

Planning and Consultation Committee Meeting

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

Minutes

Carl Cowie
Chief Executive Officer

Friday 17 April 2026

Distribution: Public

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Nillumbik Shire Council

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Nillumbik Shire Council

**Minutes of the Planning and Consultation Committee Meeting held Tuesday
14 April 2026. The meeting commenced at 7:00 PM.**

Councillors present:

Cr Kate McKay	Swipers Gully Ward (Deputy Mayor) (Chairperson Consultation Matters)
Cr Grant Brooker	Blue Lake Ward (Chairperson Planning Matters)
Cr Kelly Joy	Edendale Ward
Cr Peter Perkins	Ellis Ward
Cr Kim Cope	Sugarloaf Ward
Cr John Dumaresq	Wingrove Ward

Officers in attendance:

Carl Cowie	Chief Executive Officer
Elisha Jansz	Acting Director Governance, Communications and Community Safety
Frank Vassilacos	Director Planning, Environment and Strategy
Renae Ahern	Manager Planning and Environmental Health
Katia Croce	Manager Governance and Property

1. Welcome by the Chair

2. Acknowledgement of Country

Acknowledgement of Country was read by the Chairperson Planning Matters, Cr Grant Brooker .

3 Apologies/Leave of Absence

Leave of absence for this meeting was granted to Cr Naomi Joiner

Committee Resolution

MOVED: Cr Kate McKay

SECONDED: Cr Kim Cope

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

CARRIED UNANIMOUSLY

4 Declarations of conflict of interest

Nil

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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.

Committee Resolution

MOVED: Cr Kate McKay

SECONDED: Cr Kim Cope

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**).

CARRIED UNANIMOUSLY

5. Confirmation of Minutes

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

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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



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

- 1 Jason Sumner on behalf of permit applicant Greg Zuccala
- 2 Greg Zuccala on behalf of mother Paolina Zuccala

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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.

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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):
 - i. Details of all landscaping and planting to be carried out within the road

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- 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.

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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;

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- 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:

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- 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.
 - 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.

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- 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.
- 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.

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- 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
 - 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*,

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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.

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

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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.
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.

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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.

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.

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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:

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“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

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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](http://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.

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- 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.

Motion

MOVED: Cr Peter Perkins

SECONDED: Cr Kate McKay

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.

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- 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.
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.

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- 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):
 - 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 **a minimum 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:

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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.

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).

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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;
- 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.

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- 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:
- 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:

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- 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.
- 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.

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- 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.
 - 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.

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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
 - 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:

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- 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. 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.

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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.
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.

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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.

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.

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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:

“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 defendable space. These are areas where a lot owner maintains the defendable space on their land for the benefit of themselves and the owners of other lots.
 - ii. Require that the defendable 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, defendable 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.

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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.

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](http://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.

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- 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.
- 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.

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

Committee Resolution

MOVED: Cr Peter Perkins
SECONDED: Cr Kate McKay

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.

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- 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.
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.

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- 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):
 - 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 a minimum 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)

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- 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.
 - 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.

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- 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;
 - 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:

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- 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:
- 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.

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- 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.
- 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.

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- 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.
 - 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).

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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
 - iv. 0.235 hectares of past removal was identified in the NVRR.
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

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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. 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

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- 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.
- 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.

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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.

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.

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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:

“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.”

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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.

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](http://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.

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- 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.
- 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.

CARRIED

For: Crs Kim Cope, John Dumaresq, Kelly Joy, Kate McKay and Peter Perkins

Against: Cr Grant Brooker

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7. Supplementary and urgent business

Nil

8. Confidential reports

Nil

9. Close of Meeting

The meeting closed at 7.21pm.

Confirmed:

Cr Chairperson Planning Matters

Cr Chairperson Consultation Matters