

Planning and Consultation Committee Meeting

to be virtually on Tuesday 8 February 2022 commencing at 7:00pm.

Agenda

Carl Cowie
Chief Executive Officer

Thursday 3 February 2022

Distribution: Public

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Planning and Consultation Committee Meeting

Councillors

Cr Frances Eyre (Mayor) – Swipers Gully Ward

Cr Richard Stockman – Blue Lake Ward

Cr Karen Egan – Bunjil Ward

Cr Natalie Duffy – Edendale Ward

Cr Peter Perkins (Chairperson Planning Matters) – Ellis Ward

Cr Ben Ramcharan (Deputy Mayor) – Sugarloaf Ward

Cr Geoff Paine (Chairperson Consultation Matters) – Wingrove Ward

Officers

Carl Cowie – Chief Executive Officer

Blaga Naumoski – Executive Manager Governance, Communications and Engagement

Katia Croce – Governance Lead

Nillumbik Shire Council

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Nillumbik Shire Council

Agenda of the Planning and Consultation Committee Meeting to be held Tuesday 8 February 2022 commencing at 7:00pm.

1. Welcome by the Chair

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

2. Acknowledgement of Country

The Acknowledgement of Country to be read by the Chairperson

Nillumbik Shire Council respectfully acknowledges the Wurundjeri Woi-wurrung people as the Traditional Owners of the Country on which Nillumbik is located, and we value the significance of the Wurundjeri people's history as essential to the unique character of the shire. We pay tribute to all First Nations People living in Nillumbik, give respect to Elders past, present and future, and extend that respect to all First Nations People.

We respect the enduring strength of the Wurundjeri Woi-wurrung and acknowledge the ongoing impacts of past trauma and injustices from European invasion, massacres and genocide committed against First Nations People. We acknowledge that sovereignty was never ceded.

Wurundjeri Woi-wurrung people hold a deep and ongoing connection to this place. We value the distinctive place of our First Nations People in both Nillumbik and Australia's identity; from their cultural heritage and care of the land and waterways, to their ongoing contributions in many fields including academia, agriculture, art, economics, law, sport and politics.

3. Apologies

Recommendation

That the apologies be noted.

4. Disclosure of conflicts of interest

Committee members should note that any conflicts of interest should also be disclosed immediately before the relevant item.

5. Confirmation of Minutes

COM.001/22 Confirmation of Minutes Planning and Consultation Committee Meeting held Tuesday 16 November 2021


Summary

Confirmation of the minutes of the Planning and Consultation Committee Meeting held on Tuesday 16 November 2021.

Recommendation

That the Committee (acting under delegation from Council) confirms the minutes of the Planning and Consultation Committee Meeting held on Tuesday 16 November 2021 (**Attachment 1**).

Attachments

- 1  Minutes of the Planning and Consultation Committee Meeting held 16 November 2021

6. Officers' reports

PCC.001/22 Draft Climate Action Plan 2022 - 2032 - community feedback

Item: Consultation Matter

Distribution: Public

Manager: Hjalmar Philipp, Director Operations and Infrastructure

Author: Lisa Pittle, Manager Environment

Summary

This report provides a summary of the community feedback that was received on the Draft Climate Action Plan 2022-2032 (Draft Climate Action Plan) (**Attachment 1**) during its five-week public exhibition period from 4 October to 7 November 2021.

Community members are invited to provide verbal submissions on the draft Plan at the PCC meeting on 9 February 2022.





This feedback will help to inform the further refinement of the Draft Climate Action Plan, which will be presented to Council at a future meeting for consideration for endorsement.

Recommendation

That the Committee (acting under delegation from Council):

1. Acknowledges and considers the matters contained in the oral and written submissions during finalisation of the Draft Climate Action Plan 2022-2032 (**Attachment 1**).
2. Makes the 2021 Nillumbik Shire Climate Action Plan 2022-2032 - Consultation Findings Report (**Attachment 2**) available to the public on Council's website.
3. Requests a further report to be presented at the April 2022 Council Meeting to adopt the final version of the Climate Action Plan 2022-2032.
4. Resolves that the confidential un-redacted copies of written submissions and survey responses to the exhibition of the public engagement for the MPS Phase 2 consultation (at **Attachments 4 and 6**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g)(ii) of the *Local Government Act 2020*.
5. Thanks all submitters for providing Council with feedback on this important document.

Attachments

1.  Draft Climate Action Plan 2022-2032
2.  2021 Nillumbik Shire Climate Action Plan 2022-2032 - Consultation Findings Report
3.  Online survey submissions
4. Unredacted online survey submissions - *CONFIDENTIAL*
5.  Written submissions
6. Un-redacted written submissions - *CONFIDENTIAL*

Discussion

6. Consultation Matters

PCC.001/22 Draft Climate Action Plan 2022 - 2032 - community feedback

1. Community Feedback on Draft Climate Action Plan
2. The Draft Climate Action Plan 2022-2032 (Draft Climate Action Plan) (**Attachment 1**) was on public exhibition for a five week period from 4 October to 7 November 2021.
3. Overall, 91 submissions were received (80 via the online Participate Nillumbik survey and 11 freeform written submissions); and 15 people participated in facilitated virtual drop-in sessions. This feedback will help to inform any required refinement of the Draft Climate Action Plan.
4. An overview of the feedback is provided in the 2021 Nillumbik Shire Climate Action Plan 2022-2032 - Consultation Findings Report **Attachment 2**.
5. A copy of verbatim survey response feedback / submissions is provided in:
 - a. Online survey submissions **Attachment 3** (with personal information redacted); and
 - b. Unredacted online survey submissions **Attachment 4** (un-redacted, confidential).
6. Copies of the freeform written submissions are provided in:
 - a. Written submissions **Attachment 5** (with personal information redacted); and
 - b. Written submissions **Attachment 6** (un-redacted, confidential).
7. The community feedback has been generally very positive; and is reflective of the statistically representative climate action (attitudes and behaviours) survey results that Council obtained 12 months ago:

- a. There is community support for Council to acknowledge a Climate Emergency

Survey respondents:	Support	Somewhat support	Do not support	Unsure
Do you support Council acknowledging a Climate emergency?	81%	2.5%	15.2%	1.3%

- i. Many people commented that they would also like Council to declare a Climate Emergency to convey a stronger sense of commitment and urgency.
 - ii. Reasons for not supporting the acknowledgement of a Climate Emergency include climate change denial and considering it to be outside of Council core business.
- b. There is community support for all of the proposed focus areas of the Climate Action Plan, and their associated objectives, strategies and targets, as summarised below:

Focus Area	Support	Somewhat support	Do not support	Unsure

6. Consultation Matters

PCC.001/22 Draft Climate Action Plan 2022 - 2032 - community feedback

1.	Strong Council leadership and culture	82.9%	5.3%	11.8%	-
2.	A climate resilient, adaptive and safe community	86.8%	3.9%	9.2%	-
3.	A climate resilient natural environment	84.6%	5.1%	9%	1.3%
4.	Climate responsive Council services, facilities and buildings	83.3%	7.7%	9%	-
5.	Zero-emissions energy use	82.1%	6.5%	11.7%	-
6.	Sustainable transport	86.7%	8%	5.3%	-
7.	A zero waste and circular economy	81.8%	6.5%	11.7%	-

- c. Some of the most common recommendations made within the submissions and virtual drop in sessions included:
- i. Declare rather than acknowledge a Climate Emergency
 - ii. Develop a clear Implementation Plan
 - iii. Establish a community Reference Group
 - iv. Commit to funding and staff resourcing to support climate action and implementation of the Plan
 - v. Inform and educate the community
 - vi. Provide support to businesses, households and schools to reduce emissions
 - vii. Improve understanding/data on local biodiversity; and provide specific vegetation, biodiversity and canopy cover targets or indicators
 - viii. Reduce the risk of bushfire
 - ix. Conduct carbon accounting
 - x. Consider bringing the zero-emissions target dates forward
 - xi. Advocate for improvements to public transport, active transport options and climate change mitigation

Related Council decisions

8. At the March 2021 Council meeting it was unanimously carried that Council:
- 1. *Receives and notes the results of the 2020 Climate Action Plan Survey*
 - 2. *Makes the 2020 Climate Action Plan Survey Report available to the public on Council's website*
 - 3. *Notes the timeframe for the development of the Climate Action Plan 2022-2032.*
9. At the June 2021 Council meeting it was unanimously carried that Council:
- 1. *Receives and notes the petition requesting Council to vote on a motion to declare a state of Climate Emergency in accordance with the Governance Rule - Meeting Procedure.*

6. Consultation Matters

PCC.001/22 Draft Climate Action Plan 2022 - 2032 - community feedback

2. *Refers this petition to the Director Operations and Infrastructure for investigation and response.*
3. *Notes officers will advise the petition organiser and Councillors of the outcome.*
10. At the September 2021 Council meeting it was unanimously carried that Council:
 1. *Endorse the Draft Climate Action Plan, including an acknowledgement of climate emergency, for the purpose of public exhibition.*
 2. *Invite written submissions on the Draft Climate Action Plan 2022-2032 to Council between 4 October and 7 November 2021.*
 3. *Consider public submissions at the Planning and Consultation Committee meeting to be held in February 2022.*
 4. *Note that any person who makes a written submission in relation to the Draft Climate Action Plan 2022-2032 and requests to be heard in support of their written submission, be heard at the February 2022 Planning and Consultation Committee meeting.*

Options

11. Consider the submissions received to inform the refinement of the Draft Climate Action Plan 2022-2032.

Council plans and policies

12. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
 - a. We work with our community, First Nations People, partners and all levels of government to develop clear and effective initiatives to address climate change.
13. The Draft Climate Action Plan provides a strategic framework to focus on and support climate action across Council.
14. Once adopted by Council, the Climate Action Plan 2022-2032 will replace the Climate Action Plan 2015-2020.
15. It is likely that the Climate Action Plan 2022-2032, once adopted, will require that new Council strategic documents in order to consider climate risks and impacts

Sustainability implications

16. The adopted Climate Action Plan 2022 – 2032 will provide the strategic direction for Council's climate action over the next decade.

6. Consultation Matters

PCC.001/22 Draft Climate Action Plan 2022 - 2032 - community feedback

Community engagement

17. Community engagement to inform the Draft Climate Action Plan has included:
- a. Council engaged Metropolis Research to conduct a statistically representative telephone survey in November 2020 to ascertain community views and priorities with regard to climate change. There were 797 respondents, 400 via a random telephone survey and 397 via Participate Nillumbik
 - i. The findings indicated general community support for climate action
 - ii. Ninety percent expressed concern about climate change. Ten percent are not very, or not at all concerned.
 - iii. Eighty-two percent think ‘Council should consider climate change in their decisions’.
 - b. The feedback collected from the 2021 Our People, Our Place, Our Future community engagement and from the 2021 Young Minds: Your Voice, Our Future engagement was considered. The findings indicate community support for climate action.
 - c. Discussions were held with Council’s Youth Council; and various Advisory Committees including Environment and Sustainability, Positive Ageing, Health and Wellbeing, and Economic Development.
 - d. A five-week public exhibition and associated consultation period (from 4 October – 7 November 2021)
 - i. Opportunities for involvement were promoted via Participate Nillumbik, the Spring Nillumbik News, Council e-newsletters, a media release, and posters and postcards that were distributed across the Shire.
 - ii. Submissions were invited via an online survey, written submissions and workshop participation. 80 survey submissions and 11 written submissions were received.
 - iii. Council engaged Chatterbox Consultancy to facilitate four virtual drop in sessions during the public exhibition period. Due to COVID restrictions they were all held online. One of the workshops was focused on youth, the rest were for the general community. There were a total of 15 participants.
 - iv. Verbal submissions are being heard at the 8 February 2022 Planning and Consultation meeting.

Innovation and continuous improvement

18. The Draft Climate Action Plan was developed under the guidance of several principles which are listed in the Draft Climate Action Plan n. They include:
- a. Council has diverse roles in responding to the challenge of climate change so we have created a whole-of-Council proactive climate response
 - b. Climate action decision-making needs to be dynamic and responsive to innovation opportunities.

6. Consultation Matters

PCC.001/22 Draft Climate Action Plan 2022 - 2032 - community feedback

Collaboration

19. Partnerships and collaboration will play an integral role in the implementation of the Draft Climate Action Plan. Council will continue to work with other levels of government, agencies and the community in order to achieve its goals.

Budget implications

20. The Draft Climate Action Plan is a high-level strategic document and does not make specific budget commitments.
21. There are no implications for the 2021/22 budget.
22. Annual Implementation Plans will identify how Council can work towards achieving the goals of the Draft Climate Action Plan. Initiatives that would require additional funding, will be considered via the annual formal budget process.

Relevant law

23. Under Section 9 of the *Local Government Act 2020*, Council must give effect to a number of overarching governance principles in the performance of its role. They include:
 - a. Priority is to be given to achieving the best outcomes for the municipal community, including future generations.
 - b. The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted.
24. Under the *Climate Change Act 2017*:
 - a. Section 6 legislates a long-term emissions reduction target for the Victorian community of net-zero emissions by 2050.
 - b. Section 17(2) requires councils Public Health and Wellbeing Plan's to have regard to climate change.
 - c. Section 46 allows for the preparation of Council pledges in respect of greenhouse gas emissions reductions.

Regional, state and national plans and policies

25. The Victorian Climate Change Strategy is applicable to the subject matter of this report. It states that every dollar spent on adaptation now can avoid future costs of up to six times as much; and specifies state targets and current investment that will assist in meeting a Nillumbik community target, including:
 - a. Target of a reduction in greenhouse gas emissions from 2005 levels by 28 – 33 per cent by 2025 and 45 – 50 percent by 2030
 - b. 50 per cent renewables target by 2030
 - c. \$1.6 billion clean energy package and \$1.3 billion solar homes program
 - d. 50 per cent of light vehicle sales will be electric vehicles by 2030
 - e. 100 per cent of new public buses to be zero emissions from 2025
 - f. 100,000 hectares of restored biodiverse habitat by 2030
 - g. \$515 million to transform waste and recycling.

6. Consultation Matters

PCC.001/22 Draft Climate Action Plan 2022 - 2032 - community feedback

Conflicts of interest

26. All officers involved in the preparation of this report have made a declaration that they do not have a conflict of interest in the subject matter of this report.

6. Consultation Matters

PCC.001/22 Draft Climate Action Plan 2022 - 2032 - community feedback

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6. Officers' reports

PCC.002/22 Proposed Amendments C143 and C144 to the Nillumbik Planning Scheme - Implementation of the Eltham and Diamond Creek Major Activity Centre Structure Plans (2020)

Item: Planning Matter

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Leigh Northwood, Strategic Planning Lead

Summary

This report presents the Committee with an item, deferred to it by the Council Meeting of 14 December 2021, which proposes draft planning scheme amendments to give statutory weight to, and to implement the Eltham and Diamond Creek Major Activity Centre Structure Plans adopted by Council in 2020.

The report will explain how notification of Council's resolution of 14 December 2021 has been conducted.

Members of the community who have registered to speak to the Planning and Consultation Committee (PCC) will have the opportunity to speak to the Committee regarding the item.


The recommended next step is that the Committee, having heard and considered presentations to it, presents the item for consideration to the March 2022 Council Meeting.

Recommendation

That the Committee (acting under delegation from Council):

1. Notes the verbal presentations to the Committee on the item; and
2. Presents the item to the March 2022 Council Meeting for further consideration.

Attachments

1.  CM160/21 - Draft Amendments C143 and C144 for the Eltham and Diamond Creek Major Activity Centres - Officer report and attachments 14 December 2021 Council Meeting

Discussion

1. The Council Meeting of 14 December 2021 considered an officer report which presented draft planning scheme amendments to give statutory weight to, and implement the Eltham and Diamond Creek Major Activity Centre Structure Plans adopted by Council in 2020.
2. The officer report and attachments, which includes the draft amendment documentation, is provided as **Attachment 1**. This attachment provides further background to the item before the Committee.
3. The officer report to the December Council Meeting recommended that Council take the required statutory steps to commence the amendments and progress them to full exhibition, thereby allowing for interested community/stakeholders to make submissions to the amendment.

6. Planning Matters

PCC.002/22 Proposed Amendments C143 and C144 to the Nillumbik Planning Scheme - Implementation of the Eltham and Diamond Creek Major Activity Centre Structure Plans (2020)

4. On considering the matter, the adopted resolution was that Council:
- I. *Defers item CM160/21 Proposed Amendments C143 and C144 to the Nillumbik Planning Scheme - Implementation of the Eltham and Diamond Creek Major Activity Centre Structure Plans (2020) to the February Planning and Consultation Committee meeting.*
 - II. *Requests officers to make available the officer report and all associated attachments on Council's website.*
5. That resolution has since been implemented as follows:
- A page dedicated to the resolution has been placed on Council's Participate Nillumbik website. The page advises of the resolution, advises readers they can make a verbal presentation to the February meeting of the Planning and Consultation Committee on the matter and provides a copy of the relevant officer report with all its attachments.
 - All submitters to the draft structure plans, which were exhibited in early 2020, have been personally notified in writing of Council's resolution, of the relevant Participate Nillumbik website and of the opportunity to speak to the Committee on the matter.
 - The tabling of the item at the February PCC has been included in Council's standard social media updates for upcoming PCC agenda items.

Council decisions

6. See the relevant resolution above of the Council Meeting of 14 December 2021.

Options

7. The Committee provides an opportunity for residents and stakeholders to speak directly to it on particular matters, including the subject of this report.
8. On considering presentations, the Committee can make recommendations to a Council Meeting on the matter at hand, but does not have the delegated authority to resolve to take statutory steps regarding a planning scheme amendment.
9. Hence, the officer recommendation is that the Committee, on considering verbal presentations, is to defer the matter to the March 2022 Council Meeting for consideration.

Council plans and policies

10. The report and draft amendments are consistent with the following priority action in the current Council Plan:

Implement the Major Activity Centre Structure Plans for Diamond Creek and Eltham into the Planning Scheme.

Sustainability implications

6. Planning Matters

PCC.002/22 Proposed Amendments C143 and C144 to the Nillumbik Planning Scheme - Implementation of the Eltham and Diamond Creek Major Activity Centre Structure Plans (2020)

11. Important social, environmental and economic objectives are sought by the State Government's activity centre planning. These are explained further in the attached report to the December 2021 Council Meeting.

Community engagement

12. The community notification conducted in support of Council's resolution of 14 December 2021 is detailed above under "Discussion".
13. If Council resolves to commence the amendments, they will be subject to a full round of public exhibition, as required by the *Planning and Environment Act 1987*.
14. The exhibition will include amongst other things:
- Personal notification to all affected land owners and occupiers.
 - A page dedicated to the exhibition on Council's Participate Nillumbik website.
 - Organised opportunities, sensitive to the relevant COVID restrictions, for the public to speak directly with Council officers regarding the exhibited amendments.
 - Anyone will have the opportunity to make a written submission to the amendments and submitters will have the opportunity to speak to at least one meeting of this Committee.
15. If Council cannot resolve any submission and wishes to proceed with an amendment, it must request that the Minister for Planning convenes an independent Planning Panel to consider all submissions. Further, submitters will have the opportunity to present to the Panel and Council must consider the recommendations of the Panel in deciding how to proceed with the amendment.

Innovation and continuous improvement

16. The intent of the proposed planning scheme amendments is to improve Council's planning policies that guide development of the Eltham and Diamond Creek Major Activity Centres as per the objectives and actions of the adopted Structure Plans (2020).

Collaboration

17. Development and implementation of the structure plans has and will continue to be based on effective collaboration between relevant units within Council and with external agencies, such as Melbourne Water and particularly the Department of Environment, Land, Water and Planning noting the amendment must be consistent with State policy with regard to Activity Centre planning.

Budget implications

18. The proposed planning scheme amendments are fully budgeted from Council's 2021/22 and 22/23 strategic planning amendments budget.

6. Planning Matters

PCC.002/22 Proposed Amendments C143 and C144 to the Nillumbik Planning Scheme - Implementation of the Eltham and Diamond Creek Major Activity Centre Structure Plans (2020)

Relevant law

19. The *Planning and Environment Act 1987* sets the legal framework for the planning scheme amendment process and gives legal force to Victorian planning schemes.

Regional, state and national plans and policies

20. Council is required by the State Government's planning framework to implement Activity Centre Policy in the municipality through the Nillumbik Planning Scheme.

Conflicts of interest

21. No officer involved in the preparation of this report has a conflict of interest in relation to this matter.

6. Officers' reports

PCC.003/22 Municipal Planning Strategy - Phase 2 Consultation

Item: Planning Matter

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Leigh Northwood, Strategic Planning Lead

Summary

The purpose of this briefing is to update Council in regards to submissions received to Phase 2 consultation for the Municipal Planning Strategy (MPS) project. Phase 2 consultation reviewed the existing MPS and identified key 'themes' that will guide comprehensive content updates/changes in drafting a new MPS.

There are specific requirements and format that the MPS must follow. The MPS must succinctly explain the context for a municipality and provide the overarching strategic directions for the major land use and development matters that affect it.

Through the months of September and October 2021, officers conducted an extensive program of consultation across MPS themes. Officers conducted four (4) virtual community workshops, created an online survey on Participate Nillumbik, attended seven (7) advisory committee meetings (including the Wurundjeri Cultural Committee), conducted nine (9) internal team workshops, conducted two (2) Youth Council workshops and two (2) Councillor workshops. In total 88 people registered to attend the virtual community workshops and 50 people attended (excluding staff, facilitators and Councillors).

A total of 458 submissions were received, with 424 survey responses to themes to the MPS through Participate Nillumbik and 34 written submissions.

Submitters have been invited to attend the February 2022 Planning and Consultation Committee Meeting (PCC) to speak to their submission.

Responses provided will assist officers to prepare a draft MPS. The draft MPS is expected to be presented to the May Council meeting with a recommendation that it be endorsed for another round of community engagement.

Subject to consideration of submissions, further changes can be made to the draft MPS prior to seeking Council's approval to seek authorisation from the Minister for Planning to prepare and exhibit an amendment to the Planning Scheme to implement the new MPS, noting the amendment process represents another round of consultation including the ability for the community to make submissions to such.

6. Planning Matters





PCC.003/22 Municipal Planning Strategy - Phase 2 Consultation

Recommendation

That the Committee (acting under delegation from Council):

1. Notes the public response, as outlined in this report, to the second phase of consultation for the Municipal Planning Strategy (MPS) Project.
2. Resolves that the confidential un-redacted copies of written submissions and survey responses to the exhibition of the public engagement for the MPS Phase 2 consultation (at **Attachments 3 and 4**) remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g)(ii) of the *Local Government Act 2020*.
3. Notes that a first draft of the new MPS is scheduled to be presented to the May Council meeting with a recommendation for Council to endorse it for public engagement.
4. Writes to all respondents to the community engagement to express Council's gratitude for their contribution and to advise them of the Committee's resolution and the next steps in the project.

Attachments

- 1  Redacted and consolidated written submissions MPS Phase 2 Consultation
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- 2  Redacted and consolidated survey responses MPS Phase 2 Consultation
.
3. Un-redacted and consolidated written submissions MPS Phase 2 Consultation - Confidential on the grounds specified in the definition of confidential information in section 3(1)(g)(ii) of the Local Government Act 2020 - *CONFIDENTIAL*
4. Un-redacted and consolidated survey responses MPS Phase 2 Consultation - Confidential on the grounds specified in the definition of confidential information in section 3(1)(g)(ii) of the Local Government Act 2020 - *CONFIDENTIAL*
- 5  Key Sentiments - Summary of Submissions MPS Phase 2 Consultation
.
- 6  Community Engagement Report on Virutal Sessions MPS Phase 2 Consultation
.

Discussion

1. The Municipal Planning Strategy (MPS) is a concise expression of the overarching strategic policy directions of a municipality. It provides for the planning scheme's policy foundation, based on the municipality's location and regional context, history, assets, strengths, key attributes and influences. The MPS supports, but does not form part of, the Planning Policy Framework (PPF). The PPF and MPS work together to form the strategic basis of a planning scheme.

6. Planning Matters

PCC.003/22 Municipal Planning Strategy - Phase 2 Consultation

2. Amendment VC148, gazetted in July 2018, introduced new structure to the Victorian Planning Provisions (VPP) within all Victorian Planning Schemes including Nillumbik. This included introduction of a new PPF and the introduction of MPS (to replace the Municipal Strategic Statement).
3. Amendment VC148 did not translate the current Local Planning Policy (LPP) or Municipal Strategic Statement (MSS) into the new framework.
4. The Minister undertook a policy neutral amendment of the Nillumbik Planning Scheme to translate the current LPP and the MSS into the new format through Amendment C135 in mid-2021. Consequently, the MPS currently in the Scheme, has the same content as the existing MSS and given a full scale review has not been undertaken since its introduction into the Scheme some 20 years ago, needs to be updated to reflect a modern vision for Nillumbik. For Council, preparation of an updated MPS represents the best opportunity to capture the community's views and to set the vision for the Nillumbik Planning Scheme and future strategic work to inform local planning policy.
5. The form and content of the MPS is set out in the Ministerial Direction - *The Form and Content of Planning Schemes*. There are specific requirements and format that the MPS must follow. The MPS must succinctly explain the context for a municipality and provide the overarching strategic directions for the major land use and development matters that affect it.

Community Engagement

6. Through the months of August, September and October 2021, Council conducted an extensive program of consultation sessions in regard to testing the existing MPS and potential themes to inform a new MPS.
7. During Phase 2, officers consulted on 11 themes which were derived from a variety of sources as identified at point 24, including Nillumbik 2040 – Council's vision.
8. The 11 themes identified were:
 - a. Activity Centres
 - b. Green Wedge
 - c. Natural Environment
 - d. Built Environment
 - e. Housing
 - f. Economic Development
 - g. Transport
 - h. Infrastructure
 - i. Open Space
 - j. Climate Change
 - k. Heritage, Arts and Culture.

6. Planning Matters

PCC.003/22 Municipal Planning Strategy - Phase 2 Consultation

Summary of Phase 2 Consultation

9. Officers conducted four (4) virtual community workshops, created an online survey on Participate Nillumbik, attended seven (7) advisory committee meetings (including the Wurundjeri Cultural Committee), conducted nine (9) internal team workshops, conducted two (2) Youth Council workshops and two (2) Councillor workshops. In total 88 people registered to attend the virtual community workshops and 50 people attended (excluding staff, facilitators and Councillors).
10. It is noted the virtual community workshops were originally planned for face-to-face workshops but due to the COVID-19 restrictions, Council had to conduct these virtually instead.
11. The responses provided to the consultation are provided as:
 - **Attachment 1** redacted and consolidated written submissions;
 - **Attachment 2** redacted and consolidated survey responses;
 - **Attachment 3** (confidential) un-redacted and consolidated written submissions;
 - **Attachment 4** (confidential) un-redacted and consolidated survey responses;
 - **Attachment 5** Key sentiments - summary of submissions; and
 - **Attachment 6** Community engagement report on virtual sessions.
12. It is noted that **Attachments 3 and 4** remain confidential on the grounds specified in the definition of confidential information in section 3(1)(g)(ii) of the *Local Government Act 2020*.
13. A total of 458 submissions were received, with 424 survey responses to themes to the MPS through Participate Nillumbik and 34 written submissions.
14. It should be noted that the PCC to hear submissions to Phase 2 consultation was programmed for the end of 2021, but was required to be re-scheduled to the beginning of 2022 due to an extension to the Phase 2 consultation period (of 2 weeks).
15. Submitters have been invited to attend the 8 February 2022 Planning and Consultation Committee Meeting (PCC) to speak to their submissions.
16. All submissions and feedback are being considered and will be used in drafting the new MPS where appropriate and relevant.
17. The Key Sentiments - Summary of Feedback to Phase 2 consultation (**Attachment 6**) provides an extensive list of key sentiments across the eleven themes. It is noted some elements of feedback cannot be incorporated into consideration of drafting of the new MPS, predominantly as:
 - a. they are not within the mandate of land use and development (e.g. encourage more sustainable practices at home and private vehicle use);
 - b. they are too specific for the MPS where it sets 'higher order' principles rather than detailed outcomes (e.g. more dog friendly spaces); or
 - c. they are seeking a specific land use outcome for personal gain which is not the mandate of the MPS, which is about 'net community benefit' – some of the written submissions fell into this area.

6. Planning Matters

PCC.003/22 Municipal Planning Strategy - Phase 2 Consultation

18. Key sentiments that drafting of the MPS can and will have regard to as identified in the Key Sentiments - Summary of Phase 2 consultation include among other matters:
- a. The importance of the urban tree canopy and impacts of development on such;
 - b. The importance of protecting Nillumbik’s unique neighbourhood character;
 - c. Focus on walkability, accessibility, active transport and improved accessibility to Major Activity Centres;
 - d. Protection of the current Urban Growth Boundary;
 - e. The importance of protecting biodiversity and the particular importance of wildlife corridors;
 - f. Ongoing management of fire risk;
 - g. Implementing ESD outcomes into the built environment; and
 - h. Protecting Nillumbik’s heritage buildings and places.

Options

19. This project represents an update to current strategic land use and development settings within Nillumbik.
20. Officers note it is important that a modern MPS is implemented into the planning scheme to support this Council’s vision as identified through both the adopted Nillumbik Vision 2040 and the Council Plan, and importantly to support robust, transparent and effective decision making in regard to land use and development planning through the Nillumbik Planning Scheme.
21. The draft MPS is programmed to be brought to the May Council Meeting for consideration and approval to put out for community submissions.
22. Subject to considerations of submissions, further changes can be made to the draft MPS prior to seeking Council’s approval to seek authorisation from the Minister for Planning to prepare and exhibit an amendment to the Planning Scheme to implement the new MPS, noting the amendment process represents another round of consultation and another opportunity for the community provide feedback.

Council plans and policies

23. This report directly supports the achievement of the Council Plan 2021-2025 strategy:
 - We communicate clearly and regularly, taking the time to listen and engage with our community.
24. The themes identified as part of the second round of consultation on the MPS have been derived from a variety of sources including:
 - a. Current State and Regional planning policy (to ensure alignment);
 - b. The existing Municipal Planning Strategy (to maintain support for existing policy and provisions);
 - c. Our People, Our Place, Our Future survey outcomes;
 - d. Climate Action Plan (survey) community engagement outcomes;
 - e. Draft Community Vision – Nillumbik 2040;
 - f. Draft Council Plan; and
 - g. Draft Health & Wellbeing Plan.

6. Planning Matters

PCC.003/22 Municipal Planning Strategy - Phase 2 Consultation

Sustainability implications

25. The project is expected to have positive environmental, social and economic effects for Victorian businesses, industry and the community by:
 - a. Improving the clarity and transparency of local policy content in the MPS which results in greater certainty for users of the system.
 - b. Reducing unnecessary costs to applicants and councils as a result of unclear planning provisions.
 - c. Improving planning outcomes by removing errors, inconsistencies and incompatibility in local policy content in the MPS, PPF and proposed local schedules.
26. The application of updated and improved local policy content in the MPS will provide certainty to the users of the planning system by ensuring land use and development outcomes are consistent with environmental, social and economic land use objectives of planning in Nillumbik and Victoria.
27. The new MPS is also predicted to address issues and key influences such as climate change which are not addressed in the current MPS. The project will help modernise overarching vision for the municipality within the Nillumbik Planning Scheme.

Community engagement

28. The following community engagement program approach was endorsed by Council on 9 February 2021 in regard to consultation around the Our People Our Place Our Future consultation to inform preparation of the Council Plan, Health & Wellbeing Plan, Nillumbik Vision 2040 and the MPS. The program includes the following phases:
 - **Phase 1** – Our People, Our Place, Our Future (OPOPOF): Community engagement program including Shire-wide survey being used to inform the themes within the MPS (February to April 2021). The Climate Action Plan survey was also used to inform the MPS themes **(completed)**.
 - **Phase 2** – MPS Themes: Community engagement on the current MPS and potential themes including 6 week survey, 4 virtual community workshops and associated communications (August to October 2021). This Phase included extensive internal consultation (see below) **(completed)**.
 - **Phase 3** – drafting MPS: Feedback to Phase 2 used to draft a new MPS. The draft MPS will be brought to Council for its consideration and subject to approval to seek community input, the draft MPS will be put out for community feedback. Feedback received would be incorporated and brought to Council again for adoption **(commencing)**.
 - **Phase 4** – Planning Scheme Implementation: Subject to Council's adoption of a final draft of the MPS, officers will seek Council's approval to seek authorisation from the Minister to prepare and exhibit an amendment to the Nillumbik Planning Scheme to insert the updated MPS. It should be noted that as part of the amendment process the proposed MPS would be exhibited to the community with submissions called as part of the formal notification period pursuant to the *Planning & Environment Act 1987* **(yet to commence)**.

6. Planning Matters

PCC.003/22 Municipal Planning Strategy - Phase 2 Consultation

Innovation and continuous improvement

29. The project provides certainty to users of the scheme and provides clear strategic direction that will inform decision making regarding use and development in the municipality, consistent with these objectives.

Collaboration

30. The project proposes significant collaboration across relevant Council units and Advisory Committees.

Budget implications

31. The project is being prepared predominantly in-house. A future amendment to insert the new MPS into the Planning Scheme will be subject to budget allocation through the amendments budget for the 2022/2023 financial year.

Relevant law

32. *The Planning and Environment Act (1987)* (the **Act**).

Regional, state and national plans and policies

33. By updating the MPS with input from the community this will clarify and modernise the Nillumbik Planning Scheme, implementing the objectives of planning in Victoria set out in section 4(1) of the Act:
- a. To provide for the fair, orderly, economic and suitable use, and development of the land.
 - b. To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria.
 - c. To facilitate development in accordance with the objectives of planning in Victoria.

Conflicts of interest

34. No officer involved in the preparation of this report has a conflict of interest.

6. Planning Matters

PCC.003/22 Municipal Planning Strategy - Phase 2 Consultation

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6. Officers' reports

PCC.004/22 Planning Scheme Amendment C140nill - Exhibition Submissions

Item: Planning Matter

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Leigh Northwood, Strategic Planning Lead

Summary

The purpose of this report is to update Council in regards to the exhibition of Amendment C140nill (the Amendment), which seeks to apply a Heritage Overlay (HO) on a permanent basis to 1080 Heidelberg-Kinglake Road, Hurstbridge (also known as 'Fermanagh'). The property is subject to a current planning permit application (604/2021/05P), which proposes additions to the dwelling that make substantial changes to the façade of the building.

The property is included in Council's Stage A Heritage Review, which was adopted at Council's June 2021 Council Meeting. The Heritage Review recommended the application of the Heritage Overlay to the property given it is of local historic, aesthetic and associative significance to the Shire of Nillumbik; noting the subsequent amendment to apply the Heritage Overlay (to all places identified in Heritage Review Stages A and B) is not programmed until the Stage B Heritage Review is completed in mid-2022.

Given the implication of the planning permit application, officers have sought approval (under delegation) from the Minister for Planning for Amendment C139nill (now C145nill) to introduce the Heritage Overlay to 1080 Heidelberg-Kinglake Road on an interim basis pursuant to Section 20(4) of the *Planning & Environment Act 1987*. This provides temporary heritage protection for the property allowing Council time to seek approval and progress a further planning scheme amendment (C140nill) to introduce the Heritage Overlay permanently as per the recommendations of the Stage A Heritage Review.

Amendment C140nill was placed on exhibition pursuant to the requirements of the Act, from 25 November 2021 to 14 January 2022 and notifications were sent out to relevant stakeholders as well as being advertised in local media. Council received one supporting submission in total during the exhibition period. The submitter has been invited to attend this Planning and Consultation Committee Meeting (PCC) to speak to their submission. Should any further submission(s) be received after the exhibition close date and prior to the upcoming PCC, officers will still accept these submissions, and invite those submitters to speak to their submission at the PCC. Officers will update Council verbally at the PCC as to the details of any late submissions received (if necessary).

Recommendations in regard to the Amendment will be brought to Council's February Meeting. As no objections have been received, the report will recommend that Council resolve to adopt the amendment and seek approval from the Minister for Planning. Should any late objections be received it may be recommended to Council to resolve to convene an independent planning panel. Council may also at this time choose to abandon the Amendment.

Recommendation






That the Committee (acting under delegation from Council):

6. Planning Matters

PCC.004/22 Planning Scheme Amendment C140nill - Exhibition Submissions

1. Notes the submission (and any late submissions that may be received) to Amendment C140nill to the Nillumbik Planning Scheme.
2. Resolves that the confidential un-redacted copy of the written submission to the exhibition of the Amendment (at **Attachment 2**) remains confidential on the grounds specified in the definition of confidential information in section 3(1)(g)(ii) of the *Local Government Act 2020*.
3. Considers a further report at the February Council Meeting to resolve to either:
 - a. Request the Minister for Planning approve the Amendment; or
 - b. Appoint an independent planning panel to consider Amendment C140nill; or
 - c. Abandon the Amendment.
4. Requests that officers notify submitters to Amendment C140nill of the Committee's resolution.
5. Requests that officers provide an update onto Participate Nillumbik in regard to next stages for Amendment C140nill.

Attachments

- 1  Submitter 1 - Planning Scheme Amendment C140nill - Redacted
.
2. Submitter 1 - Planning Scheme Amendment C140nill - Unredacted confidential on the grounds specified in the definition of confidential information in section 3(1)(g)(ii) of the Local Government Act 202 - *CONFIDENTIAL*
- 3  Statement of Significance 1080 Heidelberg-Kinglake Road, Hurstbridge
.
- 4  Amendment C140nill Explanatory Report
.
- 5  Amendment C140nill Instruction Sheet
.
- 6  Amendment C140nill 001hoMap11
.

Discussion

Background

1. A planning permit application (604/2021/05P) has been received for 1080 Heidelberg-Kinglake Road, Hurstbridge known as 'Fermanagh' which upon review, has alerted Council officers to proposed additions to the dwelling that make substantial changes to the façade of the existing dwelling. These changes are proposed to have significant impacts on the heritage significance of the property; in particular, the dwelling structure.

6. Planning Matters**PCC.004/22 Planning Scheme Amendment C140nill - Exhibition Submissions**

2. The citation for the site identifies the property is of local historic, aesthetic and associative significance to the Shire of Nillumbik (see **Attachment 3** for Statement of Significance). The Statement of Significance identifies that 'Fermanagh' is noted of historical significance for its ability to demonstrate the manner in which land in the Nillumbik area was subdivided and used for small agricultural pursuits. It illustrates the early period of development of the Hurstbridge township, which accelerated due to the opening of the railway line in 1912. 'Fermanagh' provides tangible evidence of its association with orcharding in Hurstbridge, which was the main agricultural industry in the Diamond Valley region from the 1880s to the 1930s, and with locally notable orchardists the Burke family. The Burke family lived at 'Fermanagh' for over 100 years, and ran an orchard on the property for at least 25 years. Patrick Burke had settled in the area in the 1860s, and with his sons established a nursery, market garden and cool store. The Burke family employed many locals in their orchard at 'Fermanagh' and are known as prominent figures in Hurstbridge's agricultural history. This context meets Criteria A and H for heritage assessment.
3. Fermanagh and its garden is also aesthetically significant as a particularly well-executed and architect-designed Federation villa that retains an early garden. It is distinguished from other houses of the same era in Hurstbridge with its intact Queen Anne details including Marseille terracotta and roughcast render detailing, decorative timber fretwork and posts to the verandah, combined with the massing and verandah form of an Australian homestead. The property's aesthetic significance is further enhanced by the remaining garden elements including Golden Cypress trees (*Hesperocyparis macrocarpa* 'Horizontalis Aurea') arranged in an ovoid pattern and two Chinese Windmill Palms (*Trachycarpus fortunei*) arranged symmetrically in relation to the house, meeting Criterion E of heritage assessment.
4. Given this significance the citation adopted as part of Council's Heritage Review Stage A, recommends that the site is included in the Schedule to the Heritage Overlay in the Nillumbik Planning Scheme with mapping applied to the property boundaries and tree controls to the Golden Cypress Trees and Chines Windmill Palms.
5. Council officers under delegation have sought authorisation from the Minister for Planning for Amendment C139nill to introduce the Heritage Overlay to 1080 Heidelberg-Kinglake Road on an interim basis pursuant to Section 20(4) of the *Planning & Environment Act 1987*, providing protection for the property and allowing Council time to seek approval and progress a further planning scheme amendment (C140) to introduce the Heritage Overlay permanently. Amendment C139nill was approved on 27 August 2021 and extended via Amendment C145nill in November 2021.

Exhibition

6. The Amendment was on exhibition from 25 November 2021 to 14 January 2022. Please see **Attachment 4** for the C140nill Explanatory Report, **Attachment 5** for the Instruction Sheet and **Attachment 6** for Planning Scheme Map.

6. Planning Matters

PCC.004/22 Planning Scheme Amendment C140nill - Exhibition Submissions

7. Notification letters were sent out to the following stakeholders:
- Owners and occupiers of 1080 Heidelberg-Kinglake Road, Hurstbridge and properties adjacent.
 - Prescribed Ministers
8. Notifications advertisements were also posted in the Victorian Government Gazette and Herald Sun on 25 November 2021.

Submissions

9. Council received one submission which was in support of the Amendment. The submitter claims that the Shire has already lost much of its built and landscape history and hopes that the property 1080 Heidelberg-Kinglake Road, Hurstbridge is spared. The submitter has been invited to speak to their submission at this PCC. However, should any further submission(s) be received after the exhibition close date and prior to the upcoming PCC, officers will still accept late submissions, and invite those submitters to speak to their submission at the PCC. Officers will verbally update Council at the PCC as to the details of any late submissions received (if any).

Related Council decisions

10. Council at the 29 June 2021 Council Meeting (Item CM.087/21) adopted the final draft citations of Stage A of the Nillumbik Heritage Review and the proposed Stage B Priority Lists. Specifically, the resolution carried stated:

That Council:

- a. *Adopts the Final Draft Citations for Stage A of the Nillumbik Heritage Review.*
- b. *Adopts the Priority Lists for Stage B of the Nillumbik Heritage Review.*
- c. *Publishes the Final Draft Citations for Stage A of the Nillumbik Heritage Review on Council's website.*

11. Council at the 24 August 2021 Council Meeting (Item CM.121/21) sought a resolution to approve officers' recommendations to seek authorisation from the Minister for Planning to prepare a Planning Scheme Amendment (C140nill) to the Nillumbik Planning Scheme to apply the Heritage Overlay to 1080 Heidelberg-Kinglake Road on a permanent basis as well as to conduct a public exhibition period of the Amendment should authorisation to apply the permanent control be granted by the Minister. Specifically, the resolution carried stated:

That Council:

- a. *Note Amendment C139 requested under delegation pursuant to Section 20(4) of the Planning & Environment Act 1987 to seek application of the Heritage Overlay on an interim basis to 1080 Heidelberg-Kinglake Road, Hurstbridge;*
- b. *Request the Minister for Planning, under Section 8A of the Planning and Environment Act 1987, to authorise the preparation of Amendment C140 to the Nillumbik Shire Planning Scheme; and*
- c. *Undertake public exhibition of Amendment C140 which will apply permanent planning controls through the use of the heritage overlay should authorisation be granted.*

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PCC.004/22 Planning Scheme Amendment C140nill - Exhibition Submissions

Options

12. As part of considering the submissions received, Council at the 22 February 2022 Council Meeting will be presented with an officer’s recommendation. This recommendation may consider the following options:
- a) If required, request the Minister for Planning appoint an independent planning panel to consider Amendment C140nill pursuant to Section 23(1)(b) of the Planning and Environment Act 1987 (Vic), or
 - b) Adopt the amendment pursuant to Section 29(1) of the Planning and Environment Act 1987 (Vic) and seek approval from the Minister for Planning pursuant to Section 31 of the Planning and Environment Act 1987 (Vic), or
 - c) Abandon the amendment.

Council plans and policies

13. This report directly supports the achievement of the Council Plan 2021-2025 strategy:

- Identity
 - We celebrate and prioritise the protection of our heritage, arts and culture, places and spaces by focusing on the diversity of experiences that have shaped our shared history.
 - We recognise and celebrate our community’s significant contributions to art and culture
- Identify
 - We promote place making and shaping and advocate for the continuation and enhancement of local character.
- Good Governance
 - We act in the best interests of our community.
- Services and Programs
 - We communicate clearly and regularly, taking the time to listen and engage with our community.

14. Community Vision – Nillumbik 2040

- Our Place

Fermanagh has been identified through the Stage A Heritage Review having an important cultural contribution to the Shire’s identity. Amendment C140nill aligns with the Nillumbik 2040 Community Vision theme of ‘Our Place’ as it seeks to ensure the communities across Nillumbik are further strengthened through the promotion of shared heritage and history. The implementation of a Heritage Overlay planning control over the property will endeavour to achieve this vision.

6. Planning Matters

PCC.004/22 Planning Scheme Amendment C140nill - Exhibition Submissions

15. The amendment links directly to Council’s Heritage Strategy (2011) which aims to:
- To identify, document and care for heritage places in the Shire of Nillumbik in ways which fulfil legal obligations and adopt best practice; and
 - To involve communities and to promote awareness, knowledge and enjoyment of heritage places.
16. Nillumbik Planning Scheme
- Municipal Planning Strategy (MPS)
 - Clause 02.03-5 - Built Environment under Heritage
 - Protect and enhance places of heritage significance, including sites of Aboriginal heritage significance.

Sustainability implications

17. Economic Implications

The Amendment is not expected to have any adverse or significant economic repercussions for the community. Some additional costs are likely to be imposed on the owners or developers of affected residential properties, since the amendment will necessitate a planning permit for most buildings and works. It is considered that economic effects will be offset by the contribution that the heritage place offers to the broader community.

Social Implications

The conservation of Nillumbik’s heritage places plays an important role in the strengthening of both personal and community identities. This Amendment aids in the social sustainability of Nillumbik’s various communities and is expected to have positive social impacts by providing protection for a place identified as being of aesthetic and historic significance.

Environmental Implications

The introduction of a Heritage Overlay is unlikely to result in any significant environmental effects. The amendment will conserve and enhance a place identified as being of aesthetic and historic significance. The amendment will also make a significant positive contribution to the built environment conserving a heritage place.

18. Climate Change Implications

The Amendment will not have any direct implication on climate change given it pertains to historical built form.

Community engagement

19. Pursuant to the relevant sections within Part 3 Division 1 of the *Planning and Environment Act 1987* (Vic), Amendment C140nill was publicly exhibited from 25 November 2021 to 14 January 2022.

6. Planning Matters

PCC.004/22 Planning Scheme Amendment C140nill - Exhibition Submissions

Innovation and continuous improvement

20. The Amendment achieves continuous improvement through the implementation of Council’s partially adopted Heritage Review; ensuring that Nillumbik Shire continues to better protect and conserve places of heritage significance that will be enjoyed and appreciated by generations of residents and visitors.

Collaboration

21. There have been discussions with the Department of Environment, Land, Water and Planning (DELWP) on this matter to ensure that the Statement of Significance meet their expectations and requirements. Also, given the tandem planning permit application associated with this Amendment, Strategic Planning has also had discussion with the relevant assessing officer in Council’s Planning Services team to ensure a development outcome that responds to and respects the property’s heritage significance is sought.

Budget implications

22. The cost of preparing the amendment is provided for within the 21/22 Financial Year Strategic Planning budget.

Relevant law

23. The *Planning and Environment Act 1987* (Vic).

Regional, state and national plans and policies

24. Plan Melbourne (2017-2050)
- Outcome 4 - Melbourne is a distinctive and liveable city with quality design and amenity.
 - Direction 4.4 - Respect Melbourne’s heritage as we build for the future
 - Policy 4.4.1 - Recognise the value of heritage when managing growth and change.

With all three levels of government sharing responsibility for protecting Melbourne’s post settlement cultural heritage, decision-making must be consistent and credible and be based on clear and widely accepted heritage conservation principles and practices.
 - Policy 4.4.4 - Protect Melbourne’s heritage through telling its stories.

There is more to heritage than place. The stories of Melbourne, including stories from before European settlement, help citizens understand the places where they live and work. They also help create a sense of belonging and community by encouraging tolerance and respect.

25. Planning Practice Note

- PPN 1: Applying the Heritage Overlay (2018)

This practice note provides guidance about the use and application of the Heritage Overlay and sets out the criteria and standards required to apply the control to a place of heritage values/significance.

6. Planning Matters

PCC.004/22 Planning Scheme Amendment C140nill - Exhibition Submissions

26. Nillumbik Planning Scheme

- Planning Policy Framework (PPF)

- Clause 15 - Built Environment and Heritage

Planning should ensure all land use and development appropriately responds to its surrounding landscape and character, valued built for form and cultural context.

- Clause 15.03-1S - Heritage conservation

Objective: To ensure the conservation of places of heritage significance.

Strategies: Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance; retain those elements that contribute to the importance of the heritage place and provide for the protection of natural heritage sites and man-made resources.

Next steps

27. Recommendations in regard to the Amendment will be brought to Council's February Meeting. As no objections have been received, the report will recommend that Council resolve to adopt the amendment and seek approval from the Minister for Planning. Should any late objections be received it may be recommended to Council to resolve to convene an independent planning panel. Council may also at this time choose to abandon the Amendment.

Conflicts of interest

28. All officers involved in the preparation of this report have made a declaration that they do not have a conflict of interest in the subject matter of this report.

6. Officers' reports

PCC.005/22 Buildings and works to construct an outbuilding, gates, removal of vegetation and associated earthworks at 56 Catani Boulevard, Bend of Islands

Item: Planning Matter

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Kamal Hasanoff, Statutory Planning Coordinator

Application summary

Address of the land	56 Catani Boulevard, Bend of Islands
Site area	6.14 hectares
Proposal	Buildings and works to construct an outbuilding, gates, removal of vegetation and associated earthworks
Application number	684/2020/05P
Date lodged	29 October 2020
Applicant	N J White
Zoning	Special Use Zone (Schedule 2)
Overlay(s)	Environmental Significant Overlay (Schedule 1) Bushfire Management Overlay
Reason for being reported	Called in by Ward Councillor
Number of objections	Seven (7)
Key issues	<ul style="list-style-type: none"> • Siting and design of the outbuilding • Vegetation impacts and extent of vegetation to be removed • Extent and appropriateness of the gates

6. Planning Matters

PCC.005/22 Buildings and works to construct an outbuilding, gates, removal of vegetation and associated earthworks at 56 Catani Boulevard, Bend of Islands

Recommendation

That the Committee (under delegation from Council) issue a Notice of Decision to Grant a Permit to the land located at 56 Catani Boulevard, Bend of Islands, for Buildings and works to construct an outbuilding, gates, removal of vegetation and associated earthworks, 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 7th September 2021 but modified to show:
 - a) Amended site plan showing the following:
 - i. Location of the existing septic system and effluent field.
 - ii. The length and dimension of the driveway extension.
 - iii. The location of tree protection fencing.
 - b) Amended elevation plan showing the following:
 - i. A notation specifying that the external walls and roof of the outbuilding are to be finished in “Colorbond Woodland Grey”.
 - c) Evidence that an offset has been secured as per Condition 12 of this permit.
2. The development as shown on the endorsed plans must not be altered 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.
4. No vegetation on-site (unless specified on the endorsed plans) shall be removed, destroyed, felled, lopped, ringbarked, uprooted or otherwise damaged except with the prior written consent of the Responsible Authority.
5. The access to the outbuilding must be constructed above grade, with any imported gravel surface being free of contaminants or impurities, to the satisfaction of the Responsible Authority.
6. Upon completion of excavation works, the site must be inspected by the project arborist. Any roots that are exposed and require removal must be pruned in accordance with AS4373-2007 Pruning of amenity trees by a qualified arborist (minimum level 3 certification) using clean, sharp hand tools 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 trees marked on the endorsed plans as being retained must have a Tree Protection Zone to the satisfaction of the Responsible Authority. The fencing associated with this tree protection zone must meet the following requirements:

6. Planning Matters

PCC.005/22 Buildings and works to construct an outbuilding, gates, removal of vegetation and associated earthworks at 56 Catani Boulevard, Bend of Islands

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 and must be a minimum height of 1.5 metres and of chain mesh or similar fence with 1.8 metre support posts every 3-4 metres, including a top line of high visibility plastic hazard tape erected around the perimeter of the fence.

c) Signage

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

d) Irrigation

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

e) Provision of Services

All services (including water, electricity, gas and telephone) should be installed underground, and located outside of any tree protection zone, wherever practically possible. If underground services are to be routed within an established 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, to the satisfaction of the Responsible Authority.

Bore pits must be located outside of the tree protection zone or manually excavated without damage to roots, 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).

g) Mulching

The area within the tree protection zone and tree protection fencing must be mulched to a minimum depth of 75mm with an organic and composted mulch.

6. Planning Matters

PCC.005/22 Buildings and works to construct an outbuilding, gates, removal of vegetation and associated earthworks at 56 Catani Boulevard, Bend of Islands

h) Supervision of works

All works within tree protection zones must be supervised by a suitably qualified arborist. Any roots uncovered are pruned with sharp/sterile hand tools and wrapped in damp hessian by a qualified arborist.

8. 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
- e) or any other fixing device);
- f) Open cut trenching or excavation works (whether or not for laying of services);
- g) Changes to the soil grade level;
- h) Temporary buildings and works; and
- i) Unauthorised entry by any person, vehicle or machinery.

9. 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.

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

11. To offset the removal of 0.028 hectares of native vegetation as shown in the approved native vegetation removal report (report 356-20210902-018) 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:

A general offset of 0.024 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 0.632.

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

12. 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:

6. Planning Matters

PCC.005/22 Buildings and works to construct an outbuilding, gates, removal of vegetation and associated earthworks at 56 Catani Boulevard, Bend of Islands

- a) An established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site and/or
- b) Credit extract(s) allocated to the permit from the Native Vegetation Credit Register.

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

- 13. In the event that a security agreement is entered into, the applicant must provide the annual offset site report to the Responsible Authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of the Responsible Authority.
- 14. The vehicular driveway must be properly formed and constructed to such levels to ensure that it can be utilised at all times. The maximum allowable unsealed driveway grade is to be 1 in 5. The stormwater from the driveway must not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of stormwater. All works are to be carried out to the satisfaction of the Responsible Authority.
- 15. 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 must not cause any nuisance or loss of amenity in any adjacent or nearby land.

Stormwater from the roof of the development must be directed to the existing stormwater drainage system for the dwelling to the satisfaction of the Responsible Authority. This may be an existing soakage system on site.




- 16. 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.

6. Planning Matters

PCC.005/22 Buildings and works to construct an outbuilding, gates, removal of vegetation and associated earthworks at 56 Catani Boulevard, Bend of Islands

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 legally described as Lot 12 on Plan of Subdivision 027627.
 - The subject site is an irregular shaped allotment with a total area of 6.14 hectares.
 - The subject site has a fall of approximately 60 metres from the front to the rear of the property.
 - The subject site is heavily vegetated with indigenous and native species. However, there is an area within the front portion of the site which is relatively clear and forms part of an informal domestic zone on the land.
 - The subject site is currently occupied by a single dwelling and two small ancillary outbuildings.
 - Access is provided to the site via two separate circular driveways that are located along Catani Boulevard. Due to the topography of the site, the first access point provides access to the existing dwelling and the second access point provides access to the two outbuildings.
 - There are no restrictions on title.
 - The surrounding area can be characterised as a sloping, densely vegetated rural-residential area, with land parcels greatly varying in size and configuration.

Details of proposal

2. Refer to the attached plans.
3. Key features of the proposal include:
 - The proposed outbuilding is to be located within the front portion of the site.
 - The proposed outbuilding is to be setback 14 metres from Catani Boulevard. However, it is noted that due to the angled nature of the front boundary, this setback increases to a maximum of 18 metres.
 - The proposed outbuilding is to be 10.5 metres in length and 9 metres wide, with a total area of 94.5 square metres. The maximum overall height is 3.58 metres from natural ground level to the top of the ridge.
 - The proposed outbuilding is to be used as storage for firefighting equipment.
 - The proposed outbuilding is to be finished in Colorbond Woodland Grey.

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Gates

- The proposal includes four gates which are located along the frontage at each of the access points.
- The proposed gates are to be 3.32 metres long and 1.15 metres high.
- The gates are to be constructed of galvanized steel and are visually permeable.

Earthworks

- The proposal involves earthworks to facilitate the siting of the proposed outbuilding.
- Earthworks are proposed to a maximum depth of 500mm.

Vegetation Removal

The proposal includes the removal of the following nine trees:

Tree Number	Species
Tree 18	Red Stringybark (Eucalyptus macrorhyncha)
Tree 20	Red Stringybark (Eucalyptus macrorhyncha)
Tree 22	Red Stringybark (Eucalyptus macrorhyncha)
Tree 23	Red Stringybark (Eucalyptus macrorhyncha)
Tree 24	Red Stringybark (Eucalyptus macrorhyncha)
Tree 25	Red Stringybark (Eucalyptus macrorhyncha)
Tree 26	Red Stringybark (Eucalyptus macrorhyncha)
Tree 27	Red Stringybark (Eucalyptus macrorhyncha)
Tree 28	Red Box (Eucalyptus polyanthemos)

Planning history

4. There is no relevant planning history with respect to the subject site.

Planning controls

Zoning

5. Under the Special Use Zone (Schedule 2), a planning permit is required to construct a building or construct or carry out works and for the removal of native vegetation.

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Overlays

6. Under the Environmental Significance Overlay (Schedule 1), a planning permit is required to construct a building or construct or carry out works and for the removal of vegetation.
7. Under the Bushfire Management Overlay, a planning permit is not required. The proposed outbuilding is less than 100 square metres, is not used for accommodation and is ancillary to the dwelling. As such, the provisions of this overlay do not apply to this application.

Particular provisions

8. Under the provisions of Clause 52.17 (Native Vegetation), a planning 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 there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) the Guidelines:
 - Avoid the removal, destruction or lopping of native vegetation.
 - Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
 - Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.
9. To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

General Provisions

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 relevant to this application include:
 - Clause 11.01-1S – Settlement
 - Clause 11.01-1R – Green Wedges
 - Clause 12.05-2S – Landscapes
 - Clause 12.05-2L – Rural Landscapes in Nillumbik
 - Clause 13.02-1S– Bushfire Planning
 - Clause 13.02-1L – Bushfire management in Nillumbik.

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Council plans and policies

12. Under Clause 71.02-3 (Integrated Decision Making) planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, Clause 13.02 - Bushfire of the Nillumbik Scheme planning and responsible authorities must prioritise the protection of human life over all other policy considerations.

Advertising

13. The application was advertised by way of the posting of notices to the owners and occupiers of neighbouring properties and the erection of a notice on-site. Due to amendments to the proposal, the application was advertised on two occasions. The first advertising period received two objections. The second advertising period received five objections. No objections have been withdrawn and as such, there are a total of seven objections.

Objections

14. The objections received can be summarised as follows:

- Concerns regarding the extent of built form (site coverage) across the site.
- Concerns regarding the extent of gates proposed across the property frontage.
- Concerns regarding the extent of vegetation removal required to facilitate the proposal.

Planning application conference

15. No Planning Application Conference (PAC) was held for this application, due to circumstances expressed by the landowners. With regards to the benefit of a PAC, it is considered that the depth of the submissions and suggested solutions would not be agreed to by the applicant and as such, the application has progressed to a final determination.

Referrals

Internal

16. 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:

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Council Unit	Comments
Environmental Planning	<ul style="list-style-type: none"> • The applicant has submitted further information following our request. A Native Vegetation Report (NVR) has now been provided for the loss of native vegetation from the proposed development. • The Native Vegetation Report (NVR) shows a patch of vegetation, with a total area of 0.028ha to be considered lost. This covers the removal of nine trees for the shed, plus the loss of trees 16, 17 and 44. The applicant has provided an avoid and minimise statement and evidence that an offset can be secured is to be provided. I am satisfied with the response to Clause 52.17.
Council’s Consulting Arborist	<ul style="list-style-type: none"> • The siting of the outbuilding is responsive to the characteristics of the site. There is a clear intention to minimise tree removal where possible. • No habitat trees in proximity to the proposed works were observed. • The most significant trees to be impacted are exhibiting moderate volumes of deadwood in the crown and trunk and have a low useful life expectancy. • The construction of the extension to the access way will not involve additional earthworks or excessive toppings, further reducing any impact to adjacent trees.
Infrastructure Services	No issues were identified with the proposal. Conditions relating to vehicular access and stormwater have been recommended in the event that a planning permit is issued.
Building Services	A building permit is required. There are no siting or BAL issues.
Environmental Health Team	The proposed shed is uphill from the dwelling, so it is unlikely that the septic system would be located in the proposed shed location.

External

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

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Planning assessment

Introduction

18. The proposal requires assessment against the Zone, Overlays and relevant Planning Policy Framework. The following have been identified as the key planning issues in relation to the assessment of this planning application:

- Siting and design of the outbuilding
- Vegetation impacts and extent of vegetation to be removed
- Extent and appropriateness of the gates

Siting and Design of the Outbuilding

19. The applicant has sought approval for the construction of an outbuilding on the property to allow for the provision of secure storage for firefighting equipment. The subject site is affected by the Bushfire Management Overlay, which identifies the land as being subject to significant bushfire risk.

20. Alternative siting options were explored with the owner/applicant during an inspection in July 2021. After considering the topographical constraints, characteristics of the site (existing features such as the dam along the northern side boundary), the condition and significance of existing vegetation and extent of earthworks required, the proposed siting was considered to strike an appropriate balance.

21. The proposed outbuilding is located within the front portion of the site and is setback a minimum distance of 14 metres from the front boundary abutting Catani Boulevard. Due to the angled nature of the frontage, this setback increases to a maximum of 18 metres. The Special Use Zone (Schedule 2) specifies that all buildings must be setback 20 metres from the frontage of a lot and from all side boundaries. However, the Responsible Authority may permit a reduction in a boundary setback where it is satisfied that the reduction is necessary and will not cause adverse effects of the amenity of the neighbourhood, having regard to:

- The size, shape and topography of the allotment

The overall size of the site is 6.1 hectares. However, it is important to note that the sloping topography and dense vegetation cover that is characteristic of the site is a significant constraint. As such, it is considered appropriate for the outbuilding to be located in the front of the site (which acts as an informal “domestic zone”) to minimise vegetation loss and disruption to landform (excavation).

The land falls away from Catani Boulevard to the rear of the site. It is considered that the severity of the slope worsens beyond the existing dwelling to the rear property boundary. As such, the existing dwelling and existing outbuildings on the site are located within this front section. The proposed siting has minimised the extent of excavation to a maximum depth of 500mm.

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- The extent of any existing or proposed screen planting

It is acknowledged that the proposed outbuilding will result in the removal of vegetation, however there are a number of trees within the frontage that will provide partial screening from Catani Boulevard.

- The visibility of the proposed development

The proposed outbuilding will be visible from Catani Boulevard. However, the following is taken into consideration:

- The proposed location will reduce the extent of vegetation removal required.
- The proposed location will reduce the extent of earthworks required.
- The proposed location will negate the need to create a separate access way and is integral to its use for firefighting equipment storage.

- The design of the proposed development

The proposed outbuilding is considered to be a simplistic design of low profile, with a maximum overall height of 3.575 metres from natural ground level to the top of the ridge. This further reduces the building’s prominence on the site and within the broader landscape.

Through observations on site and the review of aerial photography, there is clear precedence for buildings to be located within proximity to the front boundary. This is considered to be due to the topographical and environmental features of the surrounding area. It is considered that the setback, scale and form of the outbuilding are an appropriate outcome for the site and surrounding area.

Vegetation impacts and the extent of vegetation to be removed

22. The subject site is heavily vegetated and as such, there are limitations with regards to the most appropriate location for any buildings and works. The proposal seeks the removal of nine trees to accommodate the outbuilding’s footprint and the extension to the driveway to allow for access.

23. The development has been carefully sited and designed in order to avoid and minimise impacts to native vegetation. The following is a summary of the assessment response provided by Council’s consulting arborist, regarding the siting of the proposed development with respect to existing vegetation and the likely resulting construction impact:

- Siting:

- The siting of the proposed shed is responsive to the arboricultural characteristics of the property and demonstrates the applicant’s intention to retain and protect as many trees as is practical.
- The proposed works are in a relatively less-treed area, due in part to the nearby overhead power lines which have necessarily resulted in historical tree clearing to the south of the proposed works.

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- Dead trees which are valuable as habitat were observed in proximity to the works area, however these will not be impacted by the proposal.
 - The largest trees to be impacted by the proposal are over mature Red Stringybarks. These trees exhibit moderate volumes of deadwood throughout their crowns and into trunks and have a low Useful Life Expectancy (ULE).
 - Construction of the new access driveway will not involve excavation or excessive fill/toppings in order to enable retention of closely-adjacent trees.
 - The siting of the proposed shed is responsive to the topographical characteristics of the property.
 - All other parts of the site are steeply sloped and as such would require more earthworks to prepare for the installation of shed foundations, potentially also involving soil batter.
 - Additionally, sloped and densely treed areas located further from Catani Boulevard are less easily or safely accessible in the event of an emergency fire response.
 - Arboricultural Impacts for trees to be retained:
 - Tree 44 incurs a 'major' tree protection zone encroachment (>10% total tree protection zone area) under the proposal, including structural root zone encroachment. Council's consulting arborist agreed with the rationale within the report of the project arborist for the tree's viability, given that actual impacts will be within the range of tolerances for the specimen due to shed construction being above grade within the tree protection zone.
 - Tree numbers 14, 15, 16, 17 and 29 will incur a 'minor' tree protection zone encroachment (<10% total tree protection zone area) by the proposed outbuilding. Although the encroachment for Tree numbers 16 and 17 exceeds the threshold for being considered 'minor', there are no excavations associated with driveway preparations (gravel toppings above grade and with no subgrade compaction). Further, the driveway will be seldom utilised and anticipated compaction of the root zone by vehicles is considered negligible. Accordingly, the impacts under the proposal should be treated as 'minor' for planning and decision-making purposes in regard to Tree numbers 16 and 17. A 'minor' encroachment does not necessitate a design amendment to reduce impacts to trees and all five trees are considered viable under the proposal.
24. The proposal requires the removal of nine indigenous trees. Of these, eight are Red Stringybarks and the remaining tree is a Red Box. Tree numbers 18, 20, 23, 24, 25 and 28 are located within the development footprint and their impact cannot be avoided. Tree numbers 22, 26 and 27 are located adjacent to the edge of the proposed works and are not considered to be viable under the proposal.

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25. The following is a summary of the assessment by Council’s consulting arborist of the nine trees proposed to be removed:

- Trees numbers 18, 25, 26 & 28
 - These trees have small crowns and do not form part of the forest’s upper canopy. They presently offer little to the overall landscape function as individual trees and are not considered significant enough to necessitate amendment to the proposal to facilitate their retention.
 - The environmental contribution of these trees would be quickly compensated for (and ultimately exceeded) by the purchase of offsets required under Clause 52.17.
- Tree 22
 - Tree 22 is a mature component of the natural forest population. The tree is located very close to the edge of the proposed gravel access track and is considered to present a potential hazard/obstruction to the safe and efficient accessibility of the shed in the event of a fire emergency.
- Tree 23
 - Tree 23 is a mature component of the natural forest population. The tree is located centrally within the proposed shed footprint, meaning its retention under the proposal would require a major amendment to the siting of the proposed shed.
 - Relocating the shed in any direction to retain this tree would consequently result in the removal of one or more similarly significant trees and would not serve to achieve additional tree retention objectives.
- Tree 20
 - Tree 20 has not yet reached maturity. The tree is located centrally within the proposed gravel access track, meaning its retention under the proposal would require a major amendment to the alignment of the track and, consequently, also the proposed shed.
 - Re-siting the proposal to the north will result in the non-viability of Tree 44, which is a superior tree. Re-siting the proposal to the south would result in non-viability of Tree numbers 14 to17. Either amendment will result in a greater impact to the overall landscape.
 - The removal of Tree 20 is considered unavoidable and appropriate to facilitate the proposal and to enable retention of superior trees.
- Tree 24
 - Tree 24 is a mature component of the natural forest population. To enable retention of this tree, the proposed shed would need to be re-sited further south, a move which would result in the non-viability of Tree numbers 14 and 15, which are proposed to be retained.

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- The retention of Tree numbers 14 and 15 represents a superior landscape outcome and as such, the removal of Tree 24 is considered appropriate to facilitate the proposal and enable retention of higher value trees.
 - Tree 27
 - Tree 27 is a mature component of the natural forest population. To enable its retention, the proposed shed would need to be re-sited further east, a move which would result in the non-viability of Tree 15. The removal of Tree 27 is considered appropriate to facilitate the proposal and to enable retention of a superior tree.
 - It is noted that the majority of public and private land in the Bend of Islands is dominated by natural indigenous bushland. The proposed localised removal of a relatively small volume of vegetation will have an overall negligible impact on the faunal habitat link objectives of the Environmental Significance Overlay (Schedule 1). Importantly, there were no naturally formed hollows in any assessed trees which would indicate present functionality or particular significance as habitat. The proposal identified dead trees with hollows peripheral to the assessment area and produced a design to enable the successful retention of these.
26. The subject site is greater than 0.4 hectares and requires the removal of native vegetation. As such, the proposal must be considered under the provisions of Clause 52.17 of the Planning Scheme. The application was referred to Council's Environmental Planner, who was satisfied that vegetation losses had been correctly calculated and that the response to Clause 52.17 (Native Vegetation) was satisfactory.
27. Overall, it is considered that there has been an attempt to minimise the impact to the environmental characteristics of the site. As mentioned above, the outbuilding has been located in an area that is less vegetated to reduce the extent of vegetation removal. The application was referred to Council's consulting arborist and environmental planner who are both satisfied that the proposal presents an acceptable outcome from an arboricultural and biodiversity perspective.

Extent and appropriateness of the gates

28. The owners have sought approval for the construction of four gates across the property frontage. The gates are proposed at each point of entry and exit for the two existing circular driveways. The proposed gates are considered to adopt a simplistic design with a maximum height of 1.15 metres and width of 3.32 metres. The proposed gates are considered to be appropriate on the following basis:
- The gates will run a combined extent of 13.3 metres along the frontage. The overall length of the frontage is approximately 270 metres and as such, this will equate to five percent of the total frontage. It is considered that the extent of gates is negligible given the length of the front boundary and will not interrupt the open nature of the frontage.

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- The proposed gates are to provide a level of security for the owners who have experienced a number of burglaries on the property in recent years. The remaining frontage is not proposed to be fenced, however the gates would ensure that the access points are blocked off from vehicular access.
- The proposed gates will not restrict faunal movement across the site.
- The proposed gates are not solid, allowing for a high degree of visual permeability.
- There are numerous examples of gates within the surrounding area. These include a number of Catani Boulevard and Henley road properties. It is considered that metal gates that are low lying and provide security to a driveway are common place in the area.

Response to objections received

29. The written objections have raised a number of concerns with respect to the proposed development. A number of these issues have been discussed in earlier sections of this assessment. A response to those issues not previously discussed and addressed is included below:

- The extent of vegetation clearance is not in accordance with the Special Use Zone (Schedule 2).

The Special Use Zone states that the clearance of a site for a dwelling, outbuildings, kitchen garden, access and any other development should be limited to 2,000 square metres. The objections raise concerns that the outbuilding would result in clearance exceeding 2,000 square metres. The exact area of existing clearance to proposed clearance is not clear, however the zone affords Council discretion to consider a variation to this requirement in instances where site constraints or length of access ways would make such requirements impractical to achieve or unnecessarily restrictive. It is considered that the proposal does not compromise the intent of this requirement on the following basis:

- The outbuilding is located within a less vegetated area of the site. Whilst the area of clearance may not be reduced, the number of trees required to be removed has been reduced in this location.
- The outbuilding has been clustered with the existing development on the site.
- The outbuilding is located on relatively flat land, minimising the need for extensive earthworks which would have resulted in further impact and removal.
- The outbuilding is located within close proximity to the existing access way.

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- The proposed gates contravene the requirements of the Special Use Zone (Schedule 2) with respect to the fencing provisions.

The proposed gates in this instance are not considered to be fencing and have been assessed as stand-alone structures, which can be considered under the Special Use Zone (Schedule 2).

Conclusion

It is considered that the proposal is an acceptable outcome for the site and surrounding area and approval is recommended, subject to conditions.

Conflicts of interest

Officers involved in the preparation of this report do not have a conflict of interest in the subject matter of this report.

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Planning and Consultation Committee Meeting Agenda

8 February 2022

- 7. Supplementary and urgent business**
- 8. Confidential reports**
- 9. Close of Meeting**