

## Planning Committee

Held at the Civic Centre, Civic Drive, Greensborough on Tuesday 10 May 2016

## Minutes

**Stuart Burdack**  
**Chief Executive Officer**

Thursday 12 May 2016

Distribution: Public

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*Wominje ka*

Nillumbik Shire Council

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**Nillumbik Shire Council**

**Minutes of the Planning Committee Meeting held Tuesday 10 May 2016. The meeting commenced at 12:08am (following the conclusion of the Policy and Services Committee meeting).**

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**Councillors present:**

Cr Michael Young	Edendale Ward (Chairperson)
Cr Meralyn Klein	Blue Lake Ward
Cr Anika Van Hulsen	Bunjil Ward Ward
Cr Peter Perkins	Ellis Ward
Cr Ken King	Sugarloaf Ward
Cr Bronnie Hattam	Swipers Gully Ward (Mayor)
Cr Helen Coleman	Wingrove Ward

**Officers in attendance:**

Ransce Salan	General Manager Environment and Planning
Jeremy Livingston	Manager Planning and Health Services

**Commencement of meeting:**

In accordance with the Meeting Procedure Local Law, Clause 2.1, an Ordinary or Special Committee must not continue after 10.30pm unless a majority of Councillors present vote in favour of the meeting continuing.

As a formal resolution of the Policy and Services Committee Meeting held earlier in the evening, it was resolved that the Planning Committee meeting commence following the Policy and Services Committee meeting, at a time later than 10:30pm.

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**1. Welcome and apologies**

Nil apologies

**2. Disclosure of conflicts of interest**

Nil

**3. Confirmation of minutes**

Confirmation of minutes of the Planning Committee Meeting held on Tuesday 12 April 2016.

**Motion**

**Cr Ken King  
Cr Bronnie Hattam**

**That the minutes of the Planning Committee Meeting held on Tuesday 12 April 2016 be confirmed.**

**CARRIED**

4. Planning Reports

**PC.006/16**      **Development of the land for a dwelling and associated native vegetation removal at 40 Kent Hughes Road, Eltham**

**File:**                **K032/00/040P**

**Distribution:**    **Public**

**Manager:**        **Jeremy Livingston, Manager Planning and Health Services**

**Author:**          **Anita Fitzpatrick, Senior Statutory Planner**

**Application summary**

Address of the land	40 Kent Hughes Road, Eltham
Site area	1,071 square metres
Proposal	Development of the land for a dwelling and associated native vegetation removal
Application number	429/2015/05P
Date lodged	25 August 2015
Applicant	Paul and Jan Riley, C/-Tom Paciocco Architect
Zoning	Low Density Residential
Overlay(s)	Significant Landscape Overlay (Schedule 2) Environmental Significance Overlay (Schedule 1) Bushfire Management Overlay
Reason for being reported	More than 5 objections received
Number of objections	13
Key issues	<ul style="list-style-type: none"> <li>• The capability of the land (including on-site effluent disposal)</li> <li>• Bushfire management</li> <li>• Neighbourhood character</li> <li>• Landscape and environmental impacts</li> </ul>
Officer recommendation	Issue a Notice of Decision to Refuse to Grant a Permit

**Presenters**

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

1. Amy Monster-Temple, on behalf of Julie Temple
2. Susan Hartley

4. Planning Reports

**PC.006/16 Development of the land for a dwelling and associated native vegetation removal at 40 Kent Hughes Road, Eltham**

3. Nani McMullin

4. Tom Paciocco

**Motion**

**Cr Helen Coleman  
Cr Bronnie Hattam**

**That the Committee (under delegation from Council) issue a Notice of Decision to Refuse to Grant a Permit to the land at 40 Kent Hughes Road, Eltham, for the development of the land for a dwelling and associated native vegetation removal, on the following grounds:**

- 1. The proposal does not meet Clause 32.03-2 (Use for one or two dwellings or a dependent person’s unit) of the Low Density Residential Zone as it has not demonstrated the ability to appropriately treat and retain wastewater in accordance with the State Environment Protection Policy (Waters of Victoria) under the *Environment Protection Act 1970*.**
- 2. The proposed development is not responsive to the objectives of the Significant Landscape Overlay (Schedule 2) in terms of the extent of built form and massing, lack of front and side setbacks, and lack of existing and proposed canopy vegetation throughout the site.**
- 3. The proposed development is not responsive to the objectives of the Environmental Significance Overlay (Schedule 1) in terms of the extent of impact to Tree No. 15, and lack of replanting opportunities on-site to enhance the environmental values of the area (having regard to the dwelling and required defensible space).**
- 4. The proposed development is inconsistent with the objectives of Neighbourhood Character Policy at Clause 22.12 in that the proposal does not reflect the development pattern within this area of Eltham, being a large dwelling on an undersized allotment with minimal effort made to make the dwelling blend in with the ‘Semi-Bush’ landscape.**
- 5. The proposal does not provide adequate opportunity for meaningful landscaping to separate the built form and enhance the existing ‘Semi-Bush’ characteristics of the subject site and area, as outlined in Clause 22.12 (Neighbourhood Character Policy) and the Significant Landscape Overlay (Schedule 2).**

**CARRIED**

Cr Helen Coleman called for a division:

For: Crs King, Coleman, Van Hulsen, Perkins, Young and Hattam

Against: Cr Klein

4. Planning Reports

**PC.007/16**      **Development of the land for an additional single storey dwelling at 31 Collins Street, Diamond Creek**

**File:**            **C084/00/031P**

**Distribution:**   **Public**

**Manager:**      **Jeremy Livingston, Manager Planning and Health Services**

**Author:**        **Anita Fitzpatrick, Senior Statutory Planner**

**Application summary**

Address of the land	31 Collins Street, Diamond Creek
Site area	1,574 square metres
Proposal	Development of the land for an additional single storey dwelling
Application number	381/2015/03P
Date lodged	3 August 2015
Applicant	Andrew Ramage
Zoning	General Residential
Overlay(s)	Nil
Reason for being reported	More than 5 objections received
Number of objections	7
Key issues	<ul style="list-style-type: none"> <li>• Strategic location</li> <li>• Neighbourhood character and landscaping</li> <li>• Impact on existing trees</li> <li>• Car parking, access and traffic</li> <li>• Compliance with Clause 55 (ResCode)</li> </ul>
Officer recommendation	Issue of a Notice of Decision to Grant a Permit

**Presenters**

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

1. Frans Posset
2. Pauline Saunders, on behalf of Peter Saunders
3. Rob King

4. Planning Reports

PC.007/16 Development of the land for an additional single storey dwelling at 31 Collins Street, Diamond Creek

**Motion**

Cr Peter Perkins  
Cr Meralyn Klein

That the Committee (under delegation from Council) issue a Notice of Decision to Grant a Planning Permit to the land at 31 Collins Street, Diamond Creek for the development of the land for an additional single storey dwelling, in accordance with the endorsed plans and subject to the following conditions.

1. Before the development commences, three copies of amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the advertised plans, but modified to show:
  - a) The west elevation of the dwelling to bedrooms 2, 3 and 4 to achieve a setback of 2.2 metres to the east boundary to provide opportunity for landscaping. This increased setback shall be achieved without compromising setbacks to other boundaries.
  - b) The west-facing study room window to be modified to a highlight window located 1.7 metres above finished floor level, to prevent unreasonable overlooking into the secluded private open space of the adjoining property.
  - c) The provision of a 1.7 metre high timber screen around the retaining wall area defining the secluded private open space to the proposed dwelling. This fence must be designed to prevent unreasonable overlooking into adjacent areas of secluded private open space, in accordance with Standard B22 of Clause 55 (ResCode).
  - d) The driveway reconfigured to match the width of the vehicle crossing.
  - e) Demonstration that access/egress can be achieved in accordance with AS/NZS 2890.1 Section 2.6 & Appendix C incorporating C1. The grades must be shown in plan form and longitudinal grades that gradients of the driveway will not cause scraping of the vehicle on the driveway formation or the crossing itself.
  - f) A detailed schedule of external materials and finishes of the approved dwelling.
  - g) A Landscape Plan in accordance with condition 3 of this permit.
  - h) A Tree Management Plan as required by condition 4 of this permit.
  - i) Location of the water tank as required by condition 11 of this permit.
2. The development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
3. Before the development commences, three copies of a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved

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PC.007/16 Development of the land for an additional single storey dwelling at 31 Collins Street, Diamond Creek

by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must show:

- a) A survey of all existing vegetation and natural features;
- b) The area or areas set aside for landscaping with no planting within the easement;
- c) A schedule of all proposed trees, shrubs/small trees and ground cover. This schedule shall include a mixture of exotic plants and plants selected from the Council document 'Live Local Plant Local' showing the botanical and common name of each plant, the quantity to be planted, the pot size and spacing;
- d) The location of each species to be planted and the location of all areas to be covered by grass, lawn or other surface material;
- e) Paving, retaining walls, fence design details and other landscape works including areas of cut and fill;
- f) Appropriate irrigation systems;
- g) The provision of vegetative planting along the east and west sides of the new dwelling;
- h) The provision of canopy trees throughout the development as appropriate, including in the front setback area of the approved dwelling.

4. Before the development commences, two copies of a Tree Management Plan must be prepared by a qualified arborist must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must show:

- a) Location of existing trees on-site and adjoining properties;
- b) Methods of protecting such trees during construction of the development;
- c) Methods of protecting trees located within the easement and methods of construction of drainage works within the easement to protect the trees.

When approved the plan will be endorsed to form part of the planning permit.

5. Unless with the prior written consent of the Responsible Authority, prior to the completion of the development, the landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.

6. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the trees (or nominate tree numbers or species of individual trees) marked on the endorsed plans as being retained must have a Tree Protection Zone (TPZ) to the satisfaction of the Responsible Authority. The fencing associated with this TPZ must meet the following requirements:

- a) Extent



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

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

b) Fencing

All tree protection fencing required by this permit must be erected in accordance with the approved TPZ.

The TPF must be erected to form a visual and physical barrier, be a minimum height of 1.5 metres above ground level and of chain mesh or similar material. A top line of high visibility plastic tape must be erected around the perimeter of the fence.

c) Signage

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

d) Irrigation

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

e) Provision of Services

Unless with the prior written consent of the Responsible Authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any TPZ, to the satisfaction of the Responsible Authority.

f) Access to TPZ

Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).

7. Prior to the commencement of the approved works (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the erected tree protection fences must be inspected and approved by the Responsible Authority.

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

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8. The following actions must not be undertaken in any tree protection zone as identified in this permit, to the satisfaction of the Responsible Authority:
  - a) Materials or equipment stored within the zone;
  - b) Servicing and refuelling of equipment and vehicles;
  - c) Storage of fuel, oil dumps or chemicals;
  - d) Attachment of any device to any tree (including temporary service wires, nails, screws or any other fixing device);
  - e) Open cut trenching or excavation works (whether or not for laying of services);
  - f) Changes to the soil grade level;
  - g) Temporary buildings and works; and
  - h) Unauthorised entry by any person, vehicle or machinery.
9. Stormwater from the driveway must be collected using 225mm wide trench-grates across the driveway and/or grating pits positioned in the centre of the driveway at a maximum spacing of 15 metres and connected to the on-site detention device. Use minimum 225mm diameter underground drains for the internal drainage system underneath driveway.
10. The development hereby permitted must not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of stormwater.
11. Stormwater from the roof of each dwelling hereby approved must be directed to a tank with a minimum storage capacity of 2,000 litres. Each dwelling must have an individual holding tank. The overflow from the tanks must be directed to the on-site detention system. Water in the holding tanks may be used for one or more of the following purposes: toilet flushing; property irrigation; vehicle washing and any other purpose approved by the Responsible Authority.
12. The flow from the on-site detention system must be directed to the nominated point of stormwater discharge. Nominated point of stormwater discharge point is Council drainage system in Heidelberg-Kinglake Road in front of the property.
13. Connection of the development drainage system to Council drain must be carried out in accordance with Council's specification and under Council supervision under a Minor Works within the Municipal Road Reserves permit.
14. An on-site detention device must be installed, at no cost to Council, to restrict the property discharge to a flow equivalent to the pre-development design flow rate as approved by the Responsible Authority. The on-site detention system outlet must be connected to the Council nominated point of stormwater discharge.
15. The on-site detention device shall be designed by a qualified engineer and plans submitted to the Responsible Authority for approval prior to the

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commencement of the development unless with the prior written consent of the responsible authority. Construction of the on-site detention device must be carried out under Council supervision, in accordance with the approved plans and Council's specifications. An AutoCAD electronic copy of the approved plans must be submitted to Council for record purposes.

16. No polluted, effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property. In this regard, pollution or litter traps must be installed on site and serviced accordingly, all to the satisfaction of the Responsible Authority.
17. All external lighting must be designed, baffled and located so as to prevent adverse effect on adjoining land, to the satisfaction of the Responsible Authority.
18. This permit will expire if one of the following circumstances applies:
  - a) The development is not commenced within two years of the date of this permit.
  - b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

**NOTES:**

- 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 \$758 for the land owner and occupant, and \$1517 for any company which may be undertaking the tree removal works.
- Failure to undertake the requisite tree protection fencing in accordance with the conditions of this permit will result in the issuing of Planning Infringement Notices to the land owner, occupant (if this is a different person), and the person or company undertaking the works on-site. The minimum penalty on the Planning Infringement Notice for land owners and occupants will be \$758 for the land owner and occupant, and \$1517 for any company which may be undertaking works on-site.
- 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

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PC.007/16 Development of the land for an additional single storey dwelling at 31 Collins Street, Diamond Creek

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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 engineer that is designing the on-site detention unit as required by this permit must contact Council's Development Engineer for tc and tso figures.

**CARRIED**

4. Planning Reports

**PC.008/16 Construction of 10 dwellings, removal of substantial trees and a reduction in visitor parking requirements at 28 Arthur Street, Eltham**

**File:** A043/00/028P

**Distribution:** Public

**Manager:** Jeremy Livingston, Manager Planning and Health Services

**Author:** Renae Ahern, Coordinator Statutory Planning

**Application summary**

Address of the land	28 Arthur Street, Eltham
Site area	962 square metres
Proposal	Construction of 10 dwellings, removal of substantial trees and a reduction in visitor parking requirements
Application number	386/2014/03P
Date lodged	23 July 2014
Applicant	Time Architects Pty Ltd
Zoning	Residential Growth (Schedule 1)
Overlay(s)	Design and Development Overlay (Schedule 6) Significant Landscape Overlay (Schedule 1)
Reason for being reported	More than 5 dwellings
Number of objections	2
Key issues	<ul style="list-style-type: none"> <li>• Strategic merit for higher density development</li> <li>• Car parking and traffic impacts</li> <li>• Compliance with Clause 55 (ResCode)</li> <li>• Built form and neighbourhood character</li> <li>• Vegetation impacts and landscaping</li> </ul>
Officer recommendation	Issue a Notice of Decision to Refuse to Grant a Permit

**Presenters**

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

1. Sue Dyet, on behalf of Eltham Gateway Action Group

4. Planning Reports

**PC.008/16 Construction of 10 dwellings, removal of substantial trees and a reduction in visitor parking requirements at 28 Arthur Street, Eltham**

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**Motion**

**Cr Helen Coleman**

**Cr Bronnie Hattam**

**That the Committee (under delegation from Council) issue a Notice of Decision to Refuse to Grant a Permit to the land at 28 Arthur Street, Eltham, for the construction of 10 dwellings, removal of substantial trees and a reduction in visitor parking requirements on the following grounds:**

- 1. The proposal is contrary to the objectives of the Design and Development Overlay (Schedule 6), Clause 22.07 (Eltham Major Activity Centre Policy) and Clause 22.12 (Neighbourhood Character Policy) in relation to respecting the preferred neighbourhood character of the area, due to the design detail, roof form, extent of continuous built form, and overall scale, bulk and building mass.**
- 2. The proposed development is contrary to the objectives of the Significant Landscape Overlay (Schedule 1), as the proposed development fails to incorporate the retention of a high retention value indigenous canopy tree.**
- 3. The proposed development is contrary to the objectives of the Significant Landscape Overlay (Schedule 1) and Clause 22.12 (Neighbourhood Character Policy) due to the lack of meaningful landscaping opportunities in order to provide an appropriate landscape setting for the proposed development.**
- 4. The proposed development is contrary to many of the objectives and standards of Clause 55 of the Nillumbik Planning Scheme. In particular, the development does not satisfy Standard B1 (Neighbourhood Character), Standard B13 (Landscape Character), Standard B17 (Side and Rear Setbacks), Standard B22 (Overlooking), Standard B25 (Accessibility), Standard B31 (Design Detail) and Standard B33 (Common Property).**

**CARRIED**

Cr Helen Coleman called for a division:

For: Crs King, Coleman, Van Hulsen, Perkins, Young and Hattam

Against: Cr Klein

**5. Supplementary and urgent business**

Nil

**6. Confidential reports**

Nil

The meeting closed at 12:54am.

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

Cr Michael Young, Chairperson