materials or equipment stored within the zone;
 - (b) Servicing and refuelling of equipment and vehicles;
 - (c) Storage of fuel, oil dumps or chemicals;
 - (d) Attachment of any device to any tree (including temporary service wires, nails, screws or any other fixing device);
 - (e) Open cut trenching or excavation works (whether or not for laying of services);
 - (f) Changes to the soil grade level;
 - (g) Temporary buildings and works; and
 - (h) Unauthorised entry by any person, vehicle or machinery.
- 12 The development and/or use hereby permitted must be managed so that the amenity of the area is not detrimentally affected, through the:
- (a) Transport of materials, good or commodities to or from the land;
 - (b) Appearance of any building, works or materials;
 - (c) Emissions of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - (d) Presence of vermin.
- 13 Before the development commences, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The management plan must show:
- (a) Measures to control erosion and sediment and sediment laden water runoff including the design details of structures;
 - (b) Where any construction wastes, equipment, machinery and/or earth is to be stored/stockpiled during construction;
 - (c) Where access to the site for construction vehicle traffic will occur;
 - (d) Tree protection zones
 - (e) The location and details of a sign to be erected at the entrance(s) of the site advising contractors that they are entering a 'sensitive site' with prescribed tree protection zones and fences.
 - (f) The location of trenching works, boring, and pits associated with the provision of services.
 - (g) The location of any temporary buildings or yards; and
 - (h) Measures designed to ensure the orderly management of the construction site, including complaint procedures and contact details in the event of a received complaint relating directly to construction works.



Development works on the land must be undertaken in accordance with the endorsed Construction Management Plan to the satisfaction of the Responsible Authority.

- 14 To offset the removal of 0.896 hectares of native vegetation and 4 large trees the permit holder must secure a native vegetation offset, in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017) as specified below:

General Offset

A general offset of 0.305 general habitat units:

- located within the Port Phillip & Westernport Catchment Management Authority boundary or Shire of Nillumbik municipal district
- with a minimum strategic biodiversity value of at least 0.482.

Large trees

- The offset(s) secured must provide protection of at least 4 large trees.

The offset provided must be to the satisfaction of the Responsible Authority.

- 15 Before any native vegetation is removed, evidence that the required offset has been secured must be provided to the satisfaction of the Responsible Authority. This evidence is one or both of the following:
- (a) An established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site and/or
 - (b) Credit extract(s) allocated to the permit from the Native Vegetation Credit Register.

A copy of the offset evidence will be endorsed by the Responsible Authority and form part of this permit. Within 30 days of endorsement of the offset evidence by the Responsible Authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.

- 16 In the event that a security agreement is entered into, the applicant must provide the annual offset site report to the Responsible Authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of the Responsible Authority.
- 17 Unless with the prior written consent from the Responsible Authority, the number of students enrolled at the school at any one time must not exceed 150.



- 18 The materials to be used in the construction of the buildings and works hereby permitted shall be of a muted tone and non-reflective type, to the satisfaction of the Responsible Authority.
- 19 Prior to the development/ or use commences, a Traffic and Car Park Management Plan is to be submitted to and endorsed by the Responsible Authority. This plan must include, but not necessarily be limited to the following:
- (a) Details of and arrangements for a mini-bus transportation system to be implemented in respect to the approved use. The mini-bus plan must include the following details:
 - i How the mini-bus system would operate to transport students to school at the commencement of a school day (arrival/ drop off) and at the end of a school day (departure/ pick up);
 - ii The types of vehicles to be used as part of the system, such as mini-buses, mini-vans and people movers;
 - iii How many students would use the system, including a trigger point whereby the system must be activated and commence when student enrolment exceeds 90 students;
 - iv Sufficient capacity whereby the mini-bus system must cater for the number of students enrolled in excess of 90 students;
 - v Demonstrate how transport, parking management and carpooling arrangements are to be achieved, controlled, conveyed to student families and monitoring measures;
 - vi Where students are to be dropped off/ picked up, with such activity to be contained within the site;
 - vii Where vehicles will be parked if retained on site during the day; and
 - viii Any associated traffic management or signage required to support this mini-bus plan.
 - (b) Arrangements for other infrequent school related events (non-teaching), including providing for car parking activity to be contained within the site.
 - (c) Arrangements of loading and unloading of commercial deliveries.
- 20 Prior to the use / occupation of buildings associated with Stage 1, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
- (a) Constructed;
 - (b) Properly formed to such levels that they can be used in accordance with the plans;



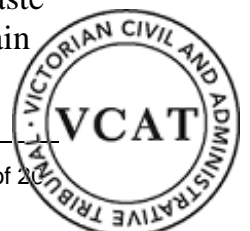
- (c) Surfaced with an all-weather sealcoat or treated to the satisfaction of the Responsible Authority to prevent dust and gravel being emitted from the site;
- (d) Drained and maintained;
- (e) Line marked to indicate each car space and all access lanes;
- (f) Clearly marked to show the direction of traffic along access lanes and driveways;

All to the satisfaction of the Responsible Authority. Car spaces, access lanes and driveways must be kept available for these purposes at all times, to the satisfaction of the Responsible Authority.

- 21 A minimum of 42 car spaces must be provided on the land for the use and/or development hereby permitted, to the satisfaction of the Responsible Authority.
- 22 All traffic accessing the site must enter from Pioneer Road via the proposed new access point (which is to be an entry only crossover), and then must only exit onto Ironbark Road via the existing access point (which is to be an exit only crossover), to the satisfaction of the Responsible Authority.
- 23 The existing vehicle access points to Pioneer Road (both the entry and exit) are to be removed.
- 24 The disabled space identified on the plans must be clearly marked with a sign to indicate that the space must only be utilised by disabled persons and maintained for continued use to the satisfaction of the Responsible Authority.
- 25 Access to the site for all commercial vehicles (including waste collection vehicles) must only be from Pioneer Road, to the satisfaction of the Responsible Authority.
- 26 Vehicular access and egress to the development site from the roadway must be by way of a vehicle crossing constructed / upgraded to the requirements of the Nillumbik Shire Council, to suit the proposed driveway and the vehicles that will use the crossing. The Responsible Authority must approve the location, design and construction of the crossing. Any existing unused crossing must be removed and the disturbed area reinstated to the satisfaction of the Responsible Authority. All vehicle crossing works are to be carried out with Council supervision under an *Infrastructure Works* permit.
- 27 The development hereby permitted must not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of stormwater.
- 28 Stormwater is to be absorbed on-site in accordance with the Shire of Nillumbik's "Drainage to Unserviced Allotments" document, and all works are to be carried out to the satisfaction of the Responsible Authority.



- 29 No effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's and Melbourne Water's drains or watercourses or onto adjoining properties. Pollution or litter traps must be installed on site and serviced accordingly to the satisfaction of the Responsible Authority.
- 30 All sewage and sullage waters shall be treated in accordance with the requirements of the *Environment Protection Act 2017* and to the satisfaction of the Responsible Authority. All wastewater shall be disposed of within the curtilage of the land and sufficient area shall be kept available for the purpose of wastewater disposal to the satisfaction of the Responsible Authority. No wastewater shall drain directly or indirectly onto an adjoining property, street or any watercourse or drain to the satisfaction of the Responsible Authority.
- 31 Approval of wastewater disposal must be obtained from Council (Environmental Health) prior to a Building Permit being issued. This may require a written report from a licensed plumber.
- 32 Air-conditioning and other plant and equipment installed on the subject building(s) shall be so positioned and baffled so that noise disturbance is minimised, to the satisfaction of the Responsible Authority.
- 33 The permit holder must ensure that a current maintenance agreement is in place for the septic tanks system. Servicing must be completed by a competently trained person or servicing agent at least once every three (3) months, with a copy of the report sent to Council's Environmental Health Department.
- 34 Unless with the prior written consent of the Responsible Authority, the commercial waste collection must not occur outside the following hours to the satisfaction of the Responsible Authority:
- For one collection per week, between 6.30am – 8pm Monday to Saturday and between 9am – 8pm Sundays and public holidays.
 - For two or more collections per week, between 7am – 8pm Monday to Saturday and between 9am – 8pm Sundays and public holidays.
- 35 Unless with the prior written consent of the Responsible Authority, deliveries must not occur outside the following hours:
- Between 7am – 10pm Monday to Saturday and between 9am – 10pm Sundays and public holidays.
- The loading and unloading of goods from vehicles must only be carried out on the land and must not disrupt the circulation and parking of vehicles on the land, to the satisfaction of the Responsible Authority.
- 36 The premises must provide and maintain a suitable area for the storage and cleaning of rubbish receptacles, as shown on the endorsed plans. The waste storage area must be appropriately located and of sufficient size to contain



all refuse bins used on the premises, to the satisfaction of the Responsible Authority.

- 37 The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the Responsible Authority and the relevant fire authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.
- 38 This permit will expire if one of the following circumstances applies:
- (a) The first stage (Stage 1) of the development is not commenced within three years of the date of this permit; or
 - (b) The last stage of development is not completed within ten years of the date of this permit; or
 - (c) The use is discontinued for a period of two years.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- (a) Before or within six months after the permit expiry date, where the use or development allowed by the permit has not yet started; or
- (b) Within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

If a request for an extension of commencement/completion dates is made out of time allowed by condition, the responsible authority cannot consider the request and the permit holder will not be able to apply to VCAT for a review of the matter.

CFA Conditions

- 39 Before the development starts, an amended Bushfire Management Plan (BMP) which is generally in accordance with BMP prepared by Ecology & Heritage Partners, Attachment 3, 3.1, 3.2, 3.3 & 3.4, dated 7th October 2019 must be submitted to and endorsed by the Responsible Authority. The plan must remove reference to the Maintenance Shed & Fire Wall Protection.
- 40 The Emergency Management Plan, Version J, dated April 2020 and as reviewed annually must be endorsed to form part of this permit.

DELWP conditions

- 41 Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.
- 42 A suitably qualified wildlife handler or zoologist is to be present when felling trees/removing native vegetation, to ensure affected wildlife are not harmed. If displaced wildlife that cannot be relocated on site to an



appropriate location away from the construction footprint, or injured wildlife is captured, please contact DELWP on 136 186 for further advice.

- End of conditions -

