

Future Nillumbik Committee

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 11 December 2018 commencing at 7.30pm.

Agenda

Carl Cowie
Chief Executive Officer

Friday 7 December 2018

Distribution: Public

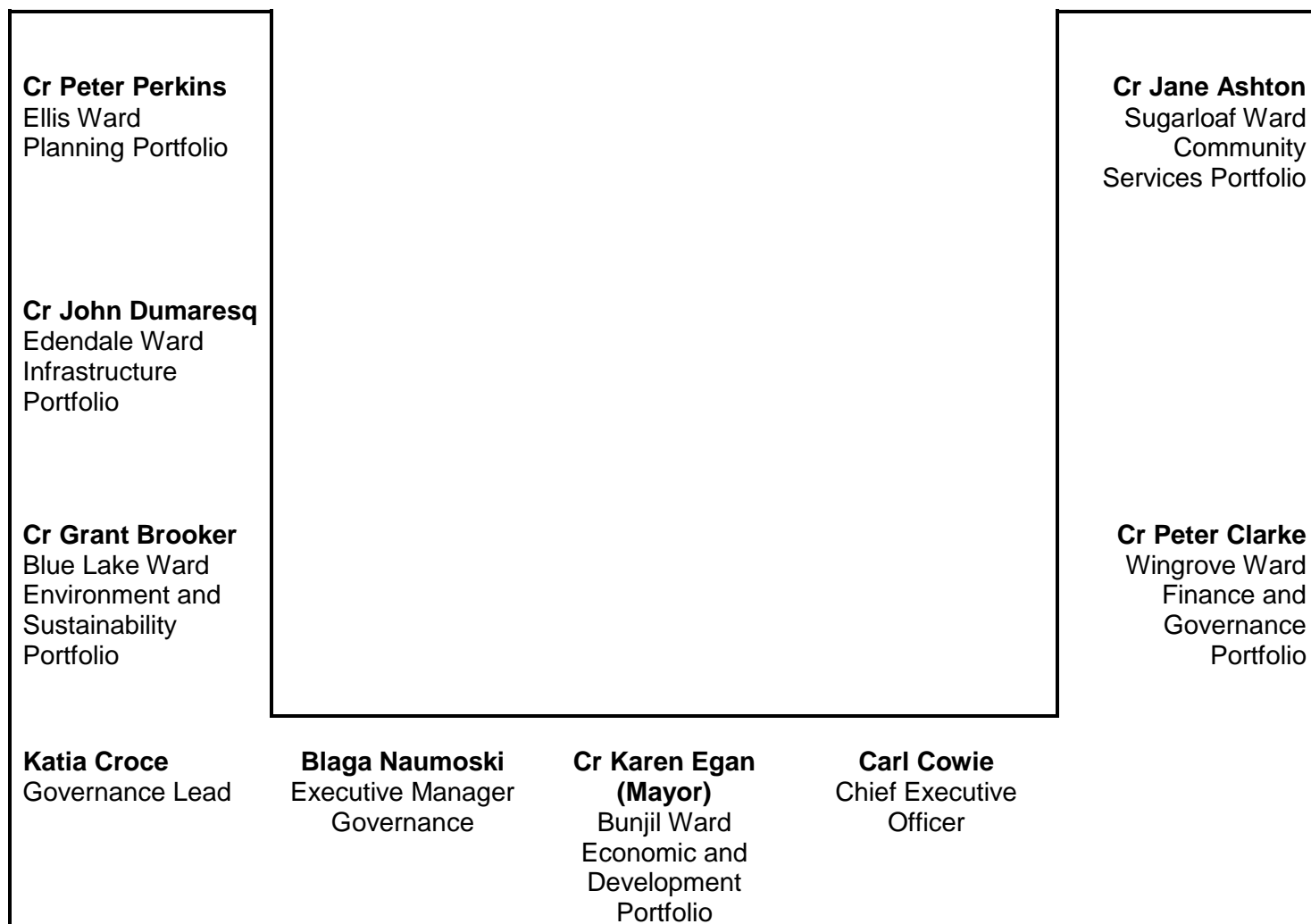
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Wominje ka

Future Nillumbik Committee seating plan



Visitors in the gallery at Committee meetings are:

- Welcome to copies of the various reports which will be considered by this Committee at the meeting. These are on the table in the foyer.
- Welcome to tea, coffee and water. These are on the table in the foyer near the Council Chamber entry.
- Requested to observe deliberations quietly in order for Committee meetings to run smoothly.
- Advised that the meeting will be recorded and an audio recording of the meeting will be made publicly available on Council's website.

Nillumbik Shire Council

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Nillumbik Shire Council

**Agenda of the Future Nillumbik Committee Meeting to be held
Tuesday 11 December 2018 commencing at 7.30pm**

1. Welcome and apologies

Welcome by the Chair

Members of the public are advised the meeting will be recorded and an audio recording of the meeting will be made publicly available on Council's website.

Apologies

Cr Bruce Ranken is an apology for this Future Nillumbik Committee Meeting.

Recommendation

That Cr Bruce Ranken's apology be accepted.

2. Reconciliation statement

The reconciliation statement to be read by the Mayor

Nillumbik Shire Council acknowledges the Wurundjeri people who are the Traditional Custodians of this Land. We would also like to pay respect to the Elders both past and present and extend that respect to other Indigenous Australians present.

3. Disclosure of conflicts of interest

Committee members should note that any disclosure of conflict of interest must be disclosed immediately before the item in which they have an interest.

4. Confirmation of minutes

Confirmation of minutes of the Future Nillumbik Committee Meeting held on Tuesday 13 November 2018.

Recommendation

That the minutes of the Future Nillumbik Committee Meeting held on Tuesday 13 November 2018 be confirmed.

5. Officers' report

FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North

Portfolio: Planning

Distribution: Public

Manager: Renae Ahern, Manager Planning Services

Author: Karen McPherson, Senior Statutory Planner

Application summary

Address of the land	1 Grevillea Close, Eltham North
Site area	1,272 square metres
Proposal	Buildings and works to construct three dwellings
Application number	612/2017/03P
Date lodged	21 December 2017
Applicant	Scheiber & Co Pty Ltd
Zoning	General Residential Zone (Schedule 1)
Overlay(s)	Nil
Reason for being reported	Called in by Ward Councillor.
Number of objections	15
Key issues	<ul style="list-style-type: none"> • Strategic Location (in the context of policy) • Neighbourhood Character • Compliance with Clause 55 (ResCode) • Compliance with Clause 52.06 (Car Parking)

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FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North

Location map



5. Officers' Report

FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North**Recommendation**

That the Committee (under delegation from Council) issue a Notice of Decision to Grant a Permit to the land located at 1 Grevillea Close, Eltham North for Buildings and works to construct three dwellings, in accordance with the submitted plans and subject to the following conditions

1. Before the development 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 August 2018 and 13 November 2018 and prepared by Scheiber & Co Pty Ltd but modified to show:
 - a) The eastern elevation of the TV/informal room located on the first floor at the east of Dwelling 1 reduced in length from 4.38 metres to 3.38 metres.
 - b) The northern elevation of the first floor bedroom located at the north east corner of Dwelling 2 reduced in length from 3.59 metres to 2.59 metres.
 - c) All west facing first floor habitable room windows screened with fixed obscure glazing.
 - d) Deletion of the front fence on the north boundary within 9 metres of the front property boundary with Grevillea Close.
 - e) Deletion of the front fence on the east boundary (4 Grevillea Close) within 9 metres of the front property boundary with Grevillea Close.
 - f) Additional screening to a height of 1.7 metres from the floor level of the deck on the west side of the proposed decking for all dwellings to prevent overlooking to adjoining private open space.
 - g) A full schedule of all colours and materials to be used in the construction of the three dwellings.
 - h) The location of letter boxes for the three dwellings.
 - i) Exact location and measurements of the Tree Protection Zone and associated tree protection fencing for tree number 4 (as identified in the Arborist report) shown on the plans to be retained.
 - j) Three copies of a landscape plan as required by Condition 3 below.
 - k) A Waste Management Plan as required by Condition 8 below.
2. The development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
3. Before the development commences, three copies of a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must show:
 - a) A survey of all existing vegetation and natural features;

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- 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 canopy trees throughout the development as appropriate, including in the front setback area of the buildings.
4. Unless with the prior written consent of the Responsible Authority, before the occupation of the development the landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.
5. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the tree number 4 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 identified Tree Protection Zone.

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, be a minimum height of 1.5 metres above ground level and of chain mesh or similar material. A top line of high visibility plastic tape must be 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.

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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).

6. 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.

7. 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.
8. Prior to the development commencing, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval and will form part of the planning permit. The plan must specify:

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FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North

- a) The details and location of bin storage and bin collection areas to the satisfaction of Council's Infrastructure Maintenance Section (if a Council collection).
 - b) The details and location of bin storage and bin collection points by a private waste contractor (if not a Council collection).
 - c) Access route and method of access for the vehicles collecting waste.
 - d) Details and location of bin storage areas for each approved dwelling.
 - e) Odour control from bin storage areas.
9. The nature and colour of building materials employed in the construction of the buildings and works hereby permitted shall be harmonious with the environment, to the satisfaction of the Responsible Authority.
10. The materials to be used in the construction of the buildings and works hereby permitted shall be of non-reflective type, to the satisfaction of the Responsible Authority.
11. Prior to occupation of the development, all visual screening measures shown on the endorsed plans must be installed in order to prevent overlooking and must be maintained to the satisfaction of the responsible authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the responsible authority.
12. The on-site detention device shall be designed by a qualified engineer and plans submitted to the Responsible Authority (Nillumbik Shire) for approval prior to the commencement of the development. Construction of the on-site detention device must be carried out under Council supervision, in accordance with the approved plans and Council's specifications.
- The engineer that is designing the on-site detention unit must contact Nillumbik Shire development engineer for tc and tso figures in writing. For calculations adopt for pre development 1 in 5 years average occurrence interval, post development use 1 in 10 years average occurrence level.
13. Vehicular access and egress to the development site from the roadway must be by way of a vehicle crossing constructed 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*.
- The width of the driveway at the property boundary must match the width of the vehicle crossing.

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14. The vehicular driveway must be properly formed and constructed to such levels to ensure that it can be utilised at all times. The driveway must be drained, constructed in concrete, asphalt or similar surface and maintained in a continuously useable condition. All works are to be carried out to the satisfaction of the Responsible Authority.
15. Stormwater from the driveway must be collected using 225mm wide trench-grates across the driveway at the property boundary with Grevillea Close where it meets the road reserve and connected to the on-site detention device/new drainage system.
16. The development, including any new paved areas, must be drained so as to prevent the uncontrolled discharge of stormwater from the subject site across any road or footpath or onto any adjoining land.

Stormwater from the roof of the dwellings hereby approved must be directed to an individual holding tank with a minimum storage capacity of 2,000 litres. The overflow from the tank shall be directed to an on-site detention unit.

The overflow from the on-site detention unit must be connected to Council point of stormwater discharge.

Water in the holding tank may be used for one or more of the following purposes: toilet flushing; property irrigation; vehicle washing and any other purpose approved by the Responsible Authority.

The drainage system within the subject site must be designed to the requirements and satisfaction of the Responsible Authority.

Any connection to Council's underground drainage system within road reserves or drainage easements must be carried out under Council supervision and an *Infrastructure Works permit*.

17. An on-site detention device must be installed, at no cost to Council, as per approved plans and Council's specification. Construction of the on-site detention device must be carried out under Council supervision and under an *Infrastructure Works permit*.
18. No polluted, effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property. In this regard, pollution or litter traps must be installed on site and serviced accordingly, all to the satisfaction of the Responsible Authority.
19. This permit will expire if one of the following circumstances applies:
 - a) The development is not commenced within 2 years of the date of this permit.
 - b) The development is not completed within 4 years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within 6 months afterwards if the development has not commenced, or 12 months after if the development has commenced but is not yet completed.

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NOTE:

During the course of the approved construction work, a copy of this permit and the endorsed plan(s) must be kept on-site and made available for inspection by Council officers.

Failure to undertake the requisite tree protection fencing in accordance with the conditions of this permit will result in the issuing of Planning Infringement Notices to the land owner, occupant (if this is a different person), and the person or company undertaking the works on-site. The minimum penalty on the Planning Infringement Notice for land owners and occupants will be \$806 for the land owner and occupant, and \$1,612 for any company which may be undertaking works on-site.

Attachments

1. Aerial map
2. Site and surrounds
3. Plans

Subject site and surrounds

1. The key features of the subject land and surrounds are as follows:
 - The subject site is located close to (separated by a road reserve) the south-western corner of Grevillea Close and Allendale Road, Eltham North.
 - The site has an irregular shape, with a curved frontage to Grevillea Close of 8.6 metres, a northern (side) boundary of 21.1 metres, a western (rear) boundary of 63.1 metres, and a total site area of 1,272 square metres.
 - The site was formerly a Council Reserve and is currently vacant.
 - Topographically, the site has a fall of approximately nine metres from the south (rear) to the north (frontage).
 - In terms of vegetation, the property is cleared with no significant trees located on site.
 - An existing vehicle crossing is located within the Grevillea Close frontage.
 - A 2.0 metre wide drainage easement extends a third of the way down the western (rear) boundary, beginning at the northern (side) boundary.
 - The surrounding properties are generally developed with a mixture of single and double storey detached family homes.
 - To the north of the site is a 9.6 metre wide road reserve that separates the site from Allendale Road.

Details of proposal

2. Refer to the attached plans.

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3. Key features of the proposal include:

- Construction of three dwellings.
- Dwelling 1 will face Grevillea Close, and Dwellings 2 and 3 will be located along the west of the site, accessed via a shared driveway.
- Dwelling 1 will be setback 7 metres from Grevillea Close, and approximately 14 metres from Allendale Road.
- Dwellings 1, 2, and 3 each have a double garage, with Dwelling 3 proposed in a semi-basement form, and having a 7.73m length wall on the eastern boundary.

Dwelling	Bedrooms	Car spaces	Secluded Private Open Space	Floor area
1	4	2	140 m ² north	149 m ²
2	4	2	108 m ² north	128 m ²
3	4	2	110 m ² north	132 m ²

- Dwelling 1 is setback 2 metres at ground level from the west boundary.
- Dwelling 2 is setback 1 metre at ground level from the west boundary.
- Dwelling 3 is setback 1.4 metres at ground level from the west boundary.
- Wall heights vary between 4.5 metres to 6.5 metres and overall height of 7.9 metres.
- The maximum site coverage is 58.98%. Site coverage is defined as the proportion of a site covered by buildings.
- Total Permeable area is 41.02%
- The proposed garden area of the site is 36.5%. Garden area is defined as any area on a lot with a minimum dimension of 1 metre that does not include:
 - a) a dwelling or residential building, except for:
 - an eave, fascia or gutter that does not exceed a total width of 600mm;
 - a pergola;
 - unroofed terraces, patios, decks, steps or landings less than 800mm in height;
 - a basement that does not project above ground level;
 - any outbuilding that does not exceed a gross floor area of 10 square metres; and
 - domestic services normal to a dwelling or residential building.

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b) a driveway; or

c) an area set aside for car parking.

- Proposed earthworks include construction of a series of retaining walls adjacent to the driveway, adjacent to the front entry porches, and within secluded private open space areas, which range in height from 0.9 metres up to 2 metres to accommodate the slope.

Planning history

4. The site was formerly owned by Council as a reserve.
5. On 2 March 2018 the applicant made a Section 50 Application to Council, seeking changes to the proposed layout of the development under assessment. This included alteration to the location of the retaining wall between Dwelling 2 and Dwelling 3 and the garage to the east by 750mm, in order to reduce the extent of site cut and provide an increased area of 'at grade' space. The purpose of the changes was to provide additional protection for the neighbouring tree (Tree 4 in the arborist report prepared by Stem Arboricultural Consultancy: a *Eucalyptus polyanthemos* or Red Box) located to the west at 4 Marian Court, and had been discussed with Council Officers.

Planning controls

Zoning

6. Under the General Residential Zone (Schedule 1) a permit is required to construct more than one dwelling on a lot.

Particular provisions

7. Development of two or more dwellings on a lot must meet the requirements of Clause 55 (commonly known as 'Rescode').

Clause 52.06 (Car Parking) is relevant to the consideration of this application. This clause seeks to ensure there is the provision of an appropriate number of car parking spaces, to ensure that car parking does not adversely affect the amenity of the locality, and to ensure 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.

General Provisions

8. 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

9. State Planning Policies which are relevant to this application include:
 - Clause 13.02 – Bushfire
 - Clause 15.01-1S – Urban Design
 - Clause 15.01-5S – Neighbourhood Character

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- Clause 16.01-1S – Integrated Housing
 - Clause 16.01-2S – Location of Residential Development
 - Clause 16.01-3S – Housing Diversity
10. The Municipal Strategic Statement (MSS) clauses and Local Planning Policies which are relevant to this application include:
- Clause 21.05-1 – Settlement and Housing
 - Clause 22.01 – Medium Density Housing Policy
 - Clause 22.12 – Neighbourhood Character Policy

Policy context

11. The planning controls and policies identified above encourage residential development in the General Residential Zone at a range of densities, which includes medium density housing. This intent is also reflected specifically in the purpose of that zone. However, in both State and local policy, the strength of encouragement for medium density housing is greater the closer the site is located to an activity centre or other commercial and community facilities, and reduces the further the site is located from necessary urban infrastructure.
12. The encouragement afforded by the zone and planning policies is counter-balanced by objectives that require development to be site responsive (i.e. minimise landscape and vegetation impacts), and complementary to desired neighbourhood character.
13. Assessment of the degree of policy support for medium density housing is dependent upon a balancing of these sometimes contradictory policy objectives. In this regard, a flat site with little vegetation located near an activity centre can be seen to have strong policy support for development in the form of medium density housing. A steep, heavily vegetated site, remotely located from services will have a significantly reduced level of policy support for medium density housing development. As each site is generally different, the degree of policy support for medium density housing will often vary depending upon the site's location, its individual characteristics, and its response to neighbourhood character.

Public consultation

Advertising

14. 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

15. As a result of advertising, a total of fifteen (15) written objections have been received. These objections can be summarised as follows:
- Contrary to General Residential Zone and Clause 22.12 (Neighbourhood Character Policy);
 - Insufficient front setbacks;
 - Modern architecture inappropriate;

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- Loss of landscaping and insufficient landscaping opportunities;
- Land should be a public reserve;
- Overdevelopment of the site;
- Traffic safety issues including inadequate vehicle access, insufficient car parking and the impact to on-street car parking;
- Impacts on surrounding neighbours from overlooking and overshadowing;
- Location of retaining walls not clear on plans;
- Walls located on boundaries are not an appropriate response;
- Impacts on energy efficiency;
- Will set a precedent for other similar developments in the area;
- Insufficient space on the street for storage of garbage bins;
- Increased noise from three additional dwellings;
- Insufficient infrastructure to cope with three new dwellings;
- Impact on property values;
- The development is cheap looking and has the potential of being rented which creates property maintenance issues; and
- Impact on street trees.

Planning application conference

16. A Planning Application Conference (PAC) was held at the Civic offices on 31 May 2018. In attendance was the applicant’s town planning representative, objectors, and Council Officers. No consensus was able to be reached.

Advertising of Amended Plans

17. The amended plans received on 22 August 2018 and 13 November 2018 were advertised to the objectors to the original application and to adjoining owners and occupiers who had been previously notified but had not made a submission. As a result one additional objection was received and no objections were withdrawn.

Referrals

Internal

18. 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:

Council Unit	Comments
Infrastructure Development Unit	No issues with the proposal provided the requested conditions are placed on any permit issued.
Building Unit	No issues with the proposal.

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Council Unit	Comments
Consulting Arborist	<p>The proposed works have a major encroachment on neighbouring Tree no.4 Red Box. It is recommended that the design is modified to ensure there is no retaining wall or building encroachment within the Tree Protection Zone of Tree no. 4.</p> <p>Tree no.s 1, 2, 3 and 5 are not impacted under the proposed design.</p> <p>The design was subsequently amended to show that the retaining walls had been located outside the Tree Protection Zone of Tree no. 4 and therefore the tree should therefore be able to be retained.</p>

External

19. There are no external referral authorities relevant to this application.

Planning assessment

Introduction

20. The following have been identified as the key planning issues in relation to the assessment of this planning application:

- Strategic Location (in the context of policy)
- Neighbourhood Character
- Compliance with Clause 55 (ResCode)
- Compliance with Clause 52.06 (Car Parking)

21. Assessment of these issues, together with a response to objections received, will be discussed in the remainder of this report.

Strategic Location

22. The Municipal Strategic Statement contains an objective to encourage medium density housing with good access to commercial and community services, public transport, open space and other infrastructure, and to discourage medium density housing where access to these facilities is inadequate. This objective is given more direct effect in the Medium Density Housing Policy at Clause 22.01, which encourages medium density housing development to be located close to activity centres or other urban services.

23. The site is located within the General Residential Zone, and as such, a moderate level of change is anticipated, but with a cautionary context, taking account of local neighbourhood character and environmental conditions.

24. The subject site is located approximately 900 metres from the St Helena Shopping Centre, 2.7 kilometres from Diamond Creek shopping centre and 2.9 kilometres from Diamond Creek Train Station and has good local access to public transport.

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25. In terms of strategic location, the site is suited for some form of medium density housing, and this location has policy support at both planning policy framework and local policy level.

Neighbourhood Character

26. Local planning policy and Clause 55.02-1 (Neighbourhood character objectives) seek to ensure that the identified elements that contribute to neighbourhood character are retained and enhanced. This is achieved by managing change and ensuring new development works towards achieving the stated streetscape and character outcomes. Consideration must be given to whether the proposal results in acceptable outcomes having regard to the relevant policy provisions.

27. The site is located within a 'Garden Court' precinct as identified by the Neighbourhood Character Policy at Clause 22.12, and sets out the preferred character for the precinct as follows:

- *Development is sited so that it nestles into the landform and surrounding vegetation.*
- *Buildings maintain the pattern of orientations and setbacks of adjoining properties and the streetscape.*
- *Driveways and car storage areas should occupy the minimum functional area.*
- *Residential development is generally set among indigenous trees, although there are some locations where native dominates and exotic trees are present.*
- *Hillsides of residential development viewed from a distance appear to be lushly vegetated. Garden planting flows uninterrupted to the edge of the roadway.*
- *There is little physical evidence of the boundary between private and public property at the front of the house, and no solid front fence. Solid side fences may reach the front property boundary.*
- *The 'public' space between the garden and the roadway is not delineated as a separate space, and includes informal native plantings with some substantial native trees. Many footpaths and verges are informally aligned, but formal footpath-plus-standard-suburban nature strip layouts are common. Roadways are sealed, some with roll over kerbs, some with upstand kerbs.*

28. The design objectives for the precinct are as follows:

- *Retain remnant indigenous understorey vegetation where possible and replant where appropriate.*
- *Substantial native and exotic trees should be retained or planted as necessary to contribute to the desired future character having regard to solar access, residential amenity and bushfire safety issues.*
- *Avoid front fencing or solid side fencing visible from the street where this is a feature of the streetscape.*

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29. The Medium Density Housing Policy requires new development to have regard to the building form and style of surrounding dwellings, and encourages contemporary and innovative design that does not detract from the preferred character of the area. There are a number of other elements that contribute towards 'character' including the position of the dwellings on-site; setbacks to the street; landscaping; and the relationship between the development to neighbouring properties with respect to spacing and transition in heights.
30. Collectively, these policies place an emphasis on having development that nestles into the landscape, is compatible with existing development, and retains existing substantial trees whilst enhancing the 'Garden Court' character with further landscaping. These objectives are also reflected in Clause 55.03-8 (Landscaping) of Clause 55 (ResCode) which seeks to protect the predominant landscape features of the neighbourhood and provide for the retention or planting of trees, where these are part of the character of the neighbourhood.
31. The proposed development has been designed to ensure that it sits comfortably within the context of the area and its immediate neighbours. This has been achieved through the first floor envelopes of the three dwellings incorporating greater setbacks from the ground floor to reduce any appearance of visual bulk or mass. The increased setbacks of the upper floor areas from the boundaries exceeds the requirements of Rescode and ensures that the development better reflects the existing built forms in the surrounding area.
32. The proposed scale of the development (double storey with the first floor significantly recessed and articulated), proposed architectural style (combination of render and brick) and the proposed roof form (pitch roof tiles) are characteristics which are common within the neighbourhood and respectful of existing development on land in the surrounding area.
33. The frontages of properties within Grevillea Close are generally open with no fences and little vegetation; however some contain scattered shrubs or trees. Side and rear yards often contain a number of large indigenous trees. Therefore, the combination of open spaces and trees form a significant part of the landscape character of Grevillea Close. There are no trees on the subject site.
34. The advertised plans detail minimal setbacks from all boundaries, limited areas of open space around the three dwellings and either side of the driveway resulting in no opportunity for a meaningful level of landscaping on the site or for the planting of canopy contributing trees. As a result of discussions with the applicant, amended site plans were provided on 22 August 2018 that increase the setbacks from all boundaries, and redesign the decking areas, thereby increasing the area available for landscaping allowing canopy tree planting throughout the site. The setbacks and reorientation of the decking areas will also improve the amenity of adjoining neighbours to the west.
35. The setback of Dwelling 3 from the south boundary shown on the revised floor plans now incorporates a 1.5 metre wide garden bed before the retaining wall that allows the construction of the dwelling. This area will allow landscaping to be undertaken providing a vegetated buffer between the proposed development and the property to the south.

5. Officers' Report**FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North**

36. The setback of the eastern retaining wall creating the garden area for Dwelling 2 has been increased from the front elevation of the dwelling, thereby creating a larger area available for landscaping and the planting of a large tree.
37. The front setback of Dwelling 1 has increased through a complete reconfiguration of the ground floor layout. The setback from the front boundary (where the vehicle access is located) will increase from four metres to seven metres. In addition the area of private open space for this dwelling has been relocated further east and the decking reconfigured. These changes in combination with a reduction in the front fence height will open up the frontage of the site allowing for areas of landscaping in keeping with the character of the area.
38. There are no trees on the site, however there is one tree within the rear garden of number 4 Marian Court that will need to be protected during construction as its tree protection zone extends into the subject site. The plans submitted with the application detail a section of retaining wall related to Dwelling 2 located within the Tree Protection Zone of tree no. 4 which was identified by Council's Consulting Arborist as being an issue. This issue was raised with the applicant and after discussions the wall was relocated outside the Tree Protection Zone therefore ensuring the retention and future viability of this tree. A condition can be placed on the planning permit if one is to be issued requiring that tree protection fencing be erected around the Tree Protection Zone of tree no.4 prior to any works commencing on site.
39. The proposed changes to the setbacks of the three dwellings, in addition to the planting between the front property boundary and the retaining wall for the driveway will allow landscaping to be incorporated into the design to assist in the integration of the development into the streetscape.
40. Whilst the predominant style of built form in the area is single storey dwellings, this does not preclude double storey dwellings being introduced into the area subject to an appropriate design response being proposed. There are a number of double storey dwellings located to the east of the site (numbers 4-6 and 7 Grevillea Close) and to the south west (5 Marian Way), the proposal is therefore not introducing a new design feature to the area. Whilst the amended plans had increased the setbacks of the ground floors of each dwelling from the north, south and west boundaries, the upper floors remained unchanged resulting in a bulky appearance and a lack of articulation. This issue was raised with the applicant and it was agreed that the floor area of some of the rooms on the upper floor plans will be reduced and the level of articulation significantly increased. These changes can be dealt with through conditions of the planning permit in the event that one is issued.
41. The dwellings are proposed to be constructed from face brickwork for the ground floor with a rendered finish on the upper floor. A tiled roof is proposed for all three dwellings. External colours for each of the building materials have not been identified; however this can be addressed with as a condition of the planning permit in the event that a permit is issued.

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42. A 1.5 metre high paling fence is proposed along the side property boundary with number 4 Grevillea Close where no fence currently exists. The character of the area is that there is no front fencing, however the amended site plan details that retaining walls with 1.5 metre high fencing above are proposed up to the frontage of the property with Grevillea Close. This does not meet the preferred character of this area outlined in Clause 22.12 (Neighbourhood Character Policy) and therefore a condition can be placed on any permit issued requiring that there be no fencing on the north and north east boundary forward of Dwelling 1, and for a similar length on the eastern boundary.

Compliance with Clause 55 (Rescode)

43. The development must meet the requirements of Clause 55 (commonly known as 'Rescode'). This clause sets out a range of objectives and standards that tests a design's responsiveness to its site and surrounds, and provides objective tests regarding potential amenity impacts. Whilst meeting the specified objectives is mandatory, satisfying the standards can be varied provided that the proposal satisfies the objective. The application has been assessed against these provisions and found to be generally compliant with the minimum standards.
44. The proposal does not meet Standard B6 (Street setback) as the requirement under this standard is for a 9 metre front setback and the amended plans detail a seven metre setback. The objective of this standard seeks 'to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site'. There are varying front setbacks within Grevillea Close, with the adjoining property to the east (number 4-6 Grevillea Close) being 60 metres, number 7 Grevillea Close being 15.5 metres and number 8 being 4.5 metres. These varied setbacks in combination with the recessive nature of the front elevation of Dwelling 1 and lack of front fencing results in creating an open frontage that can be landscaped to reflect the existing character of the area in compliance with the objective of Standard B6.

Clause 52.06 – Car Parking

45. Clause 52.06 sets out the number of required car parking spaces a development must provide, along with various design standards such as the car parking space dimensions, access requirements and gradients.
46. As a requirement of Clause 52.06, two car parking spaces must be provided for dwellings with three or more bedrooms. A two car garage has been provided for each dwelling and therefore the proposal meets the minimum number of car parking spaces.
47. Clause 52.06 (Car Parking) also requires on-site visitor car parking at a rate of one space per every five dwellings. Accordingly, there is no requirement that any on-site visitor car spaces be provided.

5. Officers' Report**FN.039/18 Buildings and works to construct three dwellings at 1 Grevillea Close, Eltham North**

Response to objections received

48. Several of the concerns were general comments opposed to increased development in this area. Planning policy currently encourages medium density development that contributes positively to the character of the area. The initial plans submitted with the application failed to make a positive contribution to the character of the area, however the amendments that have been made to increase the setbacks, increase the level of planting and to improve the amenity of the adjoining neighbours will result in a development that makes a positive contribution in the streetscape.
49. In respect of the concerns regarding the capacity of the infrastructure to support increased development and off-site car parking issues, Council's Infrastructure Development Unit have not identified any concerns.
50. It is considered that the lack of landscaping raised by objectors has been answered in the body of this report.
51. In regards to overlooking issues raised by some objectors in Marian Court, all the windows on the upper floors of all three dwellings are detailed with having highlight windows or opaque glazing, thereby meeting the Rescode standard. In regards to the ground floor windows these will not cause any overlooking issues due to the one section of the existing 1.5 metre high paling fence being increased in height by 0.5 metres, and the remaining sections either being 1.7 or 1.8 metres in height.
52. In regards to overlooking issues raised by an objector at 7 Grevillea Close, all the windows on the upper floors of the 3 dwellings are in excess of 20 metres from the boundary of the objectors property thereby meeting the Rescode standard.
53. In regards to overshadowing adjacent properties, it is acknowledged that there will be some limited overshadowing of the private open space of the three properties to the rear in Marian Court. Overshadowing however is limited to the 9 am shadow diagram and by 12 noon the private open space is in full sun. It is considered that this meets the Rescode standard.

Conclusion

54. The application is for Buildings and works to construct three dwellings at 1 Grevillea Close. The application was advertised and fifteen (15) written objections were received. The key planning issues relate to Strategic Location (in the context of policy), Neighbourhood Character, Compliance with Clause 55 (ResCode) and Compliance with Clause 52.06 (Car Parking).
55. The plans submitted with the application resulted in a design that was not responsive to the site, the adjoining properties or the prevailing character of the area. The plans have subsequently been amended to increase setbacks from all boundaries, reorientate the decking in private open space and reduce the level of fencing in the front setback thereby allowing a meaningful level of landscaping to occur throughout the site. This in addition to the changes made to the footprint and design of Dwellings 1 and 3 results in a development that now respects the character of the area and integrates positively with the existing streetscape.
56. In light of the above planning assessment, the application warrants support as reflected in the officer recommendation.

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FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek

Portfolio: Planning

Distribution: Public

Manager: Renae Ahern, Manager Planning Services

Author: Gavin Crawford, Senior Statutory Planner

Application summary

Address of the land	36-38 Old Aqueduct Road, Diamond Creek, CT-10666/002
Site area	2,999 square metres
Proposal	Construct nine dwellings
Application number	111/2017/03P
Date lodged	09 May 2017
Applicant	BB Design Group Pty Ltd
Zoning	General Residential Zone (Schedule 1)
Overlay(s)	-
Reason for being reported	Called in by Ward Councillor.
Number of objections	8
Key issues	<ul style="list-style-type: none"> • Strategic location (in the context of policy); • Existing neighbourhood character and previous planning application decisions • Compliance with Clause 55 (ResCode); and • Traffic and car parking.

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Location map



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FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek

Recommendation

That the Committee (under delegation from Council) issue a Notice of Decision to Grant a Permit to the land located at 36-38 Old Aqueduct Road, Diamond Creek, for the Construction of nine dwellings, in accordance with the submitted plans and subject to the following conditions

1. Before the development 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 plans submitted 24 September 2018 and colour schedule TP-16 and TP-17 submitted 30 November 2017 prepared by BB Design Group but modified to show:

- a) Ground floor finished floor levels reduced from the specified relative level to the lowered maximum relative level as follows:
 - dwelling 1 from RL 113.84 to maximum RL 113.4
 - dwelling 2 from RL 112.46 to maximum RL 112.29
 - dwelling 3 from RL 111.54 to maximum RL 110.3 (excluding garage)
 - dwelling 6 from RL 108.7 to maximum RL 108.1
 - dwelling 7 from RL 108.08 to maximum RL 107.1
 - dwelling 8 from RL 107.55 to maximum RL 106.7
 - dwelling 9 from RL 107.00 to maximum RL 106.7

with a subsequent reduction in the building height, including first floor finished floor levels.

- b) No fill in the secluded private open spaces of dwellings 1, 2 and 3.
- c) The retaining walls shown for the secluded private open spaces of dwellings 4 to 8 set back a minimum 1.2 metres from common boundaries, located outside all tree protection zones and providing a minimum 3 metre by 3 metre area in the north west of the secluded private open spaces maintained at natural surface level for the planting of a small canopy tree.
- d) Dwelling 9 ground floor living areas orientated to the east.
- e) The dwelling 3 first floor north east bathroom and access corridor deleted.
- f) Turning circles demonstrating vehicles can safely turn on the developed site to allow entry and exit in a forward motion to all approved garages / carports and complies with AN/NZS 2890.
- g) Tree protection zones shown for trees 1, 9, 11, 13, 14, 15, 31, 37, 38, 39 and 40 dimensioned and notated with the tree numbers.
- h) The waste collection and bin collection area reinstated south of dwelling 4 and 5, setback a minimum 2m from the south boundary.

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- i) Tree 14 and 15 provided with the following notation:
 - Permeable paving within the tree protection zones with material laid at or above grade within the tree protection zone, with no excavation.
 - j) Trees 14, 15, 37, 39 and 40 provided with the following notations:
 - No grade changes within tree protection zones;
 - Manual soil cultivation and planting hole excavation within tree protection zones;
 - All roots greater than 40mm diameter left unscathed and intact and planting locations adjusted if required;
 - Any roots smaller than 40mm in diameter should be cleanly pruned by the project arborist, at right angles, using sharp, clean tools.
 - k) A landscape plan in accordance with condition 3.
 - l) A waste management plan in accordance with permit condition 19.
 - m) A drainage plan in accordance with condition 20.
 - n) The following changes to vehicle access within the site without reducing wall setbacks from any boundary:
 - Constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable accessway width.
 - The average grade no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 meters. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.
 - Curves with a minimum inner radius of 10 metres.
 - Have a minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.
 - Access ways more than 60m in length from the nearest intersection to have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.
2. The development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
 3. Before the development commences, three copies of a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must be generally in accordance with the Plan L-TP1 prepared by Etched received 30 November but amended show:
 - a) Changes generally in accordance with condition 1;

5. Officers' Report**FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek**

- b) The provision of canopy trees throughout the development as appropriate, including in the front setback area of the proposed buildings and a minimum 1 canopy tree in the secluded private open space of each dwelling. Such trees are to be in the north-west corner of the secluded private open spaces of Dwellings 6, 7, 8 and 9.
4. Unless with the prior written consent of the Responsible Authority, before the occupation of the development the landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.
5. The nature and colour of building materials employed in the construction of the buildings and works hereby permitted shall be harmonious with the environment, to the satisfaction of the Responsible Authority.
6. The materials to be used in the construction of the buildings and works hereby permitted shall be of non-reflective type, to the satisfaction of the Responsible Authority.
7. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the retained trees as shown on the endorsed plans 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 identified Tree Protection Zone.
- 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, be a minimum height of 1.5 metres above ground level and of chain mesh or similar material. A top line of high visibility plastic tape must be 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.

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- 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).
8. 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.
9. 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.
10. The on-site detention device shall be designed by a qualified engineer and plans submitted to the Responsible Authority for approval prior to the commencement of the development (unless with the prior written consent of the responsible authority). The engineer that is designing the on-site detention unit must contact Council's Infrastructure Development engineer for tc and tso figures.

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For calculation adopt for pre development 1 in 5 years average occurrence interval, post development use 1 in 10 years average occurrence interval.

11. Vehicular access and egress to 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*.
12. The vehicular driveway must be properly formed and constructed to such levels to ensure that it can be utilised at all times. The driveway must be drained, constructed in concrete, asphalt or similar surface and maintained in a continuously useable condition. All works are to be carried out to the satisfaction of the Responsible Authority. The width of the driveway at the property boundary must match the width at the service road. Ramp grades are to be shown on the plans and be in accordance with planning scheme requirements. Provision must be made so that a CFA truck can turn around on the property as per CFA document "Water supplies and access for subdivisions in Residential 1 and 2 and Township zones".
13. Stormwater from the driveway must be collected using 225mm wide trench-grates across the driveway and/or grating pits at a maximum spacing of 15 metres and connected to the new internal drainage system approved by the Responsible Authority. Overflow must be directed to the nominated point of discharge. Use minimum 225mm diameter underground drains for the internal drainage system underneath driveway.
14. The development, including any new paved areas, must be drained so as to prevent the uncontrolled discharge of stormwater from the subject site across any road or footpath or onto any adjoining land.

Stormwater from the roof of the dwellings hereby approved must be directed to individual holding tanks with a minimum storage capacity of 2000 litres. The overflow from the tanks must be directed to the on-site detention unit. The overflow from the on-site detention unit must be connected to Council nominated point of stormwater discharge.

Water in the holding tank may be used for one or more of the following purposes: toilet flushing; property irrigation; vehicle washing and any other purpose approved by the Responsible Authority.

15. Kerb and channel must be constructed for the entire frontage of the site to Nillumbik Shire standard. The width of the sealed road pavement must be 5.40 metres.

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FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek

16. An on-site detention device must be installed, at no cost to Council, as per approved plans and Council's specification. Construction of the on-site detention device must be carried out under Council supervision and under an Infrastructure Works permit.
17. No polluted, effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property during the construction of the development.
18. In this regard, sediment fencing and/or pollution/litter traps must be installed on site and serviced accordingly, all to the satisfaction of the Responsible Authority.
19. Prior to the development commencing, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed as evidence of its approval. The plan must be generally in accordance with the Waste Wise Environmental Waste Management Plan but amended to specify:
 - a. Waste collection by a private waste contractor from within the subject site.
 - b. Details of the size of the vehicle accessing the site and turning circles demonstrating access can be achieved.
20. Prior to the development commencing detailed drainage plans showing final surface levels, all to AHD, must be prepared and submitted to the responsible authority. The plans must be supported by drainage computations. The plans and computations must demonstrate surface water flow from a 1 in 100 year frequency storm will not adversely impact on any dwellings or part thereof within the development or any property downstream of the development. Any changes to surface levels must be located outside tree protection zones.

The plan and computations will require approval by the responsible authority.
21. Prior to the occupation of the dwellings fire hydrants must be provided for this development to the satisfaction of the Responsible Authority in accordance with the following:
 - a. Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all dwellings must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
 - b. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.
22. This permit will expire if one of the following circumstances applies:
 - a. The development is not commenced within 2 years of the date of this permit.
 - b. The development is not completed within 4 years of the date of this permit.

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The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within 6 months afterwards if the development has not commenced, or 12 months after if the development has commenced but is not yet completed.

Notes

During the course of the approved construction work, a copy of this permit and the endorsed plan(s) must be kept on-site and made available for inspection by Council officers.

Failure to undertake the requisite tree protection fencing in accordance with the conditions of this permit will result in the issuing of Planning Infringement Notices to the land owner, occupant (if this is a different person), and the person or company undertaking the works on-site. The minimum penalty on the Planning Infringement Notice for land owners and occupants will be \$806 for the land owner and occupant, and \$1612 for any company which may be undertaking works on-site.

Attachments

1. Aerial map
2. Site and surrounds
3. Plans

Subject site and surrounds

1. The key features of the subject land and surrounds are as follows:
 - The subject site is particularly described as PC 362311A PSH Nillumbik, CT-10666/002.
 - The subject site is located on the west side of Old Aqueduct Road, approximately 175 metres north of the intersection with Aqueduct Road, in Diamond Creek.
 - The subject site is an irregular shaped parcel of land. The front portion of the site is consistent with the established residential lot pattern fronting Old Aqueduct Road with the rear portion splayed (with the south-west boundary adjacent to the Aqueduct Road tree reserve). The site has a frontage of 22 metres to Old Aqueduct Road, a maximum depth of 85 metres along the north boundary and an overall site area of 2,999 square metres.
 - The site features a single storey weatherboard dwelling located towards the site's frontage with a number of outbuildings located towards the north boundary. The site contains 32 trees and a small orchard. Trees include a number of exotic species located towards the site's frontage with 12 eucalypt trees (tree 10, 21 24, 25, 27, 28, 29, 33, 34, 35, 37 and 39) located from the centre and towards the rear of the site. These eucalypt species comprise a mix of *viminalis* (manna gum), *nicholi* (narrow leafed black peppermint), *melliodora*

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(yellow box), *leucoxyton* (yellow gum), *cladocalyx* (sugar gurn), *polyanthemos* (red box).

- The site is below the Old Aqueduct Road alignment and enjoys the benefit of a wide road reserve. The site has a consistent cross-fall of approximately 9 metres falling from the frontage towards the west to a natural valley which forms a drainage easement through the site. From the easement the site rises gradually to the west where it abuts the reserve on Aqueduct Road and a property at No. 13 James Street. A 1.81 metre wide drainage easement affects a portion of the north boundary and a 3.02 metre wide easement runs in a north-south direction approximately 18 metres from the west boundary.
- There is a cleared informal parking area directly in front of the subject site.
- The subject site is located within an area that was subdivided in the early 1980's. In general, the housing form consists of a fairly standardised form of construction which includes brick veneer, concrete tiled or Colorbond roofing, and aluminium framed windows with on-site car parking facilities.
- The site has an abuttal to four properties along its south boundary. These lots have a frontage to Cooee Court and feature a mix of single and double storey dwellings. The dwellings are setback between 6.8 metres and 18.1 metres from the common boundary with the subject site.
- Along its northern boundary, the site has an abuttal to two properties. The property at No. 34 Old Aqueduct Road features a single storey dwelling setback 5.8 metres from Old Aqueduct Road and 2 metres from the common boundary with the site. The property at No. 12 James Court features a single storey dwelling setback 10.6 metres from the common boundary with the site.
- Along its west (rear) boundary the site has an abuttal to one residential property that fronts both Aqueduct Road and James Court (No. 13 James Court). This property features a single storey dwelling setback 7.4 metres from the common boundary with the site.
- Opposite the subject site at No. 21-23 Old Aqueduct Road is a large property (5,196 square metres) that features a large single storey residence setback approximately 23 metres from Old Aqueduct Road. Further north is another large well-vegetated property approximately 1.2 hectares in size that features a small dwelling.
- Other large properties on the east side of Old Aqueduct Road have been redeveloped with multi-unit developments. This includes:
 - a. a ten dwelling development at No. 25-27 Old Aqueduct Road approved in 2011 under planning permit 728/2010/03P comprising 6 double storey and 4 single storey dwellings which contain either 3 or 4 bedrooms. The development has a site coverage of 24.1% and a density of 1 dwelling per 700sqm of site area.
 - b. a nine unit development at No. 31-33 Old Aqueduct Road approved in 2003 under planning permit 88/2003/03P comprising 3 double storey and

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6 single storey dwellings, two 2 bedroom and seven 3 bedroom. The development has a site coverage of 38% and a density of 1 dwelling per 450 square metres of site area.

- In summary, it can be said that the neighbourhood character is varied. Architectural forms are relatively homogenised, with most dwellings displaying some form of reproduction style of architecture. There is a mixture of single storey, double storey and medium density dwellings. There are large and small lots. Some lots have abundant vegetation on them, some are sparse.
- Old Aqueduct Road has a narrow pavement and displays significant roadside vegetation.
- The site is located 2.8 kilometres from Diamond Creek township and 3.2 kilometres from the Greensborough activity centre. The site is also located 1.1 kilometres from the St Helena shopping centre.

Details of proposal

2. Refer to the attached plans.

3. Key features of the proposal include:

- Development of the site with nine double storey dwellings. The development comprises five 2 bedroom dwellings with a single garage, three 3 bedroom dwellings with a double garage, one 4 bedroom dwelling and a visitor car space. The ground floor is devoted to living spaces with bedrooms at first floor level, however dwellings 4 and 5 have a master bedroom at ground level and dwelling 1 has a study/bedroom at ground level.
- Each dwelling varies in size between 131.88 and 169.91 square metres.
- The dwellings display a consistent architectural theme of brick veneer at ground level and lightweight construction at first floor level. The roofs will be constructed of tiles. The maximum height of the development is 8.07 metres.
- A single vehicle crossover will provide access to the site. To the east of the site the driveway runs along the north boundary then runs in a south-west direction to the south boundary in the middle of the site, then north direction in line with the existing drainage easement to the west of the site.
- Secluded areas of private open space vary between 43 and 194 square metres in size.
- The arborist report submitted with the application identifies 3 trees to be retained, being Tree Nos. 37, 39 and 40.

Planning history

4. Planning Application 595/2012/03P sought approval for the development of 11 dwellings. Council refused the application, a decision that was upheld by Victorian Civil and Administrative Tribunal. In *Vangona Nominees Pty Ltd v Nillumbik SC* [2014] Victorian Civil and Administrative Tribunal 52 (21 January 2014), the decision found the following key themes with the proposal:

5. Officers' Report**FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek**

- Despite the location of the site, it is suitable for some form of medium density housing development.
 - The intensity of the development is too much for the site, particularly when viewed from the north elevation and the development in the southern corner.
 - The monotonous form of development is out of character for the site and area. Whilst the attached forms are provided with setbacks between each pair of dwellings and at the first floor, it is an intense form that will sit too high and too dominant for the character of the site and surrounding area.
 - At 11 dwellings, built form dominates the proposed site at the expense of available area for meaningful open space combined with adequate area for landscaping.
 - The intensity of development at the interface to No. 13 James Court is excessive with further consideration needed for boundary planting.
 - The siting of dwelling 7 and 8 demonstrates the 'tight' nature of the proposal.
 - The development has given little regard to existing trees on-site including Tree No. 11 (Sugar Gum) and Tree Nos. 34 and 35 (both Red Box species).
 - A better result is achieved by a reduction of dwellings so that more space can be provided for canopy trees.
 - The proposal provides for adequate on-site car parking.
 - Issues of overlooking could be addressed and would not form the basis for refusing the application.
5. Planning Application 339/2014/03P sought approval for the development of 9 dwellings. Council refused the application on 11 June 2015 on the following grounds:
- The development is not responsive to the desired character objectives and characteristics sought under the 'Garden Court' precinct, as identified in Clause 22.12 (Neighbourhood Character Policy) of the Nillumbik Planning Scheme. The development is not sited to ensure that it appropriately nestles into the landform and existing and surrounding vegetation. The development has not adequately provided for appropriate retention of vegetation and provided adequate setbacks to allow for future retention and growth of existing trees and future planting.
 - The proposal does not retain a sufficient amount of existing vegetation and provide adequate opportunity for sufficient replacement vegetation to maintain and enhance the existing 'Garden Court' characteristics of the subject site and area, as outlined in Clause 22.12 (Neighbourhood Character Policy) of the Nillumbik Planning Scheme.
 - The proposal is not responsive to the neighbourhood character objectives set out at Clauses 22.01 (Medium Density Housing Policy), 22.12 (Neighbourhood Character Policy) and 55.01 (ResCode – Neighbourhood Character) of the Nillumbik Planning Scheme due to the proposed built form and insufficient landscaping response.

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- The proposed development does not satisfy various objectives and standards of Clause 55. In particular it:
 - Does not provide a development that is respectful of neighbourhood character and fails to meet the objectives of Clause 55.02;
 - Does not meet the landscaping objectives of Clause 55.03-8;
 - Does not adequately respond to the design detail objectives of Clause 55.06-1.

Planning controls

Zoning

6. The subject land is zoned General Residential Zone. Under this zone, a permit is required to construct two or more dwellings. Dwelling use is a 'no permit required' use in this zone.

Overlays

7. There are no overlays that affect the subject site.

Particular provisions

8. Clause 52.06 (Car Parking) is relevant to the consideration of this application. This clause seeks to ensure there is the provision of an appropriate number of car parking spaces, to ensure that car parking does not adversely affect the amenity of the locality, and to ensure 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.
9. Development of two or more dwellings on a lot must meet the requirements of Clause 55 (commonly known as 'ResCode').
10. 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

11. Planning Policy Framework which are relevant to this application include:

- Clause 13.02 Bushfire
- Clause 15.01-1S – Urban Design
- Clause 15.01-5S – Neighbourhood Character
- Clause 16.01-1S – Integrated Housing
- Clause 16.01-2S – Location of Residential Development
- Clause 16.01-3S – Housing Diversity

12. The Local Planning Policies which are relevant to this application include:

- Clause 21.05-1 – Settlement and Housing
- Clause 22.01 – Medium Density Housing Policy

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- Clause 22.12 – Neighbourhood Character Policy

Policy context

13. The planning controls and policies identified above encourage residential development in the General Residential Zone at a range of densities, which includes medium density housing. This intent is also reflected specifically in the purpose of that zone. However, in both State and local policy, the strength of encouragement for medium density housing is greater the closer the site is located to an activity centre or other commercial and community facilities, and reduces the further the site is located from necessary urban infrastructure.
14. The encouragement afforded by the zone and planning policies is counter-balanced by objectives that require development to be site responsive (ie. minimise landscape and vegetation impacts), and complementary to desired neighbourhood character.
15. Assessment of the degree of policy support for medium density housing is dependent upon a balancing of these sometimes contradictory policy objectives. In this regard, a flat site with little vegetation located near an activity centre can be seen to have strong policy support for development in the form of medium density housing. A steep, heavily vegetated site, remotely located from services will have a significantly reduced level of policy support for medium density housing development. As each site is generally different, the degree of policy support for medium density housing will often vary depending upon the site's location, its individual characteristics, and its response to neighbourhood character.

Public consultation

Advertising

16. 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

17. As a result of advertising, a total of 8 written objections have been received. These objections can be summarised as follows:
 - Two storey form inappropriate.
 - Overdevelopment.
 - Contrary to the character of the area and streetscape character.
 - Overlooking.
 - Overshadowing including excessive overshadowing between dwellings within the development.
 - Visual bulk, sheer two storey walls, slope accentuating height, excessive building heights and insufficient setbacks.
 - Insufficient separation of built form resulting in reduced space for landscaping.
 - Insufficient tree retention.
 - Impacts upon adjoining trees.

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- Excessive excavation works.
- Noise impacts associated with residents and vehicles.
- Safety impacts.
- Structural stability of the development.
- Contrary to the Green Wedge.
- Garbage collection area, odour, health and vermin impacts.
- Impacts on habitat values of the land.
- Excessive hard paving and impermeable surfaces.
- Traffic impacts and safety issues.
- Insufficient car parking.
- Poorly located visitor parking.
- Poor surveillance of entries.
- Visually intrusive bin collection area.
- Poor internal amenity due to screening.
- Previous VCAT and Council issues not addressed.
- Insufficient front setback.
- Impacts on views.
- Lack of dwelling diversity.
- Design Detail inappropriate.
- Contrary to the planning policy framework and setting a precedent.
- Infrastructure issues not addressed, footpath required.
- Poor interface with Old Aqueduct Road and Aqueduct Road.
- Site coverage inappropriate.
- Permeability inappropriate.
- Insufficient lot diversity.
- Site services not addressed.
- Insufficient private open space and insufficient common area open space.
- Poor energy efficiency and daylight dwellings with living areas facing south and dwellings 1, 2 and 3 with very poor northerly aspect.
- Visual impact of solar panels.
- Noise impacts.

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- Fire safety as the development does not accommodate for fire trucks to enter and exit the site in a safe manner.

Planning application conference

18. A planning application conference was held on 26 November 2018 for this application. The issues listed above were discussed but no agreements were reached.

Referrals

Internal

19. 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:

Council Unit	Comments
Consulting Arborist	<p>All trees have been correctly identified within the arborist report and Tree Protection Zones and Structural Root Zones are in accordance with AS 4970-2009. The retention values assigned to the assessed trees are accurate.</p> <p>There are 29 trees within the subject site and 26 of these trees are proposed for removal.</p> <p>None of the vegetation proposed for removal has high retention value. 21 trees have low retention value and should not be a constraint on development. Five trees proposed for removal have medium retention value; replacement planting should be undertaken to compensate for the removal of these trees.</p> <p>The landscape plan shows proposed planting of eight large trees (<i>Eucalyptus melliodora</i> and <i>Acacia melanoxylon</i>) and 19 medium trees (<i>Acacia implexa</i> and <i>Allocasuarina littoralis</i>). This is expected to compensate for the proposed removals.</p> <p>Protection is required for three trees on site proposed to be retained (Trees 37, 39 & 40) and all neighbouring trees. Tree Protection Zones have been depicted to scale for all of these trees.</p> <ul style="list-style-type: none"> • Trees 1, 9, 11, 13, 31 & 38 have a minor encroachment (less than 10% tree protection zone area) from proposed landscaping. These trees are expected to remain viable with standard tree protection zone provisions and exclusions and with compensation for the area lost to encroachment.

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Council Unit	Comments
	<ul style="list-style-type: none"> • Trees 37, 39 & 40 have major encroachment from proposed landscaping. In order to ensure these trees remain viable, the following is recommended: <ul style="list-style-type: none"> • No grade changes within tree protection zones; • Manual soil cultivation/ planting hole excavation within tree protection zones; • All roots greater than 40mm diameter left unscathed and intact and planting locations adjusted if required; • Any roots smaller than 40mm in diameter should be cleanly pruned by the project arborist, at right angles, using sharp, clean tools. • Trees 14 & 15 have a major tree protection zone encroachment from the proposed driveway, car space and landscaping. Site plans show permeable paving within the tree protection zone of these trees. Providing the material is laid at or above grade within the tree protection zone, with no excavation, and landscaping is undertaken as above, these trees are expected to remain viable.
Infrastructure Development Unit	No objection subject to conditions relating to drainage and access.
Building	No objection
Waste Management Officer	No issues with waste management plan. Council will not enter the common area under body corporate to collect the bins. In order to facilitate a smooth collection, a free frontage (excluding trees, electrical pole telecommunication exchange box, cross-over etc) of 18.68 m is required.

External

20. There are no formal referral requirements under the planning scheme, however the application was referred to the following external authorities for advice. The following is a summary of the relevant advice:

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External Authority	Comments
CFA	<p>Access</p> <p>Clause 55.03-9 requires access to be provided for emergency vehicles:</p> <ul style="list-style-type: none"> • The access as shown on the documents provided does not provide adequate access for firefighting vehicles. The width of the access as shown on the plans in parts is three (3) metres. The proposed landscaping shows encroachment of vegetation onto the access way further restricting the trafficable width • From the property entrance to the rear of the furthest dwelling is a distance of approximately 115 metres which will necessitate firefighting vehicles entering the property <p>CFA request access is provided to allow firefighting vehicles access within the property in accordance with the following:</p> <ul style="list-style-type: none"> • Constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable accessway width. • The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 meters. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle. • Curves must have a minimum inner radius of 10 metres. • Have a minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way. • Access ways more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.

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External Authority	Comments
	<p>FIRE HYDRANT COVERAGE</p> <p>CFA acknowledge Clause 55 of the Planning Scheme does not reference fire hydrant coverage however the existing fire hydrants located in Old Aqueduct Road (outside 22 and 10) DO NOT provide adequate coverage beyond Unit 4.</p> <p>For both community safety and fire fighter safety fire hydrants must to be located within 120 metres of the rear of the furthest (as hose laid on the ground) dwelling.</p> <p>CFA request fire hydrants be provided.</p>

Planning assessment

Introduction

21. The following have been identified as the key planning issues in relation to the assessment of this planning application:
 - Strategic location (in the context of policy);
 - Neighbourhood character;
 - Previous Victorian Civil and Administrative Tribunal and Council Decisions
 - Compliance with Clause 55 (ResCode); and
 - Traffic and car parking.
22. Assessment of these issues, the previous VCAT decision and Council refusal, together with a response to objections received, will be discussed in the remainder of this report.

Strategic location (in the context of policy);

23. The MSS contains an objective to encourage medium density housing with good access to commercial and community services, public transport, open space and other infrastructure, and to discourage medium density housing where access to these facilities is inadequate. This objective is given more direct effect in the Medium Density Housing Policy at Clause 22.01, which encourages medium density housing development to be located close to activity centres or other urban services.
24. The subject site is located 3.2 kilometres from Greensborough activity centre, 2.8 kilometres from Diamond Creek activity centre, and 1.1 kilometres from the St Helena shopping centre. The site has some access to public transport via the bus services along Diamond Creek Road and Aqueduct Road. The site is reasonably close to a range of schools.
25. Although the subject site is not readily proximate to services as sought by Clause 22.01 (Medium Density Housing Policy), it is not in a remote location. Given the policy context and the size of the land, there is no reason to exclude medium density housing on the subject site. The General Residential Zone, along with Clauses

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21.05-1 and 22.01 do not suggest that multi-unit housing is inappropriate, rather policy allows new development where it is responsive to the constraints and opportunities of a specific site and the character of the area.

26. Recent history in relation to Old Aqueduct Road has provided four occasions where the Victorian Civil and Administrative Tribunal (VCAT) has formed the view that Old Aqueduct Road was an appropriate location for medium density housing when considered against the backdrop of the planning scheme. These decisions include:
- *Coco v Nillumbik SC* [2005] VCAT 836 (10 May 2005) relating to subject site;
 - *McGrillen v Nillumbik SC* [2004] VCAT 799 (29 April 2004) relating to 31-33 Old Aqueduct Road;
 - *C & I Prestige Developments v Nillumbik SC & Ors* [2009] VCAT 966 (25 May 2009) relating to 25-29 Old Aqueduct Road; and
 - *Vangona Nominees Pty Ltd v Nillumbik SC* [2014] VCAT 52 relating to the subject site.
27. A positive aspect of the proposed development is the diversity in housing choice offered. Of the nine dwellings proposed, five dwellings contain two bedrooms which caters to the changing demographic profile and widens housing choice within the Shire which is largely dominated by traditional larger family homes. Clause 16.01-3S (Housing diversity) of the State Planning Policy Framework seeks to “provide for a range of housing types to meet increasingly diverse needs”. This approach is consistent with Clause 55.02-3 (Dwelling diversity objective) which encourages a range of dwelling sizes and types in developments.

Existing neighbourhood character and previous planning application decisions;

28. Local planning policy and Clause 55.02-1 (Neighbourhood character objectives) seek to ensure that the identified elements that contribute to neighbourhood character are retained and enhanced. This is achieved by managing change and ensuring new development works towards achieving the stated streetscape and character outcomes. Consideration must be given to whether the proposal results in acceptable outcomes having regard to the relevant policy provisions.
29. The site is located within a ‘Garden Court’ precinct as identified by the Neighbourhood Character Policy at Clause 22.12, and sets out the preferred character for the precinct as follows:
- *Development is sited so that it nestles into the landform and surrounding vegetation.*
 - *Buildings maintain the pattern of orientations and setbacks of adjoining properties and the streetscape.*
 - *Building forms respond to topographic and vegetation contexts.*
 - *Driveways and car storage areas should occupy the minimum functional area and excavation and other earthworks are minimal.*

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- *Residential development is generally set among indigenous trees, although there are some locations where native dominates and exotic trees are present.*
 - *Hillsides of residential development viewed from a distance appear to be lushly vegetated. Garden planting flows uninterrupted to the edge of the roadway.*
 - *There is little physical evidence of the boundary between private and public property at the front of the house, and no solid front fence. Solid side fences may reach the front property boundary.*
 - *The 'public' space between the garden and the roadway is not delineated as a separate space, and includes informal native plantings with some substantial native trees. Many footpaths and verges are informally aligned, but formal footpath-plus-standard-suburban nature strip layouts are common. Roadways are sealed, some with roll over kerbs, some with upstand kerbs.*
30. The design objectives for the precinct are as follows:
- *Retain existing high canopy trees wherever possible.*
 - *Retain remnant indigenous understorey vegetation where possible and replant where appropriate.*
 - *Substantial native and exotic trees should be retained or planted as necessary to contribute to the desired future character having regard to solar access, residential amenity and bushfire safety issues.*
 - *Avoid front fencing or solid side fencing visible from the street where this is a feature of the streetscape.*
 - *Design new buildings and extensions so as not to exceed the predominant tree canopy height.*
31. The Medium Density Housing Policy at Clause 22.01 requires new development to have regard to the building form and style of surrounding dwellings, and encourages contemporary and innovative design that does not detract from the preferred character of the area. There are a number of other elements that contribute towards 'character' including the position of the dwellings on-site; setbacks to the street; landscaping; and the relationship between the development to neighbouring properties with respect to spacing and transition in heights.
32. Collectively, these policies place an emphasis on having development that nestles into the landscape, is compatible with existing development, and retains existing substantial trees whilst enhancing the 'Garden Court' character with further landscaping. These objectives are also reflected in Clause 55.03-8 (Landscaping) of Clause 55 (ResCode) which seeks to protect the predominant landscape features of the neighbourhood and provide for the retention or planting of trees, where these are part of the character of the neighbourhood.
33. The character of the area is changing from a low density setting to a modern urban character, particularly evidenced on the west side of Old Aqueduct Road. The properties on the east side of the road are much larger, some of which are developed

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with substantial sized homes with other larger lots recently redeveloped with medium density housing incorporating a mix of single and double storey dwellings.

34. Existing dwellings are a mix of building materials and styles and are single or double storey. The topography and landscaping are features of the locality as evidenced in the site's inclusion within the 'Garden Court' character precinct in Clause 22.12 (Neighbourhood Character Policy). The objectives of this precinct include to:
- *Maintain the existing mix of native and exotic vegetation including canopy trees and understorey.*
 - *Maintain and enhance the continuous flow of the garden settings and the openness of the front boundary treatment.*
35. The roadside contains significant vegetation and medium density developments at Nos. 25-29 and 31-33 Old Aqueduct Road have kept significant canopy trees and substantial areas around the dwellings for landscaping. This, combined with large vegetated setbacks from the street, assists these medium density developments in successfully integrating into the Old Aqueduct Road setting.
36. Of significance is whether the proposal adequately responds to the criticisms detailed in the previous VCAT decision relating to the site (595/2012/03P) and, to a lesser extent, the Council refusal of a 9 dwellings (339/2014/03P).
37. The Tribunal described application 595/2012/03P as "*11 two storey dwellings with dwellings attached in pairs with the exception of dwelling 11 which stands alone. The proposed development does retain some trees on the site primarily located within the south east corner of the site*" (paragraph 15). The proposal failed as the layout and intensity was too much for the site particularly as this location is not a "*middle ring suburb, where attached consistent built form may be acceptable*" (paragraph 17). VCAT placed emphasis on the extent of spacing around the surrounding single dwellings and medium density housing developments. This "*open area provides a breathing space for the built form and provides the ability (realised or otherwise) for tree planting. At 11 dwellings, built form dominates the proposed site at the expense of available area for meaningful open space combined with adequate area for landscaping*" (paragraph 18).
38. The revised layout and intensity of the current proposal has responded to the concerns highlighted in the previous VCAT decision, providing a more site responsive design by increasing separation between dwellings, altering the layout of access to better protect the amenity of neighbours in terms of noise and landscaping, increasing internal setbacks between buildings and providing more site responsive boundary setbacks. Further by reducing dwelling numbers the competing demands of landscaping and recreation needs of future residents are more aptly addressed.
39. The previous nine dwelling proposal refused by Council's Planning Committee was found to not provide sufficient opportunities for landscaping throughout the site and would result in an overly dominant built form contrary to the character of the area.
40. As noted above the current layout has been altered to present a more responsive design. Further, additional conditions are recommended in the event a planning

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permit is issued in order to reduce the built form significantly to further ameliorate impacts of built form.

41. The following section of this report will assess the current application against the previous VCAT decision and Council Refusal. In terms of a comparison between the two previous planning permit applications and the current proposal, the following is relevant:

<u>Application No.</u>	<u>Site Coverage</u>	<u>Permeability</u>	<u>Total Floor Area</u>
595/2012/03P	33.58%	41.0%	1,558 square metres
339/2014/03P	29.83%	46.5%	1,346 square metres
111/2017/03P	30.12%*	46.31%	1,350 square metres

* The value of 34.56 % site coverage as shown on the current application plans is incorrect.

42. A numerical comparison with previous planning permit applications does not take into account issues of context, amenity and character. This is not a repeat application of 339/2014/03P, but a new application that must be assessed on its merits. This is particularly important having regard to the size of the site and the way the current proposal responds to its sensitive interfaces.

Interface with front boundary - Old Aqueduct Road

43. The proposed front setback of Dwelling 1 of 6.595 metres from Old Aqueduct Road complies with Standard B6 of Clause 55.03-1 where a front setback of 5.8 metres is required, noting that the 6.5 metre setback of 9 Cooee Court is a side boundary. The proposal presents a two storey detached form to the street consistent with the character of the area.
44. The curved common drive along the north boundary at the Old Aqueduct Road frontage winds through the centre of the site and provides additional landscape opportunities. The driveway also ensures that a gun barrel driveway is not created. The forms of Dwellings 2, 3 and 4 will have a minimal presence in the street. The meandering vehicle access ensures that the number of dwellings proposed is not apparent from the public realm, with only four dwellings readily apparent from the street.

Interface with east Boundary – No. 6 Cooee Court

45. Dwelling 9 is setback a minimum of 7.5 metres from the common boundary shared with No. 6 Cooee Court. It is recommended that this dwelling be redesigned to orientate its living areas to face the east with the finished floor levels reduced to provide at grade access to the adjacent secluded private open space.

Interface with North boundary – No. 34 Old Aqueduct Road and No. 12 James Court

46. The previous Tribunal decision was critical of the interface along the northern boundary. Opposite the dwelling at No. 34 Old Aqueduct Road and 12 James Court, the extent of built form has been improved significantly. Dwellings 1, 2 and 3 have generous setbacks from the north common boundary and do not impact upon the secluded private open space of No. 34 Old Aqueduct Road.

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47. Dwellings 4 and 5 provide a setback of 6 metres at ground floor and 7.31 metres at first floor from the north boundary and secluded private open spaces of No. 34 Old Aqueduct Road and 12 James Court. Dwelling 4 is partly excavated to the north-east and Dwelling 5 has minimal elevation above natural ground. These setbacks provide good landscaping opportunities and, having regard to the design response to topography, ensure minimal mass and bulk impacts to the north.
48. Dwelling 6 provides a setback of 3.48 metres at ground floor and 3.6 metres at first floor from the north boundary and secluded private open spaces of No. 12 James Court. These setbacks provide landscaping opportunities and, having regard to the extent of the upper floor and its articulation, ensures minimal mass and bulk.

Interface with West boundary – No. 13 James Court and Aqueduct Road

49. With regards to the interface to No. 13 James Court, the Tribunal also raised as an issue in the decision with the 11 dwelling application at paragraph 18: *“what is proposed is four dwellings along this boundary, two directly opposite its private open space area. Dwellings 9 and 10 are proposed to be setback 3.5 metres from this boundary at ground level and 5 metres to the first floor. The landscaping proposed in this location includes one Ornamental pear. ... This is an inadequate response”*.
50. In comparison with the previous nine dwelling development the number of dwellings proposed has not reduced along the west boundary with four dwellings still proposed, however the extent of built form adjacent to the boundary has been reduced with the built form proposed to be located closer to Aqueduct Road, thereby increasing separation between dwellings.
51. The proposed ground floor setbacks range between 3.85 metres and 6.18 metres with proposed first floor setbacks to range between 5.58 metres and 9.015 metres.
52. The dwellings are accessed from the common driveway and it is recommended that in the event that a permit is issued, that the floor levels be lowered to allow at grade access from the common property. This would lower the built form by between 0.3 metres to 1.7 metres, with ground floor finished floor levels reduced as follows:
- dwelling 6 from RL 108.7 to RL 108.1
 - dwelling 7 from RL 108.08 to RL 107.1
 - dwelling 8 from RL 107.55 to RL 106.7
 - dwelling 9 from RL 107.00 to RL 106.7
53. It is noted that there is a natural drainage line and easement along the common driveway abutting these dwellings. There is no flooding overlay on the site and Council has no record of flooding issues on the land. The land also sits proximate to the adjacent ridge line. Notwithstanding, it is recommended that a drainage plan addressing any overland flows be provided. This will be required as a condition of any permit issued.
54. With the reduction in floor levels the open spaces of these dwellings would need to be excavated. To ensure appropriate space for landscaping on the west and north boundaries, any retaining walls should be setback a minimum of 1.2 metres from common boundaries, located outside of tree protection zones and provide a 3 metre

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by 3 metre area to the north-west of each dwelling's open space where natural surface level is retained for the planting of a canopy tree.

55. Landscaping opportunities are sufficient to adequately integrate the development with its surrounds and provide a built form in a landscaped setting.

Interface with South Boundary – Nos. 6, 7, 8 and 9 Cooee Court

56. Dwellings 4, 5, 8 and 9 are well separated from the secluded private open spaces of Nos. 6 and 7 Cooee Court, providing a minimum setback from the common boundary of 6 metres at ground floor and 7 metres at first floor. The common property in this setback comprises boundary landscaping, visitor car space and common driveway. It is recommended that the bin storage area be provided 2 metres from the south boundary.
57. In the previous nine dwelling proposal a common driveway with associated landscaping was provided adjacent to the secluded private open spaces of Nos. 8 and 9 Cooee Court. As part of the current proposal, Dwellings 1, 2 and 3 have their secluded private open spaces located along the south boundary. This provides a more sensitive and secure interface to the south adjacent secluded private open space of Nos. 8 and 9 Cooee Court.
58. It is noted that Dwelling 1 occupies an existing level area on the site and it is recommended that the ground floor finished floor level of Dwelling 1 be reduced to a maximum RL of 113.4 to reflect the existing site level of RL 113.2. Whilst this is a nominal decrease in height it will reduce the mass of the building as viewed from the south adjacent secluded private open space, reduce the elevation of Dwelling 1's secluded private open space and be a more site responsive design outcome. This will be dealt with through a condition of any permit issued.
59. Dwelling 2 is split level with the ground floor stepping up and being elevated to the south. It is recommended that the Dwelling 2 ground floor finished floor level be reduced to a maximum RL of 112.29. This will be dealt with through a condition of any permit issued.
60. The setbacks of Dwelling 3 from the common boundary and secluded private open spaces of Nos. 7 and 8 Cooee Court are 3.6 metres at ground floor and 4.6 metres at first floor. It is noted that Dwelling 3 has elevated ground floor levels relative to the south common boundary, increasing its mass and bulk as viewed from the south and requiring high screening for its south facing secluded private open space and habitable room windows. It is recommended that the Dwelling 3 first floor north east bathroom and access corridor be deleted and that the ground floor (excluding garage) finished floor level be reduced to a maximum RL of 110.3. This will be dealt with through a condition of any permit issued.
61. In summary it is recommended that the ground floor finished floor levels be reduced as follows:
- a. Dwelling 1 from RL 113.84 to RL 113.4
 - b. Dwelling 2 from RL 112.46 to RL 112.29
 - c. Dwelling 3 from RL 111.54 to RL 110.3

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62. Dwelling 1, 2 and 3 propose fill works in their secluded private open spaces and it is recommended that this be removed from the plans by permit condition.
63. Subject to the reduction in the heights of dwellings as outlined above, the proposal will result in an appropriate amenity outcome for the secluded private open spaces of Nos. 7 and 8 Cooee Court, consistent with the objectives and standards of Clause 55.

Tree retention / Landscaping

64. The subject site is not affected by any tree protection controls, however, local policy at Clause 22.01 (Medium Density Housing) and Clause 22.12 (Neighbourhood Character Policy) and Clause 55 emphasise the importance of retaining existing vegetation and providing a good level of replacement planting. The desired character for the 'Garden Court' precinct focuses strongly on appreciable landscape outcomes. It includes:
- Development is sited so that it nestles into the landform and surrounding vegetation.
 - Residential development is generally set among indigenous trees.
 - Garden planting flows uninterrupted to the edge of the roadway. There is little physical evidence of the boundary between private and public property at the front of the house, and no solid front fence.
65. Council's consulting arborist has reviewed the vegetation on site and has determined that none of the vegetation proposed for removal has high retention value. Of the trees proposed to be removed, 21 trees have low retention value and five trees have medium retention value. Having regard to the quality of vegetation on site, replacement planting should be undertaken to compensate for the removal of these trees.
66. The proposal provides a detached form with Dwellings 1, 6 and 7 detached and with greater spacing provided between buildings in the centre of the site (where the driveway curves through in a north-south direction) and to the west of the site (where buildings are located further south). This provides open space and a break between the built form consistent with the character of the area and responsive to the outlook and amenity of surrounding secluded private open spaces.
67. Setbacks from boundaries provide good opportunities for perimeter landscaping.
68. The landscape plan shows the provision of 31 trees being a mix of Lightwood, Black Sheoak, Yellow Box and Crepe Myrtle.

Compliance with Clause 55 (ResCode);

69. Overall, the proposal exhibits a good level of compliance with the standards set out in Clause 55. In most respects the proposal exceeds the minimum requirements with respect to site coverage, permeability, building setbacks, building heights, overlooking and overshadowing.

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Access

70. Standard B14 of Clause 55.03-9 requires that developments “must provide for access for service, emergency and delivery vehicles.” Council’s Infrastructure Department have recommended that access to the site be to CFA requirements. Whilst they are not a statutory referral authority, comment from the CFA has been sought. The CFA have provided conditions to meet their access requirements.
71. Whilst the standard says that access must be provided for emergency vehicles it does not say the access must be designed for emergency vehicles to enter and exit in forwards direction. In this instance the proposed driveway meanders through the site and provides a T intersection at the rear. The CFA conditions require a turning area and the T intersection would need to be modified to provide this.
72. Having regard to the depth of the site and the distance of Dwellings 6, 7, 8 and 9 from Old Aqueduct Road, the CFA access requirements should be met. This will be dealt with through a condition of any permit issued.
73. There is a fire hydrant in Old Aqueduct Road approximately 50 metres north of the site. Whilst subdivision is not proposed it is a requirement of Clause 56.09-3 Fire hydrants objective that fire hydrants be provided a maximum distance of 120 metres from the rear of the each lot. The proposal does not satisfy this requirement. This will be dealt with through a condition of any permit issued.

Waste Collection

74. The application as originally advertised provided a waste collection area on the south boundary shared with 6 Cooe Court and a waste management plan was provided. The application was subsequently amended to show waste Council waste collection on street. Having regard to concerns regarding bins on street impacting upon the amenity of the street and the distance of the rear dwellings from Old Aqueduct Road, it is recommended that the original on site waste collection area be reinstated with a setback of 2m from the south boundary and that collection be undertaken by a private waste collector on the site. A mini rear loader, 2.08 metres in height and 6.4 metres in length is proposed. Details of the size of private waste collection vehicle accessing the site and turning circles demonstrating access can be achieved should be provided by permit condition.

Private Open Space

75. Areas of secluded private open space vary between 43 and 194 square metres in size and each dwelling has a minimum 25 square metres with a minimum 3 metre dimension accessed off a main living area.
76. Dwelling 1, 2 and 3 have open spaces areas located to the south of walls non-compliant with standard B29 of Clause 55.05-5 solar access to open space. In terms of the design response this outcome was a preferable amenity outcome for the secluded private open spaces of the dwellings to the south at Cooe Court. Locating the common driveway to the north of Dwellings 1, 2 and 3 is more respectful of its neighbours to the south. Whilst not ideal, the areas and dimensions of Dwelling 1, 2 and 3’s secluded private open space are generous and provide acceptable amenity for future residents and scope for meaningful landscaping.

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Energy Efficiency

77. Dwellings 2, 3, 4 and 5 generally have good northern orientation for principal living areas. Dwelling 1, 7 and 8 have good eastern orientation for principal living areas. Dwelling 9 has west and south facing living areas and it is recommended that its family room include east facing windows and doors. Objectors have raised orientation concerns, in particular for Dwelling 1, 2 and 3, however solar access to at least part of the main living areas of these dwellings is acceptable.

Traffic and car parking.

78. Clause 52.06 sets the number of required car parking spaces a development must provide, along with various design standards such as the car parking space dimensions, access requirements and gradients.

79. As a requirement of Clause 52.06, one car parking space must be provided for dwellings with one or two bedrooms, and two car parking spaces must be provided for dwellings with three or more bedrooms. At least one dedicated visitor car parking space is also required for every five dwellings within a development.

80. As previously described, the proposed development includes the following:

Dwellings	Bedrooms	Car spaces
3, 6, 7, 8, 9	2	1
1, 2, 4, 5,	3	2

81. Car parking spaces are all provided within either a single or double garage, and therefore the proposal meets the minimum number of car parking spaces for the dwellings.

82. This application includes the provision of a visitor car parking space within the development.

83. One of the concerns of local residents is the increase in traffic that would result from the proposal with consequent impacts on the operation of Old Aqueduct Road. This concern has been raised on other occasions when considering other medium density housing proposals within the road. In *C & I Prestige Developments v Nillumbik SC & Ors* [2009] VCAT 966 (No. 25-29 Old Aqueduct Road), the Tribunal dealt with the matter of traffic impact for a proposal of 15 dwellings by stating:

- “The proposal will increase traffic movement in the area. The development of the area is leading to changes in Old Aqueduct Road. Despite that, I consider this impact of the proposed development is acceptable in the context of this site. The amount of individual traffic would not place an unreasonable impost on the locality and is not a reason to refuse or modify the proposal”.

84. This position is shared for the proposed development across the site. Although traffic volumes will increase as a result of the proposed development, it will not be to the extent that Old Aqueduct Road becomes unmanageable. The application has been assessed by Council’s Infrastructure Department who have identified no car parking or traffic issues associated with this proposal.

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Response to objections received

85. The written objections have raised a number of concerns with respect to the proposed development. Issues regarding character, two storey form, landscaping opportunities and hard paving, car parking, internal amenity of dwellings and sense of address have been discussed in earlier sections of this assessment. A response to those issues not previously discussed or addressed are included below.

Overdevelopment.

86. It is not considered that development of the land for nine dwellings is an overdevelopment of the site or that it will set precedence for further development. The consideration of a medium density housing development is based on its compliance with a set of criteria set out in the Nillumbik Planning Scheme. The Victorian State Government has provided a clear policy imperative of urban consolidation which is heavily dependent on medium density housing development.

Overshadowing

87. The originally submitted shadow diagrams show that all shadows will remain within the boundaries of the site except for a small area over the adjacent tree reserve within Aqueduct Road and over the easement of the adjacent property at No. 13 James Court in the morning. All adjacent habitable room windows, including all north-facing windows of properties within Cooe Court and all areas of secluded private open space will not be affected by any overshadowing from the development in accordance with Standard B21 of Clause 55.04-5 (Overshadowing).

Overlooking

88. All upper floor level west-facing habitable room windows have obscure glazing to 1.7 metres above finished floor level, compliant with Standard B22 of Clause 55.04-6 (overlooking).

Noise Impacts associated with residents and vehicles.

89. The proposed residential use will have noise impacts consistent with those normal to a residential zone. Speech, laughter, music etc. are noises associated with people living their lives and are all part of life in an urban area.

Safety impacts.

90. The use of the land for a dwelling is an as of right use and it is noted that general safety of dwellings and unit developments is not a relevant consideration in assessing medium density development under the provisions of the *Planning and Environment Act 1987*, or the Nillumbik Planning Scheme.

Structural stability of the development.

91. Building work can sometimes affect adjoining properties. An owner who is proposing building work has obligations under the *Building Act 1993* to protect adjoining property from potential damage from their work. This will be dealt with through the building permit process.

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Contrary to the Green Wedge

92. The site is located the within the Urban Growth Boundary and is not within the rural "Green Wedge" or Green Wedge Zone.

Impacts on habitat values of the land.

93. The site is located in a bush garden residential area where native planting species are preferred and exotic plantings are a threat to the character of the area. Any landscape plan should comprise species selected from the Council publication Live Local, Plant Local. The land does not have any identified environmental significance and, whilst desirable, the protection of the environmental significance of the land is not a relevant planning consideration.

Impacts on views

94. There is no legal entitlement to a view, similarly no Design and Development Overlay applies which might require the protection of, or sharing of view lines. Despite this the development as a whole must not unreasonably impact upon the visual amenity enjoyed by surrounding properties.

Lack of dwelling diversity.

95. Clause 55.02-3 applies to proposals of 10 or more dwellings. Notwithstanding the proposal provides two and three bedroom dwellings of a size and type atypical of those found in the area, increasing dwelling diversity.

Design detail inappropriate

96. The design detail, including materials, roof forms, window proportions, porch elements and colours and materials is consistent that typically found in the area. Neighbourhood character, design, form and materials are addressed within the assessment section of this report with particular focus on Clause 55 of the Nillumbik Planning Scheme and the relevant Neighbourhood Character Precinct Guidelines.

Infrastructure issues not addressed, footpath required, site services not addressed.

97. That existing infrastructure is well used is not a reason to veto this application. The developer is required to provide the necessary improvements to electricity and water supply to accommodate the proposed development. The general provision of improvements to infrastructure, whether that be public transport, electricity or water supply is the responsibility of the relevant service providers.

Poor interface Aqueduct Road.

98. The reserve on both sides of Aqueduct Road has resulted in dwellings do not fronting with this Road Zone Category 1. The road is characterised by high rear fencing and minimal side and rear setbacks. The proposal is consistent with this streetscape character.

Visual impact of solar panels.

No solar panels are currently proposed and the impact of solar panels cannot be considered at this time. It is noted that solar panels are domestic services normal to a dwelling, do not require a planning permit and, from an environmental perspective, are encouraged and would be supported if proposed.

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FN.040/18 Construction of nine dwellings at 36-38 Old Aqueduct Road, Diamond Creek

Conclusion

99. The application seeks to construct nine dwellings. The application was advertised and eight written objections were received. The key planning issues relate to the scale of the development, the number of dwellings proposed and landscaping opportunities.
100. Subject to conditions to reduce the height of the development the proposal presents an appropriate scaled development, responsive to the character of the area and its context. There is sufficient setbacks around the built form for canopy tree planting that will respect the character of the area and meet the recreation needs of residents. Setbacks are responsive to adjoining properties.
101. In light of the above planning assessment, the application warrants support as reflected in the officer recommendation.

5. Officers' report

FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham

Portfolio: Planning
Distribution: Public
Manager: Renae Ahern, Manager Planning Services
Author: Tyson McAdie, Senior Statutory Planner

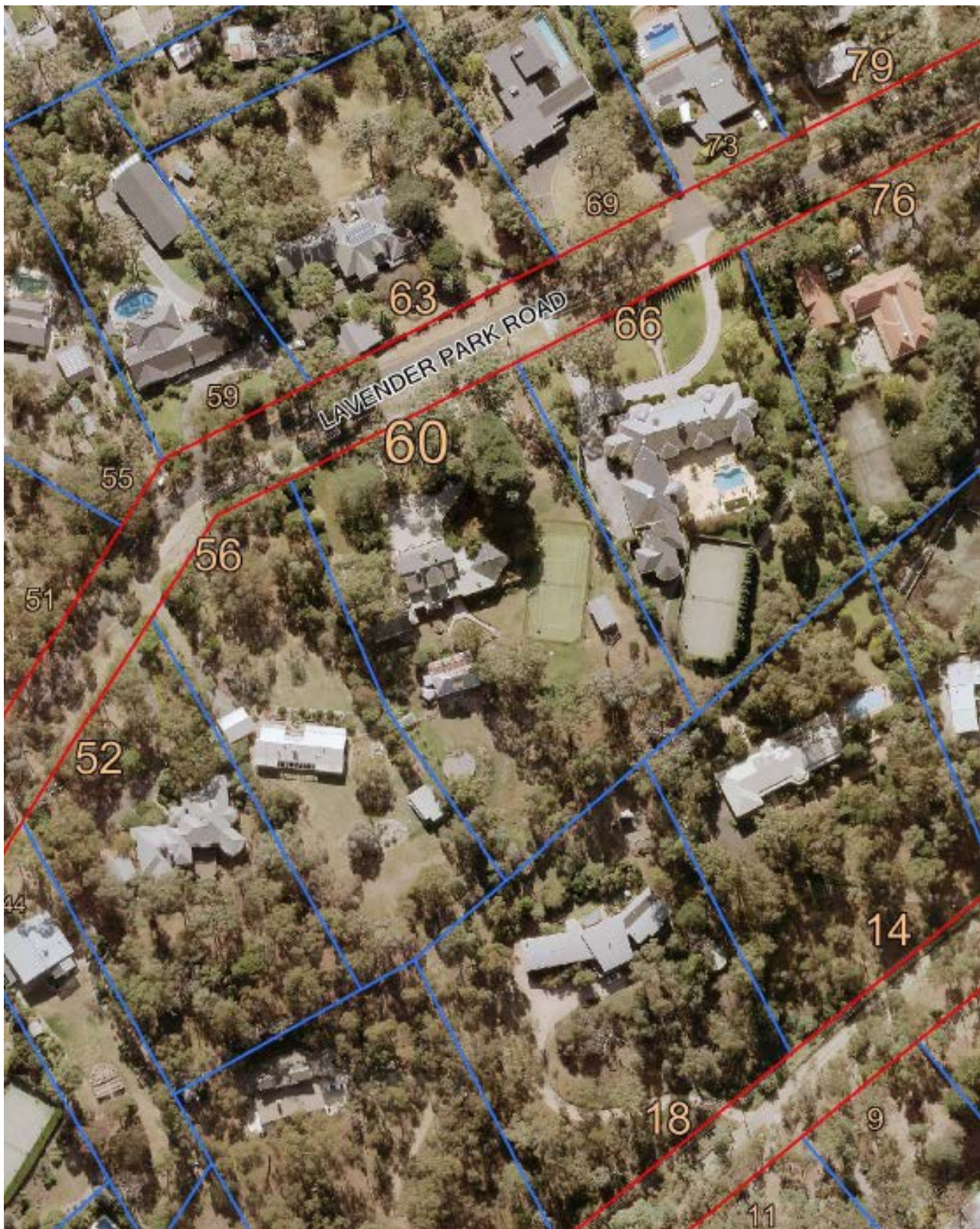
Application summary

Address of the land	60 Lavender Park Road, Eltham
Site area	8,606 square metres
Proposal	Two lot subdivision and associated native vegetation removal
Application number	253/2018/14P
Date lodged	31 May 2018
Applicant	Terrain Consulting Group Pty Ltd
Zoning	Low Density Residential Zone
Overlay(s)	Significant Landscape Overlay (Schedule 2) Heritage Overlay (Schedule 113) Bushfire Management Overlay
Reason for being reported	Called in by Ward Councillor.
Number of objections	11
Key issues	<ul style="list-style-type: none"> • Neighbourhood Character • Heritage • Vegetation Impacts • Native Vegetation • Bushfire Management • On-Site Stormwater and Wastewater Management • Amenity Impacts

Location map

5. Officers' Report

FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham



5. Officers' Report

FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**Recommendation**

That the Committee (under delegation from Council) issue a Notice of Decision to Grant a Permit to the land located at 60 Lavender Park Road, Eltham South, for the two lot subdivision and associated native vegetation removal, in accordance with the submitted plans and subject to the following conditions.

1. Before the commencement of works, including removal of vegetation, or before the plan of subdivision is certified under the *Subdivision Act 1988*, whichever comes first, 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 31 May 2018 and prepared by Terrain Consulting Group but modified to show:
 - a) The building envelope modified so as to be located outside the TPZ of tree no's 16 and 21 and located a minimum setback of 10 metres (measured from the outer edge of the trunk) to tree no's 21.
 - b) A legend that nominates all trees to be retained except for tree no's 14 and 15.
 - c) The location of Tree A (*Eucalyptus melliodora* – Yellow Box) within the front setback and its Structural Root Zone and Tree Protection Zone.
 - d) The location of the easement along the rear boundary.
 - e) An amended arborist report to be submitted that details the trees located near the proposed effluent fields for both Lots 1 and 2.
 - f) All trees identified within the amended arborist report to be nominated including details of the Tree Protection Zones, on the proposed plans in accordance with the numbering system adopted within the report.
 - g) Location of effluent envelopes to reflect the recommendations within the submitted Land Capability Assessment, prepared by EWS Environmental, dated 2 March 2018, including effluent fields to be located within the front setback for Lot 1.
 - h) The location of the storm water detention systems for both Lot 1 and 2. Storm water for each lot must be located below any effluent fields. The stormwater must meet the requirements of the Shire of Nillumbik's 'Drainage of Unserviced Allotments document' and not impact any vegetation to be retained.
 - i) An amended Bushfire Management Plan in accordance with Condition 18 of this permit.
2. The subdivision allowed by this permit and shown on the plans endorsed to accompany the permit shall not be amended for any reason unless with the prior written consent of the Responsible Authority.
3. The tree removal as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.

5. Officers' Report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

4. Only trees marked "tree to be removed" on the endorsed plans are permitted to be removed, to the satisfaction of the Responsible Authority.
5. Prior to the issue of a statement of compliance, the owner must enter into an agreement for Lots 1 and 2 with the Responsible Authority and in accordance with section 173 of the *Planning and Environment Act 1987*. The agreement must be to the satisfaction of the Responsible Authority. The agreement must provide for:
 - a) Unless with the prior written consent of the Responsible Authority, all buildings and works (including excavation, fill, trenching, paving, outbuildings, swimming pools) must be contained within the approved building and driveway envelope for Lot 2 as designated on the endorsed plans.
 - b) Unless with the prior written consent of the Responsible Authority, all effluent must be disposed of and contained within the designated effluent envelope as shown on Endorsed Plans for Lots 1 and 2.
 - c) Unless Lot 2 can be connected to reticulated sewerage, the provision of effluent for the future dwelling must meet the following requirements to the satisfaction of the Responsible Authority:
 - i. All sewage and sullage waters shall be treated in accordance with the requirements of the *Environment Protection Act 1970*. 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.
 - ii. Approval of wastewater disposal must be obtained from Council (Environmental Health) prior to a Building Permit being issued.
 - iii. The septic system must be upgraded in accordance with the requirements of the *Environment Protection Act 1970* and Council (Environmental Health).
 - iv. The method of effluent disposal must be upgraded in accordance with the requirements of the Environmental Protection Act 1970 and Council.
 - v. Prior to the commencement of the development, a soil permeability test or assessment must be submitted as part of any permit application to Council (Environmental Health) to install a septic tank system.
 - vi. Secondary treatment of wastewater followed by sub-surface irrigation must be installed to the satisfaction of the Responsible Authority.
 - vii. 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 months, with a copy of the report sent to the Council (Environmental Health).

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- d) Unless with the prior written consent of the Responsible Authority, all trees nominated for retention on Lots 1 and 2 must not be removed, destroyed or lopped.
- e) Prior to the commencement of any buildings and works and any demolition works (including removal of tennis court) on Lot 2, Tree Protection Zones (TPZs) must be established on the subject site and maintained during, and until completion of all buildings and works including any future landscaping, around the following trees in accordance with the distances and measures specified below (and within the arborist report prepared by Stem Arboriculture dated 26 February 2018), to the satisfaction of the Responsible Authority:
- Tree A – 13.7 metres radius from centre base of tree.
 - Tree 1 – 8.5 metres radius from centre base of the tree.
 - Tree 2 – 7.2 metres radius from centre base of the tree.
 - Tree 3 – 6.2 metres radius from centre base of the tree.
 - Tree 4 – 15 metres radius from centre base of the tree.
 - Tree 5 – 4.3 metres radius from centre base of the tree.
 - Tree 6 – 4.9 metres radius from centre base of the tree.
 - Tree 8 – 4.1 metre radius from centre base of the tree.
 - Tree 9 – 4.2 metre radius from centre base of the tree.
 - Tree 10 – 4.4 metre radius from centre base of the tree.
 - Tree Group 11 – 3.2 metre radius from centre base of the tree.
 - Tree 12 – 2.4 metre radius from centre base of the tree.
 - Tree 13 – 2.0 metre radius from centre base of the tree.
 - Tree 16 – 8.2 metre radius from centre base of the tree.
 - Tree 17 – 4.8 metre radius from centre base of the tree.
 - Tree 18 – 4.9 metre radius from centre base of the tree.
 - Tree 19 – 10.0 metres radius from the centre base of the tree.
 - Tree 21 – 10.0 metre radius from the centre base of the tree.
 - Tree 23 – 2.6 metre radius from the centre base of the tree.
 - Tree 27 – 3.6 metre radius from the centre base of the tree.
- f) Prior to the commencement of any buildings and works (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 and protected under this Agreement must have a Tree Protection Zone (TPZ) defined on a plan to the satisfaction of the Responsible Authority. Unless works have already been shown on endorsed plans within the periphery, the zone for each tree shall be marked to extend to at least the periphery of the foliage canopy and to include the drip line of each

5. Officers' Report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

tree. If works are shown on the endorsed plan within the periphery, then the Tree Protection Zone must be taken in to the minimum amount necessary to allow the works to be completed. All Tree Protection Fencing required by this permit must be erected in accordance with the approved Tree Protection Zone.

- g) Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the tree protection fencing must be erected to the satisfaction of the Responsible Authority in accordance with the approved Tree Protection Zone(s). The fencing must be erected to form a visual and physical barrier, be a minimum height of 1.5 metres above ground level, and include signage clearly marked 'Tree Protection Zone – No Entry' on all sides.
- h) Once erected and approved by the Responsible Authority, 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. 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. Any additional root protection requirements as a result of such access being granted and as directed by the Responsible Authority shall be undertaken to the satisfaction of the Responsible Authority.
- i) The following actions must not be undertaken in any Tree Protection Zone identified on the endorsed plan, to the satisfaction of the Responsible Authority:
- Materials or equipment storage within the zone.
 - Nothing is to be attached to any tree (including temporary service wires, nails, screws or any other fixing device).
 - Open cut trenching or excavation works (whether or not for laying of services) within the zone.
 - Changes to the soil grade level within the zone.
- j) The trenching of services must be located outside of any identified Tree Protection Zone within Lot 2 wherever practically possible. If underground services are to be routed within an identified Tree Protection Zone, they must be installed by directional boring with the top of the bore to be a minimum depth of 600mm below the existing grade. The works must be completed under the direct supervision of the project arborist and all must be completed to the satisfaction of the Responsible Authority.
- k) Unless with the prior written consent of the Responsible Authority, all bore pits must be located outside of an identified Tree Protection Zone to the satisfaction of the Responsible Authority.

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- l) The driveway for Lot 2 must be constructed of a permeable or porous materials with the Tree Protection Zone of Tree A. The driveway must be laid at or above grade within any identified Tree Protection Zone as shown on the endorsed plans, unless with the prior written consent of the Responsible Authority. All works must be completed to the satisfaction of the Responsible Authority.
 - m) Stormwater from the roof of the future dwelling on Lot 2 must be directed to a holding tank for storage and detention purpose and absorbed on-site in accordance with the Shire of Nillumbik's 'Drainage of Unserviced Allotments document'

Application must be made to the Registrar of Titles to register the section 173 Agreement on the title to the land under section 181 of the same Act prior to the certification of the Plan of Subdivision.

The owner must pay all costs (including Council's costs) associated with the preparation, execution, registration, review (if required) and (if later sought) cancellation of the section 173 Agreement.

- 6. Prior to the issue of a statement of compliance, the owner must enter into an agreement for Lots 1 and 2 with the Responsible Authority and in accordance with section 173 of the *Planning and Environment Act 1987*. The agreement must be to the satisfaction of the Responsible Authority. The agreement must provide for:
 - a) State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Nillumbik Planning Scheme.
 - b) Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.
 - c) State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.
 - d) Unless with the prior written consent of the Country Fire Authority and Council, development on Lot 2 must comply with the CFA conditions.

Application must be made to the Registrar of Titles to register the section 173 Agreement on the title to the land under Section 181 of the same Act prior to the certification of the Plan of Subdivision.

The owner must pay all costs (including Council's costs) associated with the preparation, execution, registration, review (if required) and (if later sought) cancellation of the Section 173 Agreement.

- 7. Prior to the statement of compliance the following must occur to the satisfaction of the Responsible Authority:
 - a) Existing septic system serving Lot 1 must be decommissioned in accordance with the recommendations contained within the Land Capability Assessment, prepared by EWS Environmental, dated 2 March 2018, to the satisfaction of the Responsible Authority.

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- b) Unless Lot 1 can connect to reticulated sewerage, Lot 1 must be provided with a wastewater management system that meets the following requirements:
- i. All sewage and sullage waters shall be treated in accordance with the requirements of the Environment Protection Act 1970. 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.
 - ii. Approval of wastewater disposal must be obtained from Council (Environmental Health) prior to a Building Permit being issued.
 - iii. The septic system must be upgraded in accordance with the requirements of the Environment Protection Act 1970 and Council (Environmental Health).
 - iv. The method of effluent disposal must be upgraded in accordance with the requirements of the Environmental Protection Act 1970 and Council.
 - v. Prior to the commencement of the development, a soil permeability test or assessment must be submitted as part of any permit application to Council (Environmental Health) to install a septic tank system.
 - vi. Secondary treatment of wastewater followed by sub-surface irrigation must be installed to the satisfaction of the Responsible Authority.
 - vii. 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 months, with a copy of the report sent to the Council (Environmental Health).
- c) Stormwater from the roof of all buildings on Lot 1 hereby approved must be directed to a holding tank for storage and detention purpose and absorbed on-site in accordance with the Shire of Nillumbik's 'Drainage of Unserviced Allotments document'.
- d) Vehicular access and egress to each lot 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 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.
8. The subdivision hereby permitted, including any new paved areas, must be drained so as to prevent the uncontrolled discharge of stormwater from the subject site across any road or footpath or onto any adjoining land. Stormwater must not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of stormwater.

5. Officers' Report**FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham**

9. Offset requirement

To offset the removal of 0.074 hectares of native vegetation 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 0.014 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 0.200.

Large trees

- The offset(s) secured must provide protection of at least 1 large tree.

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

10. Offset evidence and timing

Before any native vegetation is removed, evidence that the required offset has been secured must be provided to the satisfaction of Council. This evidence is one or both of the following:

- i. 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
- ii. 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.

11. Monitoring and reporting for onsite offset implementation

In the event that a security agreement is entered into as per Condition 10.i. 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.

12. 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 identified Tree Protection Zone, or if no such zone is identified on the endorsed plans, the drip line of any nearby canopy tree, to the satisfaction of the Responsible Authority.

5. Officers' Report

FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham

13. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
14. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
15. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.
16. The owner of the land must enter into an agreement with:
 - a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - a suitably qualified person for the provision of fibre ready telecommunication facilities.
 - to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
17. This permit will expire if one of the following circumstances applies:
 - a) A plan of subdivision is not certified within two years of the issue date of this permit;
 - b) A plan of subdivision is not registered at Land Victoria within five years of the original certification date
 - c) The vegetation removal is not completed within 12 months of the certification of the plan of subdivision.

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The Responsible Authority may extend the time for certification if a request is made in writing before the expiry of the permit or within 6 months afterwards.

Country Fire Authority Conditions

18. Amended Bushfire Management Plan

Before certification under the *Subdivision Act 1988*, an amended bushfire management plan (BMP) must be submitted to and endorsed by the Responsible Authority. When approved, the BMP will be endorsed by the Responsible Authority and be included as an annexure to the section 173 Agreement.

The BMP must be substantially in accordance with the BMP Plan prepared by Terramatrix Pty Ltd, Parts B and B (Pages 1 & 2), dated 16 May 2018 and must show the following bushfire mitigation measures, unless otherwise agreed in writing by the CFA and the Responsible Authority.

a) Defendable space (Lot 2)

- Show an area of defendable space to the property boundary where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:
- Grass must be short cropped and maintained during the declared fire danger period.
- All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
- Plants greater than 10 centimetres in height must not be placed within 3 metres of a window or glass feature of the building.
- Shrubs must not be located under the canopy of trees.
- Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

b) Construction standards (Lot 2)

- Nominate a minimum Bushfire Attack Level of BAL – 12.5 that the future buildings will be designed and constructed.

c) Water Supply (Lot 2)

- Show 10,000 litres of effective water supply for fire fighting purposes which meets the following requirement.
- Is stored in an above ground water tank constructed of concrete or metal.

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- All fixed above-ground water pipes and fittings requires for firefighting purposes must be made of corrosive resistant metal.
 - Incorporate a ball of gate valve (British Standard Pip (BSB) 65mm) and coupling (64 mm CFA 3 thread per inch male fitting).
 - The outlet/s of the water tank must be within 4 metres of the accessway and be unobstructed.
 - Be readily identifiable from the building or appropriate identification signage to the satisfaction of CF must be provided.
 - Any pipework and fittings must be a minimum of 65mm (excluding the CFA coupling).
- d) Access (Lot 2)
- Show the access for fire fighting purposes which meets the following requirements:
 - Curves must have a minimum inner radius of 10 metres.
 - The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50 metres.
 - Have a minimum trafficable width of 3.5 metres of all-weather construction.
 - Be clear of encroachments for at least 0.5 metres on each side and 4 metres above the accessway.
 - Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.

Notes

- A. During the course of the approved construction work, including tree removal, a copy of this permit and the endorsed plan(s) must be kept on-site and made available for inspection by Council officers.
- B. Failure to undertake the requisite tree protection fencing in accordance with the conditions of this permit will result in the issuing of Planning Infringement Notices to the land owner, occupant (if this is a different person), and the person or company undertaking the works on-site. The minimum penalty on the Planning Infringement Notice for land owners and occupants will be \$806 for the land owner and occupant, and \$1,612 for any company which may be undertaking works on-site.
- C. Failure to undertake the vegetation removal in accordance with this permit will result in the issuing of Planning Infringement Notices to the landowner, occupant (if this is a different person), and the person or company undertaking the tree removal works. The minimum penalty on the Planning Infringement Notice for land owners and occupants will be \$806 for the land owner and occupant, and \$1612 for any company which may be undertaking the tree removal works.

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- D. The removal of vegetation is often found by Council to generate concern amongst other community members who may not be aware that a permit has been obtained. Council therefore strongly recommends that the permit holder advise any nearby neighbours of their intention to remove the vegetation and that they have obtained permission to do so before they proceed to remove the vegetation. Failure to do so may result in Council officers being obliged to visit the land, and also potentially delay the vegetation removal process while compliance with the permit is checked.
- E. All vehicle crossing works are to be carried out with Council supervision under an Infrastructure Works Permit.

Attachments

1. Aerial map
2. Site and surrounds
3. Plans

Subject site and surrounds

1. The key features of the subject land are as follows:
 - The subject site is locally referred to as 'Landscape'. It is located on the south side of Lavender Park Road, approximately 158 metres west of Metery Road, Eltham South. It has a frontage of approximately 70 metres to Lavender Park Road, a maximum depth of 126 metres (west boundary) and a site area of 8,606 square metres.
 - A dwelling with attached garage, associated single-storey studio, illuminated tennis court, small weatherboard shed and water tank (120,000 litre capacity) occupy the site. The dwelling was constructed circa 1920 and is described as being 'colonial revival' in style. It is setback approximately 35 metres from the front boundary. The studio and tennis court are setback approximately 11 and 7 metres south and south east respectively from the dwelling. Given the significance of the site it is included within a Heritage Overlay under the Planning Scheme.
 - Vehicle access occurs via a loop driveway with two separate crossovers to Lavender Park Road, both located towards the eastern end of the site's frontage. Post and wire fencing, varying in height between 1.1 and 1. metres is constructed along all boundaries.

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- The submitted arborist report (Stem arboriculture, 26 February 2018) provides an assessment of 27 trees all of which are within the subject site except for tree no 10 and tree group 11, 12 and 13, which are located adjacent to the east boundary. There are a number of trees located within the south-east section of the site including:

Tree 14	Eucalyptus melliodora	Yellow Box
Tree 16	Corymbia citriodora	Lemon Scented Gum
Tree 17	Eucalyptus botryoides	Southern Mahogany
Tree 19	Eucalyptus melliodora	Yellow Box
Tree 21	Eucalyptus melliodora	Yellow Box
Tree 22	Eucalyptus polyanthemos	Red Box
Tree 23	Eucalyptus melliodora	Yellow Box
Tree 24	Eucalyptus polyanthemos	Red Box
Tree 25	Eucalyptus polyanthemos	Red Box

- Tree no's 16, 19 and 21 are listed as having a 'high retention value'. Tree no's 14, 22, 23, 24 and 25 are listed as having 'medium retention value' and tree 17 is listed as having a 'low' retention value. Significant vegetation is also located within the front setback between the dwelling and Lavender Park Road. This front setback is the primary location for the mature exotic plantings referred to in the Heritage citation.
- The front portion of the site is relatively level, however, the rear portion of the site slopes towards the south. Overall, the land falls approximately 8.4 metres from the north east corner to the south west corner at an average gradient of 5.8%. A 3 metre wide easement extends along the rear boundary.

2. The key features of the surrounding area include:

- The character of Lavender Park Road comprises large detached dwellings with generous spacing between common boundaries on lots that average in size of around 5,600 square metres. Most lots also comprise swimming pools and tennis courts with various outbuildings within a landscape setting.
- The adjoining lot the east, at 66 Lavender Park Road, is a lot of approximately 6,600 square metres in size that includes an 'L' shaped brick dwelling that is setback approximately 28 metres from the front boundary and 4.5 metres from the subject site. The lot also includes a tennis court and in ground swimming pool. A row of 5 metre high planted *Hakea salicifolia* – (Willow Leaf Hakea) provide for some screening to the subject site.
- The adjoining lot to the west, at 56 Lavender Park Road, is a narrower lot of approximately 6,000 square metres that includes a single storey dwelling located in a central location.

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- A detached single storey brick house and a mud brick dwelling occupy the two properties that adjoin the rear of the subject site, at 14 and 18 Haldane Road. These dwellings are setback between 8.5 and 21 metres respectively from the common boundary with the site.
- On a wider scale, the existing dwelling is located on a local hilltop with land sloping away in all directions. The most significant drop is towards the south. The Yarra River is located approximately 650 metres to the south.
- The locality is identified in the Nillumbik Neighbourhood Character Study as lying within the 'Semi Bush Garden Precinct 2'. Key characteristics of the area are described as 'predominantly 1950-1980s dwellings with some pockets of inter war and recent development, generally earth toned materials and bushy vegetation with significant indigenous vegetation or native canopy trees'.
- The area is currently unsewered, but parts of the area are likely to be sewerred within the next few years.

Details of proposal

3. Refer to the attached plans.
4. It is proposed to subdivide the land into two lots with associated native vegetation removal. The following description is based on plans prepared by Terrain Consulting Group. The key features of the proposal include:
 - Lot 1 provides a frontage of 38.5 metres to Lavender Park Road and an area of 4,587 square metres. It retains the existing dwelling, studio, water tank and utilises the western-most crossover and entrance driveway.
 - Lot 2 is an irregular shaped parcel (similar to a battle-axe arrangement), provides a frontage of 16 metres to Lavender Park Road and an area of 4,015 square metres. It includes the existing tennis court and shed and utilises the eastern-most crossover and entrance driveway.
 - This lot provides for a buildings and works envelope, to the south east of the existing dwelling, with dimensions of 25 metres by 21 metres (525 square metres). The driveway envelope follows the alignment of the existing driveway and includes the existing level area of the tennis court.
 - The building envelope is setback approximately 66 metres from the front boundary and provides for varying setbacks of between 2.6 and 7.4 metres to the east boundary. The building envelope to lot 2 includes tree 15 (dead tree) and a portion of tree 14 that are to be removed.
 - Wastewater envelopes have not been designated on the plan, however the Land Capability Assessment, prepared by EWS Environmental Water and Soil Consultants, dated 2 March 2018, finds that sustainable onsite wastewater management is feasible for both lots.

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Planning history

5. The relevant history to the subject site includes:

- Planning Permit M.646 (1977) for a two-lot subdivision excising a house on 0.95ha from the balance of the land. Permit expired due to non-compliance.
- Planning application M646a (1977) was refused for subdivision into 12 lots of about 0.4 ha each.
- Planning Permit 223/2003 for the purpose of buildings and works to heritage site known as 'Landscape' (extension and alterations to existing dwelling, construction of swimming pool) and tree removal was issued on 13 October 2003.
- Planning Permit 392/2003/14P for a two-lot subdivision was refused at Council's Planning and Building Committee meeting of 13 December 2005. The applicant did not seek a review of this decision through the Victorian Civil and Administrative Tribunal. This proposal considered a battle-axe shaped arrangement for lot 2 with a frontage of 17.6 metres to Lavender Park Road, a handle extending to a depth of 146 metres with the building envelope located directly south of the studio. The configuration of the lot layout presented issues with the area available for waste water disposal, associated impact on trees and a future building impacting on the heritage values of the existing buildings on the land. In this regard, the location of the new dwelling was considered to impact upon the setting and obscure views from the neighbouring properties to the south. This application is referred to as the '2003 application' within this report.
- Planning Permit 589/2008/05P for buildings and works to install a 120,000 litre water tank was issued 13 January 2009. The tank is located 18 metres south of the studio and 4.5 metres from the west boundary.
- A pre-application meeting for the proposed two lot subdivision was held on 11 September 2017. The applicants were advised of many issues associated with the proposed subdivision, including retention of existing native and exotic vegetation, land capability to retain effluent, impact on existing heritage values and bushfire management.

Planning controls

Zoning

6. The subject site and surrounds are included within the Low Density Residential Zone. Under Clause 32.03-3 a permit is required to subdivide land and each lot must be at least 0.4 hectares.

Overlays

7. The subject site is covered by the Significant Landscape Overlay, (Schedule 2) (SLO2). The purpose of this overlay is to identify areas of a bush and semi-bush character, and to ensure that (future) development is sympathetic to the bush or semi-bush character of the area. A permit is not required to subdivide land, however a permit under Clause 42.03-2 is required for the removal of native vegetation.

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8. The subject site is covered by Heritage Overlay, (Schedule 113). The purpose of the overlay includes conserving and enhancing heritage places of natural or cultural significance and protecting those elements which contribute to the significance of the heritage place. Under Clause 43.01-1, a permit is required to subdivide land. No tree controls apply (including removing, destroying or lopping a tree) under the Schedule to the Overlay.
9. The subject site is covered by the Bushfire Management Overlay. The purpose of the overlay includes ensuring that the development of land prioritises the protection of human life and strengthens community resilience to bushfire. Under Clause 44.06-2 a permit is required to subdivide land.

Particular provisions

10. 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 to biodiversity as a result of the removal, destruction or lopping of native vegetation.
11. Clause 53.02 (Bushfire Planning) applies to an application under the Bushfire Management Overlay. The purpose of the Clause includes ensuring that the location, design and construction of future development responds to the bushfire hazard and to ensure that development is only permitted where the risk to life, property and community infrastructure can be reduced to an acceptable level.
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. The Planning Policies which are relevant to the application include:
 - Clause 12.01 – Protection of Biodiversity
 - Clause 12.01-2S – Native Vegetation Management
 - Clause 12.05-2S – Landscapes
 - Clause 13.02-1S – Bushfire Planning
 - Clause 15.01-5S – Neighbourhood Character
 - Clause 15.03-1S – Heritage conservation
 - Clause 16.01-2S – Location of residential development.
 - Clause 16.01-1S – Integrated housing.
14. The Municipal Strategic Statement (MSS) clauses and Local Planning Policies which are relevant to the application include:
 - Clause 21.03-1 – Settlement and Housing (under Municipal Profile)
 - Clause 21.05-1 – Settlement and Housing

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- Clause 21.05-3 – Environment, Conservation and Landscape
- Clause 22.12 – Neighbourhood Character
- Clause 22.13 – Wildfire Management Policy

Policy context

15. The key themes of the Planning Policy Framework include:

- Increase the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land.
- Ensure that development protects and enhances significant landscapes, neighbourhood character and a sense of place.
- Encourage appropriate development that conserves and respects places with identified heritage values.
- To assist with the protection and conservation of Victoria's biodiversity.
- Strengthening the resilience of settlements and communities to bushfire through risk-based planning that provides for the protection of human life.

16. The Key themes of the Municipal Strategic Statement and Local Planning Policy Framework include:

- Clause 21.03-1 (Settlement and Housing) identifies low-density residential development exists with Eltham and Research effectively forming a buffer to the rural areas of the Shire. Clauses 21.05-1 (Settlement and Housing) and 21.05-3 (Environment, Conservation and Landscape) provide a number of objectives and strategies to ensure further development within these areas (to accommodate population growth) is in keeping with the neighbourhood character of the locality.
- Clause 21.03-3 (Environment, Conservation and Landscape) examines non-indigenous cultural heritage and notes many artists, architects and environmentalists attracted by the area's landscape and natural environment settled in locations such as Eltham. Today the Shire is known for its 'environmental buildings' and association with the Montsalvat Artists' Colony. Clause 21.05-3 (Environment, Conservation and Landscape) encourages, 'new development to contribute to the protection and enhancement of natural and cultural heritage'.
- Clause 21.03-1 (Settlement and Housing) and Clause 21.05-1 (Environment, Conservation and Landscape) deal with fire risk within the Shire. Due to the combination of extensive vegetation cover, the orientation of steep sloping land and prevailing winds, much of the Shire's non-urban and urban areas are prone to high fire risk. To that end, Clause 22.13 (Wildfire Management Policy) guides discretionary decision-making about the use of land, the design of subdivisions, the siting and design of buildings and the management of land in bushfire prone areas.

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- The Neighbourhood Character Policy is found at Clause 22.12 and applies to subdivision in the Low Density Residential Zone. It builds on statements contained under Clause 21.05 of the Municipal Strategic Statement. The key objective of the policy is to ensure that subdivision is responsive to the preferred future character of the area. The policy divides the urban areas of the municipality into character types. This site is located in a Semi-Bush Precinct 2, which is characterised mainly by rolling topography, bushy vegetation with significant indigenous or native canopy, native gardens continuous with road vegetation and predominantly 1950's – 1980's dwellings. The relevant design objectives for this area are to:
 - Maintain the indigenous vegetation including canopy trees and understorey planting and encourage the replanting of indigenous plants;
 - Minimise site disturbance and impact on the landform and vegetation;
 - Minimise excavation for car access, impact on bush setting and visibility of access driveway and car storage facilities;
 - Maintain and enhance the continuous flow of the landscape and vegetation and the bush character of the front garden vegetation;
 - To design and site buildings which minimise the risk of loss in a bushfire and landscaping which minimises the spread and intensity of bushfires.

Public consultation

Advertising

17. 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

18. As a result of advertising, a total of eleven written objections have been received. These objections can be summarised as follows:
 - Previous refusals for subdivision of the land with limited policy change since the 2003 application.
 - Subdivision and future development is not consistent with the existing character of Eltham South.
 - Impact on a local historic landmark of 'Landscape'.
 - Loss of views towards the heritage aspects of the property.
 - Impact on amenity to adjacent properties.
 - Tree Impacts.
 - Exacerbation of stormwater and sewerage into adjacent properties.
 - Recently planted vegetation along boundaries is inappropriate and poorly maintained to provide appropriate screening.
 - The subdivision will set an undesirable precedent in the area.

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- Additional traffic flows to and from this property on what is essentially a country lane.
- Reduction in property values.

Planning application conference

19. A planning application conference was not held due to the number of submissions received. The matters are otherwise addressed throughout the remainder of this report.

Referrals

20. 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:

Council Unit	Comments
Consulting Arborist	<p>Council’s consulting arborist has assessed the proposal and finds the building envelope to be placed within a logical area to minimise tree removal. Notwithstanding the above, the building envelope facilitates Tree Protection Zone encroachment on tree no’s 16 and 21. It is recommended that the building envelope is modified so that there is no TPZ encroachment on the High retention value trees as a minimum.</p> <p>There is no concern with the loss of tree no’s 14 and 15 and Tree Protections Zones and measures are to be addressed through conditions of the permit.</p>
Environmental Health Unit	<p>Council’s Environmental Health Team have considered the Land Capability Assessment and support the proposal subject to conditions.</p> <p>The Environmental Health Team have stated that the effluent areas for each lot must be located above any stormwater drainage. This is to ensure effluent areas are not compromised by continually being wet and therefore unable to absorb wastewater.</p> <p>It was also requested that Lot 1’s effluent be located within the front setback rather than the option in the rear yard, as this location met the required setbacks more easily and would be appropriate distance from any stormwater drainage that would be required in the rear yard.</p>
Heritage Advisor	<p>Council’s consulting heritage advisor has assessed the proposal and finds the layout acceptable as future development would not impact on the heritage values of the site.</p>

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Council Unit	Comments
Environmental Planning Officer	Council's Environmental Planning has assessed the proposal and has not identified any issues with the loss of tree no's 14 and 15 and is generally satisfied the proposal will not produce any environmental impacts to the site and wider area. Offsetting conditions have been provided for the loss of tree no's 14 and 15
Infrastructure Department	Council's Infrastructure Department have assessed the proposal and have requested standard conditions relating to vehicle crossover and drainage.

External

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

Authority	Comments
Country Fire Authority	The Country Fire Authority has assessed the proposal and does not object to the grant of a permit subject to the submission of an amended bushfire management plan and that the mandatory conditions specified within the planning scheme be included within any planning permit issued.

Planning assessment

Introduction

22. Having regard to the residential zoning of the land, which allows for lots with a minimum lot size of 4,000 square metres, local planning policies, the landscape and heritage overlays, and consideration of all the objections received, on balance, it is recommended that Council support the application. The proposed lot layout and associated building and driveway envelope represents a sufficient change to address previous issues outlined in the 2003 application assed by Council and positively responds to the relevant planning provisions.

23. The key issues to be reconsidered include:

- Neighbourhood Character
- Heritage Impact
- Vegetation Impact
- Native Vegetation
- Bushfire Management
- On-Site Stormwater and Wastewater Management
- Amenity Impacts

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24. Assessment of these issues, together with a response to objections received, will be discussed in the remainder of this report.

Neighbourhood character

25. The subject site is contained within the Significant Landscape Overlay (Schedule 2) which pertains to Bush and Semi-Bush residential areas. The Schedule identifies the importance of vegetation and the relationship between buildings and the landscape to the character of an area.

26. Under the overlay, a permit is not required to subdivide land, however a future application will be required for a dwelling that assesses 'buildings and works'. Therefore the overlay can provide general 'guidance' to the appropriateness of the subdivision.

27. The stated landscape character objectives to be achieved are:

- To provide for housing in a residential location in a bushland setting.
- To provide for sensitive siting of buildings and works, access and earthworks and by the restoration of native vegetation where considered appropriate.
- To provide for conservation and enhancement of the environmental values of the area.
- To ensure that the development of land and the removal of native vegetation are not detrimental to the natural environment and character of the area.
- To minimise the threats to the natural environment through the unnecessary removal of vegetation in these areas.

28. Schedule 2 applies to the wider area and provides a nexus with Clause 22.12-6 (Semi-Bush Precincts) of the local Neighbourhood Character Policy. The policy applies to subdivision in the Low Density Residential Zone and has the key objective of ensuring that subdivision is responsive to the preferred future character of the area. The Statement of Desired Future Character for the Semi Bush Precinct is as follows:

- Development is sited so that buildings nestle into the landform and are partly obscured from view by the topography or tree canopy. Development responds to sloping landforms and creates minimal disturbance.
- Hillside residential development when viewed from a distance appear to be tree covered. In typical streetscapes, substantial indigenous or native trees dominate the skyline and are common in gardens. Garden planting is mostly indigenous or native, and flows uninterrupted to the edge of the roadway. There is little or no physical evidence of the boundary between private and public property at the front of the house, and no solid front fences. The only fencing is around rear gardens, and this is often open (eg. post and wire).
- Driveways and car storage areas are confined to a small portion of the land area. Garages and carports are hidden from view.

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29. The lot configuration provides a considered response to the policy objectives and the preferred neighbourhood character. The building envelope is significantly setback from the street frontage, enjoys setbacks to the adjoining lots that provide for screening opportunity and sits below the ridgeline. Further, the driveway envelope and building envelope includes part of the existing tennis court to minimise the need for excavation, alteration of the natural topography and tree removal.
30. The proposal seeks the removal of two trees, one of which is dead, the other a small tree with a height of 5 metres. All other trees across the site, including those of high retention value are designated for retention. This will enable any future development to be nestled into the landform, obscured from view and maintain an inconspicuous profile.
31. The previous application on the site was unsuccessful, partly due to the proposal not being consistent with the established character of the area and being contrary to Clause 22.12 – Neighbourhood Character Policy. Should a planning permit be issued for the current application, all vegetation not located within the building envelope can be protected by a Section 173 Agreement. The retention of vegetation on the site will ensure the landscape character on the site will be maintained. As noted above, it is expected that any future development on the site will nestle into the landform and maintain an inconspicuous profile.
32. It is reiterated that the provisions of the Significant Landscape Overlay will require a further application that assesses buildings, works and fencing (other than post and wire). This will enable further consideration of a development's responsiveness and relationship to the objectives of the Overlay and the Local Policy.

Heritage

33. The subject site is affected by Heritage Overlay (Schedule 113). The significance of the heritage place extends to the entire residence and rear concrete studio, front outbuilding, mature exotic planting, the front gates and entire site. The heritage citation (Shire of Eltham Heritage Study) notes:
- 'Landscape' residence and rear studio has historical significance as the home of Percy Leason, artist, cartoonist and anthropologist, from 1926 until circa 1938. Leason was notable for his cartoons in the Bulletin, Punch and Table Talk during the 1920's and later. He was one of a significant number of artists who lived and worked in the Shire of Eltham during the present century and who became an important group within the Eltham community. 'Landscape' was also a centre for artists visiting Eltham.
34. Although the subject site features notable historical buildings, 'Landscape' is also of particular significance due to the culture and heritage of Eltham. This property illustrates the persona of local artists, the character of the Eltham landscape as well as being a place of abode for notable previous residents of Eltham. Similar to Montsalvat, this property has played an important part in the history of Eltham in that it represents the essence and progression of artistry in this area.

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35. Land surrounding the subject site once formed part of 'Landscape'. It has since been reduced to 0.86 hectares, as a result of subdivisions that took place years ago. The subdivision was designed to ensure that 'Landscape' maintained its cultural and architectural integrity with the most important parts of the garden being retained into one large lot.
36. Council's previous assessment of the 2003 application identified concerns with the location of the building envelope to the immediate south of the existing dwelling and studio. The citation describes the 'mass concrete walling of the studio' as 'most unusual' and its design as 'unique'. The studio's south-facing skylight is one of the most important features. The placement of the building envelope within 4 metres of the studio would have blocked viewlines from the heritage building and views from the hills beyond (particularly from the properties on Haldane Road).
37. The current proposal locates the building envelope to the east and south-east of the dwelling and studio respectively. Council's heritage advisor has re-considered the proposal and finds the configuration of lots will not impact on the significant buildings, the historic and visual relationship between the two buildings will be retained and a sufficient setting will be retained around the significant features. Given the long front setback to the house and a wide frontage is still maintained across the front, a sense of space around the residence will still be maintained, retaining its historical setting.
38. The proposed Lot 2 will obtain access to the east side of the existing driveway and the lot will be substantially be located along the east side of the site and to the rear of Lot 1. The proposed building envelope is now well set back on the site and anything constructed in this area will have minimal views from Lavender Park Road and will not overwhelm the significant buildings on the adjacent lot. As viewed from the street, the site will look substantially as it does now and the main views will be retained to the significant front dwelling and the sense of space around the significant dwelling.
39. Council's Heritage advisor is satisfied that the lot configuration, resultant size of Lot 1 and the potential for a taller building on Lot 2 has little, if any impact on the heritage significance, especially when viewed from the public realm. Any future development (buildings and works application) of Lot 2 will be subject to the considerations under the Heritage Overlay and will be required to be sympathetic to the house, studio and landscape setting.

Vegetation Impacts

40. The subject site features significant vegetation of a variety of species that make a valuable contribution to the character of the area. There are various vegetation protection measures outlined in the Planning Scheme that affect future development of the land. The Significant Landscape Overlay (Schedule 2) and Neighbourhood Character Policy aims to protect the dominance of vegetation cover in keeping with the semi-bush garden character and ensure that development does not penetrate tree canopy or jeopardise the health of existing trees.

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41. Council's consulting arborist has assessed the proposal. It is identified that the proposed building envelope is placed within a logical area, however facilitates Tree Protection Zone encroachment on Tree no's 16 and 21. White Tree Protection Zone encroachment may be possible it should be assessed at the dwelling design stage, not endorsed via a building envelope. It is therefore recommended that the building envelope be modified so that there is no Tree Protection Zone encroachment on the high retention value trees. This can be addressed through a condition in the event a permit is issued.
42. The proposal will require the removal of tree no's 14 and 15 as they are located within the building envelope. Council's consulting arborist has found the loss of these trees acceptable as:
- Tree no 15 is a dead eucalypt and should not be a constraint on development, the removal of this tree is acceptable.
 - Tree no 14 is a semi-mature *Eucalyptus melliodora* (Yellow Box) and while in good health and structure, it is a young specimen that could be easily replaced within the landscape short term and therefore should not warrant design modifications. It is recommended replacement planting on the site is undertaken to compensate for the removal of this tree.
43. While the driveway envelope is sensitively designed so as not to impact on trees, Council's arborist has identified a large mature *Eucalyptus melliodora* (Yellow Box) that has not been assessed by the project arborist. This tree is referred to as Tree A and is of 'high' retention value with a Diameter at Breast Height (DBH) of 114cm and a Tree Protection Zone of 13.7 meters. The existing driveway is proposed to be extended within the Tree Protection Zone of this tree. A number of conditions are recommended to ensure this tree remains viable. As the driveway is to be upgraded during the construction process, the conditions in the event a planning permit is issued will be addressed via a Section 173 Agreement, as will other tree protection measures, including tree protection fencing and removal of the tennis court.
44. Other trees within proximity to the driveway and building envelope, being tree no's 1-13, 17-20 and 22-27 should remain viable with standard Tree Protection Fencing provisions and exclusions.
45. There are groups of trees located within the southern corner of the site and within the front setback, which have not been reported within the submitted arborist report. Council's Environmental Planner has reviewed the Land Capability Assessment which details the proposed location of the effluent field for Lot 1 and stated that there will be no significant impacts on the trees located within the front setback of Lot 1. It appears the effluent envelope has been designed around the retention of the trees at the rear of Lot 2; however it is recommended that planning permit conditions be placed on any issuing permit that demonstrate that all effluent be located outside of the Tree Protection Zone of these trees. This will involve the Tree Protection Zone values being sought through an amended arborist report and that information being relayed on the plans.

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Native Vegetation

- 46. The site is subject to Clause 52.17 (Native Vegetation) as the lot is greater than 0.4 hectares and native vegetation is proposed to be removed. The purpose of Clause 52.17 is to ensure permitted clearing of native vegetation results in no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the ‘three step’ approach of avoiding the removal of native vegetation, minimising the impacts from the removal and providing an offset to compensate for the biodiversity impacts, as outlined on the *Guidelines for the Removal, Destruction or Lopping of Native Vegetation (DELWP, 2017)*.
- 47. The application was accompanied by a Biodiversity Assessment Report, prepared by Indigenous Design, dated August 2018. The Report finds there are some scattered native canopy trees including *Eucalyptus melliodora* (Yellow Box), *Eucalyptus polyanthemos* (Red Box) and *Acacia mearnsii* (Black Wattle). The remainder of vegetation on site consisting of non-indigenous native plants and common domestic garden species. The subject site and surrounding area is modelled as being covered by Ecological Vegetation Class (EVC 22: Grassy Dry Forest), however given the site’s modified state, it is difficult to confirm the presence of the Ecological Vegetation Class (EVC).
- 48. The building envelope adequately retains two locally indigenous trees identified as (tree no’s 19 and 21) and maintains an encroachment level of below 10% within the Tree Protection Zones. Due to the site’s topography and its size constraints, it is unavoidable that tree no’s 14 and 15 will be lost to accommodate the building envelope. These trees are detailed as follows:

Tree No.	Bontanical Name	Common name	DBH (cm)
14	<i>Eucalyptus melliodora</i>	Yellow Box	8
15	<i>Eucalyptus melliodora</i> <i>This tree is dead however is not hollow bearing</i>	Yellow Box	72 <i>This tree is dead, however given its DBH requires a permit for removal</i>

- 49. Impacts are also avoided by utilizing the existing tennis court which assists in using the available cleared land for siting a new dwelling. Further utilizing the existing crossover and extending the driveway into proposed Lot 2 can be achieved with minimal impact on native vegetation.

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50. The following table provides a summary of the offset requirements:

Offset attributes						
Target	Vicinity	Offset type	Habitat for species	Minimum strategic biodiversity value score	Large Trees	Offset target summary
1	Port Phillip and Westernport CMA or Nillumbik Shire Council	General	N/A	0.200	1	0.014 GHUs

51. The Report confirmed the offset requirement of 0.014 'general' habitat units will be purchased through a third party offset via an allocated credit register extract from a credit provided. This will be addressed through a condition of the permit.
52. Council's Environmental Planner has identified that tree no 21 is within 10 metres of the proposed building envelope, so it will need to be considered lost, or alternatively the envelope will need to be adjusted. In order to avoid the need for offsetting tree no 10, a condition of the permit will require the envelope to be reduced in size accordingly.
53. A number of the objections identified concern with the proposal impacting on local wildlife and habitat. Council's Environmental Planner identifies that the site is not included within an Environmental Significance Overlay, thus is not recognised by the Planning Scheme as having environmental significance. Nevertheless, the site sits in an area with extensive tree canopy that connects to the habitat corridor running along the Yarra River in the south and Diamond Creek to the west. The site may offer habitat for Powerful Owl and Brushtail Phascogale as well as providing refuge for more common species particularly for birds. The subdivision of the land will not alter this habitat capacity, noting trees are to largely remain across the site with the two trees to be removed void of any habitat hollows.

Bushfire Management

54. The subject site and surrounding land is included within the Bushfire Management Overlay. The purpose of the Overlay is to:
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
 - To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
 - To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.
55. An application must meet all of the requirements of Clause 53.02 (Bushfire Planning) and be referred under Section 55 of the Act to the CFA.

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56. The applicant submitted a Bushfire Management Statement, prepared by Terramatrix, May 2018 which demonstrates how the proposal can comply with requirements of Clause 13.05 (Bushfire), Clause 44.06 (Bushfire Management Overlay) and associated Clauses 53.02 (Planning for Bushfire).
57. A small (approximately 1,600 square metres) patch of treed vegetation to the south of the site accords with the 'Woodland' classification. Woodland vegetation comprises areas with trees 10-30 metres tall, dominated by eucalypts, with 10-30% foliage cover or areas with low trees and shrubs 2-10 metres tall, which are dominated by eucalypts and acacias. Low threat areas excluded from classification include the site itself and the managed gardens on the surrounding properties. All of the vegetation in the 150 metre assessment zone around the property is reliably low threat except for the small patch of Woodland.
58. The surrounding landscape best accords with Broader Landscape Type 1. The majority of the surrounding landscape is developed with either urban residential or low density residential dwellings. The site could experience smoke and embers from a local fire, however it would not be exposed to a large and intense landscape fire.
59. As per Table 2 to Clause 53.02-5 the proposed BAL 12.5 construction standard requires defendable space for 50 metres or to the property boundary. Accordingly, the proposal provides defendable space to the property boundary which is in accordance with the Standard.
60. The defendable space on the two lots can meet all but the canopy requirements stipulated for vegetation management in Table 6 to Clause 53.02-5. This is considered appropriate as:
- The low landscape risk;
 - All of the vegetation on the property comprises low threat vegetation and it is reasonable to assume this will continue;
 - Retaining trees in the defendable space without 5 metres canopy separation will not compromise the effectiveness of the defendable space, as the trees will not contribute to a bushfire attack; and
 - Existing overall canopy foliage cover is estimated to not exceed 15% of the site.

The Country Fire Authority are supportive of the variation.

Effluent dispersal and drainage

61. Subdivision of land within the Low Density Residential Zone must demonstrate that it can 'treat and retain all wastewater'. One of the grounds of refusal for the 2003 application was the location of the waste water envelope impacting existing vegetation and the inability to demonstrate that the subdivision could adequately retain wastewater in the curtilage of the site.

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62. This application has been accompanied by a Land Capability Assessment, prepared by EWS Environmental, dated 2 March 2018. Under section 3.1, 'Site Features', the Report examines site constraints and the need for mitigation measures in relation to effluent management for the site. This section identifies that the site is not in a special water supply catchment area; experiences negligible stormwater run-on; there is no evidence of a shallow watertable or other significant constraints and the risk of effluent transport offsite is very low. This is detailed further within sections 3.2 to 3.4 of the Report. Further the report identifies that the area is currently unsewered, however it may be within the next few years due to proposed works being undertaken by Yarra Valley Water.
63. The report finds that sustainable onsite wastewater management is feasible with appropriate mitigation measures for an anticipated four bedroom dwelling (plus study) for Lot 2. The report specifically recommends:
- Reserve a land application area (LAA) plus a reserve area if needed subsurface dripline irrigation area with 370 square metres (which may be subdivided into evenly sized zones). Figure 4 within the report indicates three dispersal zones within the front setback area to Lot 1 over an area of 370 square metres and alternate drip irrigation areas to the south. Figure 5 within the report indicates wastewater envelopes over a combined area of 370 square metres.
 - Decommission parts of existing septic system serving Lot 1 that is located on the proposed new Lot 2.
64. Council's Environmental Health Team have reviewed the proposal and the Land Capability Assessment and are satisfied that the stormwater fields must be located below the proposed effluent field and the Lot 1 effluent field is to be located at the front portion of the site. These requirements will be addressed through conditions in the event a planning permit is issued, including nomination of the waste water envelopes for both lots.
65. Council's Infrastructure Department have reviewed the proposal and are satisfied that the proposal will not contribute towards an unreasonable stormwater runoff subject to appropriate management. It is further reiterated that future development applications will require further consideration of waste management and stormwater infrastructure.
66. Council's Infrastructure Department are also satisfied that the site can appropriately accommodate the proposed effluent fields and installation of stormwater controls. This has been achieved by requiring that all stormwater treatment on Lots 1 and 2 be located below the location of any effluent fields on the site which will mitigate the risk of stormwater impacting the effluent area.
67. This proposal demonstrates that waste water and stormwater can be managed as a result of a subdivision.

Response to objections received

68. Matters of neighbourhood character, heritage, tree impact, environmental impacts, bushfire management and sewerage impacts have been addressed above.

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FN.041/18 Two lot subdivision and associated native vegetation removal at 60 Lavender Park Road, Eltham

69. Other matters are addressed as follows:

Amenity Impacts

70. The intended use of Lot 2 is for residential purposes and will not unreasonably disrupt the amenity of adjoining residents within this setting. The driveway envelope follows the pattern of the adjoining concrete driveway of the adjoining property to the east and the building is setback such that viewlines are maintained from the adjoining dwelling towards the significant aspects of 'Landscape'. The building envelope sits outside the Tree Protection Zone of tree group 11, 12 and 13, which maintains a visual buffer to the adjoining lot.
71. Within a lot of 4,000 square metres, there is otherwise substantial opportunity for a dwelling to be nestled into a 'low density' setting. The proposed building envelope achieves such objectives and is a substantial distance from other neighbouring lots. Existing trees will provide a further buffer to any new built form within the building envelope. Any new development application to Council can be accompanied by a Landscape Plan that addresses further screening requirements.
72. Objectors have also noted that there will be noise and disruption during the construction process. Development is expected to be for a short duration and should not affect the long-term amenity outcomes for residents. Building a dwelling within a residential area should not form a ground of refusal for this application.

Loss of Property Values

73. It is a long held planning principal that a loss of property values is not a valid planning consideration.

Traffic

74. The provision of one further lot will not cause unreasonable traffic impact to Lavender Park Road. The road will maintain capacity for low density development.

Conclusion

75. The application seeks to subdivide the land into two lots and to remove native vegetation. The application was advertised and 11 written objections were received.
76. The proposed two lot subdivision of the lot can achieve the minimum lot size under the Low Density Residential Zone and is otherwise carefully considered that will result in minimal impact on vegetation and the valued heritage and environmental qualities of the area.
77. The buildings and works envelope and driveway envelope accommodates a future dwelling that is well located and responsive to the site specific constraints. In doing so, the proposal satisfies the relevant State and local planning policies and on balance, the proposal is worthy of approval.

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FN.042/18 Review of the Structure Plans for the Eltham and Diamond Creek Activity Centres - Response to Stage 1 Consultation

Portfolio: Planning

Distribution: Public

Manager: Adrian Cully, Director Business and Strategy

Author: Paul Fyffe, Senior Strategic Planner

Fae Ballingall, Senior Strategic Planner

Summary

The purpose of this report is to:

- 1) Present and discuss the findings of recent public engagement that formally commenced Council's review of the structure plans for the Eltham and Diamond Creek Activity Centres.
- 2) Identify possible responses to actions highlighted by the community and how Council might best respond to them.

The engagement, assisted by engagement specialist Chatterbox, was carried out between 23 July and 16 September 2018. Two separate programs were run, one for the Diamond Creek Activity Centre and the other for the Eltham centre. The purpose of the engagement was to get an early and high level understanding about how the community use and interact with each centre, what they like or dislike and to get their thoughts on each centre's appearance, performance and how each centre might better serve the community by way of identifying possible changes people would like to see. This information will directly inform the preparation of a discussion paper – the next phase in the structure planning process. The information will also be used in discussions with key State Government Departments and agencies e.g. with Public Transport Victoria in relation to comments about transport interchanges.

The engagement obtained a good level of response. Approximately 146 people responded to a survey in Diamond Creek and 333 in Eltham. Additional information was also gathered from a range of the engagement activities.

Key findings identified a high level of use of each centre, considerable satisfaction with the range and quality of retail and services and there is a good sense of community in each centre. However, there are issues with each centre regarding their structure, appearance and safety.

It is proposed that by May 2019 Council will be presented with a draft discussion paper, for public engagement, on broad proposals relevant to the structure plan for each centre. As an accompanying action, it is recommended that Council is provided with a proposal as to how it best responds to the requests for improvements articulated in the community engagement, particularly any opportunities available to expedite a solution.

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FN.042/18 Review of the Structure Plans for the Eltham and Diamond Creek Activity Centres - Response to Stage 1 Consultation

Recommendation

That the Committee (acting under delegation from Council):

1. Notes:
 - a) The results of the first community engagement for the review of the activity centre structure plans;
 - b) It will receive a draft discussion paper by May 2019 for each centre which will discuss broad approaches to protect and improve the prosperity, appearance, safety and accessibility of each centre.
2. Requests a response by May 2019 to improvements requested from the community engagement.

Attachments

1. Primary Study Area for the Eltham Activity Centre
2. Primary Study Area for the Diamond Creek Activity Centre
3. Activity Centre Review - Project Plan
4. Eltham Activity Centre Survey
5. Diamond Creek Activity Centre Survey
6. Report on Public Engagement - Eltham Activity Centre
7. Report on Public Engagement - Diamond Creek Activity Centre

Background

Council Project to Review the Activity Centre Structure Plans

1. The Shire has two activity centres, one at Diamond Creek and the other at Eltham.
2. Activity centres are the State Government's and Council's preferred areas to concentrate a mix of uses and activities including retail, commercial and residential. They are also important community hubs where people can shop, work, play and live.
3. Activity centres are primarily guided by structure plans, which are produced and implemented by local government. Council has adopted structure plans for the Eltham and Diamond Creek activity centres, but these plans are now quite dated. Consequently, an initiative within the Council Plan 2017-2021 is to review the structure plans.
4. The primary study area for the review of the activity centre structure plans is defined in **Attachment 1** (Eltham) and **Attachment 2** (Diamond Creek), which is principally land within the existing activity centres. The project to review the structure plans is divided into 5 stages. A diagram of the project plan for the activity centre review is provided as **Attachment 3**.

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5. Council is currently well-advanced with Stage 1, which primarily consists of research. An important input for Stage 1 is conducting a first round of public engagement to elicit the community's feedback regarding its use of either centre and particularly its thoughts on each centre's appearance and performance and how each centre could better serve the community. At its Future Nillumbik Committee on 17 July 2018, Council endorsed the first round of engagement, which was then conducted between 23 July and 16 September 2018.

Policy context

6. This report directly supports the achievement of Council Plan 2017-2021 strategy:
- Review existing precinct structure plans within activity centres to encourage investment and development.

Budget implications

7. Council's review of the Eltham and Diamond Creek Structure Plans is fully accommodated in Council's 2018-2019 budget. Streetscape and amenity improvements requested by the community engagement will be referred for consideration in the programming of Council's budget.

Consultation/communication

8. The focus of the engagement was to encourage the community to complete a survey, on-line or by hand, with their being separate versions of the survey for Eltham and Diamond Creek. A copy of the hard-copy surveys are provided as **Attachments 4 and 5**.
9. Officers promoted the consultation in a number of ways, including:
- A public notice in the Diamond Valley Leader
 - A dedicated page on Council's Participate Nillumbik website
 - Providing the survey at the Shire's libraries and Living and Learning Centres
 - Directly notifying 105 interest groups and other stakeholders
 - Meeting with particular focus and interest groups, such as the Diamond Creek Traders Association, the Eltham Chamber of Commerce and Industry and representatives of Council's Positive Ageing Advisory Group
 - Visiting local schools to promote the survey
 - Promoting the survey at each centre's railway station (one attendance at each railway station during a peak commuter time)
 - Information stalls to promote the survey, including three in the Eltham Activity Centre, three in the Diamond Creek Centre and one at both the Hurstbridge Wattle Festival and the Diamond Creek Town Fair.

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Issues/options

10. A report has been compiled for each centre by the engagement specialist Chatterbox which summarises the results of the survey and the feedback captured at the information stalls. The reports are provided as **Attachments 6 and 7** and the findings of each report are summarised as follows:

Eltham Activity Centre

11. 333 people completed the survey and over 1,700 written ideas and 2,500 views were gathered via the survey.
12. Over 200 additional opinions, thoughts and ideas were gathered via other engagement tools including the on-line mapping tool, voting pod, chart boards and big idea drawings.
13. Of the 333 people who completed a survey:
- The most widely represented age groups are 35-44 years (20.8%), 45-54 years (18%), 55-64 years (17.1%) and 65-74 years (15%) and the majority of respondents were female (approximately 65%).
 - Most respondents (approx. 90%) identify as living in, or near, the centre, 11% work within the centre, 22% play sport within the centre and 5% were business owners within the centre.
14. The top four findings from the survey responses are considered to be:

Finding 1: The centre is regularly visited by the local community and there is a high level of satisfaction with the retail and services on offer.

E1a. A high number (46%) of respondents visit the activity centre daily and 34% visit 2-3 times a week. Most respondents visit to shop (86%), visit cafes and restaurants (76%) and to use services (75%).

E1b. Further, a very high 81% strongly agree or agree that the centre has a good range of quality shops and services and 77% strongly agree or agree that the centre has quality shops and services.

The above results are provided on pages 13-16 in **Attachment 6**.

E1c. Notwithstanding the above, Council's Positive Ageing Group advised in a meeting with officers that there needs to be more medical facilities for the aged, as well as residential aged care, in and in proximity of the activity centres.

Finding 2: There is a strong sense of community associated with intrinsic features of the centre, particularly its natural setting, the local culture and its iconic buildings

E2a. In response to a question on sense of community, a high response of 75% strongly agreed or agreed the centre has a sense of community, whilst 66% strongly agreed or agreed that the centre has a great atmosphere and environment (see p.17 of **Attachment 6**).

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E2b. Relevant to this, popular responses to questions which asked for the centre's "hidden gems" and a particular loved feature of the centre were; a sense of community, activities and festivals, Eltham town square, artistic architecture, the library and the local landscape and vegetation (see pages 22-25 of Attachment 6).

E2c. The library was a particularly identified as a "hidden gem", which perhaps reflects the high quality and use of the building, but also that it is isolated from the rest of the town centre.

Finding 3: Residents generally feel safe in the centre, although there are issues

E3a. All but two responses to a survey question on safety state that the respondent feels safe when visiting the centre during the day (see page 20 in Attachment 6).

E3b. A higher 15% feel unsafe in the centre at night and commonly stated reasons for feeling unsafe include a lack of lighting, threatening behaviour and the isolated nature of certain locations, particularly around the railway station and the Bridge Street Business Area (pp.20-22 in Attachment 6). The following are relevant quotes from survey responses:

- *"As a woman, the train station is terrifying when you have to exit through that tunnel (i.e. the railway station subways)."*
- *"This carpark (behind the post office area) is one of the places I feel least safe in Eltham, coming home from the station after dark. It is very isolated, with no view of the Main Road or openings to the backs of the shops."*

Finding 4: The structure, appearance and feel of the centre are generally not highly regarded.

E4a. A somewhat low figure of only 54% strongly agreed or agreed that they like the look and feel of the centre (see p.18 of Attachment 6). Relevant to this, at Council's consultation activities, people often verbally mentioned one or more of the following issues:

- The town centre is highly disjointed by there being multiple dispersed nodes which are poorly connected for vehicles and pedestrians.
(Representatives of Council's Positive Ageing Advisory Group made particular mention of poor pedestrian links through the centre and that some designated crossing points are dangerous).
- A lot of the existing development comprises tired "70's" development, which does not reflect Eltham's heritage and natural, treed setting.
- There are not enough activities or facilities within the centre which encourage people to congregate.

(On this last point, there was notable mention that there is a lack of child friendly facilities or places for young people to spend time. Further, whilst the appearance of the Eltham Town Square received considerable

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FN.042/18 Review of the Structure Plans for the Eltham and Diamond Creek Activity Centres - Response to Stage 1 Consultation

support, there were comments that the square does not encourage or provide much activity, other than when there are planned events).

E4b. All the above feedback identifying issues was broadly supported by the suggestions made to improve the centre, both in the survey and by other means, with popular requests being to:

- Improve transport flow and pedestrian safety, both in the town centre and the Bridge Street Business Area, with particular mention being made of the need to improve pedestrian linkages across Main Road, between Luck and Dudley Streets and at Susan Street.

Parking was raised more as a notable traffic congestion issue.

- Re-develop or re-invigorate what are seen as poor or uninviting urban areas, with particular mention being made of the railway station precinct, the parking area under Woolworths, the Bridge Street Business Area and the south and north entrances to the town centre.
- Provide more vegetation (e.g. canopy trees) for shade and beautification, particularly in the town centre and the Bridge Street Business Area.
- Encourage more social activity, particularly by providing more festivals, child friendly spaces (e.g. a gated playground) and places for young people to socialise. At an engagement stall held at the Eltham Town Square, a commonly made comment was that Council should consider actions which will increase use of the square, such as providing a gated playground, encouraging buskers or better advertising when events are being held there.

Diamond Creek Activity Centre

15. 146 people completed the survey and over 500 written ideas and 1300 views were gathered via the survey.
16. Over 150 additional opinions, thoughts and ideas were gathered via other engagement tools including the on-line mapping tool, voting pod, chart boards and big idea drawings.
17. Of the 146 people who completed a survey:
 - The most widely represented age groups are 35-44 years (28.6%), 45-54 years (19.5%)
 - Most respondents (81.5%) identify as living in, or near, the centre with a significant number being from nearby townships and districts.
18. The top four findings are considered to be:

Finding 1: The centre is regularly visited by the local community and there is considerable satisfaction with the range of shops and services available.

DC1a. 87% of respondents to the survey visit the centre at least 2-3 times a week and 54% daily. It was evident from the consultation stalls that a high number of school children pass through the main retail areas on school days.

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FN.042/18 Review of the Structure Plans for the Eltham and Diamond Creek Activity Centres - Response to Stage 1 Consultation

- DC1b. Most people visit the Diamond Creek Activity Centre to shop (78.7%), visit cafes and restaurants (61.6%) and for Recreation (61.6%)
- DC1c. 63.5% of respondents to the survey strongly agreed or agreed that the centre has a good range of quality shops and services and 63.3% strongly agreed or agreed that the centre has quality shops and services (see pp.11-14 of Attachment 7). An example of a positive sentiment on this matter is that one person stated they like:
- *“The great variety of food (take away, cafes and restaurants) anchored by Coles and IGA with many services and some nice little shops for local and visitors.”*
- DC1d. In addition, there are comments in the survey responses which indicate the community is seeing and appreciating an improvement in the range and quality of shops and services which are available. For example, a respondent cited their support for the new business that have moved in the last few years into Chute Street (the street now provides for more cafes and restaurants than several years ago).
- DC1e. However, areas for improvement are mentioned. For example:
- There are requests for a wider range of shops and/or particular specialist shops. There is a number of requests for more outside eating and a wider variety of restaurants.
 - As detailed above, Council’s Positive Ageing Group advised in a meeting with officers that there needs to be more medical facilities for the aged and residential aged care in and in proximity of both activity centres.

Finding 2: There is a good sense of community.

- DC2a. 71% of respondents to the survey strongly agreed or agreed that the Diamond Creek Activity Centre has a sense of community (see p.14 of Attachment 7)
- DC2b. The survey responses and verbal feedback to officers indicate the following features of the activity centre particularly contribute to a good sense of community:
- The natural setting of the centre, particularly the parkland, creek environs, landscape and trees
 - A township feel
 - Certain cafes and restaurants
 - The leisure facilities and activities which are located within the centre, including the dog park, park run, ovals, netball complex, swimming pool, Diamond Creek Trail, skate park and YMCA.

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FN.042/18 Review of the Structure Plans for the Eltham and Diamond Creek Activity Centres - Response to Stage 1 Consultation

DC2c. Leisure facilities and activities appear especially significant in Diamond Creek to facilitating community spirit by attracting and encouraging people to congregate in the centre. Notable mention is made in the survey responses of the use, social interaction and enjoyment people obtain from these facilities.

Finding 3: The urban structure and design of the Activity Centre is poor.

DC3a. The survey responses received, as well as verbal feedback provided to officers, indicate particular dissatisfaction with the following aspects of the centre's urban layout and design:

- The centre has various commercial nodes and other key locations (e.g. railway station) which are dislocated and/or isolated from each other, particularly for pedestrians.
- The facades and design of certain key commercial nodes are unattractive and need attention.
- Car parks around key supermarkets are poorly designed, ineffective, ugly and dangerous. The following is a statement on the matter as expressed in a survey response:
 - *"Please amend and fix the parking issue in/around the Coles Diamond Creek precinct. It is dreadful and unsafe."*
- There is no town square or similar civic area in any of the commercial precincts. For example, on this specific issue one respondent stated:
 - *"Diamond Creek is a very busy centre but has nowhere to sit anywhere around the shops."*
- The railway crossing significantly divides the town, hampers free movement and is a safety issue.

DC3b. Reflecting the above matters, only 34% of respondents in the survey agreed or strongly agreed that they like the look and feel of the centre and only 43.8% agreed or strongly agreed that it is easy to get around (see p.15-16 of **Attachment 7**). Further, the popular themes for ideas to improve the centre were:

- Improve transport flow, movement around car parks and traffic congestion
- Provide more vegetation, particularly trees in the centre
- Refresh and beautify facades, create a town centre and provide more seating
- Modernize the shopping areas/plaza
- Provide more artwork
- Make it more pedestrian and cycle friendly

5. Officers' Report

FN.042/18 Review of the Structure Plans for the Eltham and Diamond Creek Activity Centres - Response to Stage 1 Consultation***Finding 4: Residents generally feel safe in the centre, although there are issues***

DC4a. Approximately 99% of respondents feel safe when visiting the Diamond Creek Activity Centre during the day. One respondent felt unsafe and commented that the car parks are dangerous to pedestrians.

DC4b. A total of 17% of respondents felt unsafe when visiting the Diamond Creek Activity Centre at night. Reasons commonly cited for feeling unsafe, include:

- Poor, or no, public lighting in the urban areas of the centre, but also the parkland.
- Threatening or unsavoury behaviour in public locations, such as the railway station.

Responding to improvements requested in Eltham and Diamond Creek

19. The community's response has raised a significant number of matters and requests for improvement, which can generally be categorised as:

20. *Broad-scale actions*

- Changes to the configuration of roads and parking areas
- Removal of railway crossings
- Significant redevelopment of key sites
- Broad changes to land use and local planning policy
- Broad-scale landscaping improvements

21. *Smaller, localised actions*

- Public seating and lighting at specific locations
- Minor, localised landscaping works
- Maintenance of existing infrastructure, such as steps and rails
- Removal of large storage bins from highly visual locations
- Modifications to existing safety infrastructure, such as pedestrian crossings
- Better promotion and/or encouragement of activities and events, such as encouraging buskers.

22. The broad-scale actions are certainly those which need further consideration and development through the project to review the structure plans. A next key step to develop the new structure plans is to draft a discussion paper which presents issues and opportunities for broad-scale improvements to each activity centre. This paper will be informed by technical research that Council is conducting and the key matters raised by the public engagement (as summarised above). It is anticipated that a draft of the discussion paper will be presented to Council by May 2019 with a recommendation that it be endorsed for public engagement.

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FN.042/18 Review of the Structure Plans for the Eltham and Diamond Creek Activity Centres - Response to Stage 1 Consultation

23. The smaller, localised actions are also highly important to the success of an activity centre. For example, some additional lighting can make a significant improvement to safety and perceptions of safety and some localised landscaping can make a notable improvement to the amenity and activation of a place. Hence, where appropriate, these localised issues will also be considered by the discussion paper.
24. However, a number of these actions (e.g. maintenance works, providing more lighting, minor landscaping works and encouraging more activities) can potentially be expedited ahead of completion of the review of the structure plan. Some of this work could be advanced simply by immediate advocacy to the State Government for additional lighting and other minor safety measures around the railway stations.
25. It is therefore considered appropriate that Council receives a report by May 2019 which suggests how Council can best respond to each of the improvements requested by the community engagement. This work should identify:
 - a) Any responses which are already being handled by existing actions and programs.
 - b) Any responses which can be expedited by modifications to existing programs, or other actions.
 - c) Any responses which regard broader matters (e.g. changes to the layout of a centre) which require more in-depth and sustained consideration by the activity centre review project, including to be considered by the proposed discussion paper.

Conclusion

26. The public engagement has significantly informed the review of the structure plans. Importantly, it has assisted Council's understanding of not only what the community cherishes in each centre, but also what key improvements they would like to see. The community response will be heavily considered in future steps of the project to review the structure plan. Further, where appropriate, efforts will be made to expedite improvements requested by the community in keeping with Council's budgeting process and available funding.

5. Officers' report

FN.043/18 Open Space Precinct Plan, Graysharps Road, Hurstbridge

Portfolio: Community Services

Distribution: Public

Manager: Adrian Cully, Director Business and Strategy

Author: Paige Macdonald, Leisure Services Project Officer

Summary

This report presents the Open Space Precinct Plan, Graysharps Road, Hurstbridge.

The Open Space Precinct Plan, Graysharps Road, Hurstbridge has been developed following a decision to retain the area known as Lot 1 Graysharps Road, Hurstbridge and the surrounding recreation and open space. It was identified that a Precinct Plan was needed to ensure the retention of its cherished open space characteristics.

Development of the Open Space Precinct Plan, Graysharps Road, Hurstbridge has been completed through extensive community consultation to ensure the plan responds to current and future needs.

Recommendation

That the Committee (acting under delegation from Council):

1. Acknowledge the Project Reference Group, key stakeholders and community members for their contribution to the development of this plan.
2. Adopts the Open Space Precinct Plan, Graysharps Road Hurstbridge (**Attachment 1**).

Attachments

1. Open Space Precinct Plan, Graysharps Road, Hurstbridge
2. Indicative Cost Plan

Background

1. At its Ordinary Meeting on 22 November 2016, Council in considering Notice of Motion NOM.019/16 moved by Cr Karen Egan, resolved in part to:
 1. *Abandon any plans to sell Lot 1 Graysharps Road, Hurstbridge to developers and that the process to rezone Lot 1 Graysharps Road, Hurstbridge to Public Park and Recreation Zone (PPRZ) immediately commence.*
 8. *Prepare a Recreational and Open Space Plan for the Graysharps Road precinct*
2. At its Future Nillumbik Committee meeting on 16 May 2017, (acting under delegation from Council), Council in considering Item FN.021/17 Open Space Precinct Plan, Graysharps Road, Hurstbridge resolved in part to:
 - i) *Deferred a decision to rezone land known as Lot 1 Graysharps Road, Hurstbridge, until the Hurstbridge Open Space Precinct Plan was finalised.*

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3. At its Ordinary Meeting on 29 May 2018, the Draft Precinct Plan was presented to Council and endorsed for public display to allow for broad community feedback.
4. At its Ordinary Meeting on 28 August 2018, Council noted;
 - i) The intention to seek authorisation to commence a planning scheme amendment to rezone nine Council owned properties to Public Park and Recreation Zone. Of these nine properties, Lot 1 Graysharps Road Hurstbridge was included.
5. The request to the Minister for authorisation to exhibit the Planning Scheme Amendment is expected by the end of December. The exhibition period will then be for a period of four weeks, starting early Feb. Notices will be in the local papers and Council's website. Exact dates will be determined closer to seeking authorisation

Policy context

6. This report directly supports the achievement of Council Plan 2017-2021 strategy:
Ensure that the provision of community infrastructure responds to community needs.

Budget implications

7. The scope of this project is to develop the Open Space Precinct Plan, Graysharps Road, Hurstbridge. Implementation of this plan is not within scope of this project.
8. There is currently no budget allowance in the five year Capital works budget program to support the implementation of the plan.
9. Indicative capital costs for each of the options and precinct elements have been developed, but will need to be refined as designs mature. These are included in **(Attachment 2)**.
10. Most of the elements in the Precinct Plan will require significant (over 90%) external funding to be realised. Further funds will also need to be directed to Council's operating budget to ensure Precinct Plan elements are properly maintained.

Consultation/communication

11. The display period commenced on Wednesday 20 June 2018, with the Draft Precinct Plan displayed at the Hurstbridge Community Hub, Bendigo Bank (Hurstbridge) and the Hurstbridge Football & Netball Club. The Draft plan was also available for viewing on Council's Participate Nillumbik website with an electronic feedback form.
12. During July 2018 the Draft Precinct Plan was sent out in a Bulletin to 2,730 households in Hurstbridge, Arthurs Creek, Cottles Bridge, Nutfield, Panton Hill and Wattle Glen. The Draft Precinct Plan and Bulletin were also available at the Hurstbridge Post Office, Bendigo Bank (Hurstbridge), Hurstbridge Medical Centre, Hurstbridge Football & Netball Club and Hurstbridge Community Hub. The Bulletin was also available at the two Graysharps Road Preschools and was sent electronically to families of the Hurstbridge Primary School.
13. Information sessions were held in July 2018 and August 2018 for community members and Precinct User Group. This included a stand at the Hurstbridge Farmers Market on Sunday 1 July 2018, two information sessions were held at the Hurstbridge Football & Netball Club, and an information session held with the Hurstbridge Men's Shed.

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FN.043/18 Open Space Precinct Plan, Graysharps Road, Hurstbridge

- 14. The three information sessions for the general community had very low attendance rates with 10 people attending across the three sessions. The stakeholder group's session e.g. the Hurstbridge Football & Netball Club had a larger attendance and 15 people attended the session specifically for the Men's Shed. As the Precinct Plan project has had a long life-cycle, it is believed that community have a level of comfort with the plan as it reflects the community input to date and didn't find it necessary to attend further information sessions.
- 15. The display period concluded on Sunday 5 August 2018, allowing the community significant time to consider such a large Precinct Plan and opportunity for input.

Issues/options

- 16. The Feedback Form comprised of two parts. The first asked about specific options in the Draft Precinct Plan to determine the opinion of the wider community for specific elements in the precinct. The second part asked the community to prioritise the elements in order of importance to them.
- 17. A total of 135 feedback forms were received with responses to the Options, and of these 118 feedback forms placed the elements in priority order. The feedback forms were submitted in the following ways.

Table 1. Feedback Form Submission Locations

Feedback Form Submission Location	Forms Submitted
Hurstbridge Football & Netball Club (HFNC) Submission Box (used predominantly by club)	41
Mailed directly to Council	27
Hurstbridge Community Hub Submission Box / Info Session	15
Hurstbridge Post Office Submission Box	3
Bendigo Bank (Hurstbridge Branch) Submission Box	1
Hurstbridge Medical Centre Submission Box	0
Hurstbridge Men's Shed Information Session	13
Council's Online Participate Site	35
Total	135

- 18. The feedback form asked respondents to rank the 14 precinct plan elements in order of their own preference, with one being the most important. Respondents could choose to rank some or all precinct elements based on their preference.
- 19. Table 2 shows the overall priorities of the 14 precinct elements as from all feedback forms submitted;

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Table 2. Overall Score and Priority of Draft Precinct Plan Elements

Draft Precinct Plan Element	Priority
Stadium Expansion	1
Improve Use of East Oval	2
Optional Outdoor Courts	3
Separation of Playground and road	4
New 'natural' amphitheatre	5
Lease land from VicTrack	6
Enhance the 'paddock' area	7
Celebrate Heritage and History	8
Water-based natural play area	9
Reconfigure car-park	10
Optional northern play trail	11
Community Bike Workshop	12
Partially Retain Hardstand Area	13
Horse Hitching Area	14

Option 1 - Option of additional netball courts to be installed in response to the netballs club future expansion needs and to address broad community support for the ongoing growth in female sporting participation.

20. Two additional outdoor courts to the east of the stadium were proposed to meet the needs of the netball club who are currently travelling outside of Nillumbik for suitable training and playing facilities. For this option the feedback form asked respondents to choose between these additional courts being built or retaining the existing landscape.
21. The feedback forms had 60 respondents vote in favour of the additional courts and 51 voting for the retention of the existing landscape. There were 30 forms with no vote for either option, and one voting for both options.
22. Comments from respondents in regard to this option were that there was an identified need for the courts for the health and wellbeing of the community, as the courts would be open for broad community use and not just for specific people.

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23. Concerns for this option were mainly expressed by those opposed to the courts and centred mainly around the removal of the existing vegetation and potential impact on the children's centre inside the Hub. There were some respondents who believed that perhaps only one court was necessary.
24. Although the voting of this option is in favour of the additional courts, they were mainly prioritised by those affiliated with the Football & Netball Club. Those that provided feedback from other areas of the community did not vote in favour of this option and/or did not rank it highly as a priority.
25. Based on comments the Project Reference Group is working with Council officers to determine if refurbishing the old outdoor netball courts and combining this with the amphitheatre will be more cost efficient and reduce the amount of vegetation requiring removal.

Option 2 - Option developed in response to meet the local Men's Shed desire for their own separate facility which ideally would be in close proximity to the existing community facilities e.g. the hub and car parking. The VicTrack land near the hub is currently leased and used for material storage and was identified as a possible suitable site.

26. The current Hurstbridge Men's Shed is based in a store room in the Hurstbridge Basketball Stadium. An option currently exists to investigate the possibility of leasing VicTrack Land to re-house the Hurstbridge Men's Shed. A landscaped edge is proposed adjoining the railway crossing and a new building could be situated within this, as services are currently available to this piece of land. This could allow for larger projects and future integration of a bicycle workshop which would complement the extended Diamond Creek Trail.
27. The feedback form asked respondents to choose between the investigations of leasing VicTrack land or to continue investigating other sites in Hurstbridge. The feedback forms had 79 respondents support the investigation of VicTrack land, whilst 28 responses stated that other sites should be investigated. There were 34 forms that did not respond to this question, and 1 that selected both options.
28. The option to investigate leasing VicTrack land had the most support of any option, however it was only those affiliated with the Men's Shed that ranked it as a high priority. Other areas in the community ranked it slightly higher than the outdoor netball courts. As this option is contingent on VicTrack it is recommended that Council officers pursue the leasing option and at the same time continue to consider other suitable facilities.

Option 3 - Option was developed through exploring some 'blue sky' opportunities for the site which explored the idea of a 'natural' swimming pool' and 'bespoke nature' play as regional drawcards for the site. In working through this Option the community expressed concern around the financial feasibility of regional facilities and wanted to test a scaled back option of water and nature based play facilities on the site.

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29. This option is regarding a nature based play space in the northern area of the precinct as an extension of the current playground. This would be in the form of a landscaped trail, with sensory and exploratory play elements, running parallel to the existing trail, and west of the Hurst family cemetery. This could include integration of elements such as a kid's bird hide and reference to the Powerful Owl who reside in the area.
30. The feedback form asked for respondents to choose between the water-based natural play area only – which is already identified in the draft plan on the Lot 1 site, or for the water-based natural play area with the additional natural play trail. Respondents to the question had 46 in favour of the water-based play only, and 43 in favour of the additional play trail. There were 51 respondents that did not select an option, with 10 of those providing feedback that they did not support either option.
31. Concerns were raised by a number of respondents about disturbing the Powerful Owl and also the cost of these options, stating that they would prefer neither.
32. Despite the lack of support for both the water-based play and the additional play trail in the options, both elements were ranked highly in priority (with the exception of those affiliated with the Football & Netball Club and Men's Shed). With the exception of these two elements, most respondents prioritised the precinct plan elements that enhanced already existing areas, and not so much to elements that required a lot of building or additional infrastructure.
33. Given these items were not ranked as high priorities by the broader community and they require significant operational budgets to safely maintain it is recommended these items are pursued for funding in the longer term.
34. Implementation of the Precinct Plan will take into consideration the priorities as determined by the broad Hurstbridge Community, the significant amount of external funding that will be required, and the funding that will be available from Council's operating budget to maintain all such elements.

Conclusion

35. The Open Space Precinct Plan, Graysharps Road Hurstbridge has been developed following extensive community consultation through various stages over two years.
36. Implementation of the plan does not have a current resource or budget allocated in 2018-19, or beyond.
37. A significant amount of external funding will need to be secured for the Precinct Plan to be realised.
38. The Precinct Plan responds to the strong desire for the open space to be retained, with minimal improvements to current facilities where possible and very little additional built form to be considered for this precinct.

5. Officers' report

FN.044/18 **Report on Gambling Harm Minimisation Policy 2016-2021 (updated Nov 2018)**

Portfolio: **Community Services**

Distribution: **Public**

Manager: **Adrian Cully, Director Business and Strategy**

Author: **Diana Bell, Social Planning and Policy Officer**

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Summary

The Nillumbik Gambling Harm Minimisation Policy 2016-2021 (Policy) requires a biennial report to be provided to Council. The report updates Councillors and the community on the fulfilment of the objectives of the Policy. Minor changes are made to the implementation plan contained within the Policy to reflect the current organisational structure and reporting years.

Recommendation

That the Committee (acting under delegation from Council) notes the updated Report on Gambling Harm Minimisation Policy 2016-2021.

Attachments

1. Report on Gambling Harm Minimisation Policy
2. Gambling Harm Minimisation Policy updated 2018

Background

1. The Gambling Harm Minimisation Policy 2016-2021 (Policy) was adopted by Council on 9 February 2016. The Policy commits to biennial updates on gaming data, legislative changes and Council's harm minimisation activities.

Policy context

2. This report directly supports the achievement of Council Plan 2017-2021 strategy:
 - Develop policies, strategies, projects and partnerships to enhance the health and wellbeing of the community.

Budget implications

3. The report was prepared as a business as usual project within Council's operating budget.

Consultation/communication

4. Consultation was not required for this update report, however the Policy obliges Council to inform the community of the facts on gambling (Policy Statement 9, p12).

Issues/options

5. Electronic gaming continues to be the leading form of gambling in Victoria accounting for 45 per cent of all gambling expenditure, (compared with sports betting which accounts for five per cent).

5. Officers' Report

FN.044/18 Report on Gambling Harm Minimisation Policy 2016-2021 (updated Nov 2018)

6. Nillumbik retains a low density of electronic gaming machines (EGMs) in the Shire, (90 EGMs), but high numbers of machines are in close proximity in the surrounding municipalities. There have been no further applications for gaming machines since 2015.
7. Losses on EGMs increased in Nillumbik by 20 per cent since 2015, from \$7.5 million to \$9 million, with most of the increase experienced at the Diamond Creek Tavern. This is attributed to an additional 10 EGMs installed at the venue in October 2016 and change of management since 2015.
8. Nillumbik Shire Council has acted to minimise harm from gambling through activities which include:
 - supported neighbouring Councils' opposition to applications to increase gaming machines in Whittlesea and Banyule;
 - made submissions to Victorian government gaming reviews;
 - built capacity through attendance at local government networks on gambling; and
 - promoted the 'Love the Game' initiative to keep sports betting out of sports clubs.
9. Two minor changes will be made to the implementation plan attached to the Policy:
 - Update to reflect the 2017 organisation structure of Council; and
 - Change the update years to 2018 and 2020 (to signify the Policy was adopted in 2016 and not 2015 as anticipated).

Conclusion

10. The report on the Gambling Harm Minimisation Policy 2016-2021 fulfils the requirements to update Council and informs the community of the current state of gambling in the Shire.

Future Nillumbik Committee Agenda

11 December 2018

- 6. Supplementary and urgent business**
- 7. Confidential reports**