

# Planning and Consultation Committee Meeting

held at the Civic Centre, Civic Drive, Greensborough  
on Tuesday 9 August 2022 commencing at 7:00pm.

## Minutes

**Carl Cowie**  
**Chief Executive Officer**

Friday 12 August 2022

Distribution: Public

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**Nillumbik Shire Council**

**Minutes of the Planning and Consultation Committee Meeting held  
Tuesday 9 August 2022. The meeting commenced at 7:00pm.**

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**Councillors present:**

Cr Richard Stockman	Blue Lake Ward
Cr Karen Egan	Bunjil Ward
Cr Natalie Duffy	Edendale Ward
Cr Peter Perkins	Ellis Ward ( <b>Chairperson Planning Matters</b> )
Cr Ben Ramcharan	Sugarloaf Ward ( <b>Deputy Mayor</b> ) (attended virtually)
Cr Frances Eyre	Swipers Gully Ward ( <b>Mayor</b> )
Cr Geoff Paine	Wingrove Ward ( <b>Chairperson Consultation Matters</b> )

**Officers in attendance:**

Carl Cowie	Chief Executive Officer
Vince Lombardi	Chief Financial Officer
Sally Johnson	Acting Executive Manager Governance, Communications and Engagement
Corrienne Nichols	Executive Manager Communities
Jeremy Livingston	Executive Manager Business Transformation and Performance
Rosa Zouzoulas	Executive Manager Planning and Community Safety
Katia Croce	Governance Lead
Renae Ahern	Manager Planning Services
Kamal Hasanoff	Statutory Planning Coordinator

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**1. Welcome by the Chair**

**2. Acknowledgement of Country**

Acknowledgement of Country was read by the Chairperson, Cr Peter Perkins.

**3 Apologies**

Nil

**4 Disclosure of conflicts of interest**

Nil

**5. Confirmation of Minutes**

Confirmation of the minutes of the Planning and Consultation Committee Meeting held on Tuesday 12 July 2022.

<b>Committee Resolution</b>
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**MOVED: Cr Karen Egan**

**SECONDED: Cr Geoff Paine**

**That** the Committee (acting under delegation from Council) confirms the minutes of the Planning and Consultation Committee Meeting held on Tuesday 12 July 2022 (**Attachment 1**).

**CARRIED UNANIMOUSLY**

6. Officers' reports

**PCC.028/22 Construction of a second dwelling (double storey) to the rear of the existing dwelling at 2 Kirwin Avenue, Eltham**

**Item: Planning Matter**

**Distribution: Public**

**Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety**

**Author: Renae Ahern, Manager Planning Services**

**Application summary**

Address of the land	2 Kirwin Avenue, Eltham
Site area	833 square metres
Proposal	Construction of a second dwelling (double storey) to the rear of the existing dwelling
Application number	839/2021/03P
Date lodged	31 August 2021
Applicant	J Alexander
Zoning	General Residential Zone (Schedule 1)
Overlay(s)	None
Reason for being reported	Called in by Ward Councillor
Number of objections	25
Key issues	<ul style="list-style-type: none"> <li>• Strategic location and mandatory requirements</li> <li>• Response to Neighbourhood Character</li> <li>• Private Open Space</li> <li>• Amenity impacts</li> <li>• Car parking and vehicle access</li> </ul>

**6. Planning Matters**

**PCC.028/22 Construction of a second dwelling (double storey) to the rear of the existing dwelling at 2 Kirwin Avenue, Eltham**

*The following people addressed the Committee with respect to this item:*

- 1 *John Alexander - Madison & Co (Permit applicant on behalf of the applicant)*
- 2 *John Fecondo*
- 3 *John Fecondo on behalf of Ken Titman*
- 4 *Joanne Fecondo*
- 5 *Emma Sampson*
- 6 *Stephen Guest*
- 7 *Elizabeth Guest*
- 8 *Lauri Widdup*
- 9 *Lauri Widdup on behalf of Hedley Widdup*

<b>Recommendation</b>
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**That** the Committee (under delegation from Council) issue a Notice of Decision to Grant a Permit to the land located at 2 Kirwin Avenue, Eltham for the construction of a second dwelling (double storey) to the rear of the existing dwelling, in accordance with the submitted plans and subject to the following conditions:

1. Before the development commences 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 submitted with the application but modified to show:
  - a) The existing vehicle crossing to Leane Drive retained or reconstructed at the same grade and location under the supervision of the project arborist to protect Council owned tree number 2.
  - b) A notation to state that excavation for the retaining wall posts must be undertaken with the supervision of the project arborist so as to not damage significant roots within the Structural Root Zone of Council owned tree numbers 5 and 6.
  - c) Tree protection measures in accordance with Section 8.3 and 8.4 of the arborist report by Taylors dated 26 November 2021, to protect Council owned tree numbers 1, 2, 5, 6, 7 and 8.
  - d) A landscape plan in accordance with Condition 3.
2. The development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
3. Before the development commences, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must show:

6. Planning Matters

**PCC.028/22 Construction of a second dwelling (double storey) to the rear of the existing dwelling at 2 Kirwin Avenue, Eltham**

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- a) A survey of all existing vegetation and natural features;
  - b) The area or areas set aside for landscaping;
  - c) A schedule of all proposed trees, shrubs/small trees and ground cover. This schedule shall include a mixture of selected from the Council document 'Live Local Plant Local' showing the botanical and common name of each plant, the quantity to be planted, the pot size and spacing;
  - d) The location of each species to be planted and the location of all areas to be covered by grass, lawn or other surface material;
  - e) Paving, retaining walls, fence design details and other landscape works including areas of cut and fill;
  - f) Appropriate irrigation systems;
  - g) Appropriate maintenance details; and
  - h) The provision of four canopy trees to be planted throughout the development. The trees must be substantial canopy species and selected from '*Live Local Plant Local – A guide to planting in Nillumbik*'.
4. Unless with the prior written consent of the Responsible Authority, before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.
  5. No trees 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.
  6. The Council owned nature strip trees must not be damaged during construction and must be protected in accordance with the tree protection measures shown on the endorsed plans.
  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 Fence (TPF) to the satisfaction of the Responsible Authority. The fencing associated with this TPZs must meet the following requirements:
    - a) Extent  
 The tree protection fencing (TPF) is to be provided to the extent of the TPZ, calculated as being a radius of 12 x Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009)  
  
 Fencing may be reduced directly adjacent to the works area only to allow access during construction (i.e. no more than 1 metre away from the works/ construction area)

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- b) Fencing  
 All tree protection fencing required by this permit must be erected in accordance with the approved TPZ.  
 The TPF 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.
  - c) Signage  
 Fixed signs are to be provided on all visible sides of the TPF clearly stating “Tree Protection Zone – No Entry”, to the satisfaction of the Responsible Authority.
  - d) Provision of Services  
 Unless with the prior written consent of the Responsible Authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any TPZ, to the satisfaction of the Responsible Authority.
  - e) Access to TPZ  
 Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).
8. Prior to the commencement of the approved works (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the erected tree protection fences must be inspected and approved by the Responsible Authority. Once erected to the required standard, the tree protection fencing shall be maintained in good condition and may only be removed upon completion of all development works, to the satisfaction of the Responsible Authority.
9. The following actions must not be undertaken in any tree protection zone as identified in this permit, to the satisfaction of the Responsible Authority:
- a) Materials or equipment stored within the zone;
  - b) Servicing and refuelling of equipment and vehicles;
  - c) Storage of fuel, oil dumps or chemicals;
  - d) Attachment of any device to any tree (including temporary service wires, nails, screws or any other fixing device);
  - e) Open cut trenching or excavation works (whether or not for laying of services);
  - f) Changes to the soil grade level;
  - g) Temporary buildings and works; and
  - h) Unauthorised entry by any person, vehicle or machinery.

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**PCC.028/22 Construction of a second dwelling (double storey) to the rear of the existing dwelling at 2 Kirwin Avenue, Eltham**

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10. The materials to be used in the construction of the buildings and works hereby permitted shall be of non-reflective type and finished in muted tones, to the satisfaction of the Responsible Authority.
11. Air-conditioning and other plant and equipment installed on the subject buildings shall be so positioned and baffled so that noise disturbance is minimised, to the satisfaction of the Responsible Authority.
12. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain to the nominated point of stormwater discharge.
13. No polluted stormwater, effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property during any stage of the construction. Sediment fencing and/or pollution/litter traps must be installed on site and serviced accordingly to the satisfaction of the Responsible Authority.
14. The vehicular driveway must be properly formed and constructed meeting the ramp grades specified in the Nillumbik Planning Scheme and to such levels to ensure that it can be utilised at all times. Appropriate transitions with a maximum change in grade of 1 in 8 should be provided to enable access by all types of vehicles. The driveway must be drained, constructed in concrete, asphalt or similar surface and maintained in a continuously useable condition. All works are to be carried out to the satisfaction of the Responsible Authority.

Stormwater from the driveway must be collected using 225mm wide trench-grates across the driveway at property boundary where it meets road reserve and connected to the on-site detention device/legal point of stormwater discharge.

A minimum pipe diameter of 225mm must be used for all underground drains, within the internal drainage system underneath the driveway.

15. Stormwater from the roof of existing and new dwelling must be directed, via the internal drainage system, to an underground detention storage system with must be directed to the on-site detention system. The overflow from the on-site detention system must be directed to the nominated point of discharge.

Each dwelling must be provided with an independent underground drainage discharge system. Both systems are to be connected to the nominated point of stormwater discharge.

The detention storage shall be provided underground and the stormwater drainage system from the existing dwelling must be located outside of the footprint of the proposed dwelling.

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

16. The on-site detention device must be designed by a qualified engineer and plans submitted must be to the Responsible Authority for approval, prior to the commencement of the development (except with the prior written consent of the Responsible Authority).

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The engineer that is designing the on-site detention device must obtain tc and tso figures from Council. The permissible site discharge must be restricted to a pre development flow rate for a 20% Average Exceedance Probability (AEP) and detained for a 10% (AEP) event.

17. An on-site detention device must be constructed, at no cost to Council, in accordance with the endorsed plans and connected to the Council nominated point of stormwater discharge.
18. Construction of the on-site detention device must be carried out under Council supervision, in accordance with the approved plans and specifications and under an *Infrastructure Works Permit*.
19. This permit will expire if one of the following circumstances applies:
  - a) The development is not commenced within 2 years of the date of this permit.
  - b) The development is not completed within 4 years of the date of this permit.

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

**Motion**

**MOVED: Cr Frances Eyre**  
**SECONDED: Cr Natalie Duffy**

**That** the Committee (acting under delegation from Council) issue a Notice of Decision to Refuse to Grant a permit to the land located at 2 Kirwin Avenue, Eltham for the *‘Construction of a second dwelling (double storey) to the rear of the existing dwelling’* at 2 Kirwin Avenue, Eltham on the following grounds:

1. The proposal is inconsistent with the objectives of Clause 16.01-1L (Location of medium density residential development) of the Nillumbik Planning Scheme due to the site’s distance from the Eltham Major Activity Centre.
2. The proposal is inconsistent with the objectives of Clause 15.01-5L (Neighbourhood Character – Nillumbik) of the Nillumbik Planning Scheme due to:
  - a) Building bulk, massing and scale.
  - b) Insufficient landscaping opportunities.
3. The proposal does not meet the following objectives of Clause 55 of the Nillumbik Planning Scheme:
  - Clause 55.02-1 Neighbourhood character
  - Clause 55.03-8 Landscaping
  - Clause 55.06-1 Design detail
4. The proposal is an overdevelopment of the site.

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**PCC.028/22 Construction of a second dwelling (double storey) to the rear of the existing dwelling at 2 Kirwin Avenue, Eltham**

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THE MOTION WAS PUT TO THE VOTE AND CARRIED AND BECAME THE COMMITTEE RESOLUTION AS FOLLOWS:

<b>Committee Resolution</b>
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**MOVED: Cr Frances Eyre**

**SECONDED: Cr Natalie Duffy**

**That** the Committee (acting under delegation from Council) issue a Notice of Decision to Refuse to Grant a permit to the land located at 2 Kirwin Avenue, Eltham for the ‘*Construction of a second dwelling (double storey) to the rear of the existing dwelling*’ at 2 Kirwin Avenue, Eltham on the following grounds:

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  - a) Building bulk, massing and scale.
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3. The proposal does not meet the following objectives of Clause 55 of the Nillumbik Planning Scheme:
  - Clause 55.02-1 Neighbourhood character
  - Clause 55.03-8 Landscaping
  - Clause 55.06-1 Design detail
4. The proposal is an overdevelopment of the site.

**CARRIED**

Cr Frances Eyre called for a division

For: Cr Natalie Duffy, Cr Frances Eyre, Cr Geoff Paine, Cr Peter Perkins, Cr Ben Ramcharan, and Cr Richard Stockman,

Against: Cr Karen Egan

*The Chairperson, Cr Peter Perkins declared the Motion Carried.*

**7. Supplementary and urgent business**

Nil

**8. Confidential reports**

Nil

**9. Close of Meeting**

The meeting closed at 8.23pm.

Confirmed: \_\_\_\_\_

Cr Geoff Paine, Chairperson Consultation Matters