

## Future Nillumbik Committee

to be held at the Civic Centre, Civic Drive, Greensborough  
on Tuesday 14 March 2017 commencing at 7pm.

## Agenda

**Mark Stoermer**  
**Acting Chief Executive Officer**

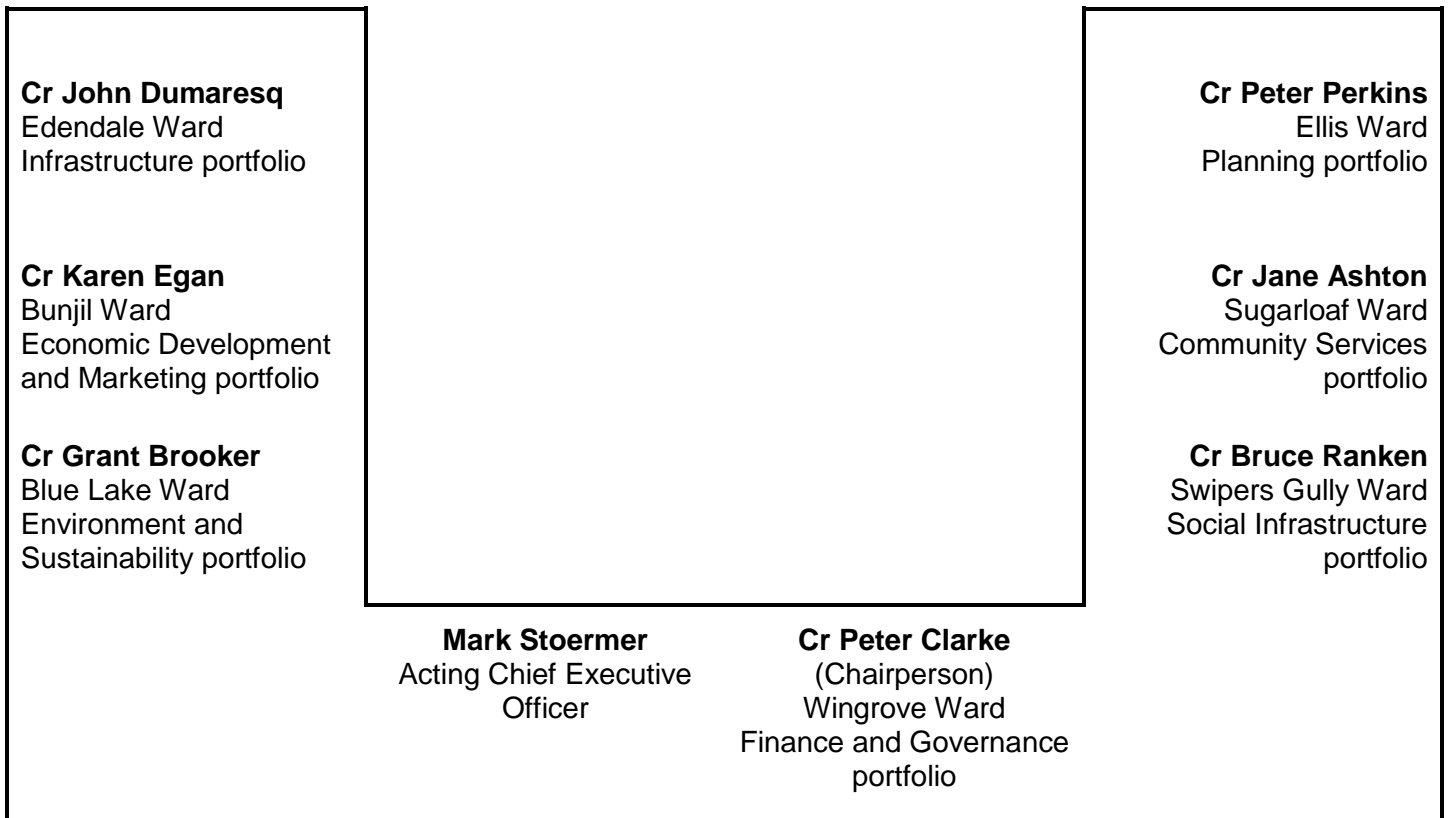
Wednesday 8 March 2017

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*Domin je ka*

## Future Nillumbik Committee seating plan



Visitors in the gallery at Committee meetings are:

- Welcome to copies of the various reports which will be considered by this Committee at the meeting. These are on the table in the foyer.
- Welcome to tea, coffee and water. These are on the table in the foyer near the Council Chamber entry.
- Requested to observe deliberations quietly in order for Committee meetings to run smoothly.
- Advised that an audio recording of this meeting will be made for the purpose of verifying the accuracy of the minutes.

### Hearing of submissions from members of the public

The arrangements for members of the public to address a Special Committee meeting are defined in Council's Meeting Procedure Local Law. Council has recently established the Future Nillumbik Committee as a Special Committee. The Terms of Reference for this committee propose some changes to the arrangements for hearing of submissions. However these changes are not yet in effect, as they require a change to Council's Meeting Procedure Local Law. Until such a change is made, the existing arrangements will continue to apply, and any member of the public who has registered prior to 3pm on the day of the meeting is entitled to address the committee regarding a matter on the agenda.

## Nillumbik Shire Council

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**Nillumbik Shire Council**

**Agenda of the Future Nillumbik Committee Meeting to be held Tuesday 14 March 2017 commencing at 7pm.**

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**1. Welcome and apologies**

**Welcome by the Chair**

Members of the public are advised the meeting will be recorded for the purposes of verifying the accuracy of the minutes.

**Apologies**

**Motion**

**That the apologies be accepted.**

**2. Disclosure of conflicts of interest**

Committee members should note that any disclosure of conflict of interest must be disclosed immediately before the item in which they have an interest.

**3. Confirmation of minutes**

Confirmation of minutes of the Future Nillumbik Committee Meeting held on Tuesday 14 February 2017.

**Motion**

**That the minutes of the Future Nillumbik Committee Meeting held on Tuesday 14 February 2017 be confirmed.**

## 4. Officers' reports

**FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

**Portfolio: Planning**

**Distribution: Public**

**Manager: Jeremy Livingston, Acting General Manager Environment and Planning**

**Author: Jonathan McNally, Acting Manager Planning and Health Services**

**Summary**

Address of the land	14 Barreenong Road, Cottles Bridge
Ward	Bunjil
Site area	7,590 square metres
Proposal	Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation
Application number	412/2016/05P
Date lodged	26 July 2016
Applicant	BT Walsh
Zoning	Rural Conservation Zone (Schedule 3)
Overlay(s)	Environmental Significance Overlay (Schedule 1) Bushfire Management Overlay
Reason for being reported	Called in by Ward Councillor
Number of objections	Two
Key issues	<ul style="list-style-type: none"> <li>• Consistency with use and development within policy framework and the purposes and design guidelines of the Rural Conservation Zone (Schedule 3)</li> <li>• Appropriate management of the bushfire risk</li> <li>• Extent of native vegetation removal and modification</li> <li>• Dwelling design</li> </ul>
Recommendation	Issue a Notice of Decision to Refuse to Grant a Permit

4. Officers' reports

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**4. Officers' reports**

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**Recommendation**

**That the Committee (acting under delegation from Council): issue a Notice of Decision to Refuse to Grant a Permit to the land located at 14 Barreenong Road, Cottles Bridge, for the use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation, on the following grounds:**

- 1. The proposed use of the land for a dwelling on a substandard sized lot is not consistent with the intended purpose and decision guidelines of the Rural Conservation Zone and the proposal does not seek to use the land to protect and enhance the environmental and landscape value of the site as found at Clause 35.06 of the Nillumbik Planning Scheme.**
- 2. The proposed use of the land for a dwelling on a substandard sized lot is not consistent with Clause 11.06-4 (Green Wedges), Clause 21.04 (Vision Strategic Framework), Clause 21.05-1 (Settlement and Housing) and Clause 21.05-2 (Rural Land Use).**
- 3. The proposal will not result in an acceptable planning outcome as outlined in the decision guidelines of Clause 65 (Decision Guidelines), having regard to the orderly planning of the area, the degree of fire hazard, and the extent of vegetation to be removed.**

**Attachments**

1. Subject site and surrounds
2. Plans 1 to 7

**Subject site and surrounds**

1. The key features of the subject land and surrounds are as follows:
  - The subject site is particularly described as Vol. 06646, Folio 176, Crown Allotment 16B Section B Parish of Greensborough. There are no encumbrances on title and no easements are shown on the Title Plan.
  - The subject site is a shallow triangular shaped parcel of land, located on the northern side of Barreenong Road, Cottles Bridge, approximately 145 metres from the intersection with Cottlesbridge-Strathewen Road. The site has the dimensions 235 metres by 152 metres by 118 metres, and an area of approximately 0.76 hectares (7,590 square metres).
  - The site is largely covered by native vegetation, with the exception of two dams, and an existing cleared section of land all located in the north-eastern portion of the property. The site is currently unused and contains no buildings.
  - Access to the site is gained via an existing crossover in the south-eastern corner of the property, which extends into an informal bare earth access track which extends in a northerly direction.

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- The site is located mid-way up a moderate to steep slope facing north-west, which extends from a creek line in the adjacent property to the west. The land contains the steepest portions of the hillside, including some sections up to 15 degrees. Adjacent parcels of land have a more gentle topography.
- The land is part of a densely vegetated and ecologically well connected landscape, as it is connected to tracts of forested areas to the north, west, and south. In terms of classification of the vegetation, the submitted flora and fauna assessment identifies that the majority of the subject site falls within State Biosite 5257 Pittles Paddock – Cottles Bridge. This Biosite has been recognised as having State significance, and contains remnant vegetation of the Ecological Vegetation Class (EVC) 22 Grassy Dry Forest, and EVC 47 Valley Grassy Forest. 'Pittles Paddock' is also classified as having State fauna significance based on the rarity of fauna known to inhabit the site, and diversity of species recorded.
- As with the subject land, the surrounding properties are also zoned Rural Conservation Zone (Schedule 3) and contain similar steep topography, and features existing remnant vegetation. Notably, the subject site is one of the smallest in terms of area in the immediate locality, with land to the north-east and south-east being used as rural living areas with multi-hectare allotments containing bushland and grassland areas used for grazing. Further north and north-east are larger areas of contiguous bushland associated with Kinglake National Park.
- Adjoining the subject site to the east, 10 Barreenong Road, is developed with a single detached dwelling with outbuildings located to the north.
- The properties located on the opposite (southern) side of the road, at 5 and 25 Barreenong Road, are developed with single detached dwellings surrounded by domestic areas including in-ground swimming pools, with the balance of the sites covered in native vegetation.
- The land adjoining the subject site to the west forms part of a five lot subdivision at 142 Barreenong Road. Each of the five lots have an established domestic envelope for development, outbuildings and wastewater, with the balance of each lot set aside to protect the remnant bushland, to be managed under a Trust for Nature covenant.
- Barreenong Road is a through road constructed of gravel. It provides access and egress in two directions. The site is located near the intersection of Cottlesbridge-Strathewen Road and Mine Road/ Hildebrand Road.

**Details of proposal**

2. Refer to the attached plans.
3. Key features of the proposal include:  
Dwelling and Garage/Shed



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- Use and development of the land for a double storey three bedroom dwelling with a separate detached garage/ shed located to the south-west.
- The dwelling and garage/shed are to be located in the south-eastern section of the site, in close proximity to the Barreenong Road frontage.
- The lower ground floor plan of the dwelling features one bedroom, a master bedroom with walk in robe and ensuite, and laundry room.
- The ground floor plan features a bedroom, separate bathroom, and open plan kitchen, dining area, and lounge. Two balconies are proposed, with the smaller of the two adjoining the northern edge of the lounge room, and the second along the eastern edge of the lounge room/ dining area and extending over the entire lower ground floor area.
- The proposed dwelling has a modern architectural style with a simple 'cross' shaped layout extending in the direction of compass points, flat roof profile, and lengths of unbroken wall treated with fenestration and wall cladding. The dwelling will be constructed on a slab, and the northern section of the ground floor will be cantilevered in a northerly direction over the lower ground floor. It will be constructed of clay bricks, with vertical metal wall cladding, vertical rust panel cladding, and a flat roof profile in corrugated material with 'grey' tones. Balcony balustrades will be glass.
- The maximum height of the dwelling will be six metres, and owing to its position across the contours and the slope of the land, it will be below the adjacent road level and dominant tree height.
- The dwelling will be located in the south-eastern portion of the site, close to the Barreenong Road frontage, with the following setback distances from the closest boundaries:
  - South 11.1 metres
  - West 11.5 metres
- The separate double garage/shed will be located to the south-west of the proposed dwelling, and will be setback 10.8 metres from the southern boundary (Barreenong Road).
- A new 3.5 metre wide crushed rock semi-circular driveway is proposed, which will enter the site via the existing crossover in the south-eastern corner, and extend across the southern face of the dwelling leading to the double garage/ shed, before exiting at a new access point onto Barreenong Road. The driveway will have a maximum gradient of one in eight.
- As the subject site cannot provide the defendable space of Table 2 to Clause 52.47 (Planning for Bushfire) due to property size constraints, a private bushfire shelter in the form of a fire bunker is proposed. It will be located on the opposite side of the driveway (immediately to the south of the dwelling) setback 4.2 metres from the roadside reserve associated with the Barreenong Road frontage.

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- A dedicated CFA fire fighting water tank, together with a domestic water tank, are proposed to be located to the west of the dwelling.
- A septic tank and effluent disposal field with an area of 560 square metres, to be located to the west of the dwelling.
- Connection is available to the power supply.
- There is no reticulated water available to the site.

##### Earthworks

- In terms of earthworks, the lower ground floor has been sited parallel with contour lines to minimise cut and fill. Nevertheless, it will be necessary to undertake 89 cubic metres of site cut to accommodate the lower ground floor. The ground floor will require 14.8 cubic metres of fill under its southern section, where the front entrance presents to the access driveway.
- The detached garage/shed is also sited along the contour lines to minimise cut and fill, and will require 15.3 cubic metres of site cut.
- The private bushfire shelter (in the form of a fire bunker) will require 10.9 cubic metres of site cut and the the new driveway will require 61.3 cubic metres of site cut.
- All earthworks will be supported by either local stone or 'rust' panelling retaining walls.

##### Vegetation removal

- Removal of a total of 0.384 hectares of remnant native vegetation identified as remnant patches, including:
  - Removal of 70 trees from both the construction and domestic zone, and the effluent area.
  - Removal of trees and vegetation associated with providing defensible space with a minimum depth of 40 metres, extending up to the north-western property boundary (maximum distance of 36 metres from the edge of the proposed dwelling) and a five metre canopy separation.
- The Offset and Land Management Plan submitted with the application and prepared by Practical Ecology, proposes to provide an area to the west of the dwelling on the subject site in which vegetation and habitat will be managed purely for conservation purposes, in order to meet (in part) the Native Vegetation offset obligations. The offset management zone is proposed to encompass an area of approximately 0.14 hectares.

##### Planning history

4. No previous planning permits have been issued for the site. The subject site was established without the need for a planning permit, as there was historically two lots on one title, so the former owners had the lots separated.

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**Planning controls****Zoning**

5. The subject land is zoned Rural Conservation Zone (Schedule 3) in accordance with the Nillumbik Planning Scheme. Under this zone (Clause 35.06), a permit is required for use, construct or carry out a building or works associated with the development of the land for a dwelling.

**Overlays**

6. The subject land is affected by the Bushfire Management Overlay. Under this overlay, (Clause 44.06), a permit is required to construct a dwelling, or construct or carry out works associated with accommodation.
7. The subject land is also affected by the Environmental Significance Overlay (Schedule 1). Under this overlay (Clause 42.01), a permit is required to construct a dwelling, or construct or carry out works, and also to remove, destroy or lop any vegetation including dead vegetation.

**Particular provisions**

8. Clause 52.06 (Car Parking) applies to the application. This clause seeks to ensure that before a new use commences, there is the provision of an appropriate number of car parking spaces; that car parking does not adversely affect the amenity of the locality; and that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use. In accordance with Table 1 Car Parking Requirement of Clause 52.06, a three bedroom dwelling must provide a minimum of two vehicle parking spaces.
9. Under the provisions of Clause 52.17 (Native Vegetation), a permit is required to remove, destroy or lop native vegetation on land which, together with all contiguous land in one ownership has an area greater than 0.4 hectares. The purpose of this provision is to ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.
10. Clause 52.47 (Planning for Bushfire) aims to ensure that development is only permitted if the risk to life, property and community infrastructure can be reduced to an acceptable level and to apply specify requirements for buildings, works and subdivision on land to which the Bushfire Management Overlay applies. If a planning permit is required pursuant to the Bushfire Management Overlay, all requirements of this clause must be met.
11. Clause 57 (Metropolitan Green Wedge Land) applies to all land outside an Urban Growth Boundary, and seeks to protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values. In accordance with the table of uses listed at Clause 57.01-1, the use of the land for the purposes of a dwelling is allowed if it is the only dwelling on the lot.

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12. Clause 65 (Decision Guidelines) outlines general decision guidelines that must be considered when assessing an application. These guidelines include the purpose of the zone or other provision, the orderly planning of the area, and the effect on the amenity of the area.

**Relevant planning policies**

13. State Planning Policies which are relevant to this application include:

- Clause 11.04-6 Green Wedges
- Clause 12.01 Biodiversity
- Clause 12.04 Significant Environment and Landscapes
- Clause 13.05 Bushfire
- Clause 16.02-1 Rural residential development

14. The Local Planning Policies which are relevant to this application include:

- Clause 21.05-1 Settlement and Housing
- Clause 21.05-2 Rural Residential use
- Clause 21.05-3 Environment, Conservation and Landscape
- Clause 22.04 Siting and Design Policy for Buildings and Works in Non-Urban Areas
- Clause 22.13 Wildfire Management Policy

**Policy context**

15. When considered as a whole, the strategic policy context discourages small-scale rural residential development. In particular, development which may have a detrimental impact on landscape and environmental values.
16. Within Melbourne's Green Wedge areas, strategic policies seek to protect environmental, landscape, and scenic values and the consolidation of new residential development within existing settlements.
17. Underpinning this is the Rural Conservation Zone, which is not a zone which encourages rural residential type development. There is no mention of residential development among the purposes of the Rural Conservation Zone. Indeed, the whole thrust of the Rural Conservation Zone provisions is focused on the protection and enhancement of environmental, ecological, and landscape attributes of the area. It emphasizes that any development must be consistent with sustainable land management practices. Under the zone, all land uses are subordinate to the environmental values of the land, and the minimum lot size is tailored to suit the environmental features and values of the land.

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18. These issues were tested at the Victorian Civil and Administrative Tribunal (VCAT) in *Masten Bennett and Associates v Nillumbik SC [2010] VCAT 90* (relating to a property in Buttermans Track in St Andrews) where the Tribunal acknowledged that even though much of Nillumbik is within the Rural Conservation Zone (Schedule 3), this should not create an expectation that such land is suitable for rural residential land use. In its decision, the Tribunal determined that the provisions of the Rural Conservation Zone (Schedule 3) seek to restrict the numbers and presence of buildings in rural areas, as the preservation of landscape is the overarching objective.
19. Moreover, in both State and Local planning policy, priority is given to ensuring that any new development in areas affected by the Bushfire Management Overlay avoids bushfire risk to people and property, with the State policy giving more weight to the protection of human life.

**Public consultation****Advertising**

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

**Objections**

21. As a result of advertising, a total of two written objections have been received. These objections can be summarised as follows:
- The application seeks to construct a dwelling on a lot that is smaller than the minimum lot size of eight hectares.
  - Neighbourhood character – the proposed dwelling is contrary to the mudbrick dwellings typically found in the area.
  - Traffic and associated dust pollution from the dirt roads will be exacerbated.
  - Additional access points to Barreenong Road will be steep, and located on a blind bend in the road, which may be dangerous.
  - The proposal does not have adequate car parking spaces.
  - Loss of trees, vegetation and associated habitat in an ESO1, and the ongoing impact on fauna.
  - Setbacks – the proposed dwelling is too close to the road, creating a negative visual impact.
  - Bushfire impacts – high fuel load around the property and ability of fire truck to access the site.
  - Building logistics – building machinery and delivery trucks may cause erosion and impact on vegetation on the roadside.
  - Impact on waterway of effluent disposal system.
  - Loss of runoff and ability to fill farm dams associated with the development of the site.

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**Planning application conference**

22. No planning application conference was held for this application, however the applicant has provided a written response to the concerns raised by the objectors, which was circulated to them.

**Referrals**

**Internal**

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

Council Unit	Comments
Sustainability and Environment Unit	<p>The site is within the North East Regional Organisation of Councils (NEROC) Site 69 which is of State faunal and high habitat significance.</p> <p>The site is covered in remnant vegetation, mostly representing Grassy Dry Forest with some Valley Grassy Forest on the lower slopes. The site has a few large old trees, with most trees being relatively small. There are two dams on site which provide habitat for local frogs and provide water source for fauna.</p> <p>An offset plan has been provided as it has been determined that there may be scope to meet some of the offsetting requirements on site, however there is limited room available. Most offsetting will be achieved off-site by way of a third party.</p> <p>The proposal will result in the loss of 0.384 hectares of vegetation, which is more than 50% of the site. The loss of this vegetation is significant, as the vegetation is remnant and the subject site is part of a broader habitat corridor.</p> <p>While the proposal meets the requirements of Clause 52.17 (Native Vegetation) and the Environmental Significance Overlay (Schedule 1), it is difficult to support the loss of 0.384ha of native vegetation in an area considered to have high conservation value.</p>
Infrastructure Development Unit	No concerns identified, however requested conditions on any permit issued relating to drainage and crossover and driveway construction.

**External**

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

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Authority	Comments
CFA	No objection subject to conditions on any permit issued.
Department of Environment, Land, Water and Planning (DELWP)	No objection subject to conditions on any permit issued.

**Planning assessment****Introduction**

25. The provision of a dwelling on this site presents a range of challenges. It is located outside the Urban Growth Boundary and as indicated by the inclusion within the Bushfire Management Overlay, it is subject to bushfire risk. The land contains habitat of very high conservation significance. In the face of these challenges, a proposal for use or development must present an overall benefit when considered as a whole.
26. The following have been identified as the key planning issues in relation to the assessment of this planning application:
- Consistency with use and development within the policy framework and the purposes and decision guidelines of the Rural Conservation Zone Schedule 3
  - Appropriate management of the bushfire risk
  - Extent of native vegetation removal and modification
  - Dwelling design.
27. Assessment of these issues, together with a response to objections received, will be discussed in the remainder of this report.

**Consistency with use and development within the policy framework and the purposes and decision guidelines of the Rural Conservation Zone (Schedule 3)**

28. The State and Local planning policies provide guidance as to what is intended in this part of the Green Wedge. In accordance with the State planning policy, the subject site is located within Green Wedge land, which seeks to protect these areas from inappropriate development, protect areas of environmental, landscape and scenic values. The policies acknowledge that a balance must be struck in the interests of net community benefit and sustainable development.
29. Objectives for Green Wedge areas contained within Clause 11.04-7 (Green Wedges) of State planning policy promotes the protection of environmental, landscape and scenic values and the consolidation of new residential development within existing settlements. These objectives are reinforced through the provisions of Clause 57 (Metropolitan Green Wedge Land).

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30. The emphasis in the Rural Conservation Zone is to conserve and permanently maintain, rather than to anticipate change. The provisions of the Rural Conservation Zone (Schedule 3) are clear that all land uses are subordinate to the environmental values of the land. The rural landscape in Nillumbik is highly valued, and rural residential land use must be considered in the context of whether residential land use will promote, manage and encourage the recognised values of the area. Rural residential land use is not an automatic entitlement. To this end, the Rural Conservation Zone (Schedule 3) adopts a minimum lot size of 8 hectares for development of land for the purposes of a dwelling. The subject site has an area of 0.76 hectares, which is substantially below the minimum lot size.
31. The VCAT decision *Beaton v Nillumbik SC* [2013] VCAT 2130 (relating to land in Buttermans Track, Christmas Hills) determined that there was no basis for an applicant to assume that because the land is already a small lot, that a dwelling is an acceptable use and should be permitted, subject to all other relevant planning considerations being satisfied. Caution must be applied when considering an application on an existing lot which is well below the minimum lot size for both use and development. This is primarily because restricting residential development in non-urban areas is paramount to maintaining the values of the Green Wedge.
32. These issues were discussed by VCAT in the decision *Weingartner v Nillumbik SC* [2016] VCAT 1359 (relating to land in Overbank Road, Eltham) where the Tribunal pointed out that the Rural Conservation Zone is one of the suite of rural zones, and it is not within the group of residential or rural residential zones. None of the six Rural Conservation Zone purposes make reference to residential or housing development, and all to a greater or lesser extent have an environmental and landscape focus.
33. In this decision, the Tribunal found that the key themes or directions that emerge from a review of the relevant planning policies, as well as zone and overlay controls, are that Green Wedge land is to be protected from use and development that would diminish its environmental, conservation, and landscape values, and residential development is to be contained within existing urban zones on land within the Urban Growth Boundary. Specifically, the Tribunal stated (at paragraph 28) that:
- Development on small rural lots below the zone minimum is to be limited, unless exceptional circumstances exist.
  - Continued development of dwellings in green wedge areas undermines the values and characteristics of the green wedge/ non-urban areas.
  - Development of isolated small lots in rural zones for rural living or other incompatible uses is discouraged.
34. With regard to the subject application, allowing a dwelling on this site where the lot size of 0.76 hectares and is substantially less than the minimum allowed by the Rural Conservation Zone (Schedule 3), and is contrary to the State and Local planning policies which discourage residential development on small lots within the non-urban, green wedge areas.



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**Appropriate management of the bushfire risk**

35. The subject site is characterised by remnant forest and woodland vegetation, which is broken up by grassy open spaces. The topography must also be considered as the subject site contains the steepest slopes of the local area, with some sections as much as 15 degrees.
36. The bushfire hazard landscape assessment, which provides information on the bushfire hazard more than 150 metres away, has identified that the surrounding landscape is generally undulating topography dominated by grazing, horticulture and sections of bushland.
37. To the west and north-west there is bushland on the adjoining properties, while the area to the north-east and south-east is a rural living area with multi-hectare allotments consisting of bushland and grassland areas used for grazing.
38. Historically, the surrounding area has been subject to significant bushfire events. The nearby areas to the north suffered from very high intensity fire during Black Saturday in 2009 with catastrophic consequences for the local communities. While the subject site itself does not have record of bushfire, it is apparent that the land is subject to significant bushfire risk.
39. According to the submitted Bushfire Management Statement, prepared by Practical Ecology and submitted with the application, the landscape around the subject site is best placed within landscape type three. While there are substantial fuel loads in close proximity to the site, which could result in neighbourhood scale destruction as residents reside in close proximity to the fragments of forest, the broader landscape, in particular to the north and west is predominantly grassland.
40. In accordance with the Bushfire Management Statement submitted in December 2016, the dwelling will have a minimum bushfire attack level of BAL-40. A defensible space to a distance of 40 metres, or the property boundary, is specified. In addition, the dwelling cannot be occupied until a private bushfire shelter is constructed on the same land as the dwelling.
41. Defensible space (a distance of 40 metres or to the property boundary) is proposed, where vegetation will be modified and managed in accordance with requirements, including that the canopy of trees must be separated by at least five metres. The application has been referred to the CFA for comment who have advised that the Bushfire Management Statement (as submitted in December 2016) is satisfactory and should be endorsed to form part of any permit issued.
42. Maintenance of the defensible space in the manner required by the CFA is central to the implementation of bushfire protection measures. These measures include clearance of vegetation and continuous management of the land. It is apparent that the proposal is close to the limit of what would be supported, given the necessity to create defensible space to the property boundary, install a fire bunker, and construct the dwelling to a BAL-40.

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43. Although there are mitigating circumstances in relation to the subject site, such as CFA support for the proposal, and the relatively open grazing land to the north and west which would indicate that bushfire risk can be reduced to a suitable level, there remains concern over the inability to meet the defensible space requirements within the property boundary, and a reliance on vegetation management on the adjoining privately held properties.
44. Accordingly, it is considered appropriate to apply the precautionary principle when assessing the risk to life, property and community infrastructure from bushfire, and not support this application.

**Extent of native vegetation removal and modification**

45. The Environmental Significance Overlay (Schedule 1) has been applied to the subject site and surrounding area, and has been applied to sites of faunal and habitat significance.
46. Environmental objectives to be achieved make specific reference to protecting and enhancing sites of faunal and habitat significance, and regional and strategic habitat links identified in Beardsell's 1997 Sites of Faunal and Habitat Significance in North East Melbourne. It is also identified as being part of a strategic habitat link.
47. In addition, the report prepared by Practical Ecology and submitted with the application identifies two habitat zones. Habitat Zone 1 comprises 0.11 hectares of Valley Grassy Forest (EVC47). Habitat Zone 2 occupies the majority of the site, having an area of 0.55 hectares, and comprises Grassy Dry Forest (EVC22).
48. The Grassy Dry Forest (EVC22) is classified as being of "least concern". No threatened flora was found on site in the surveys undertaken. As such, assessment becomes a question of the impact of the proposal on the site's role as a habitat link, and its connectivity with the surrounding landscape.
49. A thin strip of Woodland occurs on the adjoining side of Barreenong Road to the north of the property. Woodland also occurs on the eastern side of Barreenong Road and extends into the adjacent property.
50. The Municipal Strategic Statement (MSS) identifies that long term protection of native species and ecosystems requires large areas of high quality native vegetation interconnected by a network of habitat corridors. The objectives of the Environmental Significance Overlay seek to maintain these habitat links.
51. Construction of a dwelling, garage, driveway, associated earthworks and 560 square metre effluent envelope, together with the provision of defensible space for bushfire management purposes requires the removal of 0.384 hectares of native vegetation.
52. The submitted Practical Ecology report identifies that a total of 70 trees will be removed. In order to offset this, 0.14 hectares of the site will be set aside as the Offset Management Zone, where vegetation and habitat will be managed purely for conservation purposes.

**4. Officers' reports****FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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53. Although the loss of vegetation on the subject site would be regrettable, it is evident from the submitted plans and vegetation assessment, and from the support provided by DELWP that the loss of vegetation can be adequately offset both on and off the subject site. Further, it is expected that the remaining vegetation on site will be improved should the land be resided on.
54. An ecological assessment requires the avoidance and minimisation of vegetation loss in the first instance. Given the extent of vegetation cover on this site, it would be difficult to avoid any vegetation loss. In order to reduce the extent of vegetation loss the proposal will use the existing crossover and access, assisting in minimising vegetation loss. Furthermore, the applicant has nominated to retain trees within the effluent disposal field, which has been counted as a total loss of vegetation. Overall, it is accepted that a net gain outcome could be achieved albeit that a portion of this offset would need to be provided on off-site.

**Dwelling design**

55. The location and design of buildings is important in influencing the landscape of rural areas, and Clause 22.04 (Siting and Design of Buildings and Works in Non-Urban Areas) pertains to the siting and design of dwellings. The proposed dwelling contains a high degree of architectural merit, and has sought to embrace elements such as siting, design and materials selection at the outset.
56. The dwelling and driveway, being located down below the level of Barreenong Road, will not create a dominant feature in the landscape in the view of anyone travelling along the street.
57. While the siting will involve a certain amount of cut and fill, with retaining walls to be built along the southern edge of the new driveway, and also adjacent to the lower ground floor of the proposed dwelling, these features create a limited degree of formality in the landscape. This is because the dwelling has been sited parallel with the contours of the land, and therefore requires reduced extent of earthworks.
58. The dwelling design has sought to minimise adverse impacts associated with its height and colours through the use of a flat roof profile, and materials and colour palette featuring clay brick, grey render, and glass balustrade.
59. The positive attributes of the architectural design of the dwelling and its siting on the land, nevertheless, do not outweigh the provisions of the planning scheme, and on balance the proposal does not produce an acceptable planning outcome.

**Response to objections received**

60. The written objections have raised a number of concerns with respect to the proposed development. Issues regarding construction of a dwelling on a lot smaller than the minimum lot size, loss of trees, vegetation and associated habitat, bushfire impacts have been discussed in earlier sections of this assessment. A response to those issues not previously discussed and addressed is included below.

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**Neighbourhood character – the proposed dwelling is contrary to the mudbrick dwellings typically found in the area**

61. In terms of dwelling design, it is not considered necessary to replicate the style of the mudbrick dwellings typically found in the area. Planning policies seek to ensure that dwelling design is sited having regard to the characteristics and topography of the land, and seeks to utilise muted tones and colours within the palette associated with the dwelling to ensure it blends within the natural environment.

**Traffic and associated dust pollution from the dirt roads will be exacerbated**

62. The addition of vehicles associated with one dwelling to existing traffic movements on Barreenong Road will be unlikely to cause significant levels of dust pollution.

**Additional access points to Barreenong Road will be steep, and located on a blind bend in the road, which may be dangerous**

63. Council's Infrastructure Development Unit has reviewed the proposal and has not raised any issues associated with the location or gradient of the proposed access points to Barreenong Road.

**The proposal does not have adequate car parking spaces**

64. In accordance with Clause 52.06 (Car Parking), before a new use commences (such as use of the land for the purposes of a dwelling) the requisite number of car parking spaces in accordance with Table 1 must be provided. Given that the proposal is for a three bedroom dwelling, a minimum of two car parking spaces must be provided. A separate double garage is included as part of the proposal, and therefore the requirements of this clause have been met.

**Setbacks – the proposed dwelling is too close to the road, creating a negative visual impact**

65. The proposed dwelling is setback a minimum of 11 metres from the road, and owing to the topography of the site, will sit below the level of the road. It has also been designed with a flat roof, and so is unlikely to cause a visual impact.

**Building logistics – building machinery and delivery trucks may cause erosion and impact on vegetation on the roadside**

66. Building logistics are a matter for the relevant builder and/or building surveyor to consider

**Impact on waterway of effluent disposal system**

67. The proposed effluent disposal system has been designed to adequately treat and contain wastewater from the proposed development, and it will therefore not impact upon the waterway.

**Loss of runoff and ability to fill farm dams associated with the development of the site**

68. While there will be some impact and reduction in runoff associated with the development of the site, it is unlikely to prohibit the farm dams from receiving runoff from the balance of the site outside the domestic zone.

**4. Officers' reports**

**FN.005/17 Use and development of the land for a dwelling, outbuilding (garage), associated earthworks and removal of native vegetation at 14 Barreenong Road, Cottles Bridge**

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**Conclusion**

69. The application seeks to use the site for the purposes of a dwelling, and undertake buildings and works associated with the construction of a dwelling, garage, and driveway, including removal of vegetation and earthworks. The application was advertised and two written objections were received. The key planning issues to consider relate to response to State and Local planning policy, extent of vegetation removal, bushfire management and dwelling design.
70. Despite the support of authorities dealing with bushfire and native vegetation, consideration must be given to Clause 10.04 (Integrated Decision Making) of the planning scheme which requires decision makers to endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.
71. On balance, the proposal fails to adequately respond to the policy expectations of the Rural Conservation Zone. While the granting of a planning permit for a dwelling would benefit the landowners, in the context of the relevant planning policy considerations and the broader community there would be a cost. State and Local planning policies consistently discourage residential development on small lots on non-urban land within the Green Wedge.
72. In light of the above planning assessment, the application warrants refusal, as reflected in the officer recommendation.

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**FN.006/17 Use and development of the land for a dwelling, construction of an outbuilding, native vegetation removal and driveway works at 2 Pigeon Bank Road, North Warrandyte**

**Portfolio: Planning**

**Distribution: Public**

**Manager: Jeremy Livingston, Acting General Manager Environment and Planning**

**Author: Katrina Ross, Senior Statutory Planner**

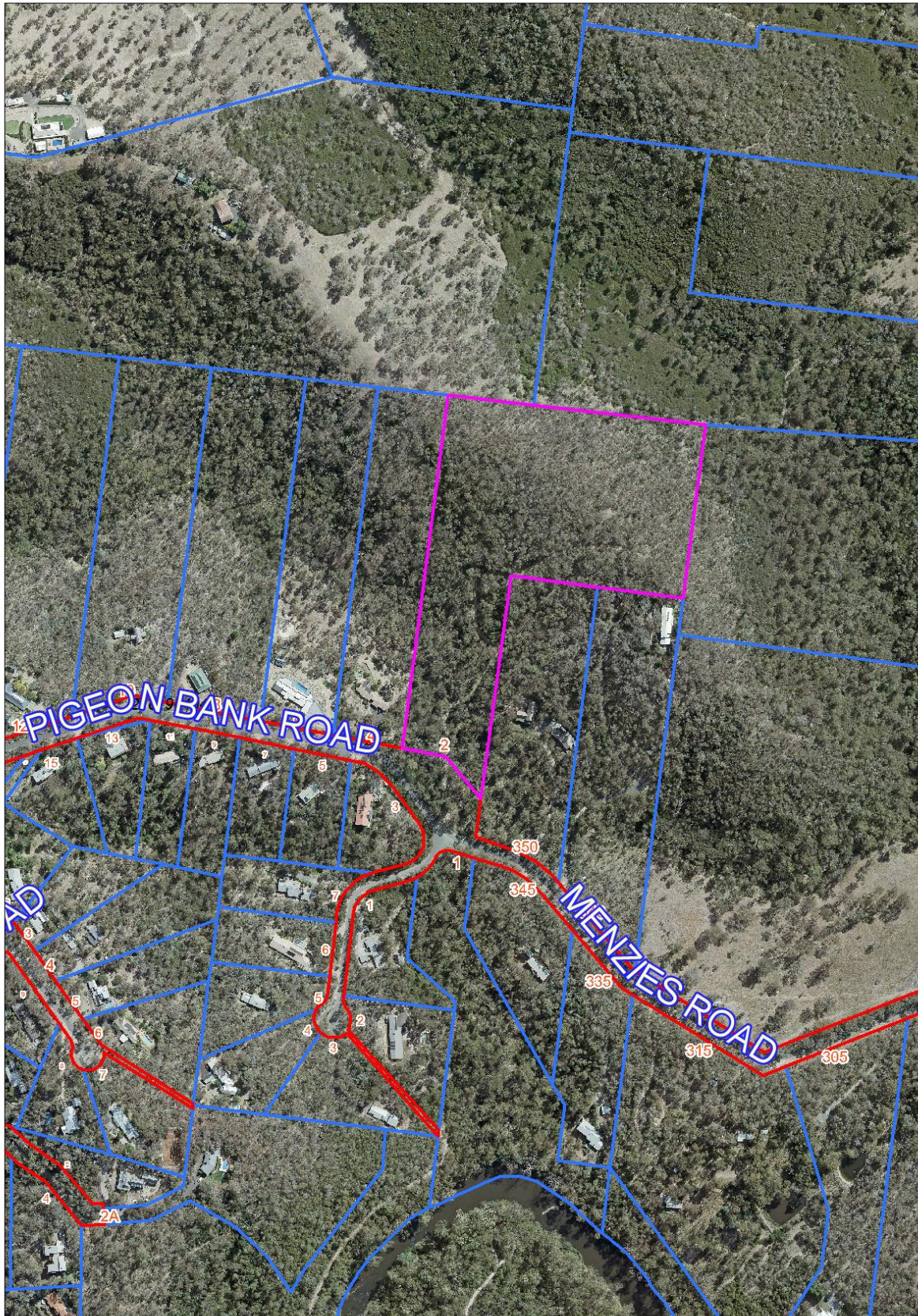
**Application Summary**

Address of the land	2 Pigeon Bank Road, North Warrandyte
Ward	Sugarloaf
Site area	5.3 hectares
Proposal	Use and development of the land for a dwelling, construction of an outbuilding, native vegetation removal and driveway works
Application number	120/2016/05P
Date lodged	11 March 2016
Applicant	Metropol Planning Solutions Pty Ltd
Zoning	Rural Conservation Zone (Schedule 3)
Overlay(s)	Bushfire Management Overlay Land Subject to Inundation Overlay – in part Environmental Significance Overlay (Schedule 1) – in part
Reason for being reported	Called in by Ward Councillor
Number of objections	One
Key issues	<ul style="list-style-type: none"> <li>• Consistency with use and development within policy framework and the purposes and design guidelines of the Rural Conservation Zone (Schedule 3)</li> <li>• Extent of native vegetation removal and modification</li> <li>• Dwelling design</li> <li>• Appropriate management of the bushfire risk</li> </ul>
Officer recommendation	Issue a Notice of Decision to Refuse to Grant a Permit

4. Officers' reports

**FN.006/17 Use and development of the land for a dwelling, construction of an outbuilding, native vegetation removal and driveway works at 2 Pigeon Bank Road, North Warrandyte**

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**4. Officers' reports**

**FN.006/17 Use and development of the land for a dwelling, construction of an outbuilding, native vegetation removal and driveway works at 2 Pigeon Bank Road, North Warrandyte**

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<b>Recommendation</b>
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**That the Committee (acting under delegation from Council) issue a Notice of Decision to Refuse to Grant a Permit to the land at 2 Pigeon Bank Road, North Warrandyte, for the use and development of the land for a dwelling, construction of an outbuilding, native vegetation removal and driveway works, on the following grounds:**

- 1. The proposed use of the land for a dwelling on a substandard sized lot is not consistent with the intended purpose and decision guidelines of the Rural Conservation Zone and the proposal does not seek to use the land to protect and enhance the environmental and landscape value of the site as found at Clause 35.06 of the Nillumbik Planning Scheme.**
- 2. The proposed use of the land for a dwelling on a substandard sized lot is not consistent with Clause 11.06-4 (Green Wedges), Clause 21.04 (Vision Strategic Framework), Clause 21.05-1 (Settlement and Housing) and Clause 21.05-2 (Rural Land Use).**
- 3. The proposal does not respond to the decision guidelines of the Rural Conservation Zone (Schedule 3) and Clause 22.04 (Siting and Design Policy for Buildings and Works in Non-Urban Areas) due to the level of site disturbance required for the construction of the dwelling, and the associated conservation and environmental impacts.**
- 4. The proposal has not adequately responded to the objectives and decision guidelines of the Bushfire Management Overlay and Clause 22.13 (Wildfire Management Policy) as the development of the land for a dwelling will pose a threat to life and property, is inappropriately sited, requires an impractical level of maintenance in light of the site's topographical features, and is deemed unsafe.**
- 5. The proposed development is not responsive to the objectives and decision guidelines of Clause 52.17 (Native Vegetation) in that the proposal has not adequately consider the role of native vegetation as both habitat, and playing a crucial role in minimising land degradation.**
- 6. The proposal has not adequately responded to the objectives and decision guidelines of the Environmental Significance Overlay (Schedule 1) in terms of the potential to detrimentally impact on the environmental values of the land due to the proposed vegetation removal.**
- 7. The proposal will not result in an acceptable planning outcome as outlined in the decision guidelines of Clause 65 (Decision Guidelines), having regard to the orderly planning of the area, the degree of fire hazard for the proposed development, the extent of vegetation proposed to be removed, and the potential land degradation and erosion.**



#### 4. Officers' reports

**FN.006/17 Use and development of the land for a dwelling, construction of an outbuilding, native vegetation removal and driveway works at 2 Pigeon Bank Road, North Warrandyte**

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#### Attachments

1. Subject site and surrounds
2. Plans 1 to 9

#### Subject site and surrounds

1. The key features of the subject land and surrounds are as follows:
  - The subject site is particularly described as Vol. 09166, Folio 382, Lot 3 on Plan of Subdivision 118615. There are no encumbrances on title and no easements are shown on the Title Plan.
  - The site is an irregular 'L' shaped property located on the north side of Pigeon Bank Road in North Warrandyte. It has an area of approximately 5.3 hectares and is accessed from the south-east corner of the site. A creek runs across the site, close to the access from the road.
  - The road reserve is quite deep across the site frontage, with the property line setback 20 to 40 metres from the road itself.
  - As addressed from Pigeon Bank Road, the topography falls into a small creek gully and then rises steeply towards the north.
  - The rear section of the site is the highest part of the land. A ridge runs diagonally from the north-west corner of the site to the south-east corner of the wider, rear part of the land.
  - The site does not feature any buildings and features intact remnant vegetation and as such could be described as a 'bush block'. Four different Ecological Vegetation Classes (EVCs) feature across the site due to it encompassing a creek gully and a ridgeline.
  - An existing gravel access way leads north from Pigeon Bank Road through the southern part of the site and then breaks sharply to the east, running across the fall of the land, to intersect with the low part of the ridgeline close to the east side of the lot.
  - The surrounding land is similarly undulating, featuring remnant vegetation that creates a vegetation link across all adjacent properties. The adjacent properties to the east and west are developed with a dwelling and have access from Menzies Road and Pigeon Bank Road respectively.
  - Two properties abut the northern boundary of the site: 65 Yeomans Rd is a large parcel of land (approximately 15 hectares in area) that is developed with a dwelling and has been substantially cleared. Similarly, 230 Menzies Road (approximately 10 hectares in area) has also been developed with a dwelling which is located close to the road and the rear part of the property is highly vegetated where it abuts the subject site.

#### 4. Officers' reports

**FN.006/17 Use and development of the land for a dwelling, construction of an outbuilding, native vegetation removal and driveway works at 2 Pigeon Bank Road, North Warrandyte**

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- Properties to the south-west of the subject site, across Pigeon Bank Road, are located within the Low Density Residential Zone and include dwellings on smaller lots.

#### Details of proposal

2. Refer to the attached plans.
3. Features of the proposal include:

##### Dwelling

- Use and development of the land for a single storey three-bedroom dwelling with a basement level and a large outbuilding.
- The dwelling and outbuilding are co-located near to the highest part of the land, which is found within the rear section of the property.
- The ground floor plan of the dwelling features two bedrooms with ensuites, a laundry, study, family room, meals area, kitchen, powder room and terrace.
- The basement comprises a bedroom, bathroom, cellar, and TV room as well as a 500,000 litre water storage tank. Two excavated 'courtyards' provide access to light for the basement level, with a courtyard located at each end of the dwelling. The basement level requires excavation to a depth of 3.1 metres below natural ground level.
- The dwelling is modern in style with a steeply pitched mansard-type roof form and will be constructed using stone clad walls, terracotta roof tiles and sandstone walls, with travertine stone paving for the terrace. The dwelling is proposed to have a maximum height of 6.64 metres.
- The dwelling is to be located in the north-east quadrant of the land, with the following setback distances from the closest boundaries:
  - North 94.8 metres
  - South 46.2 metres
  - East 46.0 metres
  - West 166.5 metres

##### Outbuilding

- The outbuilding is 160 square metres in area and will sit to the south-east side of the dwelling, separated by approximately 12 metres. The outbuilding has been designed in the same building form as the dwelling and will be able to accommodate four vehicles. The northern elevation of the outbuilding includes four roller doors. The outbuilding is proposed to be constructed of stone cladding with terracotta roof tiles. The garage doors are to be constructed of metal. The outbuilding is within 17.4 metres of the east boundary and 21 metres of the south boundary.

#### 4. Officers' reports

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##### **Earthworks**

- Retaining walls and batters are proposed to level the entire area surrounding the dwelling and outbuilding. This flat area straddles the ridgeline running through the centreline of the dwelling and outbuilding.
- A bridge and culvert is to be constructed across the creek near the front of the property.
- Detailed plans show re-construction of the existing access way with width dimensions and passing bays to meet CFA requirements.

##### **Vegetation removal**

- Removal of a total of 0.805 hectares (ha) of remnant native vegetation including:
  - Removal of most trees within 39 metres surrounding the dwelling.
  - Removal of trees along the existing access way in order to upgrade the access way and creek culvert.
  - Approximately 746 indigenous trees will be removed or lost in order to facilitate the proposal.
- The Offset and Land Management Plan provided for consideration presents that the application site is broken into management zones: the Construction and Domestic Zone (0.45ha) and the Fuel Modified Conservation Zone (0.51ha) which encompasses approximately 18 per cent of the total property area. The remaining 4.36ha is intended to be managed as a Bushland Conservation Zone.

##### **Planning history**

4. No previous planning permits have been issued for the site.

##### **Planning controls**

##### **Zoning**

5. The subject land is zoned Rural Conservation (Schedule 3) in accordance with the Nillumbik Planning Scheme. Under this zone (Clause 35.06), a permit is required for the use and development of land for a dwelling and associated outbuildings.

##### **Overlays**

6. The land is affected by the Bushfire Management Overlay. Under this overlay (Clause 44.06), a permit is required to construct a building, or construct or carry out works associated with accommodation.
7. The land is affected by the Environmental Significance Overlay (Schedule 1). Under this overlay (Clause 42.01), a permit is required to construct a building or construct or carry out works, and to remove, destroy or lop any native vegetation. Specifically, this overlay affects a small portion of the site, close to the south-west boundary near the frontage to Pigeon Bank Road.

**4. Officers' reports****FN.006/17 Use and development of the land for a dwelling, construction of an outbuilding, native vegetation removal and driveway works at 2 Pigeon Bank Road, North Warrandyte**

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8. The land is also affected by the Land Subject to Inundation Overlay. Under this overlay (Clause 44.04), a permit is required to construct or carry out works. Specifically, this overlay affects approximately 260 square metres of the south-eastern most corner of the site, following the creek and abutting the front property boundary.

**Particular provisions**

9. Clause 52.06 (Car Parking) applies to the application. This clause seeks to ensure that before a new use commences, there is the provision of an appropriate number of car parking spaces; that car parking does not adversely affect the amenity of the locality; and that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use. In accordance with Table 1 Car Parking Requirement of Clause 52.06, a three bedroom dwelling must provide a minimum of two vehicle parking spaces.
10. Under the provisions of Clause 52.17 (Native Vegetation), a planning permit is required to remove, destroy or lop native vegetation on land which, together with all contiguous land in one ownership has an area greater than 0.4 hectares. The purpose of this provision is to ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity.
11. Clause 52.47 (Planning for Bushfire) aims to ensure that development is only permitted if the risk to life, property and community infrastructure can be reduced to an acceptable level and to apply specific requirements for buildings, works and subdivision on land to which the Bushfire Management Overlay applies. If a planning permit is required pursuant to the Bushfire Management Overlay, all requirements of this clause must be met.
12. Clause 57 (Metropolitan Green Wedge Land) applies to all land outside an Urban Growth Boundary, and seeks to protect metropolitan green wedge land from uses and development that would diminish its agricultural, environmental, cultural heritage, conservation, landscape natural resource or recreation values. In accordance with the table of uses listed at Clause 57.01-1, the use of the land for the purposes of a dwelling is allowed if it is the only dwelling on the lot.
13. Clause 65 (Decision Guidelines) outlines general decision guidelines that must be considered when assessing an application. These guidelines include the purpose of the zone or other provision, the orderly planning of the area, and the effect on the amenity of the area.

**Relevant planning policies**

14. State Planning Policies which are relevant to this application include:
- Clause 11.04-6 Green Wedges
  - Clause 12.01 Biodiversity
  - Clause 12.04 Significant Environment and landscapes
  - Clause 13.05 Bushfire
  - Clause 16.02-1 Rural residential development

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15. The Local Planning Policies which are relevant to this application include:
- Clause 21.05-1 Settlement and Housing
  - Clause 21.05-2 Rural Land Use
  - Clause 21.05-3 Environment, Conservation and Landscape
  - Clause 22.04 Siting and Design Policy for Buildings and Works in Non-Urban Areas
  - Clause 22.13 Wildfire Management Policy

**Policy context**

16. When considered as a whole, the strategic policy context clearly discourages small-scale rural residential development. In particular, development which may have a detrimental impact on landscape and environmental values.
17. Within Melbourne's Green Wedge areas, strategic policies seek to protect environmental, landscape, and scenic values and the consolidation of new residential development within existing settlements.
18. Underpinning this is the Rural Conservation Zone, which is not a zone that encourages rural residential type development. There is no mention of residential development among the purposes of the Rural Conservation Zone. Indeed, the whole thrust of the Rural Conservation Zone provisions is focussed on the protection and enhancement of environmental, ecological and landscape attributes of the area. It emphasises that any development must be consistent with sustainable land management practices. Under this zone, all land uses are subordinate to the environmental values of the land, and the minimum lot size is tailored to suit the environmental features and values of the land.
19. These issues were tested at the Victorian Civil and Administrative Tribunal (VCAT) in the decision Masten Bennett and Associates v Nillumbik SC [2010] VCAT 90 (relating to a property in Buttermans Track, St Andrews) where the Tribunal acknowledged that even though much of Nillumbik is within the Rural Conservation Zone (Schedule 3), this should not create an expectation that such land is suitable for rural residential land use. In its decision, the Tribunal determined that the provisions of the Rural Conservation Zone (Schedule 3) seek to restrict the numbers and presence of buildings in rural areas, as the preservation of landscape is the overarching objective.
20. Moreover, in both State and Local planning policy, priority is given to ensuring that any new development in areas affected by the Bushfire Management Overlay avoids bushfire risk to people and property, with the State policy giving more weight to the protection of human life.

**Public consultation****Advertising**

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

**4. Officers' reports**

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**Objections**

22. As a result of advertising, a total of one written objection has been received. This objection can be summarised as follows:
- The neighbour seeks Council to review the requirements for vegetation removal in order to minimise the clearance of screening vegetation between the properties.
  - That the proposed dwelling be relocated further to the west away from the adjoining property.
  - That screen planting is planted along the shared boundary.

**Planning application conference**

23. No planning application conference was held for this application; however the applicant did provide a written response to the concerns raised by the neighbour, stating:

'With respect to the issues raised in the objection, we note that the dwelling constructed on the adjoining property is located in close proximity to the common boundary with our client's property (approximately 10 metres), therefore in their submission they are seeking to borrow amenity from our client's property by virtue of how close their dwelling is sited to this boundary, noting that the proposed dwelling and outbuilding are located considerably further from this common boundary.

The bushfire safety of this neighbouring dwelling will benefit significantly from the location of the proposed dwelling, given the vegetation management around the proposed dwelling.

The proposed dwelling is orientated to the north (over the other side of the ridge line) in terms of living areas and the primary activity areas surrounding this dwelling are located well away from the common boundary. There is sufficient space between the outbuilding and the common boundary (approximately 21 metres) to establish screening vegetation (of suitable species within a bushfire risk area – beyond the defensible space) to screen the outbuilding and dwelling from this adjoining property. Our client would be amenable to a permit condition to require screening vegetation to the satisfaction of Council or the neighbouring landowner and had discussed this some months ago with the neighbour.'

**Referrals**

**Internal**

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

4. Officers' reports

**FN.006/17 Use and development of the land for a dwelling, construction of an outbuilding, native vegetation removal and driveway works at 2 Pigeon Bank Road, North Warrandyte**

Council Unit	Comments
Sustainability and Environment Unit	<p>The extent of vegetation loss on this site as a result of the development will be extensive. Over 0.8 hectares of vegetation will be considered lost, which is a significant impact in this area. The site connects to core remnant habitat and an important habitat link along the Yarra River.</p> <p>The site is within Location A under Clause 52.17 (Native Vegetation) and if vegetation losses are less than 1 hectare it will be assessed under the low risk pathway. However, the applicant has provided the information requirements for the moderate risk pathway (associated with vegetation loss greater than 1 hectare). They have demonstrated how they have avoided and minimised impacts on vegetation, and demonstrated offsetting can be met.</p> <p>Nevertheless, the extent of vegetation, and therefore associated habitat loss will be significant.</p> <p>There are inconsistencies in the technical information provided, in particular relating to the extent of tree removal described in the arborist report, that described in the ecologist in the Practical Ecology report, and that described in the Biological Assessment Report. Therefore, a complete assessment of vegetation removal cannot be undertaken.</p> <p>Impact on the creek crossing is a concern. The submitted planning report provided states that the arborist has considered losses near the creek and construction detail is provided in the plans. The arborist has only identified tree loss along the extent of the driveway. Impacts on native vegetation (other than trees) has not been considered. The submitted Practical Ecology report has not considered any additional vegetation losses for the replacement of the culvert, the redirection of stream flows to feed into the culvert or the proposed passing bay.</p>
Consulting Arborist	<p>The site vegetation consists predominantly of mature <i>Eucalyptus</i> species with a grassy understorey. <i>Eucalyptus polyanthemos</i> (Red Box) and <i>Eucalyptus macrorhyncha</i> (Red Stringybark) are the dominant overstorey species.</p>

4. Officers' reports

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Council Unit	Comments
	<p>The site is broken into management zones in the Land Management Plan. The Construction and Domestic Zone (0.45 hectares) and Fuel Modified Conservation Zone (0.51 hectares) encompass approximately 18% of the total property area. The remaining 4.36 hectares is intended to be managed as a Bushland Conservation Zone.</p> <p>In total, 812 trees were identified and labelled in the Construction and Domestic Zone and the Fuel Modified Conservation Zone.</p> <p>Based on the revised Ecological Land Assessment and the arborist's impact statement submitted with the application, 746 indigenous trees will be removed or lost in order to facilitate the design – 724 trees are listed as lost in the Land Management Plan and an additional 22 trees not included in the Tree Census in the Land Management Plan are listed as lost in the arborist's letter.</p> <p>Within the proposed Construction and Domestic Zone and the Fuel Modified Conservation Zone, the proposed design will have a major impact on the landscape and require removal of a large number of trees. It is possible that impacts to existing vegetation will be higher than what has been tallied in the submitted Ecological Assessment.</p> <p>While the correspondence from the applicant states that higher value trees have been selected for retention, the arboricultural significance of assessed trees has not been provided by the arborist or ecologist and it cannot be confirmed if the proposed tree retention favours trees of high significance with high retention value.</p> <p>Regardless of the proposed design or retention value of assessed trees, it is expected that there will be substantial vegetation loss required to construct any dwelling on this property and meet defensible space requirements.</p>
<p>Infrastructure Development Unit</p>	<p>No concerns identified, however conditions requested on any permit issued relating to drainage and crossover and driveway construction.</p>



4. Officers' reports

**FN.006/17 Use and development of the land for a dwelling, construction of an outbuilding, native vegetation removal and driveway works at 2 Pigeon Bank Road, North Warrandyte**

Council Unit	Comments
Environmental Health Team	<p>The reticulated sewer has recently been declared available for connection and use in North Warrandyte.</p> <p>It has been confirmed with the applicant that the property owner intends to connect to the reticulated sewer and is aware that there will be significant costs to install, as they are located just outside of the sewer backlog area.</p> <p>Yarra Valley Water has confirmed that the site can be connected to the new sewer.</p> <p>Conditional consent has been provided with conditions to be included on any permit issued relating to connection to the sewer and entering into an agreement with Yarra Valley Water.</p>

**External**

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

Authority	Comments
CFA	<p>The CFA are satisfied that if all the requested conditions (to be included on any permit issued) are fully complied with then the risk to life and property from bushfire has been reduced to an acceptable level.</p> <p>Siting constraints limit the alternative siting opportunities to position the dwelling closer to the road.</p> <p>The proposed building exposure to the effects of bushfire is reduced to a satisfactory extent as the height of the dwelling above ground does not exceed 6.64 metres and is proposed to be constructed to BAL 40.</p> <p>The proposed access way (Drawings LC1284-C1 to C6, Issue P1, dated 04/01/2016 prepared by Lanigan Civil) demonstrates that access for fire fighting vehicles can be provided subject to the identified works being undertaken.</p>
Melbourne Water	No objection subject to conditions included on any permit issued.

**4. Officers’ reports**

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Authority	Comments
Department of Planning Water and Environment (DELWP)	No objection subject to conditions included on any permit issued.

**Planning assessment**

**Introduction**

- 26. The provision of a dwelling on this site presents a range of challenges. The site is located outside the Urban Growth Boundary and as indicated by the inclusion within the Bushfire Management Overlay, it is subject to bushfire risk. The land contains habitat of very high conservation significance. In the face of these challenges, a proposal for use and development must present an overall benefit when considered as a whole.
- 27. The following have been identified as the key planning issues in relation to the assessment of this planning application:
  - Consistency with use and development within the policy framework and the purposes and decision guidelines of the Rural Conservation Zone (Schedule 3)
  - Extent of native vegetation removal and modification
  - Dwelling design
  - Appropriate management of the bushfire risk.
- 28. Assessment of these issues, together with a response to objections received, will be discussed in the remainder of this report.

**Consistency with use and development within the policy framework and the purposes and design guidelines of the Rural Conservation Zone (Schedule 3)**

- 29. The State and Local planning policies provide guidance as to what is intended in this part of Green Wedge land (located outside the Urban Growth Boundary). The subject site is located within the Green Wedge (as identified by State policy), which seeks to protect these areas from inappropriate development, and to protect areas of environmental, landscape and scenic values. The policies acknowledge that a balance must be struck in the interests of net community benefit and sustainable development.
- 30. Clause 11.04-7 (Green Wedges) is relevant to the application, and the objective of this provision is to protect green wedges of metropolitan Melbourne from inappropriate development. This is to be achieved by: supporting development in the Green Wedge that provides for environmental, economic and social benefits; consolidating new residential development within exiting settlements and in locations where planned services are available and green wedge areas can be protected; and, protecting areas of environmental, landscape and scenic value. These objectives are reinforced through the provisions of Clause 57 (Metropolitan Green Wedge Land).

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31. While the Rural Conservation Zone allows the consideration for the use of the land for a dwelling, it is not a zone that encourages residential-type development. The zoning contains seven purposes, none of which list rural living as a primary purpose of the zone. As such, when an application is made, the application must be considered against the entire suite of planning policy in the planning scheme to determine whether the introduction of the use is appropriate.
32. A review of the relevant sections of the planning scheme finds that the outcomes sought in the planning scheme discourage inappropriate development in rural areas and emphasise objectives to enhance environmental and landscape objectives. To this end, the Rural Conservation Zone (Schedule 3) adopts a minimum lot size of 8 hectares for development of land for the purposes of a dwelling. The subject site has an area of 5.3 hectares, which is below the minimum lot size.
33. The VCAT decision in *Beaton v Nillumbik SC* [2013] VCAT 2130 (relating to land at Buttermans Track, Christmas Hills) determined that there was no basis for an applicant to assume that because the land is already a small lot, that a dwelling is an acceptable use and should be permitted, subject to all other matters (such as building siting, bushfire, vegetation and wastewater management) being satisfied.
34. Clause 16.02-1 (Rural Residential Development) is the State planning policy for identifying suitable land for rural living and rural residential development. Relevant strategies of this policy include: to manage development in rural areas to protect agriculture and avoid inappropriate residential development; encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made; ensure planning for rural living avoids or significantly reduces adverse economic, social and environmental impacts by protecting existing landscape values and environmental qualities such as water quality, native vegetation, biodiversity and habitat and discouraging development of isolated small lots in rural zones from use for rural living or other incompatible uses.
35. With respect to Local planning policy, Clause 21.05-2 (Rural Land Use) states that it is important to limit the fragmentation of land in rural areas by ensuring land use changes do not have an adverse impact on the landscape and strategic environmental values of the land.
36. Clause 21.05-3 (Environment, Conservation and Landscape) strategies include: protecting areas of environmental significance, by restricting land uses and development that may adversely impact on native flora and fauna; encouraging siting and design of dwellings that avoids the need to remove native vegetation and ensure development proposals address the native vegetation framework; and to restrict sensitive uses, such as dwellings in an area of bushfire risk.
37. These issues were discussed by VCAT in *Weingartner v Nillumbik SC* [2016] VCAT 1359 (relating to land at Overbank Road, Eltham) which pointed out that the Rural Conservation Zone is one of the suite of rural zones, and it is not within the group of residential or rural residential zones. None of the six Rural Conservation Zone purposes make reference to residential or housing development, and all to a greater or lesser extent have an environmental and landscape focus.

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38. In this VCAT decision, the Tribunal went on to find that the key themes or directions that emerge from a review of the relevant planning policies and zone and overlay controls, are that Green Wedge land is to be protected from use and development that would diminish its environmental, conservation, and landscape values, and residential development is to be contained within existing urban zones on land within the Urban Growth Boundary. Specifically, the tribunal stated in this decision (at paragraph 28) that:
- Development on small rural lots below the zone minimum is to be limited, unless exceptional circumstances exist.
  - Continued development of dwellings in green wedge areas undermines the values and characteristics of the green wedge/ non-urban areas.
  - Development of isolated small lots in rural zones for rural living or other incompatible uses is discouraged.
39. At a size of 5.3 hectares, the subject site is 'substandard' as the Rural Conservation Zone (Schedule 3) requires lots to have a minimum lot size of 8 hectares. Compounding the limited lot size, balance must be struck between the construction of the dwelling, vehicle access, achieving the CFA vegetation management conditions, and protecting the conservation and landscape values of the site. Additional constraints include the steep topography, a steady cover of indigenous vegetation, a creek gully, limited flat area and a narrow section of the site that is not wide enough to accommodate the defensible space requirements.
40. It is acknowledged that some of the surrounding lots are 'substandard' in size and most have previously been developed with dwellings. However, much of this development would have occurred under a different set of planning controls. It is also worth noting that the site borders an area where the majority of lots do meet the minimum subdivision size of 8 hectares, including areas to the north and east.
41. On balance, when considering both the entire suite of policies that set objectives that must be considered for rural residential development along with the commentary from recent VCAT decisions as outlined above, it is considered that approval should not be granted in a planning policy context.

**Extent of native vegetation removal and modification**

42. The site is subject to Clause 52.17 (Native Vegetation) as the lot is greater than 0.4 hectares and native vegetation is proposed to be removed. A small portion of the site, along the southern boundary is affected by the Environmental Significance Overlay (Schedule 1). The purpose of Clause 52.17 is to ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. The purpose of Clause 52.17 is also to protect and conserve native vegetation to reduce the impact of land and water degradation and provide habitat for plants and animals. The need to remove, destroy or lop native vegetation to create defensible space to reduce the risk of bushfire to life and property, having regard to the other available bushfire risk mitigation measures, and managing native

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vegetation to preserve identified landscape values are also considerations under Clause 52.17.

43. Given the lack of any cleared area on the site, and the need to meet bushfire risk objectives for defensible space and access, the proponents are limited in the options available for the siting of a dwelling.
44. The main environmental impact of this proposal is the extent of vegetation to be removed and modified not only for the dwelling and outbuilding, but also for the defensible space and driveway upgrade required by the CFA. Approximately 746 trees are proposed to be removed or considered lost and the vegetation loss and impacts fall within the four Ecological Vegetation Classes (EVCs) (Habitat Zones).
45. The application at hand is seeking to introduce a new dwelling use on the land. In order to achieve that the development area for the construction of the dwelling is to be cleared and in addition to that, an area of 39 metres surrounding the dwelling in every direction will need to be mostly cleared to ensure that the appropriate level of defensible space can be provided for bushfire management purposes. This will result in the removal of 746 native trees to facilitate this development which equates to an area that is 91.5 metres wide by 102 metres in length being cleared. The removal of this level of vegetation is considered significant and will have an adverse impact on the site's landscape and environmental values as well as impacting the wider area's landscape values.
46. This level of vegetation removal and extent of site impacts for a single dwelling does not align with the policy objectives that are outlined earlier in this assessment. The removal of this level of vegetation would create a substantial change to the landscape character and environmental values of the site. While the argument put forward by the applicant is that the dwelling location will be well set back from the road, and therefore there would be minimal change to the landscape character of the area, the removal of this level of vegetation will be able to be seen from across the valley due to the location of the development on the ridgeline.
47. Clause 52.17 (Native Vegetation) requires consideration with regard to the proposed removal of significant numbers of trees from within the defensible space around the proposed dwelling and outbuilding, and also from along the widened access way. These areas are shown in the submitted Practical Ecology Report (September 2016) - Maps 3a and 3b.
48. Remnant vegetation across the site occurs in four Habitat Zones:
  - EVC22 – Grassy Dry Forest
  - EVC23 – Herb-rich Foothill Forest
  - EVC47 - Valley Grassy Forest
  - EVC126 - Swampy Riparian Complex.

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49. Swampy Riparian Complex is present along the waterway, Herb-rich Foothill Forest on the southern slopes, Valley Grassy Forest on the northern slopes and Grassy Dry Forest on the upper hilltops. Valley Grassy Forest has a Bioregional Conservation Status of Vulnerable and Swampy Riparian Complex has a status of Endangered. The other two Ecological Vegetation Class statuses are rated as 'Least Concern'.
50. The submitted Practical Ecology assessment identifies that approximately 90 per cent of the proposed development and defensible space is located within the Grassy Dry Forest, with a small section within the Herb-rich Foothill Forest. Driveway works will affect vegetation in the Swampy Riparian Complex and also the Herb Rich Foothill Forest. This is shown on Map 2 of the Practical Ecology report.
51. The Habitat Assessment (Table 5) within the Practical Ecology report finds that the site is rated as having a High Conservation Significance for Vulnerable (VROTS) species including the Brush Tailed Phascogale and Powerful Owl. These species have a high and high-medium likelihood respectively of occurrence at the site.
52. There are inconsistencies between the technical report prepared and submitted by the project Arborist (Galbraith, dated 2 Aug 2016), the Practical Ecology report (dated 20 September 2016) and the Biodiversity Assessment Report (BAR), therefore a complete assessment cannot be undertaken.
53. Council's Sustainability and Environment Unit has reviewed the reports and proposed plans and advised in the updated referral (20 October 2016) that:
- Approximately 746 trees are proposed to be removed or considered lost.
  - There are anomalies between the Practical Ecology Report and the Arborist report (Galbraith) in regard to tree losses. Practical Ecology considers Tree Nos. 1473, 1472, 135, 169 as lost, however Galbraith does not.
  - Galbraith considers Tree Nos. 137A, 133, 1478A-G (7 trees) and 133 (dead but has a DBH >40cm so must be considered) as lost, but the Practical Ecology report does not. Trees Nos. 137a and 1478A-G are located near the front boundary.
  - The Biodiversity Assessment Report (BAR) does not seem to accurately identify the patches of vegetation removal associated with driveway widening.
  - The impact on native vegetation other than trees caused by the widening needed for the access way where close to the creek crossing has not been assessed.
54. In summary, the Sustainability and Environment Unit advises that the extent of native vegetation removal proposed is extensive. Over 0.8 hectares will be considered lost. The site connects to an important habitat corridor along the Yarra River and the loss of the vegetation will fragment the corridor and reduce habitat areas.
55. The vegetation to be lost comprises 0.805 hectares of vegetation within 4 EVC classes comprising:
- One hundred per cent vegetation loss within the proposed paved area which surrounds the dwelling and outbuilding.

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- Loss of all but 19 trees within the defensible space.
  - Combined, this totals the loss of approximately 711 trees associated solely with the dwelling site.
  - Loss of 31 trees within the subject site, plus five within the road reserve associated with the access way upgrade.
56. A close reading of the submitted Lanigan Civil drawings for the accessway construction indicates that the area of vegetation removal associated with passing area two located at the creek crossing appears to be underestimated within the Biodiversity Assessment Report at 30 square metres. The required total width is 6 metres, with an apparent increased width of 3 metres x 20 metres length. This is 60 square metres, or double the area shown in the submitted Biodiversity Assessment Report.
57. Whilst the application has been supported by the Department of Environment, Land, Water and Planning (DELWP), a more holistic assessment of the application reveals that the development does not satisfy the objectives of Clause 52.17 (Native Vegetation) and the Environmental Significance Overlay (where it applies) as the proposal will:
- Result in the loss of at least 0.805 hectares of remnant indigenous vegetation including at least 0.005 hectares from within an Endangered EVC and 0.793 hectares from within a Vulnerable EVC.
  - Require extensive habitat loss within a habitat corridor.
  - Remove habitat of High Conservation Significance for two Vulnerable (VROTS) species, the Brush Tailed Phascogale and Powerful Owl, which have a high and high-medium likelihood of using the site.
58. Overall, the proposed development, associated works and vegetation removal will have a detrimental impact on the faunal and habitat values of the land, and therefore is not considered to be consistent with the decision guidelines of Clause 52.17 (Native Vegetation) and the Environmental Significance Overlay (Schedule 1).

**Dwelling design**

59. Both the decision guidelines of the Rural Conservation Zone and Clause 22.04 (Siting and Design Policy for Buildings and Works in Non-Urban Areas) require responsible authority to consider the design and siting of the proposed dwelling on the site.
60. A key objective of Clause 22.04 is:
- To encourage the appropriate and respectful siting and design of dwellings and other buildings in rural areas to minimise landscape and habitat impacts, avoid erosion, areas liable to flooding and other offsite effects and best prepare for potential fire risk.

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61. It is policy that:

- The siting of buildings (including dwellings, sheds, utility services and other structures) on hilltops and/or ridgelines should be avoided and will be discouraged. Buildings on hilltops/ridgelines should only be considered when it can be demonstrated that a building will be sited and designed so that it will be adequately screened from other properties and roads so not to be prominent in the landscape;
- Buildings should be located wholly below the alignment of ridgelines to ensure silhouetting against the skyline does not occur and to allow buildings to blend into the natural landscape with the elevated ridgeline providing the appropriate backdrop;
- Earthworks should not increase the potential for erosion;
- Building profile and form should respond to the topography on which the building is sited and the need for cut and fill should be minimised.

62. The subject land is naturally constrained by steep topography, a steady cover of indigenous vegetation and its shape, with the steepest part of the land being within the narrow section of the lot running north-south. These natural constraints limit the available options for siting of a dwelling.

63. The proposed dwelling has been located on the land to take advantage of the limited available area that is relatively flat; namely the ridgeline that is found well towards the rear of the lot. The proposed dwelling is to be located fairly close to the east boundary, and as such will be relatively close to the dwelling to the east that is located slightly lower on the same ridgeline.

64. The extent of vegetation removal required to satisfy the defensible space requirements is extensive and involves tree removal from the north and south sides of the ridgeline as well as from the eastern slope. While the dwelling may be well setback from the road, it will be positioned close to the highest point of the lot with just a scattering of trees within proximity. This is contrary to Council's siting and design policy at Clause 22.04, which seeks that buildings be set below ridgelines to ensure that dwellings do not become landscape features when viewed from a distance. Notwithstanding the fact that the proposed dwelling is single storey, it is likely that the siting, the extent of denuded paved area and the reduced tree cover in the immediate surrounds, will combine to result in the dwelling and outbuilding appearing as a prominent element in the landscape when viewed from a distance.

65. The depth of the cut and fill proposed to provide a flat area for the dwelling and outbuilding and terrace is not excessive. However, the siting straddles a ridgeline and the area to be cut and filled is extensive at approximately 1,500 square metres. A combination of retaining walls and batters are proposed to enable the flat area to be provided. The proposed works in order to create this extensive flat area for siting of the dwelling and outbuilding is not considered to respect the topography of the land and will result in a prominent development footprint on a ridgeline that does not minimise cut and fill. The actual empirical size of the dwelling is not an issue per se,



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rather it is the impact of the large area that needs to be cut and filled that raised concern. Given the planning controls and policies that affect the site, the scale of the dwelling, outbuilding and level area is considered unacceptable.

66. Clause 22.04 also identifies policy objectives that earthworks should not increase the potential for erosion. This area of Nillumbik has shallow, light grey loams over clay that are highly erodible. The impacts of potential erosion that may result from the extent of proposed vegetation removal to create and maintain the defensible space are likely to be pronounced. Vegetation, including trees, play a crucial role in binding soil, and leaf litter provides a natural mulch that limits erosion. Removing 90 per cent of the trees from this area is highly likely to modify the ground conditions to cause an increase in erosion leading to sedimentation impacts on the creeks in the gullies below. The earthworks themselves are likely to result in drainage and erosion issues and modify the drainage and sedimentation on the site from the extensive cut and fill required. The earthworks needed to create and maintain the passing bay along the access way at the creek crossing are also of concern with regard to erosion and impacts on creek quality.
67. The proposed building materials and colours for the dwelling are generally natural, non-reflective, earthy and in muted tones and meet the relevant policy at Clause 22.04.

**Appropriate management of the bushfire risk**

68. The submitted Bushfire Management Overlay Assessment (prepared by John Burke of BAL Assessments, dated 21 October 2015) indicates a BAL-40 rating would be required for the proposed dwelling. A defensible space to a distance of 39 metres is specified, together with a static water supply of 10,000 litres for firefighting purposes. A Fire Truck Access Management Report has also been provided (CTE Associates, undated).
69. The bushfire attack level rating, vegetation management and access has been accepted by the CFA who have provided no objections to the proposal, subject to permit conditions. The CFA has indicated that the proposed upgrades to the access way shown on plans prepared by Lanigan Civil will meet the requirement for access and that the short section of access way, despite it being a steeper grade than the standard, is acceptable.
70. State Planning Policy at Clause 13.05 (Bushfire) has the two overarching strategies:
- Prioritise the protection of human life over other policy considerations in planning and decision-making in areas at risk from bushfire.
  - Where appropriate, apply the precautionary principle to planning and decision-making when assessing the risk to life, property and community infrastructure from bushfire.
71. Notwithstanding the support of the CFA, a holistic assessment of this application suggests that use of the precautionary principle in Clause 13.05 (Bushfire) should be applied to the assessment of risk to life, property and community infrastructure from bushfire.

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72. The local Wildfire Management Policy at Clause 22.13 has the following objective:
- To avoid intensifying local wildfire risk to people and property through inappropriately located, designed or managed uses or developments.
- It is policy to:
- Encourage safe siting and design of buildings in locations where the impact on the environment is minimal.
73. The environmental impact will be extensive, and as discussed previously, the extent of vegetation removal that is required to create defendable space will equate to 0.8 hectare, and includes the loss of 746 trees.
74. The policy also strongly discourages the siting of buildings on north or north-west facing slopes, particularly steeper slopes. The subject site slopes to the north, with some sections as steep as 18 to 19 degrees and accordingly, planning policy directs that buildings not be located on this land.
75. Both Clause 13.05 (Bushfire) and Clause 52.47 (Planning for Bushfire) discuss the need for the measures undertaken within a site for bushfire mitigation to be practically implementable and manageable:
- Bushfire protection measures, including the siting, design and construction of buildings, vegetation management, water supply and access and egress can be readily implemented and managed within the property (Clause 13.05-1).
  - Whether the proposed measures can be practically implemented and maintained in conjunction with the ongoing use of the land (Clause 52.47).
76. The policy requires the responsible authority to consider the need to balance the protection of natural environmental values with bushfire protection objectives.
77. Aside from the issue of the vegetation removal to create defendable space, the practicality of maintaining vegetation on slopes between 18-19 degrees must also be considered. Maintenance of the defendable space in the manner required by the CFA is central to the implementation of bushfire protection measures. These measures include continuous management of the land. With few level areas anywhere on the subject site, it is steep and difficult land to walk over and manage.
78. The support from the CFA also requires the accessway being upgraded to allow for fire vehicle access, with passing bays provided. The requirements are specific: all weather construction, load limit of 15 tonnes, width of 3.5 metres, clear of encroachment 4 metres high, 20 metres long passing bays with minimum width of 6m. These requirements are met, as shown on the Lanigan Civil drawings.
79. The benefit to the property owner from the construction of this dwelling does not outweigh the risk of providing a dwelling with less than satisfactory defendable space.

**Response to objections received**

80. The written objection raised a number of concerns with respect to the proposed development. A response to those issues not previously discussed and addressed is included below.

**4. Officers' reports**

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**The neighbour seeks Council to review the requirements for vegetation removal in order to minimise the clearance of screening vegetation between the properties.**

81. The Bushfire Management Overlay and Clause 52.47 (Planning for Bushfire) are State planning policies that provide the parameters that determine the vegetation removal required in order to create acceptable defendable spaces areas. While the CFA is a 'Recommending' referral authority for a single dwelling application, rather than 'Determining', the responsible authority must ensure that the requirements of the planning scheme are met when considering any application.

**That the proposed dwelling be relocated further to the west away from the adjoining property.**

82. As detailed earlier in the report, the applicant's response details that the proposed dwelling is located much further from the shared boundary than the objector's dwelling.

**That screen planting is planted along the shared boundary.**

83. The provision of screen plants along the shared boundary, while located outside of the defendable space for the proposed dwelling, would be located within 10 metres of the adjoining dwelling, which could provide an unacceptable safety risk and as such is not supported.

**Conclusion**

84. The application seeks to use and develop the land for a dwelling. The application has attracted 1 written objection. The key planning issues to consider relate to response to State and Local planning policy, extent of vegetation removal, bushfire management and dwelling design.
85. The subject site presents difficulty from a bushfire perspective, with complex and steep topography and is located within an environmentally sensitive area which culminates in challenges to the management of fire risk. Assessment of this application requires the balancing of various planning scheme objectives. The Rural Conservation Zone requires a permit for the use and development of the land for a dwelling, the Environmental Significance Overlay (on part of the land) seeks to retain and enhance the vegetation on part of the site, and Clause 52.17 (Native Vegetation) has in itself the competing purposes of seeking to minimise the loss of native vegetation to ensure ongoing biodiversity while managing vegetation near buildings to reduce the threat to life and property from bushfire. The Bushfire Management Overlay seeks appropriate building construction and vegetation management (defendable space) having regard to the protection of people and property against bushfire risk.

4. Officers' reports

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86. Whilst the CFA, DELWP and Melbourne Water have supported the application (subject to conditions on any permit issued), the proposal results in an unacceptable degree of fire hazard for people and property and involve a significant impact on the environmental and landscape values of the land. In addition, the extent of proposed earthworks, site disturbance and vegetation removal is excessive having regard to the development's faunal and habitat significance, and the likely extent of land degradation. Having assessed all of these planning considerations and given the bushfire, topographical and environmental constraints of the site, the proposal is deemed to be inappropriate.
87. In light of the above planning assessment, the proposal is not supported.

#### 4. Officers' reports

**FN.007/17 North Link Membership**

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**Portfolio: Economic Development and Marketing**

**Distribution: Public**

**Manager: Jeremy Livingston, Acting General Manager Environment and Planning**

**Author: Darko Popovski, Coordinator Tourism and Business**

#### Summary

Council received an invitation to join with other northern metropolitan councils in becoming a financial member of North Link. Council has been an active participant in North Link activities including economic development and industry research, networking events and business awards program.

North Link is a regional partnership of industry, education and government. It's a business network and regional economic development advocacy group representing Melbourne's northern region comprising the cities of Banyule, Darebin, Moreland and Whittlesea as financial members.

North Link successfully manages the region-wide Northern Business Achievement Awards (NBAA) program, which celebrates business excellence in the region and of which Nillumbik Shire is an integral part.

By joining North Link as a financial member, Nillumbik will directly benefit from future policy and advocacy initiatives, economic development research, industry capability building and job creation programs to further local opportunities for our businesses and communities refer Attachment 1.

#### **Recommendation**

**That the Committee (under delegation from Council) approves in principle Council membership of North Link for a four year commitment period commencing 1 July 2017, subject to annual budget considerations.**

#### Attachments

1. North Link Membership Letter

#### Background

1. North Link was established in 1995 to provide:
  - Sustainable regional economic growth and employment
  - Regional advocacy for infrastructure and investment attraction
  - Regional marketing and promotional activities
  - Regional economic and industry research
  - Assistance to industry to improve business productivity and exporting capability.

**4. Officers' reports**

**FN.007/17 North Link Membership**

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**Policy context**

2. This report directly supports the achievement of Council Plan 2013-2017 strategy:
  - We will maintain regional partnerships that enhance opportunities for our local businesses.

**Budget implications**

3. The annual fee of \$7,500 covers membership of North Link. This is a discounted rate recognising Nillumbik's small shire status. There are additional minor costs associated with the delivery of selected North Link projects within our municipality.
4. Ongoing budget implication for the membership will need to be considered in future budgets. Consideration will also need to be given to additional staffing resources for ongoing partnership programs.
5. The membership provides in-principle support to North Link for the four year term, and recognises that member councils are committed to applying for North Link membership fees in their annual budget process.

**Consultation/communication**

6. Awareness of North Link and its collaborative work is reaching the Nillumbik business community through the regional awards participation, economic development research papers and job placement programs. Business groups and community members have expressed encouragement for Council to join North Link and strengthen its advocacy and marketing activity.

**Issues/options**

7. North Link aims are to ensure that Melbourne's north achieves sustainable growth at least equal to that of the rest of Melbourne and Australia. This aligns closely with our goal to develop a prosperous local economy through partnerships with local business, governments and the community.
8. Over last five years, as non-financial member, Council was active participant in the following North Link programs and initiatives:
  - The development of 'Northern Horizons' 50 Year Infrastructure Strategy for Melbourne's North and the 'Future Workforce' Melbourne's North Report.
  - Northern Business Achievement Awards program.
  - Industry tours such as Melbourne Synchrotron, Melbourne Nanotechnology Centre and CSIRO innovation, research and development facilities.
  - The production of a draft regional Investment Attraction Prospectus.
  - Job placement programs.
9. In 2015, with the support from North Link, Nillumbik Shire Council received funding from the Regional Development Australia Northern Metropolitan region to conduct the Feasibility Study for the establishment of Business Incubator in Nillumbik.
10. Given its long experience in crafting regional economic development strategies, North Link can assist Council in aligning with and drawing benefit from regional and State priorities as it develops its new Economic Development Plan 2017-2021.

**4. Officers' reports****FN.007/17 North Link Membership**

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**Partnership benefits for Council**

- North Link provides a forum for cooperation to take place and to identify and undertake mutually beneficial activities on behalf of key regional stakeholders.
  - Policy advocacy and additional influence at a Federal, State and regional level such as the high speed broadband advocacy and major infrastructure projects.
  - Industry research for economic outcomes such as the 'Northern Horizons' strategy.
  - The production of a Regional Investment Attraction Prospectus, designed to bring investment to Melbourne's North.
  - Other investment attraction programs including attracting direct commercial and industrial investment but also social and cultural infrastructure to drive the visitor economy.
  - Capability building through various projects and initiatives such as the high speed broadband project designed to connect clusters of businesses to existing fibre optic cable ahead of the NBN rollout.
  - Significant experience in the workforce upskilling space, successfully managing programs that have built the capability of Melbourne's North as a region.
  - Experience in business innovation, including establishing and supporting business incubators.
11. North Link also offers the benefit of association, with its senior membership and board consisting of representatives from region's local governments, the four Northern tertiary institutions and major businesses. North Link also has nearly 5,000 SMEs stakeholders in the region and sponsor relationships with Telstra, Energy Australia, the Victorian Government and AusIndustry.
12. Finally, North Link also delivers the regional Northern Business Achievement Awards in partnership with industry, education, local and state government and decision makers across Melbourne's north for those seeking to do business in the region. They recognise the business achievements of SMEs and encourage business excellence, growth and competitiveness.

**Environmental implications**

13. Being involved in regional projects through North Link will also assist in implementing some actions in Council's Climate Change Action Plan and the new Economic Plan 2017-2021.

**Social and cultural implications**

14. There are additional beneficial social impacts from becoming a member of North Link. By working with the business community to address some of the infrastructure issues affecting the Shire, Council is supporting a number of health and wellbeing outcomes including more local jobs, education and health services.

**4. Officers' reports**

**FN.007/17 North Link Membership**

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**Economic implications**

15. Membership of North Link including the implementation of various economic development projects will positively impact on participating businesses, supporting business growth and providing reputational benefits to businesses.

**Conclusion**

16. North Link will provide a forum for advocacy, broader research capability and small business support to assist Council work and to drive economic activity both within the Shire and region-wide in order to create opportunities for local residents and businesses, and address other economic development issues impacting on the prosperity and wellbeing of our communities.
17. This report recommends that Council joins North Link as financial member for a four year period commencing 1 July 2017.



**4. Officers' reports**

**FN.008/17 Provision of Integrated Home and Community Care Services**

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**Portfolio: Community Services**

**Distribution: Public**

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**Summary**

This report considers the awarding of a two year contract for the Provision of Integrated Home and Community Care Services (HACC). The contract involves the delivery of Domestic Assistance, Personal Care, Respite Care and Property Maintenance.

The tender evaluation panel has assessed all submissions and a separate confidential report to this meeting outlines their evaluation in recommending the awarding of the contract for the Provision of Integrated Home and Community Care Services.

Pursuant to the Instrument of Delegation to the Chief Executive Officer the value of this contract exceeds the specified financial limits and a Council resolution is therefore required to award the contract.

**Recommendation**

**That the Committee (acting under delegation from Council):**

- 1. Notes the report.**
- 2. Makes public the decision regarding the contract but the tender evaluation remain confidential.**

**Attachments**

Nil

- 5. **Supplementary and urgent business**
- 6. **Confidential reports**

The meeting may be closed to members of the public to consider confidential matters.

**Motion**

**That the Committee closes the meeting to the public pursuant to section 89(2) of the *Local Government Act 1989* to consider the following items, which are confidential for the reasons indicated:**

<b>Report No.</b>	<b>Title</b>	<b>Reason for confidentiality</b>
FN.009/17	Provision of Integrated Home and Community Care Services	(d) contractual matters