

**Cardinia Planning Scheme Amendment C257card  
Woodland Grove Precinct**

**Panel Report**

*Planning and Environment Act 1987*

**29 July 2021**

**How will this report be used?**

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

*Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the PE Act

Cardinia Planning Scheme Amendment C257cardcard

**29 July 2021**



Michael Ballock, Chair

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## Glossary and abbreviations

Council	Cardinia Shire Council
DDO	Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
DPO	Development Plan Overlay
GRZ	General Residential Zone
MSS	Municipal Strategic Statement
PE Act	<i>Planning and Environment Act 1987</i>
PPN23	Planning Practice Note 23 - Applying the Incorporated Plan and Development Plan Overlays
Structure Plan	Beaconsfield Structure Plan, December 2013
VCAT	Victorian Civil and Administrative Tribunal

## Overview

### Amendment summary

The Amendment	Cardinia Planning Scheme Amendment C257cardcard
Common name	Woodland Grove Precinct
Brief description	The Amendment proposes to implement the key objectives and strategies of the Beaconsfield Structure Plan, December 2013, expires 31 December 2021 (Structure Plan), by applying a Development Plan Overlay (DPO25) to the Woodland Grove Precinct identified in the Structure Plan
Subject land	53-56, 67-71, 73-75, 81, 83, 85 and 87 Woods Street, Beaconsfield
The Proponent	Cardinia Shire Council
Planning Authority	Cardinia Shire Council
Authorisation	By letter dated 19 November 2020
Exhibition	11 February to 12 March 2021
Submissions	Number of Submissions: 5 Opposed: 1 <ul style="list-style-type: none"> <li>- Campbell Leonard</li> <li>- Department of Transport</li> <li>- Environment Protection Authority</li> <li>- Norman Harold Gengoult Smith</li> <li>- Ann Taylor</li> </ul>

### Panel process

The Panel	Michael Ballock (Chair)
Directions Hearing	By video conference 25 May 2021
Panel Hearing	By video conference 28 June 2021
Site inspections	Unaccompanied, 10 July 2021
Parties to the Hearing	Cardinia Shire Council Represented by Ms Celeste Grossi, Strategic Planner and Ms Teresa Hazendonk, Co-ordinator Planning Strategy and Urban Design  Norman Harold Gengoult Smith represented by Mr Nick Robbins of Taylors Development Strategists Pty Ltd
Citation	Cardinia PSA C257card [2021] PPV
Date of this report	29 July 2021

## Executive summary

Cardinia Planning Scheme Amendment C257card (the Amendment) seeks to implement the key objectives and strategies of the Beaconsfield Structure Plan, December 2013 (Structure Plan), as they relate to the Woodland Grove Precinct.

Key issues raised in submissions included:

- access to the property at 5/87 Woods Street
- appropriate acknowledgment of the heritage buildings
- the built form that would be permitted under Schedule 25 to the Development Plan Overlay (DPO25)
- the strategic justification of the DPO25
- the content and wording of DPO25.

The Panel concluded that the Structure Plan provides appropriate strategic justification for the Amendment. However, some submissions expressed concerns about the wording and content of DPO25. The Panel has reviewed the content of DPO25 in the light of the submissions made to the Amendment and at the Hearing and recommended a number of changes to the exhibited DPO25. Most of these changes have been agreed by the parties and include modifications to the provisions of Clauses 3.0 and 4.0 of the DPO25. Most of the recommended changes are included in the Panel preferred version of the DPO25.

The Panel concludes:

- That the Amendment has adequate strategic justification.
- The objectives of the DPO25 are appropriate.
- In the second dot point objective the word 'neighbourhood' should be replaced by 'landscaped'.
- The first two dot points in Clause 3.0 under the heading Conditions should be reworded to be clear about the setbacks required.
- The third dot point condition in Clause 3.0 should be deleted.
- The requirement for a 7.5 metre wide road in Clause 3.0 under the heading Requirements should be deleted.
- The changes to Clause 4.0 agreed by Council are appropriate.
- Under the heading Environment in Clause 4.0, the flora and fauna assessment should show vegetation to be removed and retained.
- Under the heading Public Open Space and Landscaping the sentence 'Including maintaining the long term, sustainable health and condition of existing vegetation.' should be deleted.
- Under the heading Urban Design a fourth dot point 'New development should not adversely impact the heritage significance of a heritage place.' should be inserted.
- The inclusion of Figure 2 is appropriate.
- The rail corridor should be clearly marked on both Figures.
- Figure 1 should be renamed to 'Indicative Traffic and Transport Plan Woodland Grove Precinct'.

## Recommendations

**Based on the reasons set out in this Report, the Panel recommends that Cardinia Planning Scheme Amendment C257card be adopted as exhibited subject to the following:**

1. **Amend Schedule 25 to Clause 43.04 Development Plan Overlay:**
  - a) **as shown in the Panel preferred version in Appendix B**
  - b) **by rewording the first two dot points in Clause 3.0 under the heading *Conditions* to clarify what the setbacks required, and remove the reference to a schedule.**
  - c) **to clearly identify the rail corridor in Figures 1 and 2**
  - d) **by renaming Figure 1 to 'Indicative Traffic and Transport Plan Woodland Grove Precinct'.**

# 1 Introduction

## 1.1 The Amendment

### (i) Amendment description

The purpose of the Amendment is to implement the key objectives and strategies of the Structure Plan, expires 31 December 2021, by applying a DPO25 to the Woodland Grove Precinct identified in the Structure Plan.

The Amendment proposes to remove the Structure Plan as an incorporated document from the Schedule to Clause 72.04 and retain it as a background document. The Amendment also intends to remove the expiration date of the Structure Plan.

Specifically, the Amendment proposes to:

- insert a new Schedule 25 under Clause 43.04 Development Plan Overlay and applies it to the Woodland Grove Precinct
- amend Clause 21.03-3 (Urban Established Area – Beaconsfield and Pakenham) and Clause 21.04-3 (Activity Centres) by removing the 31 December 2021 expiration date of the Structure Plan
- amend the Schedule to Clause 72.04 by deleting the Structure Plan as an incorporated document.

### (ii) The subject land

The Amendment applies to land shown in Figure 1. The land parcels are identified as 53-56, 67-71, 73-75, 81, 83, 85 and 87 Woods Street, Beaconsfield.

Figure 1 The subject properties





## 1.2 Background

The Structure Plan was adopted by Council in December 2013 and was implemented as an Incorporated Document in the Cardinia Planning Scheme by Amendment C198 in May 2016. Ministerial approval of this Amendment was given with two conditions:

- The built form requirements for Beaconsfield Point, Princes Highway Gateway and Woodland Grove Precinct be implemented via more appropriate planning controls.
- An expiry date is placed on the Structure Plan's status as an incorporated document to ensure that its objectives are achieved by implementing its built form requirements through the appropriate planning controls in a timely manner.

In response, three Design and Development Overlays (DDO) were prepared and exhibited as part of Amendment C220 based on the objectives and strategies in the Structure Plan to guide built form outcomes for the following three precincts:

- Princes Highway Gateway Precinct (DDO5)
- Beaconsfield Point Precinct (DDO6)
- Woodland Grove Precinct (DDO7).

Prior to the approval of Amendment C220, on 10 January 2019, the Department of Environment, Land, Water and Planning (DELWP) advised that a Development Plan Overlay (DPO) would be more appropriate than a DDO for the Woodland Grove Precinct and that DDO7 would be removed from Amendment C220 and the expiry date of the Structure Plan status as an incorporated document would be extended to June 2020 to allow time to prepare a DPO. On 18 July 2019, Amendment C220 came into effect.

A further extension of the Structure Plan expiry date was required and on 30 June 2020 Amendment C263card came into effect, extending the expiry date of the Structure Plan status as an incorporated document until 31 December 2021, allowing sufficient time for the preparation of Amendment C257card.

## 1.3 Summary of issues raised in submissions

### (i) Planning Authority

The key issues for Council were:

- changes proposed to the DPO in submissions.

### (ii) Individual submitters or groups of submitters

The key issues by submitters were:

- access to the property at 5/87 Woods Street
- appropriate acknowledgment of the heritage buildings
- the built form that would be permitted under DPO25
- the strategic justification of the DPO25
- the content and wording of DPO25.

The first three issues were resolved and the last two were unresolved.

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision-making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits and submissions, evidence and other material presented to it during the Hearing. It has reviewed a large volume of material and has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Planning context
- Strategic justification
- Schedule 25 to the Development Plan Overlay.

## 2 Planning context

### 2.1 Planning policy framework

Council submitted that the Amendment is supported by various clauses in the Planning Policy Framework, which the Panel has summarised below.

#### Victorian planning objectives

The Amendment will assist in implementing State policy objectives set out in section 4 of the Act by:

- providing for the fair, orderly, economic and sustainable use and development of land
- securing a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria
- conserving and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest or otherwise of special cultural value
- facilitating development in accordance with the objectives set out in paragraphs (a) and (c)
- balancing the present and future interests of all Victorians.

#### Clause 11 (Settlement)

The Amendment supports Clause 11 by:

- anticipating and responding to the needs of the existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. The Amendment seeks to provide greater certainty to the local community on what is envisioned for this land.

#### Clause 13 (Environmental Risks and Amenity)

The Amendment supports Clause 13 by:

- prioritising the protection of human life by not locating settlements and communities in an area of bushfire risk. Amendment C257card will not result in an introduction or intensification of development in an area that has, or will have on completion, more than a BAL-12.5.

#### Clause 15 (Environmental Risks and Amenity)

The Amendment supports Clause 15 by:

- introducing the requirement for a development plan which will facilitate a development that is attractive, safe, accessible and diverse and that responds to its landscape, valued built form and cultural context.

#### Clause 16 (Housing)

The Amendment supports Clause 16 by:

- facilitating a range of housing types and housing diversity that respects neighbourhood character in a location that offers good access to jobs, services and public transport.

#### Clause 21 (the Municipal Strategic Statement)

The Amendment supports the MSS by responding to the following local planning provisions:

*Clause 21.01 Cardinia Shire Key Issues and Strategic Vision*

The Amendment implements a statutory planning tool that encourages an attractive, functional and sustainable built form.

#### *Clause 21.03 Settlement and Housing*

The Amendment supports housing choice and diversity and ensures the siting and design of proposed subdivisions and buildings are sympathetic to the natural environment and preferred neighbourhood character.

## 2.2 Other relevant planning strategies and policies

### (i) Plan Melbourne

*Plan Melbourne 2017-2050* sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches 8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. Outcomes that are particularly relevant to the Amendment are set out in Table 1.

**Table 1: Relevant parts of Plan Melbourne**

Outcome	Directions	Policies
Melbourne is a productive city that attracts investment, supports innovation and creates jobs	1.3	Create development opportunities at urban renewal precincts across Melbourne.
Melbourne provides housing choice in locations close to jobs and services	2.1	Manage the supply of new housing in the right locations to meet population growth and create a sustainable city
	2.2	Deliver more housing closer to jobs and public transport.
	2.4	Facilitate decision-making processes for housing in the right locations.
Melbourne has an integrated transport system that connects people to jobs and services and goods to market	2.5	Provide greater choice and diversity of housing.
	3.3	Improve local travel options to support 20-minute neighbourhoods.
Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	5.1	Create a city of 20-minute neighbourhoods.

### (ii) Beaconsfield Structure Plan

The Structure Plan provides guidance for the future development of Beaconsfield. It includes the following framework plan for Woodland Grove:

Figure 2 Woodland Grove Concept Plan - Beaconsfield Structure Plan



The Structure Plan contains a description of the precinct as well as an objective and a number of strategies and actions to implement the strategy.

Council submitted that the Amendment supports the Structure Plan because:

- The Structure Plan was adopted by Council in December 2013 and was implemented as an Incorporated Document in the Cardinia Planning Scheme by Amendment C198 in May 2016.
- Ministerial approval of this Amendment was given with two conditions:
  - The built form requirements for Beaconsfield Point, Princes Highway Gateway and Woodland Grove Precinct be implemented via more appropriate planning controls.
  - An expiry date is placed on the Structure Plan's status as an Incorporated Document to ensure that its objectives are achieved by implementing its built form requirements through the appropriate planning controls in a timely manner.

## 2.3 Planning scheme provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

### (i) Zones

The land is in the General Residential Zone. The purposes of the Zone are:

- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.

- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

**(ii) Overlays**

The land is subject to the Floodway Overlay. The purposes of the Overlay are:

- To identify waterways, major floodpaths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding.
- To ensure that any development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard, local drainage conditions and the minimisation of soil erosion, sedimentation and silting.
- To reflect any declarations under Division 4 of Part 10 of the Water Act, 1989 if a declaration has been made.
- To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

The land is subject to the Public Acquisition Overlay (Minister for Environment and Climate Change - Park). The purposes of the Overlay are:

- To identify land which is proposed to be acquired by a Minister, public authority or municipal council.
- To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.
- To designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.

The Amendment proposes to apply the DPO to the land. The purposes of the Overlay are:

- To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.
- To exempt an application from notice and review if a development plan has been prepared to the satisfaction of the responsible authority.

## **2.4 Amendment VC148**

Amendment VC148 was gazetted on 31 July 2018, after the Amendment was exhibited. VC148 made substantial changes to the structure and content of the Planning Policy Framework, as well as other provisions in the planning scheme. Council should review the Amendment documentation carefully prior to adoption to ensure that they are consistent with the changes introduced by Amendment VC148.

## 2.5 Ministerial Directions and Practice Notes

### Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and Planning Practice Note 46: Strategic Assessment Guidelines, August 2018 (PPN46). That discussion is not repeated here.

In addition, Council submitted the Amendment meets the requirements of Ministerial Direction 9: Metropolitan Planning Strategy which requires a planning authority to have regard to the Metropolitan Strategy, Plan Melbourne 2017 – 2050.



## 3 Strategic justification

### 3.1 Submissions

Mr Smith submitted that the content of the exhibited DPO25 was not strategically justified by the Beaconsfield Structure Plan. He added that the provisions of the overlay go beyond implementing the objectives and strategies of the Structure Plan and that the design requirements of the exhibited DPO25 are substantially different from those previously proposed under Amendment C220card.

Mr Smith argued that *Planning Practice Note 23 - Applying the Incorporated Plan and Development Plan Overlays* (PPN23) states under the heading of Strategic Framework:

Both overlays should be underpinned by a strategic framework that sets out the desired development outcomes and the overall layout of the land including, if relevant, the design principles for the development, major land uses, transport and open space networks.

The strategic framework should be prepared before the overlay is applied to:

- identify and address opportunities and constraints for the development of the land.
- provide direction about development outcomes and the overall form of development.
- provide certainty to landowners and third parties about the form of development.
- assist in choosing the appropriate planning tools to achieve the desired development outcomes and form of development.
- ensure the schedule to the overlay is drafted to achieve the desired development outcomes and facilitate the development.

The strategic framework should be set out in the planning scheme or form part of the Amendment introducing the overlay into the planning scheme.

Mr Smith added that it was difficult to see the origin of the design outcomes prescribed in DPO25 in the Structure Plan. He submitted:

We make an overarching comment here that where Council has sought to justify requirements on the basis of the views or opinions of its internal referrals, we submit this Panel should give those views or opinions little weight in circumstances where the authors of the internal referrals are not giving expert evidence and their opinions cannot be tested through cross examination.

Mr Smith submitted that a number of the requirements in the DPO25 were already contained elsewhere in the Planning Scheme and there was no need to duplicate them in the DPO25. He added that while Council may argue that it provides a 'one stop shop' in the control, the duplication of controls was unnecessary and not supported by the following Panels:

- Moira C56 Panel Report (PSA) [2011] PPV 14 (17 February 2011)
- Yarra C218 and C219 (PSA) [2017] PPV 118 (25 October 2017).

He concluded:

... the DPO25 content should be revised to only prescribe design outcomes where the strategic justification is there and otherwise the DPO content should be revised to enable the usual assessments to be undertaken (traffic, bushfire, ecology, drainage, etcetera) without prescribing specific outcomes for these assessments when the assessment have not already been undertaken.

Council submitted that the Structure Plan sets out the strategic directions for Beaconsfield and provides a framework for change to guide built form, use and development outcomes for the centre for the next 10-15 years.

Council advised the Panel that Amendment C198 incorporated the Structure Plan into the Planning Scheme. DELWP raised concerns with the incorporation of the Structure Plan into the



Planning Scheme in its entirety on the basis that incorporating large documents with specific planning controls make it difficult for those controls to be found. Council added that it was advised that implementation of Council's strategic documents should occur through "*statutory planning tools that are easily located and accessed within the planning scheme*".

Council submitted that this approach is consistent with the guidance provided in *Planning Practice Note 13 – Incorporated and Background Documents*, which advises when incorporated documents are to be included within a planning scheme. Council stated that:

Placing design and built form requirements within an incorporated document is not effective and makes it difficult for the controls to be found. Therefore, any development and built form requirements should be excised from the Structure Plan and implemented through an appropriate Victorian Planning Provision tool such as a DPO or DDO.

Council added that in January 2019, when considering the approval of Amendment C220, DELWP advised that the appropriate tool for the Woodland Grove Precinct is a DPO, not a DDO as was initially proposed by Amendment C220.

Council submitted that the Amendment proposes to implement the planning outcomes sought by the Structure Plan by applying a DPO schedule to the Woodland Grove Precinct being a "*more transparent and visible tool within the Cardinia Planning Scheme*". The Amendment also proposes to change the status of the Structure Plan from an incorporated document to a background document.

Council added:

The proposed Amendment will provide for the fair, orderly and sustainable use of land by providing direction in relation to the subdivision of residential land, and the future design and built form outcomes in accordance with the Structure Plan. It will ensure that new development is successfully integrated into the existing residential areas with minimal adverse impact on amenity and built form, that new residential subdivision creates lots of appropriate sizes, and that new residential built form maintains and enhances the valued character of the Beaconsfield Town Centre, securing a pleasant, efficient and safe working, living and recreational environment.

## 3.2 Discussion

The Structure Plan was adopted by Council in 2013 after a public exhibition period and incorporated into the Planning Scheme as a reference document by Amendment C198 in 2016.

The Structure Plan defines itself as:

... a planning document which directs how certain land areas should grow and develop. It sets out a framework which guides future growth and provides developers, service authorities and the community greater certainty about the area's future.

The Structure Plan sets out a vision for Beaconsfield which is supported by a number of strategies and identified the following five key focus areas:

- residential growth
- economic growth
- movement network
- open space and environment
- heritage.

Each focus area contains objectives, strategies and actions. Woodland Grove is identified as an area of change and is the subject of an additional objective, strategies and actions as well as a concept plan.

In the Panel's view, the Structure Plan sets out the desired development outcomes and the overall layout of the land as required by PPN23. It does not provide an inventory of the controls that should be applied to the land, but nor should it. The Panel agrees with Council that it provides an appropriate framework to guide the future development of Beaconsfield in general and the Woodland Grove Precinct in particular.

For the reasons set out in the following chapters, the Panel concludes that the Amendment is supported by, and implements, the relevant sections of the Planning Policy Framework and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

The Panel accepts that the Structure Plan provides an appropriate level of strategic justification for the Amendment and the application of the DPO25. Whether the specific detail of the provisions of the overlay are appropriate is discussed in the following chapter. Council made changes to the DPO25 post exhibition and proposed further changes in its submission to the Hearing. Both Council and Mr Smith provided alternative versions of the DPO25 to the Panel at the conclusion of the Hearing in Document 7 and Document 9 respectively. Given the differences in these versions the Panel has based its assessment on the exhibited version of the DPO25 and recommended a number of changes some of which have been proposed by Council and others by Mr Smith. These changes are included in the Panel preferred version of DPO25. However not all changes could be included in the Panel preferred version and these are the subject of specific recommendations.

### **3.3 Conclusions and recommendation**

The Panel concludes that the Amendment has adequate strategic justification.

The Panel recommends:

**Amend the exhibited version of Schedule 25 to Clause 43.04 Development Plan Overlay as shown in the Panel preferred version in Appendix B.**

## 4 Schedule 25 to the Development Plan Overlay

### 4.1 Clause 1.0 - Objectives

#### (i) The issues

The issue is whether the objectives of the DPO25 are appropriate.

#### (ii) Relevant policies, strategies and studies

The exhibited Clause 1.0 Objectives of the DPO 25 are:

- To enhance the choice and diversity of housing opportunities and types, that are appropriate to the setting and achieve high quality amenity and urban design.
- To encourage and guide the re-development of land into an integrated medium density residential precinct that responds to the preferred neighbourhood character and enhances the public realm.
- To create a residential precinct that protects, and is sympathetic to, the Woods Street area environmental values, including the natural environment of the Cardinia Creek.
- To provide a pedestrian and cycling path network that is well connected, sustainable and meets the needs of the local residents.
- To promote development that enhances community and personal safety through interfaces that provide opportunity for passive surveillance of Cardinia Creek parklands and suitable landscaping.

#### (iii) Submissions

Mr Smith submitted that the second dot point objective's reference to the preferred character should be removed until it is clearly expressed or agreement is reached on the nature of that character. He added that the Structure Plan's objective for the Woodland Grove Precinct was to:

Establish a well integrated medium density residential precinct in a landscaped setting.

Mr Smith stated that the Structure Plan actions for the precinct reinforced this view. He submitted that the second dot point objective should be replaced with the following:

To encourage and guide the re-development of land to respond to the preferred neighbourhood character for a well integrated medium density residential precinct in a landscaped setting.

Council partially agreed with this submission and referred to the Structure Plan objective for Woodland Grove. Council submitted:

A minor amendment to this objective, along with the vision conveyed by the Beaconsfield Structure Plan, will make it clear that the preferred character for this area is 'a landscaped medium density residential precinct'.

Council proposed replacing the word neighbourhood with landscaped.

#### (iv) Discussion

The two proposals are similar but significantly different and in particular Mr Smith's version removes the reference to the public realm. In the Panel's view, the DPO25 objectives should have a direct connection to the Structure Plan. In this respect the Structure Plan describes the future

form of the precinct as an integrated medium density residential with a landscape character. Both versions deal with those matters in slightly different but similar ways. The issue for the Panel is whether the objective should include a reference to the public realm.

If the public realm refers to the Cardinia Creek environs, this is adequately covered by the third dot point objective. However, if it refers to the street and environs then this is an area under Council's control and while individual proposals may be required to include improvements to the public realm these are generally part of a detailed development proposal. Nevertheless, development by its nature impacts on the public realm and it is a reasonable consideration in assessing the impact of a proposal. For this reason, the Panel supports the Council proposed changes to the second dot point objective.

#### **(v) Conclusions**

The Panel concludes:

- The objectives of the DPO25 are appropriate.
- In the second dot point objective the word 'neighbourhood' should be replaced by 'landscaped'.

## **4.2 Clause 3.0 - Conditions and requirements for permits**

#### **(i) The issues**

The issues are:

- whether the conditions for permits are appropriate
- whether the requirement for permit is appropriate.

#### **(ii) Relevant policies, strategies and studies**

The exhibited Clause 3.0 Conditions and requirements for permits states:

Conditions:

- Building envelopes must be in accordance with the building setbacks contained within this schedule including the 30 metre building setback from the top of bank of Cardinia Creek and must form either a restriction on the certified plan of subdivision or be applied through an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987 that is registered on the title to the land. The owner must pay for all reasonable costs (including legal costs) associated with preparing, reviewing, executing and registering the agreement on the certificate of title to the land (including those incurred by the responsible authority).
- Building setbacks must be in accordance with the building setbacks contained within this schedule including the 30 metre building setback from the top of bank of Cardinia Creek and must be applied to multi-dwelling developments.
- Before a statement of compliance is issued under the Subdivision Act 1988, subdivisions are required to make a contribution equivalent to 8 per cent of the value of the land for the purpose of unencumbered public open space in accordance with Clause 53.01.
- Before the development starts, a landscape plan prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the responsible authority and Melbourne Water, must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must be generally in accordance with the landscape concept plan contained within the approved Development Plan, and must show:
  - Staging of works, if applicable.

- That the outcomes of any flora and fauna reports have been addressed.
- A survey (including botanical names) of all existing vegetation to be retained and/or removed.
- A weed management program which includes the following information:
  - botanical name of species targeted.
  - location.
  - method of control and timing of control.
- Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
- A 30 metre minimum development setback from Cardinia Creek top of bank which must be reconfirmed by Melbourne Water.
- Details of surface finishes located on recreational pathways, maintenance access or any other pathways near waterways.
- A planting schedule of all proposed trees, shrubs and ground covers which includes the following information:
  - botanical names.
  - common names.
  - pot size.
  - life-form.
  - quantities of each plant.
  - planting density (plants per square metre).
  - planting zones/locations (in plan and cross-section form in colour).
  - landscape treatments with specifications of products such as mulching and erosion control matting.

Requirements:

- Construction of the internal road network with a 7.5 metre wide road pavement between invert of kerbs, underground drainage and footpath construction to the satisfaction of the responsible authority.

### (iii) Submissions

Mr Smith submitted that while there was agreement over the provision of a 30 metre setback from the Cardinia Creek but the mechanism to provide for it in the as a condition for permit was inappropriate. He proposed that the first two dot points be deleted and the reference to the 30 metre setback be reworded in the DPO25 Clause 4.0 Requirements for development plan. He added that the conditions of permit were badly worded and unnecessary because the Clause 4.0 made provision for a 30 metre setback.

Mr Smith argued:

...that it may be appropriate to have larger setbacks from the Creek in some locations with smaller setbacks from the Creek in other locations. This level of analysis can be undertaken through the development plan approval process. The proposed wording of the conditions would prevent this from occurring and therefore we support the wording agreed by Council for the drainage strategy "A 30 metres minimum development setback from Cardinia Creek top of bank or otherwise to the satisfaction of Melbourne Water".

Council submitted that these conditions were included in response to the conditions of authorisation of the Amendment which included the following:

Council should consider how they will seek to implement the setback requirements. This may be through restrictions on the plan of subdivision in the form of building envelopes or through a condition or requirement for a permit as outlined in the DPO requiring the plan of subdivision to show the setback requirements.

While this requirement does not appear on the letter of authorisation dated 19 November 2020, Council informed the Panel that the conditions were included to “lock in” the setbacks for subdivision or multi-unit applications.

Council advised the Panel that it agreed to modify the wording of the setback in Clause 4.0 to refer to the ‘satisfaction of Melbourne Water’ in place of ‘must be confirmed by Melbourne Water’.

Mr Smith submitted that the third condition, requiring an 8 per cent open space contribution, should be removed because the wording is different from the provisions of Clause 53.01 and, in any event, there is no need to duplicate the requirements of that Clause. He added that the variation in wording was significant because:

- It requires a contribution for all subdivisions, notwithstanding some subdivisions in Clause 53.01 are exempt from a public open space contribution.
- It mandates a monetary contribution and excludes any possibility of a land contribution or combination of land and monetary contribution.
- It mandates a contribution for the whole of the site whereas Clause 53.01 only requires a contribution for “land intended to be used for residential, industrial or commercial purposes”.
- It does not provide an exemption if an open space contribution has already been made.
- It prevents any consideration of using encumbered land for public open space, which the Tribunal’s discussion in *Boster Developments Pty Ltd* shows is sometimes warranted.

Mr Smith concluded:

Council has not provided proper justification to “lock in” a public open space contribution condition for all subdivision permits in the Woodland Grove Precinct that departs from what is currently required by the Scheme. Nor does the DPO25 simply duplicate or draw attention to Clause 53.01.

Council submitted that its passive reserves team had requested the condition and that it was its standard practice to “include a condition to this effect.”

Mr Smith submitted that the requirement for a 7.5 metre wide road pavement is not justified by the Amendment. He argued that road design requirements are set out in Clause 56.08-8. He added:

The design of roads should be informed by a detailed traffic engineering analysis that includes considerations such as the volume of traffic expected, the nature of vehicles expected and how the traffic engineering requirements in the Scheme are met.

He added that the design of the road can be addressed as part of the approval process of the development plan which will be informed by a detailed traffic report as required by DPO25.

Council submitted that:

This requirement was requested by Council’s engineering department during preliminary referrals of the draft DPO25 schedule. It is standard practice for Council to include a condition to this affect.

It added that internal roads would be specified in the development plan which Council would have to assess and any common property would be assessed at the permit application stage.

#### **(iv) Discussion**

There is no dispute about the 30 metre setback from the Cardinia Creek. The argument is how it should be included in the DPO25. The Panel accepts Council’s submission that DELWP have advised that the setback requirement should be included as a condition or requirement of a permit even though this appears to have been provided in correspondence other than the letter of authorisation. The Panel also accepts the submission of Mr Smith that the first and second dot

point conditions are badly worded because they both refer to the “*the building setbacks contained within this schedule*”. In addition, there is no section in the DPO25 that specifically refers to building setbacks. The question this leaves in the Panel’s mind is whether there are other setbacks in addition to the 30 metres from the Creek that are meant to apply.

The Panel accepts the appropriateness of including a condition on subdivision and development that requires a setback from the Cardinia Creek. However, in the Panel’s view the condition should be rewritten to be clear to specify what setbacks are required and not make reference to a schedule. The Panel has not attempted to rewrite either of these two conditions in the Panel preferred version of the DPO25.

In addition, the reference to a 30 metre setback under condition dot point four should be amended to be consistent with the wording agreed by Council in Clause 4.0 and refer to the satisfaction of Melbourne Water.

The Panel notes that the Schedule to Clause 53.01 has an 8 per cent contribution rate for subdivision for urban residential purposes. However, the third dot point condition which requires a similar contribution goes significantly beyond the requirement of Clause 53.01. In this respect the Panel agrees with the submission of Mr Smith. The Panel was not provided with any relevant justification for these changes, some of which would normally require an amendment to Clause 53.01. A request by one of Council’s work areas or usual practice does not provide sufficient justification for departing from the provisions of the planning scheme. In the Panel’s view the condition should be deleted.

With respect to the requirement specifying a road with width of 7.5 metres, the Panel also agrees with the submission of Mr Smith that road design should be informed by a traffic report and then incorporated into the development plan. Indeed, Council went some way in acknowledging that that the roads would be specified in the development plan and the Panel notes it is one of the requirements for a development plan in Clause 4.0. In the Panel’s view, requiring a specific road width prior to the completion of a traffic study is premature and Council failed to provide sufficient justification for the requirement. The requirement should be deleted.

#### **(v) Conclusions and recommendation**

The Panel concludes:

- The first two dot points in Clause 3.0 under the heading Conditions should be reworded to be clear about the setbacks required.
- The third dot point condition in Clause 3.0 should be deleted.
- The requirement for a 7.5 metre wide road in Clause 3.0 under the heading Requirements should be deleted.

The Panel recommends:

**Amend Development Plan Overlay Schedule 25, as shown in Appendix B, to:**

- a) **reword the first two dot points in Clause 3.0 under the heading *Conditions* to clarify what the setbacks required, and remove the reference to a schedule.**

## 4.3 Clause 4.0 - Requirements for Development Plan

### (i) The issues

The issue is whether the provisions of Clause 4.0 are appropriate.

### (ii) Relevant policies, strategies and studies

The exhibited Clause 4.0 Requirements for development plan contained the following:

A development plan must include the following requirements to the satisfaction of the responsible authority:

#### Environment

- A **flora and fauna assessment** (including a habitat hectare assessment) of the precinct prepared by a suitably qualified person(s), that:
  - provides a plan drawn to scale showing the boundaries of the precinct, existing vegetation and vegetation to be removed
  - provides an assessment of the flora and fauna in the precinct including Ecological Vegetation Classes
  - assesses suitable habitat for threatened species in the precinct
  - location of any hollow bearing trees.
  - provides a flora listing of each habitat patch.
- A targeted survey of threatened species prepared by a suitably qualified person(s) where suitable habitat is found in the precinct.
- A written explanation of the steps that have been taken to:
  - avoid the removal, destruction or lopping of native vegetation and any other significant trees.
  - minimise impacts from the removal, destruction or lopping of vegetation that cannot be avoided.
- An **arboricultural assessment** prepared by a suitably qualified person(s) that identifies any trees on the land and existing street trees, with descriptions that include species, extent, number, size (diameter at 1.3 metres above natural ground level), tree protection zones, assessment of tree health and retention value.

#### Bushfire

- A bushfire assessment, including a bushfire hazard assessment, of the precinct prepared by a suitably qualified person to the satisfaction of the fire authority and the responsible authority, which includes details of how development will respond to bushfire planning policy set out at Clause 13.02-1S of the planning scheme and demonstrate that development will be exposed to a radiant heat flux less than 12.5 kilowatts/square metre.

#### Aboriginal Cultural Heritage

- An Aboriginal cultural heritage assessment prepared by a suitably qualified person(s), which includes recommendations for the protection of significant individual sites, where appropriate. A statement that any identified location(s) of any Aboriginal cultural heritage on the land will be required to be protected in accordance with a Cultural Heritage Management Plan (CHMP) at the planning permit stage, if required by the Aboriginal Heritage Act 2006.



## Traffic and Transport

- An **Integrated Transport and Impact Assessment** to the satisfaction of VicRoads and the responsible authority, providing specific detail on:
  - the impact of the proposed use and development on the operation of the Princes Highway/Beaconsfield Avenue and Princes Highway/Woods Street intersections
  - the impacts on public safety
  - proposed mitigation works to address any unsatisfactory impacts.
- A **Traffic Management Plan** showing arrangement for vehicle ingress and egress to the development area, including the road layout, construction standards, traffic management which includes waste and emergency vehicle access.
- The provision of a clear legible and convenient pedestrian, bicycle and road network that:
  - connects and integrates with existing networks, including pedestrian connections to Beaconsfield Station, from Woods Street to Cardinia Creek along Trythall Street and the northern east-west road reserve, and create new opportunities for improved pedestrian and cycling permeability in the future
  - provides for the construction of the following local roads generally in accordance with Figure 1, or an alternate internal road layout, to the satisfaction of the responsible authority:
    - Precinct B:
      - The 3 metre wide north-south laneway to be transferred to the front of the following lots to create a minimum 14.35 metre wide road (Brisbane Street):
        - Lots 1 & 2 on TP94444.
        - Lots 1 & 2 on TP121027.
        - Lots 1 & 2 on TP93165.
        - Lots 25, 32 & 33 on LP2804.
      - A 10 metre wide east-west service lane along the northern side of Beaconsfield Avenue connecting to Brisbane Street from Wood Street.
      - Access from Brisbane Street to the rail corridor must not be granted without prior consent from VicTrack and the rail operator - Metro Trains Melbourne
  - provides internal street pavement widths of 7.5 metres between invert of kerb with underground drainage, footpaths and nature strips. Roads reserves may need to be widened
  - provide only one vehicle crossover or access point per lot that does not exceed 40% of the frontage. An additional driveway can be considered for consolidated lots
  - vehicle crossovers must be located from the side streets wherever possible to reduce the number of crossovers from Woods Street. Provide vehicle access to Lot 12 on LP2804 and Lots 13 and 18 on LP2805 from the east-west roads
  - provide traffic management devices on roads with lengths over 180 metres.

## Infrastructure and drainage

- The provision of utility services infrastructure required to service the development area and details of the arrangements for the provision of the infrastructure. The land must be connected to a reticulated sewerage system of a sewerage authority.

- A **Fill Plan** which identifies the depth and fill material, and staging in a manner and time designed to minimise any adverse impacts on the amenity of nearby areas, must be submitted to the satisfaction of the responsible authority and Melbourne Water.
- A **drainage strategy** for the development plan area to the satisfaction of Melbourne Water and the responsible authority showing:
  - filling of residential lots with roads or accessways providing for overland flows and/or raised minimum floor levels for development
  - a coordinated approach to providing drainage infrastructure which must include stormwater quality treatment to best practice guidelines
  - a 30 metres minimum development setback from Cardinia Creek top of bank which must be reconfirmed by Melbourne Water
  - within Precinct B, there should be no drainage to the rail corridor.

### **Public Open Space and landscaping**

- A **landscape concept plan** to the satisfaction of Melbourne Water and the responsible authority showing:
  - landscaping requirements to the satisfaction of Melbourne Water
  - location, preservation and protection of significant trees/vegetation, existing street trees, roadside vegetation and grassed road verges. Including maintaining the long term, sustainable health and condition of existing vegetation
  - location, preservation and protection of any threatened species
  - location of landscaped areas
  - details of the landscape themes
  - landscape design incorporating a consistent streetscape theme
  - new plantings consistent with existing species of vegetation within connecting roads and reserves
  - provision of street trees (minimum pot size of 45 litres when planted) for shade and aesthetic quality at an early stage of development – to be planted or bonded to the satisfaction of the responsible authority prior to Statement of Compliance of a subdivision.

### **Urban Design**

- Dwelling facades that address a street or the public realm should maximise passive surveillance opportunities from these dwellings to the adjoining streets or public realm.
- Front fences should be avoided, or low or transparent front fences that allow gardens and nature strips to merge should be provided.
- New road treatments and street furniture should be consistent with the existing styles of road treatments and street furniture found in Beaconsfield town centre.

### **Housing**

- Lot sizes must support a medium density housing precinct.
- Within Precinct A, building setbacks from Woods Street of four metres are preferred.
- Within Precinct B, building setbacks from Woods Street that graduate from three metres at the southern end to four metres at the northern end are preferred.
- Within Precinct B, a minimum 1 metre building setback from the common boundary with the rail corridor at Lots 33 and 34 on LP2804 and Lots 4 and 5 on SP28567 is required, to allow for ongoing property maintenance without a requirement for access to the rail corridor.

- Within Precinct B, trees/landscaping species are to not overhang onto railway land or have potential to disturb railway operations.
- Within Precinct B, the rail corridor is to be fenced to the rail operator's requirements.
- Within Precinct B, there should be no drainage to the rail corridor.

### Staging

- Anticipated sequencing and timing of development of the precinct

### (iii) Submissions

#### Environment

Mr Smith submitted that the words '(including habitat hectare assessment)' should be deleted. Council agreed with this submission. Council also agreed with Mr Smith's submission that the reference to an arboricultural assessment should include 'in accordance with the methodology of AS4970-2009' and refer to a diameter of 1.4 metres in place of 1.3 metres.

Mr Smith argued that Council was seeking to take the provisions relating to native vegetation and apply them to all vegetation. He argued that this was inappropriate and inconsistent with Clause 52.17 and that the reference to vegetation should only refer to native vegetation.

He added that the use of the word precinct was used because *"Council would like one flora and fauna assessment to be prepared for the whole DPO25 area."* He argued that because there was more than one landowner, such a report may need to be prepared in stages. He recommended the use of the term 'study area' instead.

Council submitted that one of the objectives of the Structure Plan is to *"protect and enhance the environmental and landscape values of the area."* It added that in order to achieve this end the Structure Plan includes a strategy to *"support and value the retention of established trees"*.

Council stated that the reference to precinct was appropriate. It submitted that the necessary reports and the development plan should be prepared as a whole for the entire precinct. It added that it took this view because *"the landholdings outside this submitter's ownership are so small."*

#### Bushfire

Mr Smith submitted that the issue of managing the creek corridor as defensible space needed to be resolved before a BAL of 12.5 was prescribed in the DPO24. He added:

It may be more appropriate to require a higher BAL to enable habitat to be retained and enhanced close to the creek that does not have to be maintained as defensible space. Moreover, in our submission there is no necessity to mandate a BAL12.5 in DPO25 on the basis that a BAL12.5 is not required under Clause 13.02-1S.

Mr Smith informed the Panel that he supported the submission of a bushfire report with the development plan and that the BAL should be determined through that process. He recommended deletion of the words 'and demonstrate that development will be exposed to a radiant heat flux less than 12.5 kilowatts/square metre.'

Council informed the Panel that it undertook a bushfire assessment of the DPO25 precinct to ensure that the provisions of Clause 23.02-1S could be satisfied. It explained that the assessment stated:

that at this time, under the current vegetation conditions, a 33m defensible space setback is required; however, the setback in the schedule should be expressed as an outcome (exposure of more than 12.5kw/square metre) rather than a distance based on a specific vegetation type as the type of vegetation in the creek corridor may vary from what is currently present.

Council submitted that the DPO25, based on the recommendations of the assessment, requires the landowner to provide a new assessment to arrive at a defensible space setback once the “future permanent vegetation hazards are known” because at that stage the vegetation to be removed and retained will be known.

Council added that the CFA “agreed with and supported this approach.”

### **Traffic and Transport**

The Department of Transport submitted that VicRoads should be replaced by Head Transport for Victoria. Council agreed to this change.

Mr Leonard submitted that the lane at the rear of the Woods Street properties provided the only access to the property at 5/87 Woods Street. He added that removal of access through the lane would render the property useless.

Council accepted this submission and proposed the following changes to the Amendment:

- Amend Figure 1 and add Figure 2 in DPO25 to retain part of the laneway to allow for ongoing pedestrian access to Unit 5/87 Woods Street via the laneway.
- Transference of the laneway to Brisbane Street will continue except for the part of the laneway adjoining 87 Woods Street.
- Amend the wording at section 4.0 requirements for development plan to make it clear what Council’s intentions are for this area.

Mr Smith submitted that the following dot point should be deleted:

Provide only one vehicle crossover or access point per lot that does not exceed 40% of the frontage. An additional driveway can be considered for consolidated lots.

He argued that the requirement is unclear as is the meaning of consolidated lots. He added:

...the exhibited amendment is not accompanied by justification for this requirement, which departs from the current Scheme requirements including Clause 56 and Clause 55.03-9.

Mr Smith submitted that the requirement be deleted or revised to state that crossover locations should be shown on the development plan. He stated that the requirement for a 7.5 road pavement width should be removed. He recommended that the dot point dealing with traffic management measures over 180 metres should have ‘where appropriate’ added to the text and Council accepted this change.

Council submitted that the driveway requirement was intended to ensure that the streetscape is not dominated by driveways and garage doors.

### **Infrastructure and Drainage**

Mr Smith submitted that the 30 metre setback should be to the satisfaction of Melbourne Water and the drainage to the rail corridor should be subject to VicTrack and the rail operator. Council agreed with these changes.

### **Landscape Concept Plan**

Mr Smith submitted that the first dot point should be deleted because it repeated the introduction and the third dot point should include the words ‘where appropriate’. Council accepted these changes.

He added that the second dot point should be replaced with the following:

Location, preservation and protection of significant vegetation

Mr Smith stated that the development plan should protect significant vegetation but not all existing street trees, roadside vegetation and grassed road verges as worded. He added that the wording of the provision is unclear.

Council submitted that “*significant trees/vegetation, existing street trees, roadside vegetation and grassed road verges*” should be identified and protected. It added that if any of this vegetation is to be removed then justification for the removal would need to be provided.

### **Urban Design**

Ms Taylor submitted that it was important to include the:

landscape of the Heritage buildings in Woods Street including the wooden houses which are the oldest in Cardinia Shire and have Heritage Overlay.

She added that three to four storey buildings would be out of character with the area and setback from the street should be significant.

In response Council proposed to add the following to the Urban Design requirements:

New development to provide a sympathetic design response to any surrounding heritage buildings.

Mr Smith submitted the Heritage Overlay HO147 affected 48, 54 and 56 Woods Street, Beaconsfield, on the eastern side of Wood Street, opposite the Woodland Grove Precinct. He added that the meaning of a heritage building is unclear and it should refer to a heritage place or the Heritage Overlay.

Mr Smith Added that the word maximise should be replaced with provide in the first dot point and that ‘and nature strips to merge’ should be replaced with ‘views of front gardens’. Council accepted both changes.

### **Housing**

Mr Smith submitted that the requirement for rail corridor fencing should be deleted. He sought to rely on the decision of the Tribunal in *Holner Pty Ltd v Baw Baw SC (Corrected)* [2020] VCAT 890 (26 August 2020). He added that VicTrack’s requirements were unknown and the rail corridor undefined.

Similarly to the submission on the Infrastructure and Drainage requirement, he argued that drainage should be to the satisfaction of VicTrack. Council agreed with this submission.

Council submitted that the requirement was made at the request of VicTrack which requires a specific type of fencing on lots abutting its property.

## **(iv) Discussion**

### **Environment**

The Panel supports the changes agreed by the parties. The Panel agrees that Clause 52.17 refers only to native vegetation. However, the Structure Plan does not make this distinction in its support for the retention of established trees. In the Panel’s view, it is reasonable that this support of established trees, for their landscape values, should be included in the DPO25.

The Panel agrees with Council that it is preferable to have a single development plan for the entire precinct. The Panel does not agree that there is a significant or effective difference between the use of the word study area as opposed to precinct. Nevertheless, the Panel notes that Clause

43.04-4 allows the preparation of a development plan in stages, with the agreement of the responsible authority. There is little, if any benefit in replacing the word precinct with study area.

However, the Panel accepts Mr Smith's submission that the scaled plan should show the vegetation to be removed and retained.

### **Bushfire**

The Panel does not agree with Mr Smith that Clause 13.02-1S does not apply to Woodland Grove. Any change from its present state to a medium density residential precinct is an intensification. While the current controls may allow such a level of development to occur, it has not to date and will be the subject of a development plan under the Amendment and then planning permits. Consequently, the Panel does not accept that the development is "*already permitted*". A development may eventually be permitted, subject to the provisions of the Planning Scheme, including Clause 13-02-1S when a planning permit is issued.

The Panel accepts Council's submission that a further assessment should be undertaken once the vegetation hazards are known which may well be through the development plan approval process.

### **Traffic and Transport**

The Panel supports the changes proposed in response to the submissions of the Department of Transport, Mr Leonard and Mr Smith with reference to adding "where appropriate" to the text. Council has accepted these amendments.

The Panel agrees with Mr Smith that a permit requirement for a 7.5 metre wide pavement is inappropriate as a permit requirement, given that a traffic study would be required as part of the development plan. However, the Panel does not find it unreasonable that, in detailing what it expects in the Traffic and Transport elements of a development plan, Council specifies its preferred road profile. This provides appropriate guidance in the preparation of a development plan as opposed to a permit condition which becomes a requirement on development. This approach enables some flexibility for a different outcome appropriately informed by a traffic study. In other words, it would be inappropriate to mandate a 7.5 metre road pavement through a condition of permit but it is appropriate for Council to provide guidance on pavement widths for the preparation of the development plan.

The Panel takes a similar view of the requirement for crossovers. Given the requirement is intended to implement a "*clear legible and convenient pedestrian, bicycle and road network.*" The Panel accepts that crossovers can be a challenge for pedestrians and cyclists and it is appropriate for Council to specify what it thinks is a reasonable standard for a development plan to achieve.

### **Infrastructure and Drainage**

The Panel supports the changes agreed by the parties.

### **Landscape Concept Plan**

The retention of existing vegetation is consistent with one of the objectives of the DPO25, as discussed above, which refers to the landscape setting of the precinct. In the Panel's view it is appropriate that a landscape concept plan should detail preservation and protection of significant trees/vegetation including that in the public realm. The Panel notes that the provisions under the Environment heading require justification for the removal of vegetation. In the Panel's view, in a landscape setting, this is an entirely appropriate requirement.

The Panel is uncertain how a landscape concept plan will deal with *“maintaining the long term, sustainable health and condition of existing vegetation.”* In this respect the Panel supports the submission of Mr Smith that the wording is unclear. Given that the initial part of this requirement provides for the preservation and protection of trees and vegetation the Panel’s view is that this is sufficient, particularly when read in conjunction with the Environment requirements. Consequently, the second sentence in the dot point should be deleted.

### **Urban Design**

The Panel supports the changes agreed by the parties.

With respect reference to HO147 the Panel agrees with Mr Smith that the wording needs to be tightened. However, the Panel is mindful that the Heritage Overlay is subject to change and can contract or expand and consequently is reluctant to nominate specific properties, particularly those that are not part of the DPO25. For this reason, the wording of the provision should be simplified to:

New development should not adversely impact the heritage significance of a heritage place.

### **Housing**

The Panel supports the changes agreed by the parties.

The Panel agrees Mr Smith’s submission that the requirements are unclear. The requirements for a development plan should provide guidance as to what is required. In addition, fencing is a matter that is often the subject of negotiation and agreement between the abutting landowners. In the Panel’s view this requirement is not defined and potentially could be onerous and should be deleted.

### **(v) Conclusions**

The Panel concludes:

- The changes to Clause 4.0 agreed by Council are appropriate.
- Under the heading Environment in Clause 4.0, the flora and fauna assessment should show vegetation to be removed and retained.
- Under the heading Public Open Space and Landscaping the sentence ‘Including maintaining the long term, sustainable health and condition of existing vegetation.’ should be deleted.
- Under the heading Urban Design a fourth dot point ‘New development should not adversely impact the heritage significance of a heritage place.’ should be inserted.

## **4.4 Clause 6.0 - Figure 1**

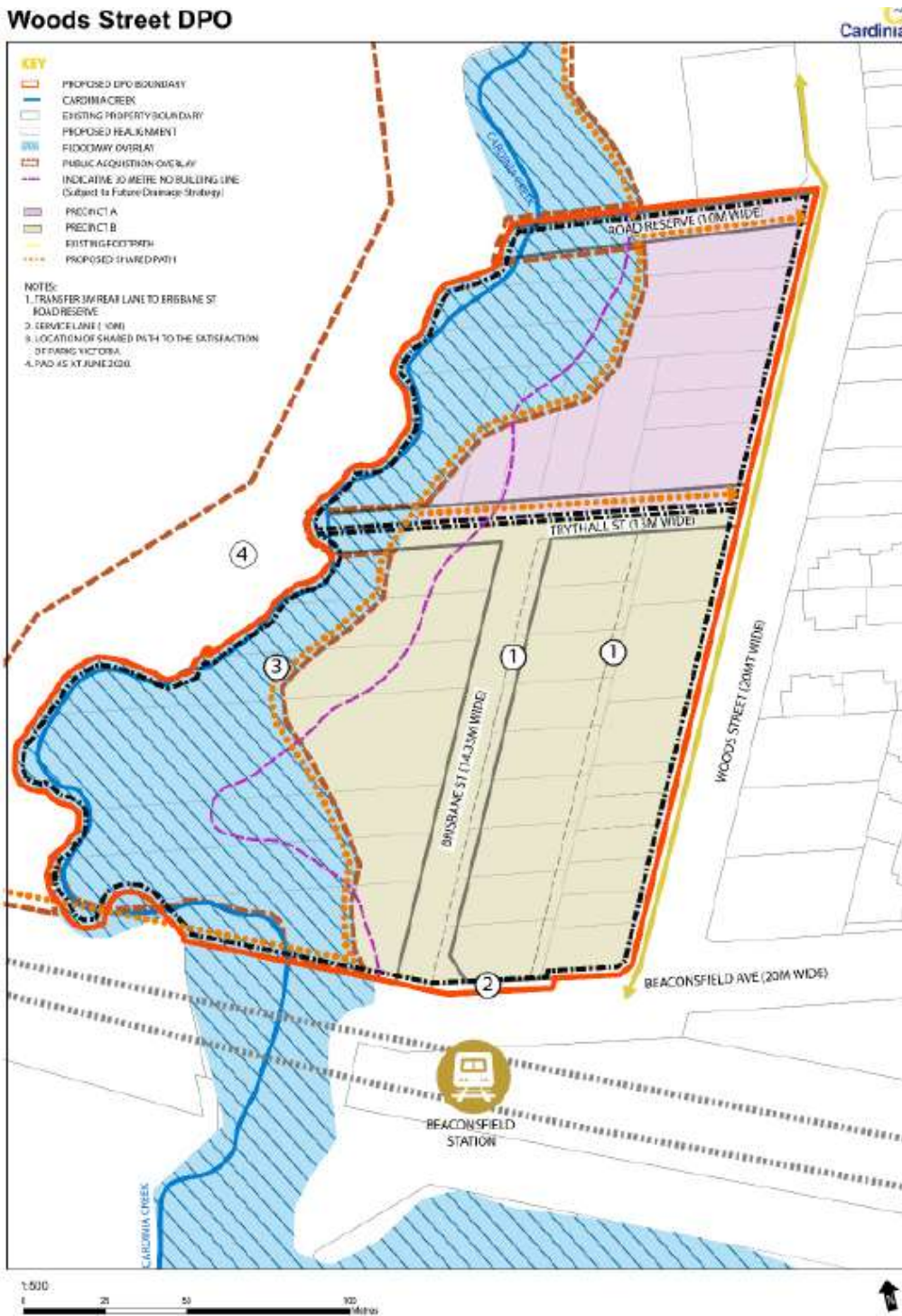
### **(i) The issues**

The issue is whether Clause 6.0 Figure 1 is appropriate.

### **(ii) Relevant policies, strategies and studies**

The exhibited Figure 1 is as follows

Figure 3 Exhibited Clause 6.0 Figure 1



**(iii) Submissions**

Mr Smith submitted that the shared path in Trythall should be deleted because this path was not identified in the Structure Plan. He added:

The Key Destinations and Movement Network plan on page 18 of the Beaconsfield Structure Plan similarly shows a “Pedestrian and cyclist key link (creek)” along the creek interface and a “Potential pedestrian and cyclist link (local)” along the road running along the northern boundary of the Woodland Grove Precinct. It also does not show any shared path or key pedestrian / cyclist link along Trythall Street.



Mr Smith requested that the position of Brisbane Street be altered to provide sufficient space between the road and the 30 metre creek setback to enable the development of some lots. He added that alternative access arrangements from Beaconsfield Avenue to Brisbane Street should also be considered. He recommended that the title of Figure 1 be changed to 'Indicative Concept Plan: Woodland Grove Precinct'. Mr Smith also requested that the location of the rail corridor be clarified in Figure 1.

Council submitted that the proposed shared path in Trythall Street is supported by the Structure Plan and is intended to provide permeability through to the regional parkland to the west in line with the Structure Plan:

Council added: Figure 1 is a 'concept plan' and should be viewed as indicative. If an appropriate design is put to Council an alternative layout will be considered providing the requirements of the development plan listed at Clause 4.0 of the DPO25 schedule are satisfied.

In response to Mr Leonard's submission, Council proposed altering Figure 1 as discussed above and the addition of Figure 2 to provide further clarity.

**Figure 4 Council proposed Figure 2**



#### **(iv) Discussion**

The Panel notes that the reference to Figure 1 and proposed Figure 2 occurs only in the Traffic and Transport requirements of Clause 4.0 and requires the roads to be generally in accordance with them or an alternative layout to Council's satisfaction. In the Panel's view this provision provides the flexibility sought by Mr Smith with regard to the position of Brisbane Street and the potential for different access from Beaconsfield Avenue to Brisbane Street.

The Panel agrees the rail corridor is unclear in the figures and should be shown in a different colour or shade. Given the reference to both figures is through the Traffic and Transport requirements and that these provisions contemplate the potential for an alternative layout, it is reasonable that the title of the figure reflects the possibility of change. The title of the figure should include indicative and describe that it is the Traffic and Transport plan for the Woodland Grove Precinct.

#### **(v) Conclusions and recommendations**

The Panel concludes:

- The inclusion of Figure 2 is appropriate.

- The rail corridor should be clearly marked on both Figures.
- Figure 1 should be renamed to 'Indicative Traffic and Transport Plan Woodland Grove Precinct'.

The Panel recommends:

**Amend Development Plan Overlay Schedule 25, as shown in Appendix B, to:**

- a) clearly identify the rail corridor in Figures 1 and 2**
- b) rename Figure 1 to 'Indicative Traffic and Transport Plan Woodland Grove Precinct'.**

## Appendix A Document list

No.	Date	Description	Provided by
1	31/05/2021	Directions and Timetable	PPV
2	02/06/2021	Council response to submissions	Council
3	02/06/2021	Plan with location of submitters	Council
4	21/06/2021	Council Part A submission	Council
5	24/06/2021	Council Part B Submission	Council
6	24/06/2021	Submission on behalf of Norman Harold Gengoult Smith	Taylors Development Strategists Pty Ltd
7	29/06/2021	Council version of DPO25	Council
8	29/06/2021	Panel Report Cardinia C240card	Council
9	29/06/2021	Norman Harold Gengoult Smith version of DPO25	Taylors Development Strategists Pty Ltd

## Appendix B Panel preferred version of the Schedule 25 to the Clause 43.04 Development Plan Overlay

## SCHEDULE 25 TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

DD/MM/YYYY  
Proposed  
C257

Shown on the planning scheme map as **DPO25**.

### BEACONSFIELD WOODLAND GROVE PRECINCT

#### 1.0 Objectives

DD/MM/YYYY  
Proposed  
C257

- To enhance the choice and diversity of housing opportunities and types, that are appropriate to the setting and achieve high quality amenity and urban design.
- To encourage and guide the re-development of land into an integrated medium density residential precinct that responds to the preferred landscaped ~~neighbourhood~~ character and enhances the public realm.
- To create a residential precinct that protects, and is sympathetic to, the Woods Street area environmental values, including the natural environment of the Cardinia Creek.
- To provide a pedestrian and cycling path network that is well connected, sustainable and meets the needs of the local residents.
- To promote development that enhances community and personal safety through interfaces that provide opportunity for passive surveillance of Cardinia Creek parklands and suitable landscaping.

#### 2.0 Requirement before a permit is granted

DD/MM/YYYY  
Proposed  
C257

A permit may be granted before a development plan has been prepared to the satisfaction of the responsible authority. Proposals must be accompanied by a report demonstrating that it will not prejudice the future development of the land in an integrated manner as identified by this schedule.

#### 3.0 Conditions and requirements for permits

DD/MM/YYYY  
Proposed  
C257

The following conditions and requirements apply to permits:

Conditions:

- Building envelopes must be in accordance with the building setbacks contained within this schedule including the 30 metre building setback from the top of bank of Cardinia Creek and must form either a restriction on the certified plan of subdivision or be applied through an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987 that is registered on the title to the land. The owner must pay for all reasonable costs (including legal costs) associated with preparing, reviewing, executing and registering the agreement on the certificate of title to the land (including those incurred by the responsible authority).
- Building setbacks must be in accordance with the building setbacks contained within this schedule including the 30 metre building setback from the top of bank of Cardinia Creek and must be applied to multi-dwelling developments.
- ~~Before a statement of compliance is issued under the Subdivision Act 1988, subdivisions are required to make a contribution equivalent to 8 per cent of the value of the land for the purpose of unencumbered public open space in accordance with Clause 53.01.~~
- Before the development starts, a landscape plan prepared by a person suitably qualified and experienced in landscape design to the satisfaction of the Responsible Authority and Melbourne Water, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must be generally in accordance with the landscape concept plan contained within the approved Development Plan, and must show:
  - Staging of works, if applicable.
  - That the outcomes of any flora and fauna reports have been addressed.

- A survey (including botanical names) of all existing vegetation to be retained and/or removed.
- A weed management program which includes the following information:
  - botanical name of species targeted.
  - location.
  - method of control and timing of control.
- Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
- A 30 metres minimum development setback from Cardinia Creek top of bank ~~which must be reconfirmed to the satisfaction of~~ by Melbourne Water.
- Details of surface finishes located on recreational pathways, maintenance access or any other pathways near waterways.
- A planting schedule of all proposed trees, shrubs and ground covers which includes the following information:
  - botanical names.
  - common names.
  - pot size.
  - life-form.
  - quantities of each plant.
  - planting density (plants per square metre).
  - planting zones/locations (in plan and cross-section form in colour).
  - landscape treatments with specifications of products such as mulching and erosion control matting.

Requirements:

- Construction of the internal road network with a 7.5 metre wide road pavement between invert of kerbs, underground drainage and footpath construction to the satisfaction of the responsible authority.

#### 4.0 Requirements for development plan

DD/MM/YYYY  
Proposed  
C257

A Development plan must include the following requirements to the satisfaction of the responsible authority:

##### Environment

- A **flora and fauna assessment** (~~including a habitat hectare assessment~~) of the precinct prepared by a suitably qualified person(s), that:
  - Provides a plan drawn to scale showing the boundaries of the precinct, existing vegetation and vegetation to be removed and retained.
  - Provides an assessment of the flora and fauna in the precinct including Ecological Vegetation Classes.
  - Assesses suitable habitat for threatened species in the precinct.
  - Location of any hollow bearing trees.
  - Provides a flora listing of each habitat patch.
- A targeted survey of threatened species prepared by a suitably qualified person(s) where suitable habitat is found in the precinct.
- A written explanation of the steps that have been taken to:
  - Avoid the removal, destruction or lopping of native vegetation and any other significant trees.
  - Minimise impacts from the removal, destruction or lopping of vegetation that cannot be avoided.

- An **arboricultural assessment** prepared by a suitably qualified person(s) [in accordance with the methodology of AS4970-2009](#) that identifies any trees on the land and existing street trees, with descriptions that include species, extent, number, size (diameter at 1.43 metres above natural ground level), tree protection zones, assessment of tree health and retention value.

#### **Bushfire**

- A bushfire assessment, including a bushfire hazard assessment, of the precinct prepared by a suitably qualified person to the satisfaction of the fire authority and the responsible authority, which includes details of how development will respond to bushfire planning policy set-out at Clause 13.02-1S of the planning scheme and demonstrate that development will be exposed to a radiant heat flux less than 12.5 kilowatts/square metre.

#### **Aboriginal Cultural Heritage**

- An **Aboriginal cultural heritage assessment** prepared by a suitably qualified person(s), which includes recommendations for the protection of significant individual sites, where appropriate. A statement that any identified location(s) of any Aboriginal cultural heritage on the land will be required to be protected in accordance with a Cultural Heritage Management Plan (CHMP) at the planning permit stage, if required by the Aboriginal Heritage Act 2006.

#### **Traffic and Transport**

- An **Integrated Transport and Impact Assessment** to the satisfaction of [VicRoads Head, Transport for Victoria](#) and the Responsible Authority, providing specific detail on:
    - The impact of the proposed use and development on the operation of the Princes Highway/Beaconsfield Avenue and Princes Highway/Woods Street intersections.
    - The impacts on public safety.
    - Proposed mitigation works to address any unsatisfactory impacts.
  - A **Traffic Management Plan** showing arrangement for vehicle ingress and egress to the development area, including the road layout, construction standards, traffic management which includes waste and emergency vehicle access.
  - The provision of a clear legible and convenient pedestrian, bicycle and road network that:
    - Connects and integrates with existing networks, including pedestrian connections to Beaconsfield Station, from Woods Street to Cardinia Creek along Trythall Street and the northern east-west road reserve, and create new opportunities for improved pedestrian and cycling permeability in the future.
    - Provides for the construction of the following local roads generally in accordance with Figure 1 [and Figure 2](#), or an alternate internal road layout, to the satisfaction of the Responsible Authority:
      - Precinct B:
        - [The 3 metre wide north-south laneway, between the northern boundary of 87 Woods Street and Trythall Street](#), to be transferred to the front of the following lots to create a minimum 14.35 metre wide road (Brisbane Street):
          - Lots 1 & 2 on TP94444.
          - Lots 1 & 2 on TP121027.
          - Lots 1 & 2 on TP93165.
          - Lots 25, 32 & 33 on LP2804.
- [Note: Council will carry out the necessary road closure processes under the Local Government Act to formally close this portion of the laneway.](#)
- [Bollards to prevent vehicle access to the remaining portion of the laneway must be provided at the Beaconsfield Avenue service lane](#)
  - A 10 metre wide east-west service lane along the northern side of Beaconsfield Avenue connecting to Brisbane Street from Wood Street.

- Access from Brisbane Street to the rail corridor must not be granted without prior consent from VicTrack and the rail operator – Metro Trains Melbourne.
- Provides internal street pavement widths of 7.5 metres between invert of kerb with underground drainage, footpaths and nature strips. Roads reserves may need to be widened.
- Provide only one vehicle crossover or access point per lot that does not exceed 40% of the frontage. An additional driveway can be considered for consolidated lots.
- Vehicle crossovers must be located from the side streets wherever possible to reduce the number of crossovers from Woods Street. Provide vehicle access to Lot 12 on LP2804 and Lots 13 and 18 on LP2805 from the east-west roads.
- Provide traffic management devices on roads with lengths over 180 metres, [where appropriate](#).

#### Infrastructure and drainage

- The provision of utility services infrastructure required to service the development area and details of the arrangements for the provision of the infrastructure. The land must be connected to a reticulated sewerage system of a sewerage authority.
- A **Fill Plan** which identifies the depth and fill material, and staging in a manner and time designed to minimise any adverse impacts on the amenity of nearby areas, must be submitted to the satisfaction of the Responsible Authority and Melbourne Water.
- A **drainage strategy** for the development plan area to the satisfaction of Melbourne Water and the Responsible Authority showing:
  - Filling of residential lots with roads or accessways providing for overland flows and/or raised minimum floor levels for development.
  - A coordinated approach to providing drainage infrastructure which must include stormwater quality treatment to best practice guidelines.
  - A 30 metres minimum development setback from Cardinia Creek top of bank [or otherwise to the satisfaction of](#) ~~which must be reconfirmed by~~ Melbourne Water.
  - Within Precinct B, there should be no drainage to the rail corridor [without the consent of VicTrack and the rail operator – Metro Trains Melbourne](#).

#### Public Open Space and landscaping

- A **landscape concept plan** to the satisfaction of Melbourne Water and the Responsible Authority showing:
  - ~~Landscaping requirements to the satisfaction of Melbourne Water.~~
  - Location, preservation and protection of significant trees/vegetation, existing street trees, roadside vegetation and grassed road verges. ~~Including maintaining the long term, sustainable health and condition of existing vegetation.~~
  - Location, preservation and protection of any threatened species, [where appropriate](#)
  - Location of landscaped areas.
  - Details of the landscape themes.
  - Landscape design incorporating a consistent streetscape theme.
  - New plantings consistent with existing species of vegetation within connecting roads and reserves.
  - Provision of street trees (minimum pot size of 45L when planted) for shade and aesthetic quality at an early stage of development – to be planted or bonded to the satisfaction of the Responsible Authority prior to Statement of Compliance of a subdivision.

#### Urban Design

- Dwelling facades that address a street or the public realm should [provide](#) ~~maximise~~ passive surveillance opportunities from these dwellings to the adjoining streets or public realm.
- Front fences should be avoided, or low or transparent front fences that allow [views of front gardens](#) ~~gardens and nature strips to merge~~ should be provided.



- New road treatments and street furniture should be consistent with the existing styles of road treatments and street furniture found in Beaconsfield town centre.
- ~~Future~~ [New development should not adversely impact the heritage significance of a heritage place](#) ~~New development to provide a sympathetic design response is to take into account the to any surrounding heritage buildings.~~

### **Housing**

- Lot sizes must support a medium density housing precinct.
- Within Precinct A, building setbacks from Woods Street of four metres are preferred.
- Within Precinct B, building setbacks from Woods Street that graduate from three metres at the southern end to four metres at the northern end are preferred.
- Within Precinct B, a minimum 1 metre building setback from the common boundary with the rail corridor at Lots 33 and 34 on LP2804 and Lots 4 and 5 on SP28567 is required, to allow for ongoing property maintenance without a requirement for access to the rail corridor.
- Within Precinct B, trees/landscaping species are to not overhang onto railway land or have potential to disturb railway operations.
- ~~Within Precinct B, the rail corridor is to be fenced to the rail operator's requirements.~~
- Within Precinct B, there should be no drainage to the rail corridor [without the consent of VicTrack and the rail operator – Metro Trains Melbourne](#).

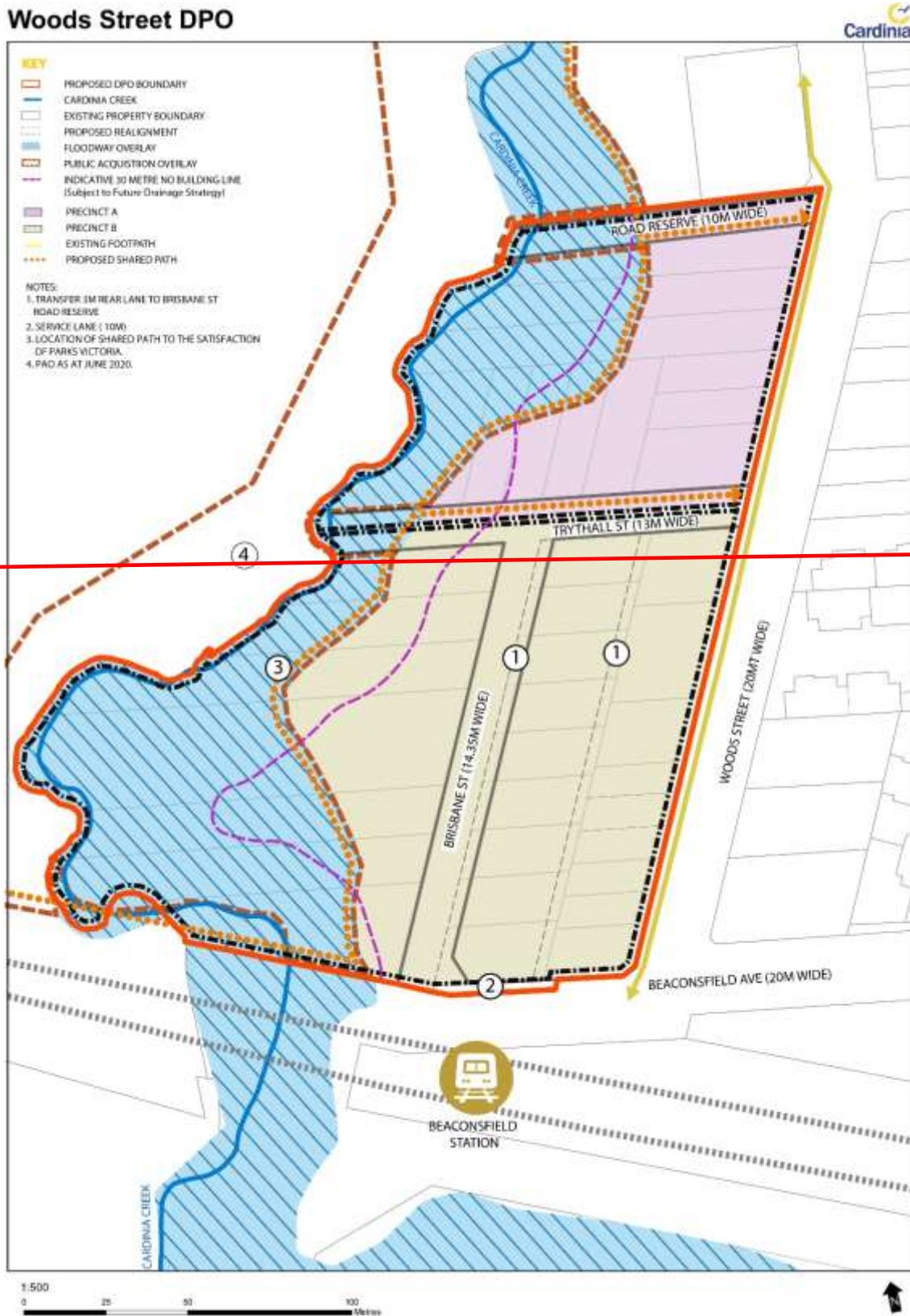
### **Staging**

- Anticipated sequencing and timing of development of the precinct.

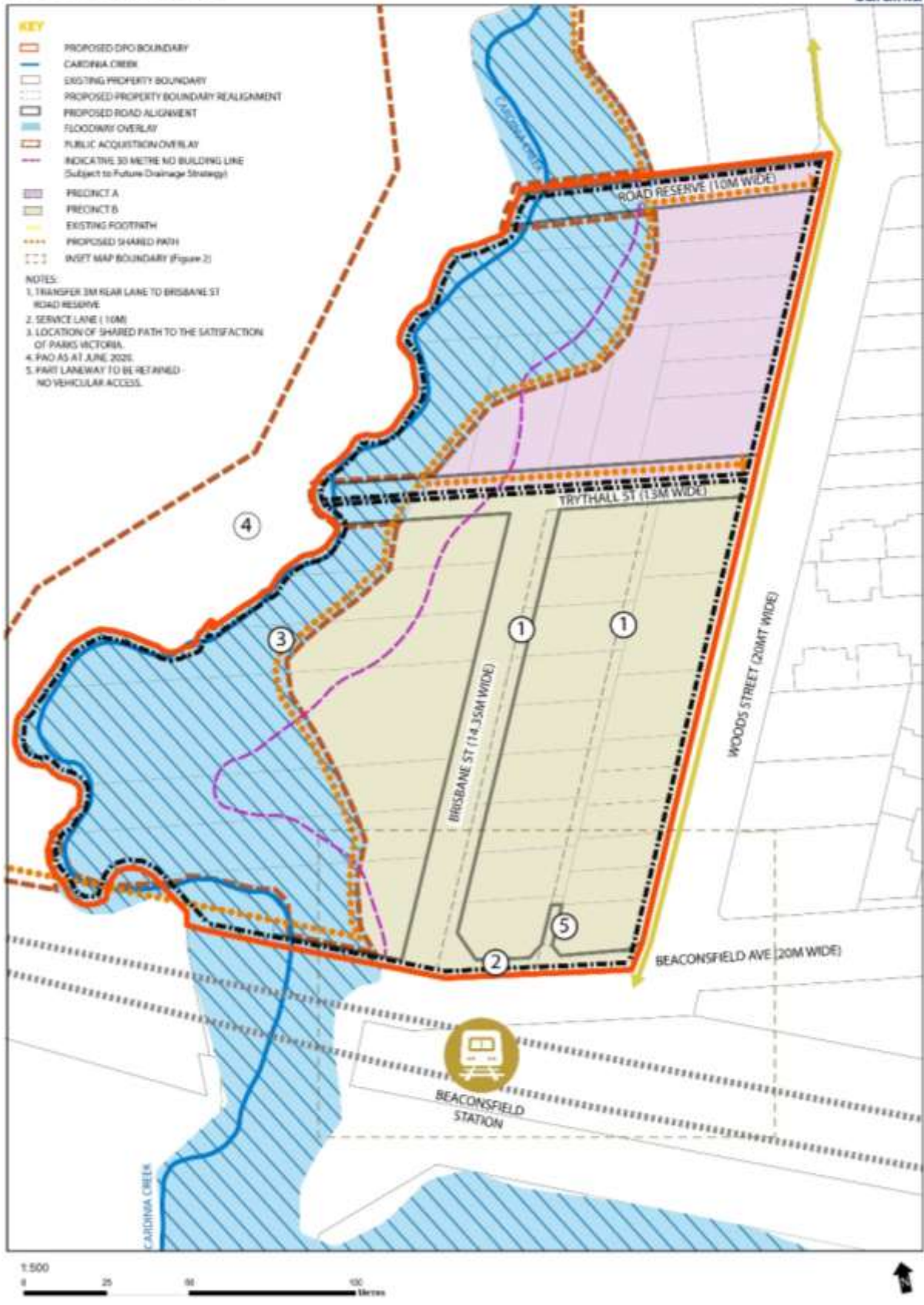
**56.0** [Indicative Traffic and Transport Plan Woodland Grove Precinct](#) **Figure 1**

The land parcels affected by this schedule are identified as No.s 53-56, 67-71, 73-75, 81, 83, 85, 87 Woods Street

**Figure 1**



# Woods Street DPO



~~7.0~~ **Figure 2**

