

Planning and Consultation Committee Meeting

to be held at the Council Chamber, 32 Civic Drive, Greensborough
on Tuesday 14 April 2026 commencing at 7:00 PM.

Agenda

Carl Cowie
Chief Executive Officer

Thursday 9 April 2026

Distribution: Public

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Council Chamber Planning and Consultation Committee Meeting Seating Plan

Cr Peter Perkins
Ellis Ward

Cr Kelly Joy
Edendale Ward

Cr Naomi Joiner
Bunjil Ward
(Mayor)

Katia Croce
Manager
Governance and
Property

Blaga Naumoski
Director
Governance,
Communications
and Community
Safety

Cr Grant Brooker
Blue Lake Ward
**(Chairperson
Planning Matters)**

Carl Cowie
Chief Executive
Officer

Cr Kim Cope
Sugarloaf Ward

Cr Kate McKay
Swipers Gully Ward
(Deputy Mayor)
**(Chairperson
Consultation
Matters)**

Cr John Dumaresq
Wingrove Ward

Nillumbik Shire Council

Contents

1. Welcome by the Chair	1
2. Acknowledgement of Country	1
3. Apologies/Leave of Absence	1
4. Declarations of conflict of interest	1
5. Confirmation of Minutes	3
COM.001/26 Confirmation of Minutes Planning and Consultation Committee Meeting held Tuesday 10 March 2026	3
6. Officers' reports	5
Planning Matters	
PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation	5
7. Supplementary and urgent business	35
8. Confidential reports	35
9. Close of Meeting	35

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Nillumbik Shire Council

**Agenda of the Planning and Consultation Committee Meeting to be held
Tuesday 14 April 2026 commencing at 7:00 PM.**

1. Welcome by the Chair

Members of the public are advised the meeting will be livestreamed and recorded and the livestream recording 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 and recognises the Wurundjeri Woi-wurrung as the Traditional Owner of the land on which Nillumbik is located. We pay tribute to all First Peoples living in the Nillumbik Shire, give respect to Elders past, present and emerging, and extend our respect to all First Peoples. We acknowledge that sovereignty was never ceded.

3. Apologies/Leave of Absence

A request for a leave of absence was received by Cr Naomi Joiner.

The Committee to note any apologies by Councillors not in attendance and or consider requests for any leave of absence submitted.

Recommendation

That the Committee (acting under delegation from Council) accepts the leave of absence request from Cr Naomi Joiner for 14 April 2026.

4. Declarations of conflict of interest

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

5. Confirmation of Minutes


COM.001/26 Confirmation of Minutes Planning and Consultation Committee Meeting held Tuesday 10 March 2026

Confirmation of the Minutes of the Planning and Consultation Committee Meeting held on Tuesday 10 March 2026.

Recommendation

That the Committee (acting under delegation from Council) confirms the Minutes of the Planning and Consultation Committee Meeting held on Tuesday 10 March 2026 (**Attachment 1**).

Attachments

1.  Minutes of the Planning and Consultation Committee Meeting held on Tuesday 10 March 2026.

5. Confirmation of Minutes

COM.001/26 Confirmation of Minutes Planning and Consultation Committee Meeting held Tuesday 10 March 2026

6. Officers' reports

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

Item: Planning Matter

Distribution: Public

Manager: Frank Vassilacos, Director Planning, Environment and Strategy

Author: Renae Ahern, Manager Planning and Environmental Health

Application summary

Address of the land	17-29 Butlers Road, Plenty
Site area	2.05 hectares
Proposal	13 lot subdivision, works and removal of native vegetation
Application number	714/2023/14P
Date lodged	7 September 2023
Applicant	Apex Town Planning
Zoning	Neighbourhood Residential Zone
Overlay(s)	Bushfire Management Overlay Design and Development Overlay (Schedule 3)
Reason for being reported	Called in by Ward Councillor.
Number of objections	23
Key issues	<ul style="list-style-type: none"> • Subdivision layout and design • Native vegetation impacts • Neighbourhood Character • Bushfire Planning

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

Location map



6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

Recommendation

That the Committee (under delegation from Council) issue a Notice of Decision to Grant a Permit to the land located at 17-29 Butlers Road, Plenty, for the 13 lot subdivision, works and removal of native vegetation, in accordance with the submitted plans and subject to the following conditions

1. Before the plan of subdivision is certified under the Subdivision Act 1988, before any subdivisional works commence, and before any native vegetation is removed, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved. When approved, the plans will be endorsed and will then form part of the permit. The plans must be modified to show:
 - a) The location of all proposed stormwater pits, together with setbacks from retained trees and nominated tree protection zones within the road reserve and Lot 1.
 - b) Proposed stormwater assets to be reflected on sheets C201, C202, and C203 of the development plans.
 - c) Notation to state that the stormwater pipe network will be installed using non-destructive boring to the satisfaction of the project Arborist and the Responsible Authority.
 - d) The word ‘concept’ removed from the plans.
 - e) An updated stormwater management strategy in accordance with the plan dated 23 September 2025 prepared by Stefan Yance from Stantec Australia Pty Ltd.
 - f) The building envelopes dimensioned on sheets C202 and C203 of the development plans.
 - g) The building envelopes on all lots to be setback a minimum of 1.5 metres from side boundaries.
 - h) All lots to have a 3-metre wide by 6-metre-long driveway envelopes shown. The driveway envelope must align with the crossovers shown for each lot.
 - i) Construction plans per condition 3a.
 - j) A landscape plan per condition 3f.
 - k) Tree Protection Zone fencing plan per condition 3g.
 - l) Tree Protection Management Plan per condition 3i.
 - m) The requirements of condition 14 (DECCA condition).
 - n) An amended bushfire management plan in accordance with CFA condition 40 and the tree clumping to be consistent with the site plans.
 - o) The trees to be retained clearly shown and notated as such.
 - p) A formal plan of subdivision.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

2. The subdivision, vegetation removal and works allowed by this permit and shown on the plans endorsed to accompany the permit must not be amended for any reason unless with the prior written consent of the Responsible Authority.
3. Prior to the subdivisional works commencing, including the removal of native vegetation, the requirements of the following conditions must be met to the satisfaction of the Responsible Authority:
 - a. Construction plans must be submitted to and be endorsed by the Responsible Authority for drainage works, full road construction, vehicle crossings, provision of service conduits, street signs, footpaths on one side of the road and street lighting. The construction plans must be prepared in accordance with Nillumbik Shire Council's Standard Drawings, Austroads design guidelines and relevant Australian Standards to the satisfaction of the Responsible Authority. The works must be designed by a qualified Engineer and checked by a Registered Professional Engineer. The Registered Professional Engineers full name and registration details must be included on every sheet.
 - b. The Construction Plans must be designed to minimise damage to existing vegetation required to be retained on-site, and the construction work must be carried out in accordance with the approved plans under Council supervision. The construction works must be completed to the satisfaction of the Responsible Authority, prior to issuing a Statement of Compliance.
 - c. The Construction Plans must be designed to minimise damage to existing vegetation required to be retained on site, and the construction work must be carried out in accordance with the approved plans. Each lot shown on the plan of subdivision shall be drained in accordance with the plans and specifications endorsed by the Responsible Authority. Such drainage works must be designed by a qualified engineer and submitted to the Responsible Authority for approval.
 - d. Construction of the drainage works must be carried out in accordance with the Council's specifications and under Council supervision and be completed to the satisfaction of the Responsible Authority prior to issuing a Statement of Compliance.
 - e. The nominated point of stormwater discharge is outside of the development site and requires the construction of drainage works outside the boundaries of the site. Such drainage works must be designed by a qualified engineer and approved by a registered professional engineer and plans and computations must be submitted to the Responsible Authority (Nillumbik Shire) for approval prior to the commencement of the development. Plans must detail underground drains, types and sizes of drainage pits, drainage longitudinal sections, pit schedule, etc. for approval. The construction plans and computations are to be prepared in accordance with Nillumbik Shire Council's Standard Drawings.
 - f. 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 (but not be limited to):

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

- i. Details of all landscaping and planting to be carried out within the road reserves and lots;
 - ii. A schedule of all existing and proposed trees, shrubs/small trees and ground cover. This schedule shall include plants selected from the Council document “Live Local Plant Local” showing the botanical and common name of each plant, the quantity to be planted, the pot size and spacing;
 - iii. The location of each species to be planted and the location of all areas to be covered by grass;
 - iv. Details of landscaping to the west of the proposed retaining wall to the western end of the site;
 - v. Provision of two (2) native canopy trees on each lot that are setback a minimum of 1 metre from a boundary and selected from the following species:
 - *Eucalyptus leucoxylon* (Yellow Gum)
 - *Eucalyptus melliodora* (Yellow Box)
 - *Eucalyptus polyanthemos* (Red Box)
 - *Eucalyptus radiata* (Narrow-leaved Peppermint)
 - *Eucalyptus rubida* (Candlebark)
 - vi. Planting must be in accordance with Council’s Live Local Plant Local document; and
 - vii. Landscaping to be compliant with the requirements of the Bushfire Management Plan (BMP).
- g. The trees marked on the endorsed plans as being retained must have a Tree Protection Zone (TPZ) in accordance with the requirements of Australian Standard AS4970 (2009) to the satisfaction of the Responsible Authority. Additionally, the fencing associated with this TPZ must meet the following requirements:
- i. Extent

The tree protection fencing is to be provided to the extent of the identified Tree Protection Zone, calculated as being a radius of 12 x Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009).

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

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

ii. Fencing

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

iii. Signage

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

iv. Provision of Services

All services (including water, electricity, 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 600 millimetres below the existing grade, to the satisfaction of the Responsible Authority. Bore pits must be located outside the Tree Protection Zone or manually excavated without damage to roots, to the satisfaction of the responsible authority.

v. 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).

vi. Supervision of Works

All works within Tree Protection Zones must be supervised by a suitably qualified arborist. Any roots <40mm in diameter uncovered are pruned with shar/sterile hand tools and wrapped in damp hessian by a qualified arborist.

Mulch (organic/composted type) is laid to a depth of 75-100 millimetres within the Tree Protection Zones of retained trees.

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

- i. Materials or equipment stored within the zone;
- ii. Servicing and refuelling of equipment and vehicles;
- iii. Storage of fuel, oil dumps or chemicals;

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

- iv. Attachment of any device to any tree (including temporary service wires, nails, screws or any other fixing device);
 - v. Open cut trenching or excavation works (whether or not for laying of services);
 - vi. Changes to the soil grade level;
 - vii. Temporary buildings and works; and
 - viii. Unauthorised entry by any person, vehicle or machinery.
- i. Before the commencement of any subdivisional works, including demolition or removal of vegetation, a Tree Protection Plan (drawing) and Tree Management Plan (report) must be submitted to and be endorsed by the Responsible Authority. The Tree Management and Protection Plan must include all trees proposed to be retained on site. The Tree Management and Protection Plan must be in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees within the proposed reserve and trees to be retained on lots 49-54 are to be protected remain viable post-construction. The Tree Protection and Management Plan must consist of:
- i. The Tree Management plan (report) must be prepared by a suitably qualified arborist, reference the Tree Protection Plan (drawing) and provide details of:
 - ii. Any non-destructive root investigation previously undertaken or as directed as a condition of this permit in accordance with AS4970-2009 to determine the location and distribution of roots of trees nominated on the Tree Protection Plan.
 - iii. Proposed footings and construction methods for any buildings or structures (including but not limited to, driveways, paths retaining walls or other hard infrastructure) within the Tree Protection Zones nominated on the Tree Protection Plan.
 - iv. Details of suitable driveway materials and construction methods (i.e. permeable paving above grade) and the timing of works within the tree protection zones.
 - v. How excavation impacts, including soil level changes, within the Tree Protection Zones of trees to be retained will be managed or minimised.
 - vi. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.
 - vii. Appropriate methods of certification by a suitably qualified Arborist of the required tree protection measures during the development including details of site visits, actions and photographic evidence
4. Prior to the issuing of a Statement of Compliance, the requirements of the following conditions must be met to the satisfaction of the Responsible Authority, unless with the written consent of the Responsible Authority:

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

- a. The owner must enter into an agreement with the Responsible Authority in accordance with Section 173 of the *Planning and Environment Act 1987*. The agreement must provide for, without the prior written consent of Council:
 - i. State that it has been prepared for the purpose of an exemption for a planning permit under Clause 44.06-2 of the Nillumbik Planning Scheme.
 - ii. Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.
 - iii. State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.
 - iv. The requirements of condition 40.
 - v. All buildings and works are to be contained within the nominated building envelopes.
 - vi. No buildings or works (including earthworks, outbuildings, swimming pools, tennis courts or other related structures) are to be located outside of the Building Envelopes shown on the endorsed plans.
 - vii. Trees shown on the endorsed subdivision plans as listed for retention must not be removed, damaged, destroyed, felled, lopped or uprooted unless with the prior written consent from the Responsible Authority or in the case that a planning permit is required, a planning permit is issued.
 - viii. Prior to the commencement of any buildings and works on the lots, including the construction of a dwelling, temporary tree protection fencing must be constructed around the tree protection zones of the trees to be retained.
 - ix. The following actions must not be undertaken in any tree protection zones as identified in this permit, to the satisfaction of the Responsible Authority:
 - Materials or equipment stored within the zone;
 - Servicing and refuelling of equipment and vehicles;
 - Storage of fuel, oil dumps or chemicals;
 - Attachment of any device to any tree (including temporary service wires, nails, screws or any other fixing device);
 - Open cut trenching or excavation works (whether or not for laying of services);
 - Changes to the soil grade level;
 - Temporary buildings and works; and
 - Unauthorised entry by any person, vehicle or machinery.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

- x. The landscaping on private lots as required by the endorsed landscape plan must be carried out within 3 months of a Certificate of Occupancy being issued for any future dwelling on individual lots to the satisfaction of the Responsible Authority.
- xi. The landscaping as required by the endorsed landscape plan must be carried out and maintained in perpetuity to the satisfaction of the Responsible Authority.
- xii. Vehicle access for each lot must be via the approved crossover.
- xiii. All servicing and trenches must be designed, sited and constructed in a manner that avoids damage to any tree to be retained.

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

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

- b. Each lot in the subdivision must be provided with a vehicle crossing constructed to the requirements of the Nillumbik Shire Council to suit vehicles that will use the crossings. The Responsible Authority must approve the location, design and construction of the crossings. Any existing unused crossing must be removed and replaced with kerb and channel, nature strip and reinstated to the satisfaction of the Responsible Authority.
- c. The construction works must be completed to the satisfaction of the Responsible Authority. Updated As Constructed Plans must also be provided including any changes that have occurred during construction.
- d. a CCTV assessment and report of all underground drainage systems of the subdivision must be provided to the Responsible Authority at the conclusion of drainage works.
- e. Storm water drainage works are to be constructed, at no cost to Council, and must be carried out under Council supervision, in accordance with the approved plans and Council's specifications and must be carried out under Council supervision and an Infrastructure Works Permit.
- f. The owner must pay to Council a 5% cash-in-lieu open space contribution in respect to all of the land in the subdivision pursuant to Section 18 of the Subdivision Act 1988.
- g. The dam is to be backfilled with approved fill material. All water and soft or unsuitable material is to be removed from the dam prior to backfill commencing. All fill must be compacted in accordance with AS3798/2007. Fill density tests must be undertaken to ensure compliance with AS3798/2007 and a copy of this must be forwarded to Council for record purposes, all to the satisfaction of the Responsible Authority.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

- h. Unless with the prior written consent of the Responsible Authority, the landscaping works shown on the endorsed plans must be carried out, completed and maintained or bonded to the satisfaction of the Responsible Authority.
 - i. The existing dwelling and any associated buildings and works must be demolished and removed from the land with the disturbed area reinstated, to the satisfaction of the Responsible Authority.
5. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created, to the satisfaction of the Responsible Authority.
 6. Any fill that is brought to the site must be clean fill in accordance with EPA Publication 1828.1 (Fill Material).
 7. Measures must be undertaken to minimise any loss of amenity to the neighbourhood from the development caused by dust, noise, the transport of materials to and from the land and the deposit of mud and debris on public roads, to the satisfaction of the Responsible Authority.
 8. Any lot shown on the endorsed plan must not be connected to a reticulated gas service (within the meaning of clause 53.03 of the Nillumbik Planning Scheme). This does not apply to:
 - a lot that will not be used for, or include, a dwelling; or
 - a lot that contains an existing dwelling or apartment; or
 - a lot where a permit has been granted for a dwelling or apartment on the land in the lot.

This condition continues to have force and effect after a statement of compliance under the *Subdivision Act 1988* has been issued and the subdivision authorised by this permit has been completed.
 9. 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.

DEECA

10. The native vegetation identified in NRVV ID 356_20241023_Q3N and permitted to be removed destroyed or lopped under this permit is 0.46 hectares of native vegetation, which is comprised of:
 - i. 0.208 hectares of native vegetation within patches, including 5 large patch trees.
 - ii. 2 scattered large trees
 - iii. 5 scattered small trees

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

- iv. 0.235 hectares of past removal was identified in the NVR.
- 11. To offset the removal of 0.46 hectares of native vegetation the permit holder must secure a native vegetation offset, in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017) the permit holder must secure the following offsets:
 - A general offset of 0.099 general habitat units:
 - i. located within the Melbourne Water Catchment Management Authority boundary or Shire of Nillumbik municipal area
 - ii. with a minimum strategic biodiversity value of at least 0.1771
 - iii. The offset(s) secured must provide protection of at least 7 large trees
- 12. Before any native vegetation is removed, or before the issue of a Statement of Compliance, whichever occurs first, evidence that the required offset has been secured must be provided to the satisfaction of Nillumbik Shire Council. This evidence must be the following:
 - i. 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.
- 13. Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.
- 14. Before the native vegetation removal starts, 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 form part of this permit. The plans must include:
 - a) A detailed description of the measures to be implemented to protect the native vegetation to be retained during constructions works, and the person/s responsible for implementation and compliance. These measures must include the erection of a native vegetation protection fence around all native vegetation to be retained on site, to the satisfaction of the responsible authority, including the tree protection zones of all native trees to be retained. All tree protection zones must comply with AS 4970-2009 Protection of Trees on Development Sites, to the satisfaction of the responsible authority.
- 15. Before works start, a native vegetation protection fence must be erected around all patches of native vegetation and scattered trees to be retained on site. This fence must be erected around the patch of native vegetation at a minimum distance of 2 metres from retained native vegetation and/or at a radius of 12 x the diameter at a height of 1.3 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of tree. The fence must be constructed of star pickets/chain mesh/or similar to the satisfaction of the responsible authority.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

The fence must remain in place until all works are completed to the satisfaction of the responsible authority.

16. Except with the written consent of the responsible authority, within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and/or development, the following is prohibited:
- a) Vehicular or pedestrian access
 - b) Trenching or soil excavation
 - c) Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products
 - d) Entry and exit pits for underground services
 - e) Any other actions or activities that may result in adverse impacts to retained native vegetation.

AusNet

17. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to AusNet in accordance with Section 8 of that Act.
18. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must:
- a. Show the AusNet easement fully dimensioned on all affected lots and the position of lot boundaries within the easement.
 - b. Adjust the position of the AusNet easement where necessary to accord with the position of the existing transmission lines as determined by survey.
19. Before the approval of Detailed Engineering plans, for any stage containing the AusNet Transmission easement, written consent must be obtained from AusNet as to the location of infrastructure within the AusNet easement including but not limited to wetlands, services, landscaping and fencing as shown on the Detailed Engineering plans submitted for approval.
20. Written approval must be obtained from AusNet for any new lot boundaries within the easement.
21. Written approval must be obtained from AusNet to construct any road within the easement.

Melbourne Water conditions

22. Before the plan of subdivision is certified under the *Subdivision Act 1988*, the Plan of Subdivision must be referred to Melbourne Water in accordance with Section 8 of the *Subdivision Act 1988*.
23. Before the plan of subdivision is certified under the *Subdivision Act 1988*, functional design plans of the DSS assets AD2 to AD3 as detailed in the approved Stormwater Management Plan must be submitted to and approved by Melbourne Water.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

24. Before the plan of subdivision is certified under the *Subdivision Act 1988*, evidence of Council approval of a Stormwater Management Strategy by Stantec must be submitted to Melbourne Water.
25. Before the plan of subdivision is certified under *the Subdivision Act 1988*, evidence of a Council approved Site Management Plan detailing pollution and sediment control measures must be submitted to Melbourne Water.
26. Before the commencement of any stormwater connection works to a Melbourne Water drain, a separate application direct to Melbourne Water must be made for the approval of any new or modified stormwater connection to Melbourne Water's drains or watercourses.
27. Before the Statement of Compliance is issued under the *Subdivision Act 1988*, the required Dry Creek DSS assets and works including Outfall Pipe AD2# to AD3# as detailed within the approved Stormwater Management Plan must be completed to the satisfaction of Melbourne Water.
28. Before the Statement of Compliance is issued under the *Subdivision Act 1988* engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water. These plans must show road and drainage details and any overland flow paths for the 1% AEP storm event.
29. Before the Statement of Compliance is issued under the *Subdivision Act 1988* for the first stage of the subdivision, the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and stormwater from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
30. Before a Statement of Compliance for the plan of subdivision is issued under the *Subdivision Act 1988*, Melbourne Water requires evidence demonstrating that appropriate drainage solutions have been implemented to mitigate the risk to downstream landowners. Council acceptance of any drainage infrastructure must be forwarded to Melbourne Water.
31. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or watercourses.
32. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined in section 8 of the *Guidelines for Development in Flood Affected Areas* (DELWP 2019), or where appropriate to Council's requirements and standards.
33. All new lots must achieve appropriate freeboard in relation to local overland flow paths to Council's satisfaction.
34. Local drainage must be to the satisfaction of Council.
35. The approved Stormwater Management Strategy must be implemented (including the construction of relevant works) to the satisfaction of Melbourne Water and the responsible authority.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

Yarra Valley Water

- 36. The owner of the subject land must enter into an agreement with Yarra Valley Water for the provision of water services.
- 37. The owner of the land must enter into an agreement with Yarra Valley Water for the provision of sewerage services.

Telecommunications conditions

- 38. The owner of the land must enter into an agreement with:
 - a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and
 - b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
- 39. Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:
 - a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and
 - b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

CFA Conditions

- 40. An amended Bushfire Management Plan must be submitted to and endorsed by the Responsible Authority. Once endorsed the Bushfire Management Plan must be included as an annexure to the section 173 agreement prepared to give effect to clause 44.06-5 of the Planning Scheme and not be altered unless agreed to in writing by CFA and the Responsible Authority.

The plan must be generally in accordance with the plan prepared by Terramatrix, version 1.7, dated 16th December 2024 (contained on Page 20 and 21 of the Bushfire Management Statement, dated December 2024 prepared by the same) but amended to include Tree 9 within the clump shown on Lot 13 and listed in the bushfire protection measures, ie- replace the following vegetation management requirement:

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

“The canopy of trees must be separated by at least 5m, except for a clump of trees (trees 33 and 34) to be canopy separation from tree 9”

with

“The canopy of trees must be separated by at least 5m. except for tree 32, the tree clumps containing trees 8-11, 33-34 and 35,36 and 40 inclusive.”

41. In addition to the requirements of Clause 44.06-5 of the Scheme, the section 173 Agreement prepared in accordance with that clause must also:
 - i. Note that the subdivision includes areas of shared defensible space. These are areas where a lot owner maintains the defensible space on their land for the benefit of themselves and the owners of other lots.
 - ii. Require that the defensible space shown on the endorsed Bushfire Management Plan must be implemented and maintained on an ongoing basis to the satisfaction of the Responsible Authority, regardless of whether there is a dwelling constructed on that land or not.
42. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 the following requirements must be met to the satisfaction of the CFA:
 - a. Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
 - b. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.
43. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority and the relevant fire authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.
44. This permit will expire if one of the following circumstances applies:
 - a) A plan of subdivision is not certified within two years of the issue date of this permit;
 - b) A plan of subdivision is not registered at Land Victoria within five years of the original certification date.

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

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

Permit Note:







- Before any works on public land start, a permit to take protected flora under the Flora and Fauna Guarantee (FFG) Act 1988 may be required. An application can be obtained from www.deeca.vic.gov.au/conserving-threatened-species/protected-flora-and-listed-fish, under Protected flora permit. To obtain an FFG permit or further information, please contact a Natural Environment Program officer in the nep.ppr@delwp.vic.gov.au.
- The granting of this permit does not exempt the holder of a permit from the requirements of other Commonwealth and State legislation or policy.
- Landowners remain responsible for managing risks to wildlife on their land and for ensuring that management actions do not contravene the Wildlife Act 1975 (Wildlife Act) and Prevention of Cruelty to Animals Act 1986. To obtain an Authority to Control Wildlife or further information on obligations and approvals under the Wildlife Act, please contact DEECA's Office of the Conservation Regulator on: atcw.portphillipregion@deeca.vic.gov.au
- CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA web site (www.cfa.vic.gov.au)
- During the course of the approved construction work, a copy of this permit and the endorsed plan(s) must be kept on-site and made available for inspection by Council officers.
- Failure to undertake the requisite tree protection fencing in accordance with the conditions of this permit will result in the issuing of Planning Infringement Notices to the land owner, occupant (if this is a different person), and the person or company undertaking the works on-site. The minimum penalty on the Planning Infringement Notice for individuals is \$1018, for companies is \$2035 and greater penalties may apply if the matter proceeds to Magistrates Court.
- During the course of the approved construction work, including tree removal, a copy of this permit and the endorsed plan(s) must be kept on-site and made available for inspection by Council officers.
- Failure to undertake the vegetation removal in accordance with this permit will result in the issuing of Planning Infringement Notices to the landowner, occupant (if this is a different person), and the person or company undertaking the tree removal works. The minimum penalty on the Planning Infringement Notice for land owners and occupants will be \$1018 for the land owner and occupant, and \$2035 for any company which may be undertaking the tree removal works.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

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

Attachments

1.  Site and Surrounds
2.  Proposed Plan of Subdivision
3.  Proposal Plans
4.  Bushfire Management Statement
5.  Native Vegetation Removal Report
6.  Stormwater Management Strategy

Subject site and surrounds

1. The key features of the subject land and surrounds are as follows:
 - The subject site is particularly described as 17-29 Butlers Road, Plenty.
 - The site measures 2.05 hectares in area and currently contains a single storey dwelling, associated outbuilding and scattered native trees.
 - The site is generally rectangular in shape and has a slight slope generally from the west to the east of the site.
 - The site has a 128-metre-wide frontage to Butlers Road and a depth of 162 metres.
 - The land to the north, west and south is residentially developed, with lot sizes varying in size from approximately 1,000 square metres to 2,500 square metres.
 - The land to the east of the site is Council owned, and includes hockey facilities, a cricket ground and tennis courts. This reserve is generally known as Plenty War Memorial Park.
 - The site is also located within 250 metres of the Plenty Park Hall and the Plenty CFA.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

Details of proposal

2. Refer to the attached plans.
3. Key features of the proposal include:
 - A residential subdivision of 13 lots, with lots ranging in size from 1,000 square metres to 2,689 square metres.
 - A 16-metre-wide cul-de-sac to provide access for all lots.
 - Each lot proposes a building envelope with a six-metre front setback, and varying side and rear setbacks.
 - A total of 19 native trees are proposed for removal, 10 of these trees are dead.
 - A total of eight high and medium retention trees (seven of which are indigenous to Victoria) are proposed to be retained on site.
 - All stormwater is proposed to be managed with underground infrastructure.
 - Reticulated water and electricity are proposed.
 - Connection to sewer is proposed.

Planning history

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

Planning controls

Zoning

5. The subject land is zoned Neighbourhood Residential Zone. Under this zone, a permit is required to subdivide land.

Overlays

6. The subject land is within the Bushfire Management Overlay. Under this overlay, a permit is required to subdivide land.
7. The subject land is within the Design and Development Overlay (Schedule 3). Under this overlay a permit is required to subdivide land and carry out works. Each lot must be at least 1,000 square metres.

Particular provisions

8. Under the provisions of Clause 52.17 (Native Vegetation), a permit is required to remove, destroy or lop native vegetation on land which, together with all contiguous land in one ownership has an area greater than 0.4 hectares. The purpose of this provision is to ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. This is achieved through the following approach:
 - Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.
 - Minimise impacts on Victoria's biodiversity from the removal of native vegetation.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

- Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria’s biodiversity that is equivalent to the contribution made by the native vegetation to be removed.
- To manage native vegetation to minimise land and water degradation.
- To manage native vegetation near buildings to reduce the threat to life and property from bushfire.

9. Clause 53.01 (Public Open Space Contribution) relates to the provision of public open space contributions associated with subdivision. The Clause requires a contribution to be made where land is proposed to be subdivided for residential purposes, in accordance with the applicable schedule or, where no schedule applies, at the discretion of the Responsible Authority under Section 18 of the Subdivision Act 1988.

10. Clause 53.02 (Bushfire Planning) applies to an application under Clause 44.06 (Bushfire Management Overlay) and contains objectives, approved measures, alternative measures, and decision guidelines for the assessment of the application.

11. Clause 53.03 (Residential Reticulated Gas Service Connection) applies to new residential subdivisions and seeks to prohibit the provision of reticulated gas infrastructure to lots created for residential purposes. The Clause ensures that new residential lots are not capable of connection to a reticulated gas service, thereby supporting the transition to all-electric development.

In the context of the proposed subdivision, no reticulated gas infrastructure is proposed or required to service the lots to be created. The subdivision design does not include gas mains, connections or easements, and future dwellings constructed on the resultant lots will not be capable of connection to a reticulated gas service. Accordingly, the proposal is consistent with the purpose and requirements of Clause 53.03.

12. Clause 53.18 (Stormwater Management in Urban Development) seeks to ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.

An application to subdivide land must meet all of the objectives of Clauses 53.18-4 and 53.18-6 and should meet all of the standards of Clauses 53.18-4 and 53.18-6.

The proposed subdivision has provided a Stormwater Management Strategy that has been reviewed by Melbourne Water and Council’s Infrastructure Department and compliance has been demonstrated in relation to the above provisions.

13. Clause 56 (Residential Subdivision) of the Planning Scheme provides the standards for the design and assessment of residential subdivisions, with the objective of achieving functional, safe and well-serviced neighbourhoods that respond to site conditions and surrounding context.

14. 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.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

Relevant planning policies

15. The Planning Policy Framework relevant to this application include:

- 02.03-1 Settlement
- 02.03-2 Environmental and Landscape Values
- 02.03-3 Environmental Risks and Amenity
- 02.03-5 Built Environment
- 02.03-6 Housing
- 02.03-10 Development Infrastructure
- Clause 11.01-1S Settlement
- Clause 12.01-2S Native Vegetation Management
- Clause 12.01-1L Protection of biodiversity in Nillumbik
- Clause 12.06-1S Urban forests
- Clause 13.02 Bushfire
- Clause 15.01-4S Healthy Neighbourhoods
- Clause 15.01-3S Neighbourhood and Subdivision Design
- Clause 15.01-3L Subdivision Design
- Clause 15.01-5S Neighbourhood Character
- Clause 15.01-5L Neighbourhood Character – Nillumbik
- Clause 16.01-1S Housing supply
- Clause 16.01-2S Housing affordability
- Cause 18.02-4S Roads
- Clause 18.02-4L Road system in Nillumbik
- Clause 19.01-2L Infrastructure provision in Nillumbik

Council plans and policies

16. Plenty Valley Environmental Living Area Outline Development Plan (March 1992).
17. Plenty Valley Environmental Living Area Siting and Design Guidelines (June 1991).
18. Nillumbik Shire Council Neighbourhood Character Strategy (December 2023).

Advertising

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

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

Objections

20. As a result of advertising, a total of 23 written objections have been received. These objections can be summarised as follows:
- Footpaths and pedestrian safety
 - Traffic volume increasing along Butlers Road
 - Native vegetation removal and canopy loss
 - Neighbourhood character and landscape outcomes

Planning application conference

21. A planning application conference was held at the Shire offices on Thursday 7 November 2024. Many of the above issues were discussed at length, and whilst no agreements or compromises were achieved, the position of all parties was clarified.

Referrals

Internal

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

Council Unit	Comments
Environmental Planning	Council’s environmental planner offered no objection, provided standard offsetting requirements are met.
Infrastructure Development	Supportive of the Stormwater Management Strategy. Offered no objection subject to conditions.
Open space	No objection was raised.
Strategic Planning	<p>Raised concerns around layout and the extent of vegetation loss, and if the proposal is consistent with prevailing neighbourhood character.</p> <p>Officer response:</p> <p>While Strategic Planning had reservations about the layout, concerns regarding vegetation removal were largely addressed, with Department of Energy, Environment and Climate, and Council’s Environment Planner supporting the proposal given the whole site must be offset under Clause 52.17. The proposal achieves a reasonable balance by retaining selected high-value trees where practical, providing offsets, and conditioning for new canopy tree planting.</p> <p>In terms of neighbourhood character, all lots meet the 1,000 sqm minimum under Design and Development Overlay (Schedule 3), and the likely built form outcome would be comparable to Jumbuck Court, supported by building envelopes that manage separation and landscaping opportunities.</p>

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

Council Unit	Comments
Traffic and Transport	No objection subject to conditions for road and footpath design.
Consulting Arborist	<p>Initial concerns were raised about the level of tree removal. While the applicant has been able to retain further trees through redesign, the loss of Trees 13, 18 and 19 is still proposed.</p> <p>Officer response:</p> <p>The applicant has tried to retain key high value trees while considering the challenges of complying with the provisions of Clause 56 and the Design and Development Overlay (Schedule 3) requirements.</p> <p>Although it would be an ideal outcome to retain trees 13, 18 and 19, doing so would significantly interfere with the feasibility of the subdivision and would significantly impact lot layout, density, minimum lot sizes, the road alignment and reduce the building envelopes. Tree retention also needs to be considered in conjunction with bushfire safety measures.</p> <p>Considering that redesign and effort has been made broadly across the site to retain high value trees and suitable setbacks in place on individual lots to provide future landscaping, on balance the outcome is considered acceptable.</p>
Waste	The Waste Management Plan is supported.

External

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

Authority	Comments
Department of Energy, Environment and Climate (DEECA)	Consent subject to conditions.
County Fire Authority (CFA)	Consent subject to conditions.
Melbourne Water	Consent subject to conditions.
Yarra Valley Water	Consent subject to conditions.
APA Group	No objection.
AusNet	Consent subject to conditions.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

Planning assessment

Introduction

24. The following have been identified as the key planning issues in relation to the assessment of this planning application:
- Subdivision layout and design
 - Native vegetation impacts
 - Neighbourhood Character
 - Bushfire Planning
25. Assessment of these issues, together with a response to objections received, will be discussed in the remainder of this report.

Subdivision design and layout

26. The proposal supports the settlement and housing directions within the Planning Policy Framework by facilitating an efficient, serviced infill-style subdivision within the Neighbourhood Residential Zone. The area is characterised by incremental residential expansion and established urban infrastructure, with the 13-lot design and lot size distribution (approximately 1,000–2,689m²) generally aligning with the intended low-scale, detached housing character sought by the zone and Clause 11.01-1S, Clause 16.01-1S and Clause 16.01-2S, while also delivering an orderly subdivision form via a new public cul-de-sac road that provides clear access, legibility and serviceability consistent with Clause 15.01-3S and Clauses 18.02-4S and 18.02-4L.
27. The proposed subdivision has been designed to respond to the decision guidelines of the Design and Development Overlay (Schedule 3) by facilitating an orderly, serviced residential outcome that is capable of connection to reticulated water, sewerage and drainage infrastructure, consistent with the expectations for residential development within Plenty and the intent of the applicable local planning framework. Each lot exceeds the minimum 1,000 square metre requirement, ensuring compliance with the mandatory subdivision standard and reinforcing the low-density, landscape-responsive character envisaged for the area.
28. The subdivision layout and servicing strategy demonstrate that all lots can be appropriately connected to reticulated services, thereby satisfying infrastructure availability and wastewater management expectations. The proposed stormwater management approach has been developed to minimise off-site runoff and adverse impacts on the local drainage system, including downstream waterways, through the use of controlled discharge, and drainage infrastructure integrated within the road network, ensuring consistency with environmental risk and drainage objectives.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

29. In terms of infrastructure provision, the proposal is generally capable of achieving acceptable servicing and stormwater outcomes consistent with Clause 19.03-2L and Clause 02.03-10 of the Planning Scheme, supported by the Stormwater Management Strategy which discharges stormwater underground to the pipes within the road reserve, thus ensuring the development represents orderly and sustainable infrastructure delivery and appropriately manages environmental risks and amenity under Clause 02.03-3.
30. The layout, envelopes and road design demonstrate an intent to respond to neighbourhood and subdivision design objectives, including safe vehicle movement, waste access and functional lot configuration. With suggested conditions to include a footpath on one side of the road, this will strengthen pedestrian connectivity and healthy neighbourhood outcomes (Clause 15.01-4S) given that footpath provision and Butlers Road pedestrian safety are a dominant community issue.
31. The layout has sought to minimise vegetation removal as far as reasonable through the siting of the access road, lot configuration and building envelopes, while retaining canopy trees along the frontage and northern boundary and maintaining opportunities for habitat connectivity and supplementary indigenous planting, consistent with the desire to preserve locally indigenous vegetation and minimise landscape impacts. Building envelopes have been identified at the subdivision stage to guide future development outcomes and to reduce the risk of encroachment into drainage paths, tree protection zones and sensitive landscape areas, thereby providing a clear mechanism to manage the environmental impacts of future dwellings.
32. The subdivision design responds to the broader landscape setting and the interface with surrounding residential and environmental areas by maintaining generous setbacks, accommodating existing topography and ensuring development can occur without undue visual or environmental intrusion.
33. In addition to the above, it is noted that the proposed subdivision meets all relevant objectives and standards at Clause 56 (Residential Subdivision) of the Nillumbik Planning Scheme.
34. The proposal has been assessed against the provisions of Clause 56 and has been found to meet all the relevant objectives and standards, and results in a good outcome when assessed against this provision. As there are no objectives or standards that are not met, there are no further recommendations or recommended permit conditions relative to this specific Clause.
35. Regarding the Plenty Valley Environmental Living Area Outline Development Plan, March 1992, and the Plenty Valley Environmental Living Area Siting and Design Guidelines, June 1991 (Design Guidelines) that are referenced in the Decision Guidelines of the Design and Development Overlay (Schedule 3), the application is appropriate. The site is designated within the 'Plenty Residential' area. The policy suggests lot sizes should vary from 1,000 square metres to 2,000 square metres. All but two lots in this proposed subdivision are within this range. The two lots beyond this range are larger to retain high value trees. This is deemed to be an acceptable outcome as it demonstrates consistency with the intent and purpose of the zone, overlays, local policies and broadly, the neighbourhood character strategy.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

36. In terms of the layout of the subdivision, it is consistent with the desired outcome of the Plenty Valley Environmental Living Area Siting and Design Guidelines, June 1991. The lots are shaped to account for the topography of the land, to include a variety of lot sizes and shapes, that do not result in unrealistic building envelopes that limit options for the construction of a future dwelling. The size of each lot and the building envelopes ensure each lot can be developed to contain an appropriately sized family home.
37. The road meets the Design Guidelines as it does not extend beyond 200 metres per the policy. The entry to the site has been designed in a logical way to allow for site lines for turning traffic. A landscape plan has been included as a condition in the event a planning permit issues, to include all landscaping treatments within the road reserve, including the provision of native canopy trees.

Native Vegetation impacts

38. Under Clause 52.17 Native Vegetation, there are 19 trees that require a permit for their removal. Of these 19 trees, 10 are dead. Of the nine remaining trees, one has a low retention value, two have medium retention values and six have high retention values. The ten dead trees all have a low retention value.
39. The trees to be removed are a mix of eucalyptus species, predominately Red Box (*Eucalyptus polyanthemos*), Long leaved box (*Eucalyptus gonicalyx*), and Yellow Box (*Eucalyptus melliodora*).
40. It is proposed to retain seven trees on site, with five trees having a high retention value and two trees having a medium retention value. An additional non-indigenous but high retention value Lemon-scented gum (*Corymbia citriodora*) is also proposed to be retained on site.
41. The trees to be retained are also a mix of eucalyptus species, predominately Red Box (*Eucalyptus polyanthemos*), Long leaved box (*Eucalyptus gonicalyx*), Yellow Box (*Eucalyptus melliodora*), and a Spotted Gum (*Corymbia maculata*).
42. The purpose of Clause 52.17 is to ensure that 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. To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

- 43. All vegetation on site is considered to be 'lost' under this provision as all lots being created are less than 4,000 square metres in area. The application has been referred to Council's environmental planner and the Department of Energy, Environment and Climate Action, who are supportive of the application, subject to offsetting being provided for the loss of the vegetation.
- 44. Although considered lost, there are a number of trees on site that are proposed to be retained, due to their high and medium retention values. These trees have been found worthy of retention and the subdivision design has responded to this as such. These trees will contribute to the character of the area and ensure that high and medium retention value trees are protected and retained on site.
- 45. In addition, when the application was originally lodged, there were no trees proposed to be retained. Council officers raised this as an issue and in response the applicant has amended their subdivision design so eight trees (tree numbers 6, 8, 9, 10, 11, 32, 33 and 34) could be retained and protected. This is a more balanced approach to retaining trees and providing opportunity for further lots for residential development.
- 46. Although Council's consulting arborist suggested tree numbers 13, 18 and 19 should be retained due to their high and medium retention values, significant redesign of the subdivision and road layout would be needed to retain these three trees, and the building envelopes would become irregular in shape and dimension and would present a challenge to construct a dwelling. Further, some of the lots would become unfeasible for development. In addition, the drainage design has responded to the site and its constraints and has been designed in a way that does not impact any further on native vegetation.
- 47. With Clause 16.01-1S (Housing supply) supporting increased housing to meet housing targets, there needs to be a balanced approach with tree removal and subdivision design to provide for housing. The loss of the trees is required to be formally offset through Native Vegetation Offsets and from a biodiversity perspective, future canopy tree planting will be required on site in the event a permit is issued, which is supported by Clause 12.06-1S (Urban forests). Therefore, on balance, the removal of these trees is supported.

Neighbourhood Character

- 48. The proposal is consistent with the purpose and decision guidelines of the Neighbourhood Residential Zone by facilitating a low-scale residential subdivision outcome that reinforces the area's established pattern of predominantly single detached dwellings on generous lots, while implementing the Municipal Planning Strategy and the broader Planning Policy Framework.
- 49. The subdivision pattern, comprising 13 lots generally exceeding 1,000m² per lot and serviced by a single public cul-de-sac road, maintains a spacious, low-density character and avoids over-intensification, thereby responding appropriately to neighbourhood character values, landscape values and the prevailing built form in the immediate area, as desired in Clause 15.01-5L (Neighbourhood character) of the Planning Scheme.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

50. The layout and spacing of lots, subject to conditions in the event a permit is issued, would generally provide adequate separation between future dwellings, support landscape retention opportunities and ensures that future development potential remains consistent with the expectations of the zone. The proposal has been designed to enable future dwellings to comply with the relevant siting, setback, amenity and environmental standards, as applicable, without prejudicing solar access, privacy or amenity of adjoining residential properties, including existing rooftop solar systems. This is supported through both Clause 15.01-3S (Subdivision design) and Clause 16.01-1S (Housing supply) within the Planning Scheme.
51. However, improvements could be made to prevent lengthy sections of individual building envelopes being located on future common boundaries shared between lots to ensure effective separation is achieved. In the event a permit is issued, it is suggested that a condition be imposed that ensures a minimum 1.5 metre setback to side boundaries for all proposed lots, which equates to a combined three metre setback between allotments. This will ensure a minimum 3 metre setback between any future built form. This is consistent with the prevailing neighbourhood character in the area where buildings are generally setback from side boundaries and achieves greater alignment with the purpose of the Neighbourhood Residential Zone, and Clause 15.01-5L (Neighbourhood character).
52. For the purposes of subdivision, the design appropriately addresses the objectives and standards of Clause 56 through the provision of safe and legible access, a functional road network, suitable lot dimensions, and the capacity to accommodate infrastructure, drainage and services in an orderly manner. Non-residential uses are not proposed as part of the subdivision, and the development outcome envisaged is inherently compatible with residential use and local neighbourhood expectations in terms of scale, intensity, traffic generation and amenity. Subject to detailed design and proposed permit conditions, the subdivision represents a responsive and orderly residential development outcome that aligns with the intent of the zone and its decision guidelines.
53. The site is not located within a specific precinct in the current neighbourhood character policy at Clause 15.01-5L (Neighbourhood character) of the Planning Scheme.
54. Council adopted a new Neighbourhood Character Strategy in December 2023. Although the Strategy is not yet implemented within the Planning Scheme, it is intended to be through a future Planning Scheme Amendment, and consideration should be given to this document. Within the Strategy the site is located within an 'Urban Canopy Residential 3' area. Discussions with Council's Strategic Planning team suggest the Strategy will progress to the formal planning scheme amendment phase once the Housing Strategy is completed.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

55. The current subdivision proposal is considered to meet the Strategy. The proposed building envelopes establish the foundation for the construction of a dwelling on each lot that can achieve the design responses of the Strategy. The setbacks proposed through recommended permit conditions will ensure a combined minimum three metre setback between all building envelopes, which broadly aligns with the objectives of the Strategy.
56. The proposal retains significant canopy trees where possible and includes a requirement for any new lot to plant and manage at least two indigenous canopy trees per lot within the proposed subdivision. This requirement will ensure that canopy tree planting can occur, in accordance with the Bushfire Management Plan canopy tree requirements.
57. The provision of two canopy trees per lot, in addition to the sizing of the building envelopes provides for a balanced outcome that achieves the following objective as set out in this strategy *‘to encourage space for increased vegetation planting and indigenous canopy trees within the private realm to enhance the garden setting of dwellings.’*
58. In the event a permit is issued, it is recommended that a Section 173 Agreement be required through a permit condition to afford protection to the trees being retained through the subdivision as well as the canopy tree planting required on each new lot. The existing trees contribute to the character of the area and to local landscape values and in time, new canopy tree planting that is required to be maintained thereafter, will also make a positive contribution to the desired future neighbourhood character. This outcome is responsive to the strategic objectives of the Design and Development Overlay (Schedule 3) where it seeks to protect existing vegetation while encouraging the planting of new vegetation.
59. The proposed building envelopes also help to ensure that the siting of future buildings responds to the desired neighbourhood character requirements by ensuring minimum side setback requirements and sufficient area for future landscaping, as well as providing for consistent setbacks to the street frontage and guiding the scale of future development.

Bushfire Planning

60. From a bushfire perspective, the site’s Bushfire Management Overlay trigger and the Bushfire Management Statement indicate the subdivision can accommodate defensible space and future dwellings without unacceptable risk, aligning in-principle with Clause 13.02. This must be balanced still with the retention of significant canopy where feasible so that bushfire protection measures do not unnecessarily drive avoidable vegetation loss in a manner inconsistent with vegetation protection, biodiversity and neighbourhood character policy.

6. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

- 61. The proposed subdivision has been assessed against the objectives of bushfire management and is supported by a Bushfire Management Statement that demonstrates the land can be developed in a manner that prioritises the protection of human life and achieves an acceptable level of bushfire risk. The subdivision layout, road design and nominated building envelopes provide for appropriate access, defensible space and emergency response capability, consistent with the purpose of the Bushfire Management Overlay and the broader objectives of the Municipal Planning Strategy and the Planning Policy Framework. Importantly, the Country Fire Authority has reviewed the Bushfire Management Statement and issued an endorsement, subject to conditions, confirming that the proposed bushfire protection measures, including access arrangements, water supply, defensible space and construction standards, are acceptable and capable of being implemented.
- 62. This endorsement provides a high level of assurance that future dwellings can be established on each lot without exposing occupants or emergency services to unacceptable bushfire risk. On this basis, and subject to compliance with the CFA conditions, the proposal satisfies the purpose of the bushfire management provisions by ensuring that development is appropriately sited, designed and conditioned to reduce risk to life and property to an acceptable level while maintaining alignment with strategic planning policy.

Response to objections received

- 63. The objections have raised a number of concerns with respect to the proposed development. Issues regarding, vegetation impacts and neighbourhood character have been discussed in earlier sections of this assessment and have been adequately addressed.
- 64. Concerns regarding pedestrian safety and footpath provision along Butlers Road are acknowledged as valid in principle, particularly in the context of increased residential activity. These matters are appropriately addressed through detailed engineering and construction plan conditions, which require endorsed plans for roads, footpaths, crossings and street lighting for the new subdivision, prior to works commencing, ensuring that pedestrian infrastructure and safety outcomes can be delivered in accordance with Council standards.
- 65. Traffic volume and road safety concerns must be assessed against referral authority advice and the scale of the proposal. A 13-lot subdivision is considered to generate modest traffic volumes, and no referral authority has identified unacceptable impacts on the function or safety of Butlers Road. Conditions requiring detailed road design, access treatments and compliance with Austroads and Council standards provide an adequate mechanism to manage traffic and access impacts.

Conflicts of interest

- 66. 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. Planning Matters

PCC.003/26 Planning Permit Application 714/2023/14P - 13 lot subdivision, works and removal of native vegetation

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