

# Planning Panels Victoria

## Cardinia Planning Scheme Amendment C268card and Planning Permit Application T190104 49 Garfield Road, Garfield

### Panel Report

*Planning and Environment Act 1987*

**26 May 2023**

### **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 may also recommend to the Minister that a permit that applies to the adopted Amendment be granted. The Minister may grant or refuse the permit subject to certain restrictions. [sections 96G and 96I of the PE Act]

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 Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

### *Planning and Environment Act 1987*

Panel Report pursuant to section 25 of the PE Act

Cardinia Planning Scheme Amendment C268card<sub>u</sub> and Planning Permit Application T190104

49 Garfield Road, Garfield

**26 May 2023**



Michael Ballock, Chair

## Contents

	<b>Page</b>
<b>Executive summary</b> .....	<b>6</b>
<b>1 Introduction</b> .....	<b>7</b>
1.1 The Amendment.....	7
1.2 Background .....	10
1.3 The Panel’s approach .....	11
<b>2 Strategic issues</b> .....	<b>12</b>
2.1 Planning context .....	12
2.2 Strategic justification.....	13
<b>3 The rezoning proposal</b> .....	<b>16</b>
<b>4 Planning Permit T190104</b> .....	<b>24</b>
<b>Appendix A Submitters to the Amendment</b> .....	<b>26</b>
<b>Appendix B Document list</b> .....	<b>27</b>
<b>Appendix C Planning context</b> .....	<b>28</b>
C:1 Planning Policy Framework .....	28
C:2 Other relevant planning strategies and policies .....	31
C:3 Planning Scheme provisions.....	33
C:4 Ministerial Directions .....	33
<b>Appendix D Panel preferred version of the-Planning Permit TP190104</b> .....	<b>35</b>

## List of Tables

	<b>Page</b>
Table 1 Planning context .....	12
Table 2 Relevant parts of Plan Melbourne.....	31

## List of Figures

	<b>Page</b>
Figure 1 Existing zones .....	7
Figure 2 Proposed zones.....	8
Figure 3 The subject land (in red) .....	9
Figure 4 Location of the subject land and the Garfield Township .....	10
Figure 5 Garfield Township Strategy Plan.....	14
Figure 6 Proposed reticulated sewer location to service the subject site.....	17
Figure 7 Council's proposed changes to the habitat connections .....	19
Figure 8 Proposed plan of subdivision .....	21

## Glossary and abbreviations

APA	APA VTS Australia (Operations) Pty Ltd
CFA	Country Fire Authority
Council	Cardinia Shire Council
LDRZ	Low Density Residential Zone
LDRZ2	Low Density Residential Zone Schedule 2
LDRZ3	Low Density Residential Zone Schedule 3
PE Act	<i>Planning and Environment Act 1987</i>
Proponent	Oakhouse Nominees Pty Ltd, Alan and Vicki Ross
Township Strategy	Garfield Township Strategy, 2002
UGB	Urban Growth Boundary

## Overview

### Amendment summary

The Amendment	Cardinia Planning Scheme Amendment C268card and Planning Permit Application T190104
Common name	49 Garfield Road, Garfield
Brief description	The Amendment is a combined planning permit application and planning scheme amendment under section 96A of the Planning and Environment Act 1987. It proposes to rezone part of the land within the Urban Growth Boundary from Low Density Residential (Schedule 2) to Low Density Residential (Schedule 3), and rezone part of the land outside the UGB from Low Density Residential (Schedule 2) to Green Wedge Zone (Schedule 1) and to permit a 37 lot subdivision of the land
Subject land	49 Garfield Road, Garfield
The Proponent	Oakhouse Nominees Pty Ltd, and Alan and Vicki Ross
Planning Authority	Cardinia Shire Council
Authorisation	By letter dated 22 August 2022
Exhibition	13 October to 14 November 2022
Submissions	Number of Submissions: 13 -Opposed: two (refer to Appendix A)

### Panel process

The Panel	Michael Ballock (Chair)
Directions Hearing	By video conference, 20 March 2023
Panel Hearing	By video conference, 26 April 2023
Site inspections	Unaccompanied, 17 May 2023
Parties to the Hearing	Council represented by Teresa Hazendonk (Principal Strategic Planner) Oakhouse Nominees Pty Ltd and Alan and Vicki Ross represent by Nick Anderson of NBA Group who called expert evidence on: <ul style="list-style-type: none"> <li>- infrastructure and traffic from Christopher Constantine from Millar &amp; Merrigan Pty Ltd</li> <li>- bushfire, urban design and ecology from Mandy Edwards from Millar &amp; Merrigan Pty Ltd</li> </ul>
Citation	Cardinia PSA C268card [2023] PPV
Date of this report	26 May 2023

## Executive summary

Cardinia Planning Scheme Amendment C268card (the Amendment) seeks to rezone part of the land at 49 Garfield Road Garfield within the Urban Growth Boundary (UGB) from Low Density Residential Schedule 2 (LDRZ2) to Low Density Residential Schedule 3(LDRZ3), and rezone part of the land outside the UGB from Low Density Residential Schedule 2 (LDRZ2) to Green Wedge Zone Schedule 1 (GWZ1). The Amendment includes a planning permit application (T190104) under section 96A of the Planning and Environment Act 1987 (PE Act).

Key issues raised in submissions included:

- the need to revise the Garfield township plan before any rezoning is approved
- traffic and safety concerns resulting from increased traffic on Garfield Road
- protection of the Southern Brown Bandicoot habitat
- vegetation removal
- drainage issues.

The Panel concluded that the change in zone from LDRZ2 to LDRZ3 will have little impact unless reticulated sewerage is provided to the subject land to enable a reduced minimum lot size to be approved. On this basis the rezoning is appropriate and broadly consistent with the Garfield Township Strategy.

Planning permit T190104 provides for a 37 lot subdivision-with a 2,000 square metre minimum lot area, consistent with the provisions of the LDRZ3. In response to submissions, post exhibition modifications to some of the permit conditions was proposed by Council. In addition, a further change to the subdivision layout and permit conditions was proposed by Council at the Hearing to address an oversight in the provision of Southern Brown Bandicoot habitat corridors.

The Panel concluded that the proposed subdivision is consistent with the provisions of the Planning Scheme and that the planning permit should be approved subject to the modifications recommended by Council.

The Panel concludes:

- The proposed rezoning of 49 Garfield Road, Garfield from LRDZ2 to LDRZ3 is appropriate.
- The planning permit T190104 should be granted subject to the modifications contained in Appendix D.

### Recommendations

Based on the reasons set out in this Report, the Panel recommends that Cardinia Planning Scheme Amendment C268card be adopted as exhibited subject to the following:

- 1. Issue planning permit T190104 for the staged subdivision of the land at 49 Garfield Road, Garfield, the removal of native vegetation, the removal / variation of easements, and creation of restrictions on plan of subdivision subject to the permit conditions contained in the Panel preferred version in Appendix D.**

# 1 Introduction

## 1.1 The Amendment

### (i) Amendment description

The Amendment is a combined planning permit application and planning scheme amendment under section 96A of the Planning and Environment Act 1987. The purpose of the Amendment is to rezone part of the land within the UGB from LDRZ2 to LDRZ3, and rezone part of the land outside the UGB from LDRZ2 to GWZ1 as shown in Figures 1 and 2) to enable further subdivision.

The planning permit application applies to the land at 49 Garfield Road, Garfield.

Specifically, the Amendment proposes to:

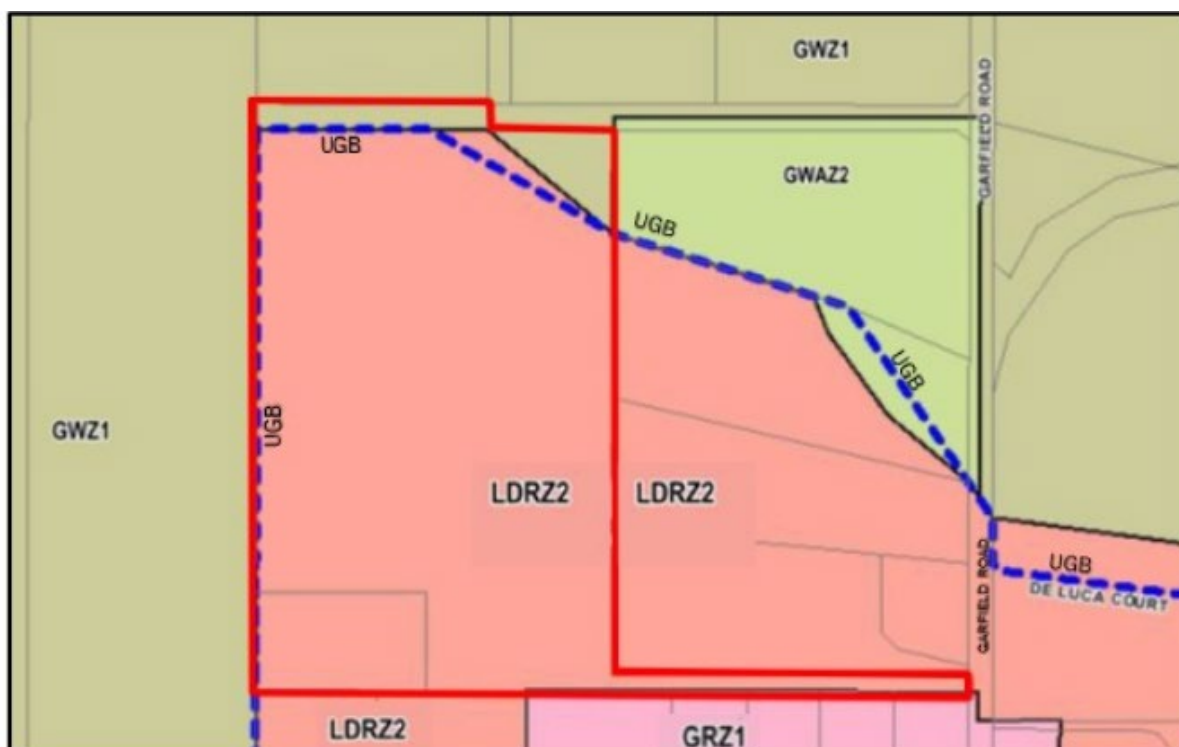
- amend Planning Scheme Map 22ZN.

The planning permit application T190104 seeks approval for:

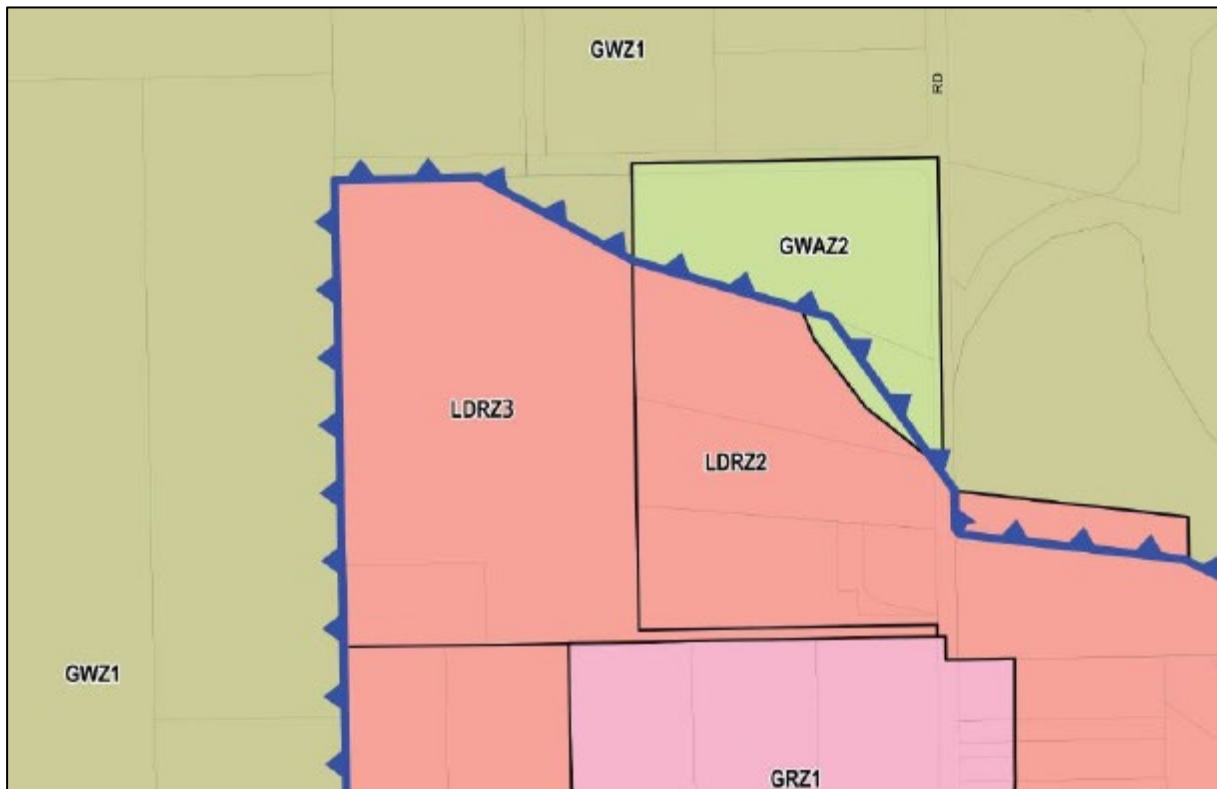
- subdivision of the land into 37 residential lots
- removal of native vegetation
- creation and removal of easements
- creation of restrictions on the plan of subdivision.

The Proponent for the Amendment is Oakhouse Nominees Pty Ltd, and Alan and Vicki Ross.

**Figure 1** Existing zones



**Figure 2 Proposed zones**

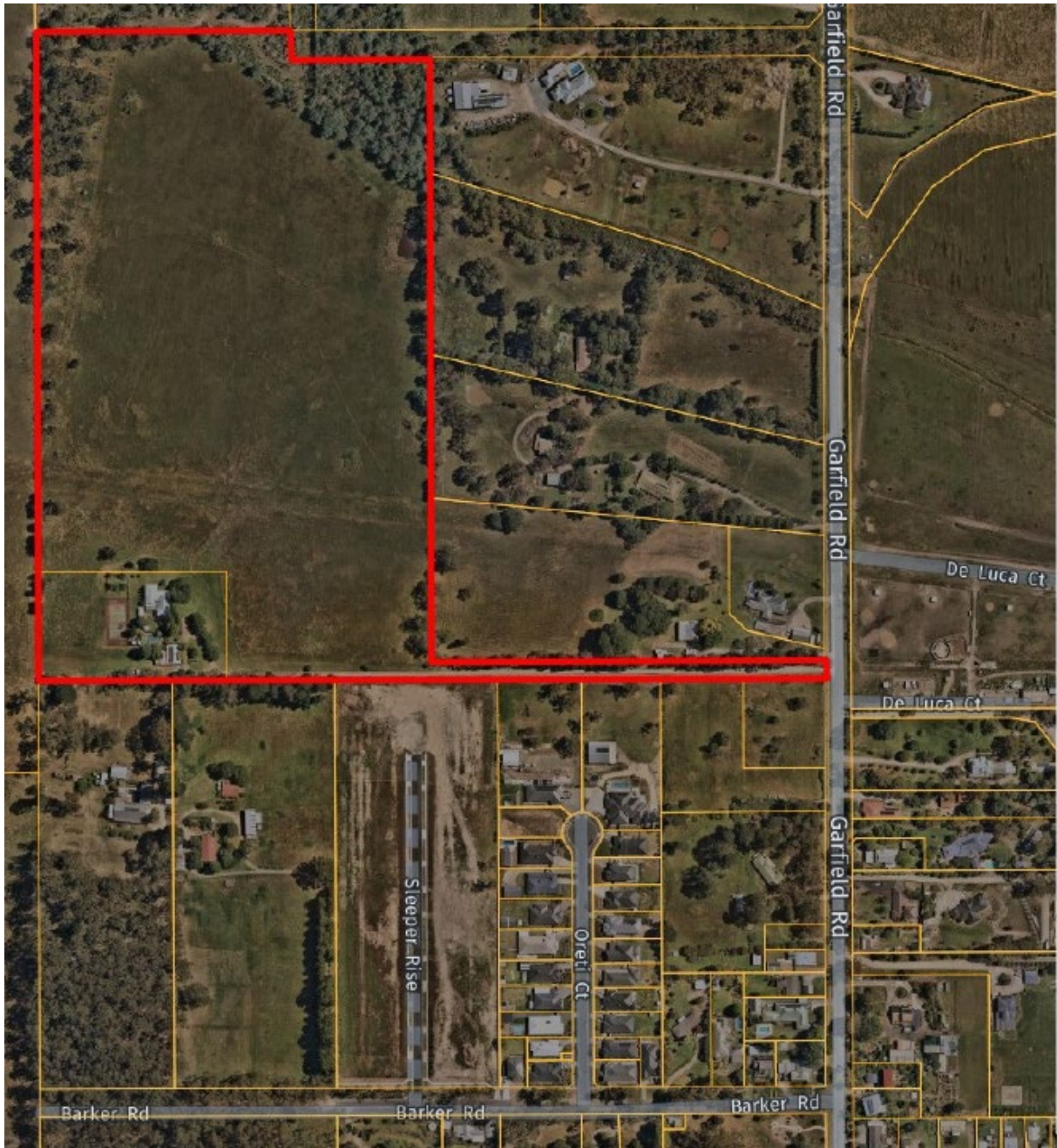


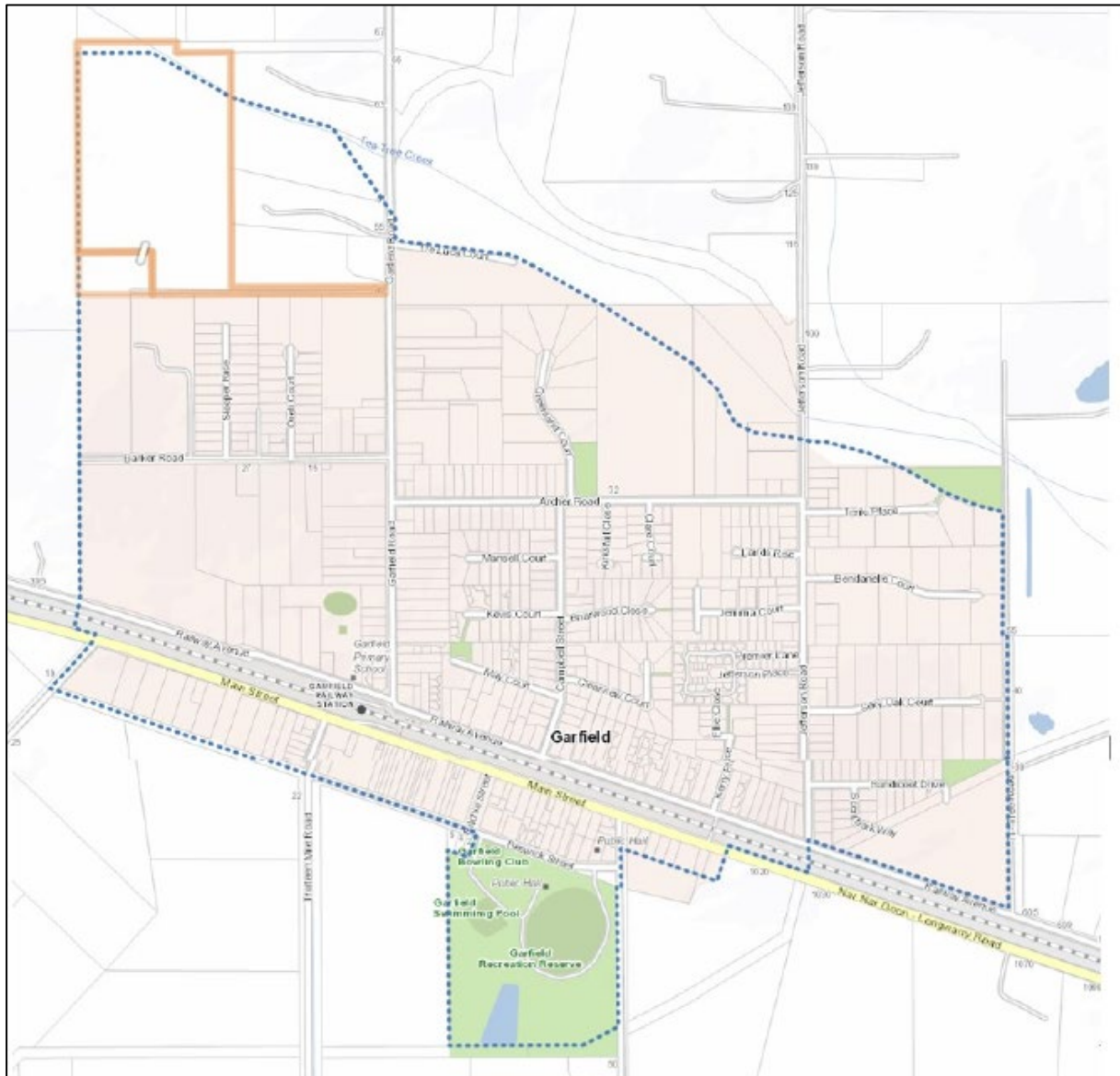
**(ii) The subject land**

The Amendment applies to land shown in Figure 3 which comprises two allotments identified as Lot 1 PS436250U and Lot 1 PS531590N. The subject land is situated on the northwest fringe of the residential area of Garfield (Figure 4) and comprises two land parcels with a combined area of 14.075 hectares. The land has a ‘battle-axe’ shape and vehicle access is via a driveway along the battle-axe handle that connects to Garfield Road. This driveway is referred to as ‘Road A’ in the proposed plan of subdivision (refer to Figure 8).



Figure 3 The subject land (in red)



**Figure 4** Location of the subject land and the Garfield Township

## 1.2 Background

In 2016 Cardinia Planning Scheme Amendment C188 implemented the recommendations of a shire wide review of the LDRZ and rezoned land at various locations in the Cardinia Shire from LDRZ2 to LDRZ3. This rezoning allowed for subdivision to a minimum lot size of 2000 square metres where reticulated sewerage was available and no other planning issues were apparent.

The owners of the subject land made a late submission to include their site in Amendment C188. Council did not support the inclusion of the subject site within the LDRZ3 at the time but noted that it would entertain a future rezoning via a separate amendment and combined planning permit application to allow consideration of site-specific design responses due to the location of the Tea Tree Creek, Gas Pipeline and reticulated services.

In February 2019 Council received the planning scheme amendment request and planning permit application under Section 96A of the PE Act from the Proponent.

### 1.3 The Panel's approach

Following exhibition of the Amendment 13 submissions were received. Two submissions opposed the Amendment.

Key issues raised in the opposing submissions were:

- the need to revise the Garfield township plan before any rezoning is approved
- traffic and safety concerns resulting from increased traffic on Garfield Road
- protection of the Southern Brown Bandicoot habitat
- vegetation removal
- drainage issues
- lack of privacy from the elevated road.

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 all material and has been 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
- The rezoning proposal
- Planning Permit T190104.

## 2 Strategic issues

### 2.1 Planning context

This chapter identifies planning context relevant to the Amendment. Appendix A highlights key imperatives of relevant provisions and policies.

**Table 1** Planning context

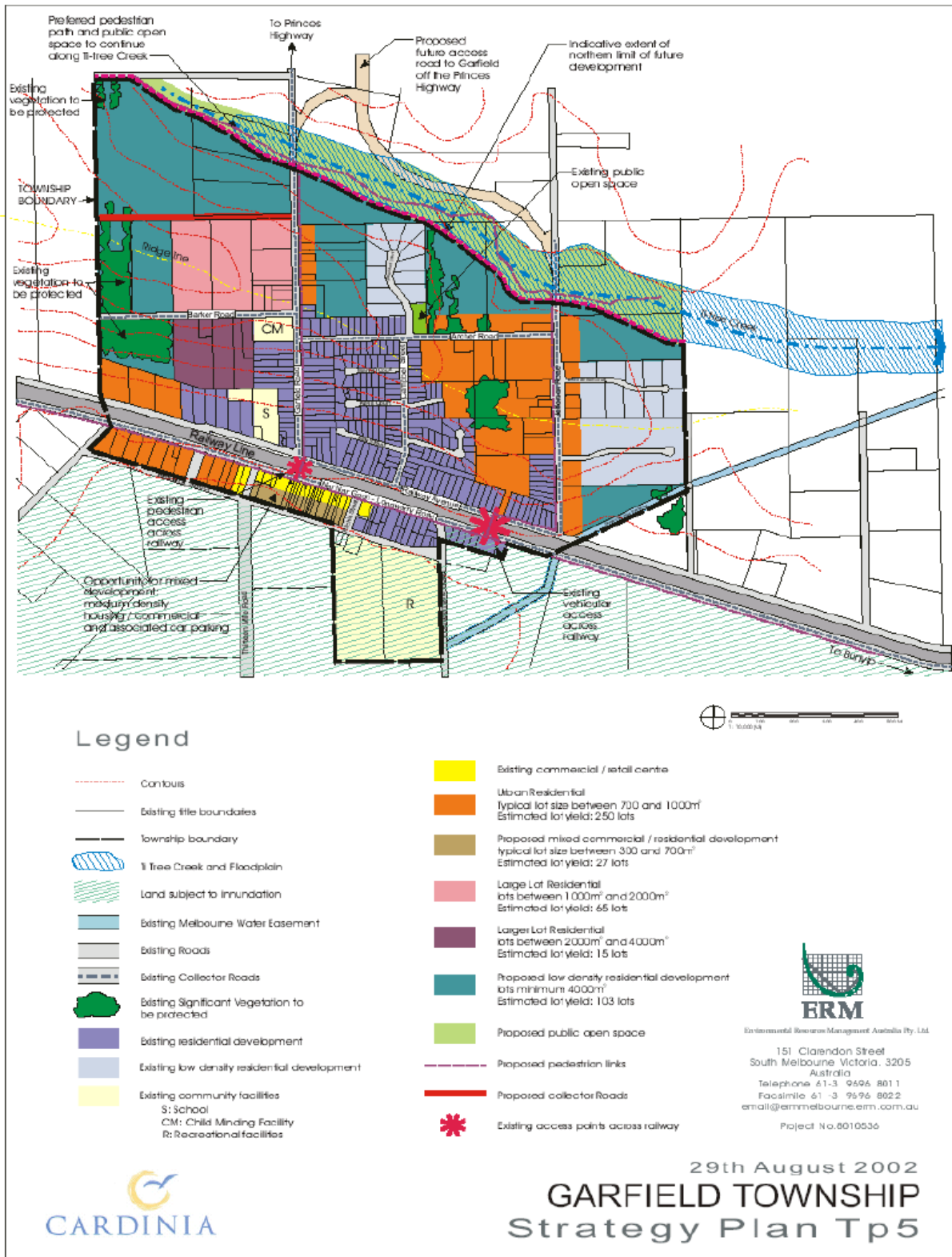
	Relevant references
<b>Victorian planning objectives</b>	- section 4 of the PE Act
<b>Planning Policy Framework</b>	- Clauses 11 (Settlement), 12 (Environmental and Landscape Values), 13 (Environmental Risks and Amenity), 14 (Natural Resource Management), 16 (Housing), 18 (Transport) and 19 (Infrastructure)
<b>Local Planning Policy Framework</b>	- Clauses 21.02 (Environment), 21.03 (Settlement and Housing), 21.05 (Infrastructure) and 21.06 (Particular Uses and Development)
<b>Other planning strategies and policies</b>	- Plan Melbourne Outcomes 2, 4 and 5 Directions 2.1, 2.5, 4.3, 5.1 and 5.2 - Garfield Township Strategy
<b>Planning Scheme provisions</b>	- Low Density Residential Zone
<b>Ministerial Directions</b>	- Ministerial Direction on the Form and Content of Planning Schemes, under Section 7(5) of the Planning and Environment Act 1987 - Ministerial Direction 1: Potentially Contaminated Land - Ministerial Direction 9: Metropolitan Planning Strategy - Ministerial Direction 11 (Strategic Assessment of Amendments) - Ministerial Direction 15: The Planning Scheme Amendment Process - Ministerial Direction 19 – Part A: Ministerial Direction On The Preparation And Content Of Amendments That May Significantly Impact The Environment, Amenity And Human Health, and Part B: Ministerial Requirement For Information For Authorisation Or Preparation Of Amendments That May Significantly Impact The Environment, Amenity And Human Health (MD19)

## 2.2 Strategic justification

### (i) Submissions

Council submitted that the Amendment is required to facilitate the proposed low density residential subdivision of the land into 2,000 square metre lots and generally accords with the strategic directions and outcomes sought by the *Garfield Township Strategy, 2002* (Township Strategy), shown in Figure 5. It added that the land can be connected to reticulated sewerage, environmental constraints can be adequately addressed and the bushfire risk can be adequately addressed and mitigated. The rezoning would also rectify an anomaly by rezoning part of the land outside the UGB from LDRZ2 to GWZ1 to include part of Tea Tree Creek which is otherwise zoned GWZ1.

Figure 5 Garfield Township Strategy Plan



Council stated that:

The Cardinia Planning Scheme identifies Garfield as a Large Rural Township with capacity for housing growth. Sustainable growth of townships is to occur in accordance with township strategies and local planning policy. The Cardinia Planning Scheme and the Garfield Township Strategy (2002) identify the land to be developed for low density residential

purposes to act as a transition between the more conventional lots in the General Residential Zone and the surrounding farmland in the Green Wedge Zone.

Council informed the Panel that it had resolved to review the Township Strategy as well as several other townships in the coming years. However, the Township Strategy remains a reference document in the Planning Scheme.

Elizabeth Hodgson submitted that any new development should be undertaken in the context of a reviewed Township Strategy and that approval of the subdivision would be premature.

## **(ii) Discussion**

The Panel acknowledges that the Township Strategy is dated but nevertheless, as the current reference document, forms part of the strategic basis for the Amendment. The Garfield Township Strategy Plan clearly shows the subject land as part of an extensive area of low density residential development (minimum 4,000 square metre lots) to the north of the town the northern boundary of which is delineated by the Tea Tree Creek proposed open space. The Township Strategy also recommends that no urban development occur north of Tea Tree Creek.

In the Panel's view this is a sound strategy and one that is unlikely to significantly change if and when a review occurs. The Township Strategy requirement of a 4,000 square minimum lot size was consistent with the then provisions of the LDRZ. However, the LDRZ provisions have subsequently been amended to allow a 2,000 square metre minimum where access to a reticulated sewer is available. The Panel finds that this change remains consistent with the approach adopted in the Township Strategy of low density residential on Garfield's northern fringe and provides the strategic justification for the Amendment.

## **(iii) Conclusions**

For the reasons set out in this report, the Panel concludes that the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is consistent with the relevant Ministerial Directions and Practice Notes
- is well founded and strategically justified
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

## 3 The rezoning proposal

### (i) The issue

The issue is:

- whether the proposed rezoning of 49 Garfield Road, Garfield from LRDZ2 to LDRZ3 is appropriate.

### (ii) Evidence and submissions

Council submitted that the proposed development would provide additional housing while retaining the rural character of the township. It added that the proposal would add a “*significant extension*” to the Garfield shared path network as well as providing a new playground.

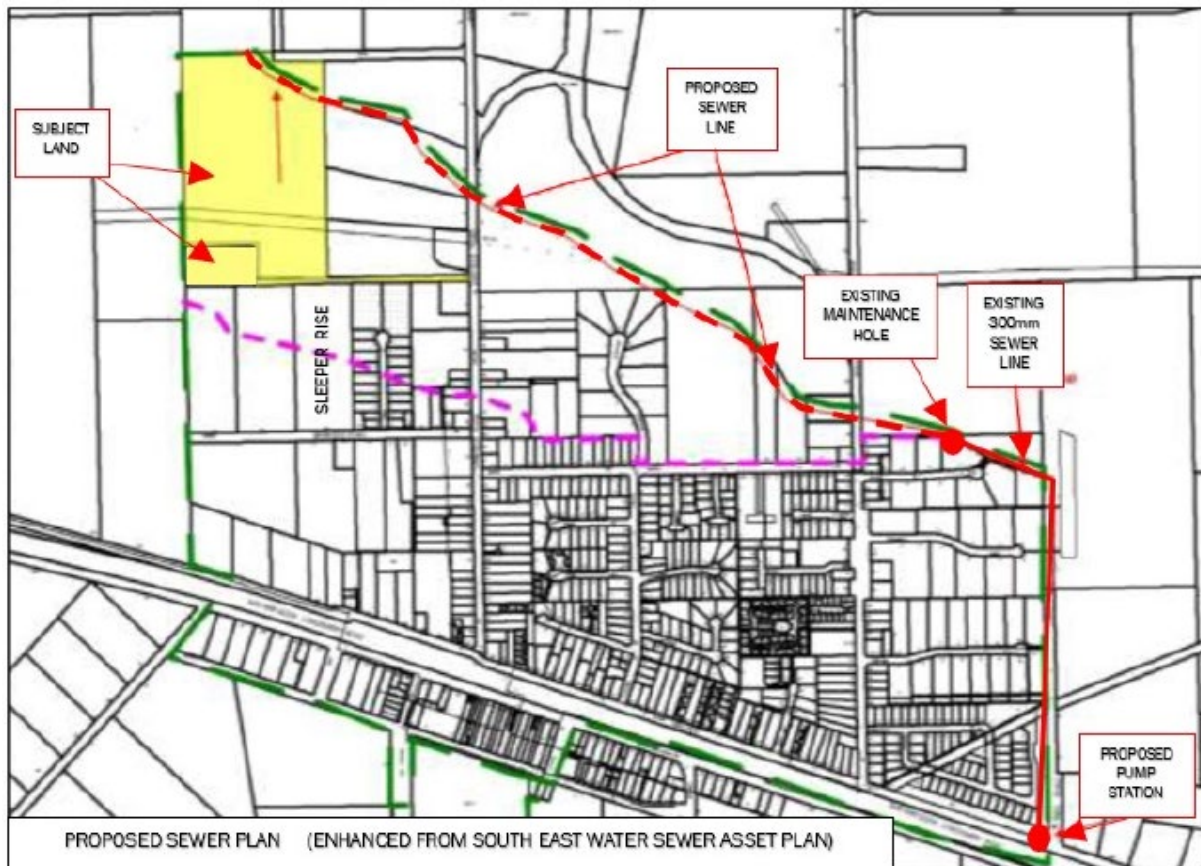
Council stated that under the LDRZ3 the proposed stage 1 subdivision of the land (refer Figure 8) provided a southern connection via Sleeper Rise to Barker Road to the south and eventually Garfield Road which would adequately accommodate the traffic generated from 18 lots. The stage 2 development of creating the remaining 19 lots would require a second road connection via ‘Road A’, along the existing driveway providing a direct connection to Garfield Road. While the Sleeper Rise connection would be maintained it would be secondary to the new more direct road once Road A was constructed.

Council agreed with the Proponent’s Traffic Impact Assessment (2021) prepared by O’Brien Traffic and exhibited with the Amendment which concluded the Garfield Road and Barker Road intersection had adequate capacity to accommodate the estimated 180 additional traffic movements per day that would be generated by stage 1. Council acknowledged that with the completion of stage 2 the intersection of Garfield and Road A would require the addition of right and left turn lanes. Council provided a copy of the Proponent’s concept plan of the intersection treatment to demonstrate that this configuration and adequate sight lines could be accommodated and advised that the final layout would be subject to its approval and provision of a footpath connection.

Council informed the Panel that, under the provisions of the LDRZ, the proposal for a subdivision with a 2,000 square metre minimum lot size cannot be achieved if a reticulated sewer system is not brought to the site. Council submitted that the construction of the sewer, as shown in Figure 6, would require a new pump station in the southeast of the township and provide an opportunity to develop the northern areas of the township inside the UGB.



Figure 6 Proposed reticulated sewer location to service the subject site



Council added that Tea Tree Creek is part of the broader stormwater drainage system and the proposed development would extend the drainage reserve to a total width of 60 metres and place it in public ownership. In addition, the development would rehabilitate the creek area by removing weeds and replanting indigenous vegetation. The proposed development would also include land set aside for conservation reserves with linear plantings to provide additional habitat for native species including the Southern Brown Bandicoot.

Council informed the Panel that the State Government's *Sub-regional Species Strategy for Southern Brown Bandicoots (2014)* includes the whole of the Garfield Township in the management area for the conservation of the Southern Brown Bandicoot and has informed its approach to the protection of the species. It added:

Council has had some experience in implementing varying measures to protect and enhance the bandicoots' habitat associated with several newer developments in Garfield. Aside from requiring planting of specific types of vegetation to form habitat corridors for the bandicoots, other measures include bandicoot friendly fencing, bandicoot hides and under road culverts that have been specially designed by Council's engineers.

In addition to the Tea Tree Creek reserve, habitat corridors are proposed on the east and west boundaries of the site which would result in a "*significant net gain in habitat for the Southern Brown Bandicoot.*"

Council however informed the Panel that, due to an oversight the proposed eastern corridor would not connect to another corridor on the southern boundary but end at the fenced Sleeper Rise property boundaries. Council initially proposed an addition to the permit conditions requiring

fencing of lots 35 and 36 of the proposed subdivision that would require the fences to provide the free movement of the Southern Brown Bandicoot.

However, during the Hearing Council proposed a different alternative:

- that the proposed east–west gas pipeline reserve could be appropriately planted and form a connection between the two north–south habitat reserves, and
- -a wildlife underpass was included from the eastern reserve under the access road to the gas pipeline reserves.

In response to this submission the Panel issues the following Directions (Document 09) at the conclusion of the Hearing:

1. Council should discuss the proposal with both the APA VTS Australia (Operations) Pty Ltd (APA) and the Country Fire Authority (CFA) to ascertain whether a wildlife corridor along the southern edge of the gas mains reserve would be supported.
2. Once Council has a response from APA and CFA it should confer with the proponent to about whether to proceed with the proposal.
3. Whether there is agreement or not all parties should respond to the Panel in writing by 12.00 noon on Friday May 5, 2023.
4. Council should provide its final version of the draft planning permit T190104 in MS Word format with all its proposed post exhibition changes marked by tracked change by 12.00 noon on Friday May 5, 2023.

By email dated 5 May 2023 (Document 10), Council advised:

Council proposes to amend the landscape requirements at conditions 10.f. and 21.f of the proposed planning permit to ensure the planting in the garden bed along the southern edge of the proposed Council Reserve / Gas Pipeline Easement can assist the endangered Southern Brown Bandicoot to move more safely in an east–west direction across the subject land.

Council also proposed to amend the bushfire defendable space requirements at condition 6.e.v. to increase the bushfire defendable space distance at each end of the Reserve/Easement from 19m to 20m. This will ensure the proposed planting cannot be classified as a bushfire hazard in its own right under *AS 3959-2018 Construction of Buildings in Bushfire-prone Areas*.

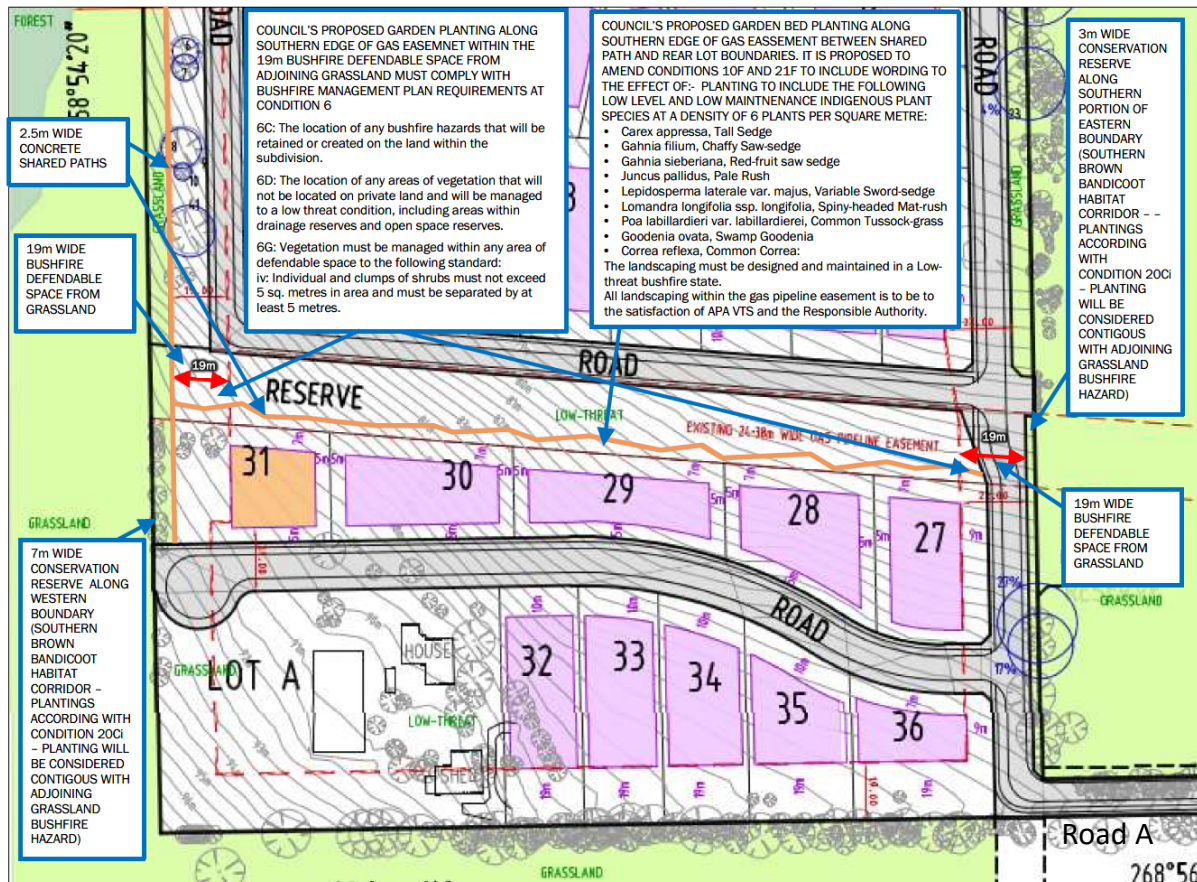
In support of this approach Council provided letters from APA Group (Document 12) which stated it had no objection to the proposal and the Country Fire Authority (CFA) (Document 13) which stated that the:

...proposed garden bed planting against AS 3959-2018 Construction of Buildings in Bushfire-prone Areas must be carried out to determine whether it can be classified as a bushfire hazard in its own right.

Council stated that the garden bed planting can be excluded from a BAL assessment under ‘Section 2.2.3.2 Exclusions – Low-threat vegetation and non-vegetated areas’ of AS3959-2018 under point (d) if the bushfire defendable space distance at each end of the proposed reserve from the grassland hazard is increased from 19 metres to 20 metres. In addition, it added that point (f) provided an exclusion for maintained public reserves and parklands.

Council provided a revised planting proposal (Document 11) which included the required changes as shown in Figure 7.

Figure 7 Council's proposed changes to the habitat connections



Council stated that it did not support the proposal by submitters Luke Carpenter and Stacy and Marcel Ploeg to require service connections and crossovers to enable the subdivision of the rear of their properties as part of the development of the subject site.

Council submitted that vegetation minimised as far as practical, with the retention of important vegetation along the creek and along the northern and western boundaries within conservation reserves to be vested in Council. Native vegetation on a total of 0.88 hectares of native vegetation will be removed to accommodate the proposed residential lots and bushfire defensible spaces and planting offsets will be required via permit conditions.

The Proponent submitted that the Amendment and planning permit had been through a rigorous assessment by the Council and other authorities from 2019 to 2023 resulting in a number of changes to the original proposal. It added that the final plan of subdivision (Figure 8) includes:

- provision of 36 low density allotments in excess of 2000 square metre
- provision of a larger balance allotment, Lot A, to encompass the existing dwelling
- provision of for Bushfire Protection Measures, in accordance with CFA requirements, including:
  - a road layout that provides for circulation and truck turn around areas
  - provision of perimeter roads to provide separation between allotments and bushfire threat
  - subdivision redesign to allow allotments to meet BAL12.5 construction standards
    - provision of for development setbacks to the Tea Tree Creek

- development extent reduced to encompass existing vegetation around the periphery of the site
- provision of habitat corridors for Bandicoot protection
- nil impacts on the existing gas pipeline easement
- provision of road link to the south to provide for links to future developable areas.

The Proponent supported Council's response to submissions and, in relation to the submissions from Luke Carpenter and Stacy and Marcel Ploeg, added that it did not accept the responsibility or cost involved in service provision or crossover construction.

Figure 8 Proposed plan of subdivision



Mr Constantine’s infrastructure and traffic evidence for the Proponent was that the proposed subdivision could be serviced by all the required infrastructure. He acknowledged that the subdivision would require the provision of a reticulated sewer including a new sewer pump station but all other services could be provided with little augmentation. He advised that the:

... proposal demonstrates compliance with Best Practice Environmental Management Guidelines for Urban Stormwater (CSIRO 1999) (BPEMG) and has been supported by both Council and Melbourne Water.

Based on the exhibited Traffic Impact Assessment, he concluded that the traffic generation could be accommodated by the existing road network.

Mandy Edwards's bushfire evidence for the Proponent was that the bushfire risk and protection of human life had been considered as a priority in accordance with Clause 71.02 and the plan of subdivision had been designed in consultation with the CFA to meet the requirements of Clause 13.02-1S. Her assessment of the bushfire risk concluded:

The site assessment determines that the land to be rezoned can be developed to BAL-12.5 requirements in accordance with Clause 13.02 and it is recommended that building envelopes, construction standards, vegetation management and fencing controls (non-combustible) be applied through a 173 Agreement. Enhanced construction to BAL-19 for interface lots should be applied to enhance resilience to bushfire and mitigate the landscape risk.

Ms Edwards stated that best practice urban design features were proposed to create a *"liveable and attractive development."* In addition, the subdivision was designed to provide habitat corridors for the Southern Brown Bandicoot. This design and the targeted surveys that are currently being undertaken will inform the assessment under the Environment Protection and Biodiversity Conservation Act, 1999 to satisfy its requirements.

Michelle Grimstead, Glen Davey, Jade Taylor, Greg Howson, Michael Masterton and John Kirk submitted that they supported the Amendment and planning permit.

Luke Carpenter and Stacey and Marcel Ploeg supported the Amendment on condition that they were provided with all services and crossovers from Road A to the rear of their properties to enable the future subdivision of the land.

South East Water submitted it had no objection to the rezoning but required the owner to enter an agreement for the provision of sewerage and water supply when the land is developed.

The APA Group raised no objection to the Amendment provided that a number of conditions and notes were included on the planning permit.

Doug and Roberta Axnick did not object to the rezoning but raised a number of issues in relation to the planning permit.

Dennis Mitchell expressed concern about the construction practices and the removal of vegetation.

Elizabeth Hodgson submitted that Garfield Road is a busy road and the proposed development would *"significantly increase"* traffic which would create traffic and safety issues. She added that the proposed development would set a precedent for other development and should only be considered in the context of a revised Garfield Township Strategy. She stated that the requirement for 10,000 litre water tanks seemed small and the lack of a mandatory requirement for solar panels a serious omission.

With respect to the Southern Brown Bandicoot, her submission was that the subdivision will further destroy habitat and populations of this endangered species. In addition, the land set aside for the bandicoots will not adequately house or protect them.

### **(iii) Discussion**

The Township Strategy Plan includes the subject site with a number of properties on the northern fringe as low density residential with a 4,000 square metre minimum lot size. The 2002 Strategy Plan predates the 2013 changes to the LDRZ to allow a minimum 2,000 area for lots serviced by a reticulated sewer. From this perspective the Strategy Plan is somewhat dated. Nevertheless, in the Panel's view, the principles that no residential development should occur north of Tea Tree

Creek and the land north of Barkers Road should contain larger lots are still relevant. The Panel also supports Council's submission that development south of Tea Tree Creek should form a transition between the township and the green wedge.

The essential difference between the LDRZ2 and LRDZ3 is that the latter provides for a minimum subdivision of 0.2 hectares compared to the former's minimum of 0.4 hectares. Clause 32.03-3 of the LDRZ contains a mandatory requirement which limits the application of the 0.2 hectare minimum to lots that are connected to reticulated sewerage.

The Panel agrees with Council's submission that the proposed subdivision of the subject site cannot proceed without the provision of a reticulated sewer. In addition, the Panel accepts Mr Constantine's evidence that South East Water will construct the sewer and the Panel notes its submission requiring an agreement from the owner to provide sewerage and water supply.

On the basis that a reticulated sewer can be provided to the subject site the Panel concludes that the proposed rezoning is appropriate and strategically justified. A number of other matters raised in submissions and presented at the Hearing are dealt with by the planning permit conditions which are discussed in the following chapter. Nevertheless, the Panel agrees with Council that the planning permit conditions appropriately address the considerations required by the Planning Scheme provisions.

**(iv) Conclusion**

The Panel concludes:

- The proposed rezoning of 49 Garfield Road, Garfield from LRDZ2 to LDRZ3 is appropriate.

## 4 Planning Permit T190104

### (i) Relevant considerations

Clause 71.02-3 of the Planning Scheme requires a Responsible Authority considering a permit application to take an integrated approach, and to balance competing objectives in favour of net community benefit and sustainable development.

Clause 65 of the Planning Scheme states:

Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 65.01 requires the Responsible Authority to consider, as appropriate:

- the Planning Policy Framework
- the purpose of the zone, overlay or other provision
- the extent and character of native vegetation, the likelihood of its destruction, and whether it can be protected, planted or allowed to regenerate.

The purpose of the LDRZ is:

- To provide for low density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.

Clause 32.03-5 requires the Responsible Authority to consider, as appropriate:

- The protection and enhancement of the natural environment and character of the area including the retention of vegetation and faunal habitat and the need to plant vegetation along waterways, gullies, ridgelines and property boundaries.
- The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.
- The relevant standards of Clauses 56.07-1 to 56.07-4.

Other matters to be taken into account include:

- objections
- comments and decisions of referral authorities
- other matters a Responsible Authority must and may take into account under section 60 of the PE Act, including the Victorian planning objectives and the economic, social and environmental impacts of the proposed use and development
- planning policy.

### (ii) Discussion

Doug and Roberta Axnick questioned the status of the driveway (Road A) particularly in relation to pedestrian access and drainage and its intersection with Sleeper Rise. They also observed that the sight lines at the Barkers and Garfield Roads intersections were limited and a better outcome would be to construct Road A as part of Stage 1.

In response, post exhibition, Council proposed changes to conditions 9 (Landscape Masterplan) and 15 (Functional Layout Plan) to address the status of Road A but did not support the construction of the road as part of Stage 1.



Elizabeth Hodgson questioned the appropriateness of only requiring water tanks for 15 years. Council proposed changes to conditions 24 and 26 to clarify that the 15 year period applied to the drainage scheme and not the water tank.

In addition, Council proposed further changes to the permit conditions to accommodate the revised habitat scheme for the Southern Brown Bandicoot and to clarify the spelling of Tea Tree Creek. The Panel supports these changes. Council also made other post exhibition changes to the planning permit to correct wording or for clarity. A copy of the amended planning permit with these changes was provided to parties (Document 14).

Council's Part A submission provided a helpful summary of the proposed changes to the planning permit, the discussions with relevant authorities and a chronology of the Permit Application. The Panel has been assisted by these in its deliberations.

The issues and impacts required to be considered in the decision guidelines have been discussed at length in chapters of this Report. In essence the Panel considers:

- the proposed rezoning and subdivision is strategically justified
- the proposal is consistent with the relevant provisions of the Planning Scheme
- the proposed subdivision makes adequate provision for drainage, bushfire management and Southern Brown Bandicoot habitat protection-
- traffic from the proposed subdivision can be readily accommodated on the existing road network including the access to the site for Stages A and B-
- the post exhibition changes to the planning permit are appropriate-
- the layout and design of the subdivision, as modified is consistent with the requirements of Clause 13.02-1S.

On balance, the Panel considers that a permit should be granted. The permit will provide a net community by the provision of additional housing in the Garfield township, by providing a reticulated sewer to the north of the settlement and by providing diversity in the housing available. In addition the permit ensures the protection and enhancement of areas of remnant native vegetation and provides an improved habitat particularly for the endangered Southern Brown Bandicoot.

### **(iii) Conclusion and recommendation**

The Panel concludes:

- The planning permit T190104 should be granted subject to the modifications contained in Appendix D.

The Panel recommends:

- 1. Issue planning permit T190104 for the staged subdivision of the land at 49 Garfield Road, Garfield, the removal of native vegetation, the removal / variation of easements, and creation of restrictions on plan of subdivision subject to the permit conditions contained in the Panel preferred version in Appendix D.**

## Appendix A Submitters to the Amendment

No	Submitter
1	Michelle Grimstead
2	Glenn Davey
3	Jade Taylor
4	Greg Howson
5	Michael Masterson
6	John Kirk
7	Luke Carpenter
8	Stacey and Marcel Ploeg
9	Doug and Roberta Axnick
10	Dennis Mitchell
11	Elizabeth Hodgson
12	South East Water
13	APA Group

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## Appendix B Document list

No.	Date	Description	Provided by
1	20/03/2023	Panel Directions and Hearing Timetable (version 1)	Planning Panels Victoria (PPV)
2	20/03/2023	Proposed Planning Permit T190104 post exhibition changes	Cardinia Shire Council (Council)
3	11/04/2023	Map showing the location of submitters	Council
4	14/04/2023	Council Part A submission	Council
5	19/04/2023	Expert Witness Statement - Christopher Constantine. a) Drainage Strategy b) Infrastructure Servicing Report c) Traffic Impact Report	Oakhouse Nominees Pty Ltd, Alan and Vicki Ross (Oakhouse)
6	19/04/2023	Expert Witness Statement – Mandy Edwards	Oakhouse
7	21/04/2023	NBA Group submission of behalf of Oakhouse Nominees Pty Ltd and Alan and Vicki Ross	Oakhouse
8	21/04/2023	Council Part B submission	Council
9	26/04/2023	Further Panel Directions	PPV
10	05/05/2023	Email informing the Panel of the outcomes of consultation on the alternative habitat connection	Council
11	05/05/2023	Proposed gas easement planting plan (post Hearing)	Council
12	05/05/2023	APA response to Council's proposed planting on the south side of the gas easement	Council
13	05/05/2023	CFA response to Council's proposed planting on the south side of the gas easement	Council
14	05/05/2023	Amended Planning Permit T190104	Council

## Appendix C Planning context

### C: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 PE Act by implementing the strategic intent of Garfield Township Strategy (August 2002) which seeks to balance the interests of existing and future residents. The Amendment responds to environmental and cultural values on the land and seeks to protect these as part of the future development of the land. The Amendment and concurrent proposed planning permit will ensure that this new development integrates with the adjoining residential area by providing for future road connections to land on the south and north side of the existing driveway which will ultimately be constructed as the main access road, and by bringing the reticulated sewerage system to this area of Garfield, which will facilitate the future orderly development of the adjoining land parcels.

#### **Clause 11 (Settlement)**

The Amendment supports Clause 11 by:

- assisting to develop the site in a way that responds to the existing and emergent pattern of subdivision within Garfield. It will consolidate new low density residential development on land within the UGB of an existing settlement with access to infrastructure and services, while protecting and enhancing an area of environmental value. It also seeks to rectify an anomaly by rezoning part of the land outside the UGB from LDR22 to GWZ1, thereby extending the GWZ1 to encompass the extent of Tea Tree Creek within the subject land where environmental values are important and will be protected and enhanced.

#### **Clause 12 (Environmental and Landscape Values)**

The Amendment supports Clause 12 by:

- avoiding and minimising as far as practical vegetation removal, with 1.1 hectares of land containing important vegetation along the creek, and along the northern and western boundaries being retained, enhanced and protected within conservation reserves to be vested in Council. While 0.88 hectares of native vegetation will be lost to accommodate the proposed residential lots and bushfire defendable space, the extent of vegetation removal has been minimised, is considered appropriate and planting offsets will be required via permit conditions. It is considered that the vegetation removal will not result in detriment to Victoria's biodiversity through application of the avoid, minimise and offset principles
- designing the subdivision to respond to Tea Tree Creek by providing a 30m setback from the creek to proposed development and placing the creek in a drainage reserve. A new wetland is proposed at the south-east end of the creek to retain and filter stormwater before it enters the creek. Existing native vegetation is to be retained and revegetation along the waterway will occur as a condition of the proposed planning permit.

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

The Amendment supports Clause 13 by:

- assessing-bushfire risk which concludes that a Bushfire Attack Level of BAL-12.5 will be achieved for the proposed lots in the subdivision subject to appropriate mitigation measures. These measures include construction standards to a Bushfire Attack Level of BAL-12.5, building envelopes to achieve an appropriate distance of defensible space, and requirements to manage vegetation within a defensible space
- Seeking the views of the CFA who have considered the proposed bushfire mitigation measures, the existing vegetation that is proposed to be retained, and the extent of vegetation that is proposed to be planted (e.g. new Southern Brown Bandicoot corridor habitat to be planted). CFA have indicated they are satisfied that these measures are appropriate and therefore support the proposal. CFA conditions are included on the proposed planning permit to implement restrictions on the plan of subdivision and Section 173 Agreements to be registered on each land title which will place legal obligations on each future land owner to maintain their property in a low-threat condition.

### **Clause 15 (Built Environment and Heritage)**

The Amendment supports Clause 15 by:

- providing an attractive, liveable neighbourhood which offers generous lot sizes with large front, side and rear building setbacks within an existing rural community. The subdivision will be consistent with the preferred low density residential character that has been identified for this land and will provide for potential future links with neighbouring land. The conservation reserves, playground and shared paths through and around the proposed subdivision will assist in fostering healthy and active living
- responding to cultural heritage sensitivity with the preparation of a Cultural Heritage Management Plan which has been approved by Aboriginal Affairs Victoria. A condition is included on the proposed planning permit to assist in ensuring the requirements of the Cultural Heritage Management Plan are complied with.

### **Clause 16 (Housing)**

The Amendment supports Clause 16 by:

- increasing housing opportunities within Garfield through the provision of lifestyle lots to cater for the diverse housing needs of the population.

### **Clause 17 (Transport)**

The Amendment supports Clause 17 by:

- providing shared paths through and around the proposed subdivision and will connect to the existing path network providing pedestrians and cyclists with relatively easy access to the Garfield train station and the town centre both located approximately 1200 metres walking distance to the south
- the proposed road layout providing for the needs of the proposed subdivision, connects well to the adjoining residential subdivision, provides for future road

connections to adjoining undeveloped land, and will not negatively impact on surrounding roads or residents.

### **Clause 19 (Infrastructure)**

The Amendment supports Clause 19 by:

- providing open space with 24 per cent-of the subject land proposed for public reserves
- providing for landscape works, playground and an extensive concrete shared path network, in addition to the Southern Brown Bandicoot habitat corridors and environmental enhancements of the Drainage and conservation reserves which includes weed removal and indigenous planting. Council considers that the value of these embellishments, the habitat corridors and the extent of rehabilitation and indigenous planting is commensurate with the required cash in lieu contribution. The embellishments on both the encumbered and unencumbered reserves will be accepted rather than the cash in lieu contribution for the shortfall in the unencumbered land contribution
- ensures the development can be fully serviced in accordance with authority requirements. Conditions will be included on the proposed planning permit requiring the provision of infrastructure, including reticulated water, reticulated sewer, electricity, telecommunications and stormwater drainage to all lots.

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

The Amendment supports the Municipal Strategic Statement by:

- Catchment and Coastal management (21.02-1):
  - Designing the subdivision to respond to Tea Tree Creek and place the creek in a drainage reserve and ensure a 30 metre setback from the road is maintained. The development will provide water quality treatment by way of a stormwater retention wetland adjacent to the creek at its south-eastern end. Together with revegetation of the creek corridor, these measures will result in significant benefits to the waterway and water quality
- Landscape and Clause 21.02-3 – Biodiversity (21.02-2):
  - by retaining the majority of native vegetation, and ensuring any vegetation lost will be offset with native vegetation planting elsewhere through a recognised program. The conservation reserves and the Tea Tree Creek Drainage Reserve will be enhanced with weed removal and additional indigenous planting, and Southern Brown Bandicoot habitat corridors will also be provided. The planned outcome will result in a net gain of protected native vegetation and a net gain in habitat for the endangered Southern brown Bandicoot
  - avoiding and minimising native vegetation removal as far as practical with 1.1 hectares of important vegetation along the creek, and along the northern and western boundary being retained and protected within conservation and drainage reserves to be vested in Council
  - providing for revegetation of the Tea Tree Creek Drainage Reserve and conservation reserves and maintain new landscaping in the linear Recreation Reserve a low-threat condition to assist with bushfire mitigation.
- Bushfire management (21.02-4)

- undertaking the preparation of a bushfire risk assessment which identifies that a Bushfire Attack Level of BAL-12.5 can be achieved for the proposed lots in the subdivision subject to appropriate mitigation measures. These measures will include construction standards to Bushfire Attack Level of BAL-12.5, building envelopes and requirements to manage vegetation within a defensible space. These requirements are to be implemented via restrictions on the plan of subdivision and Section 173 Agreements to be registered on each land title through-permit conditions.
- Open space (21.02-5)
  - by providing for open space in the form of active and passive land for a linear reserve and playground and enhancements of existing open space reserves in the vicinity
- Aboriginal cultural heritage (21.02-7)
  - protecting cultural heritage through the implementation of a Cultural Heritage Management Plan
- Housing and Clause 21.03-4 - Rural townships (21.03-1)
  - by providing for increased housing opportunities within the rural township of Garfield through the provision of low density lifestyle lots to assist in catering for the diverse housing needs of the population, while maintaining the town's rural character and environmental qualities
- Local roads (21.05-3)
  - providing for an appropriate road network that provides for pedestrian and vehicle safety and accessibility and improved linkages
- Urban design and Community safety (21.06-1 and 21.06-1)
  - by providing for an attractive, spacious neighbourhood which offers low density lifestyle lots within an existing rural town with ample opportunity for passive surveillance, potential future linkages and opportunities for active living.

## C: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.

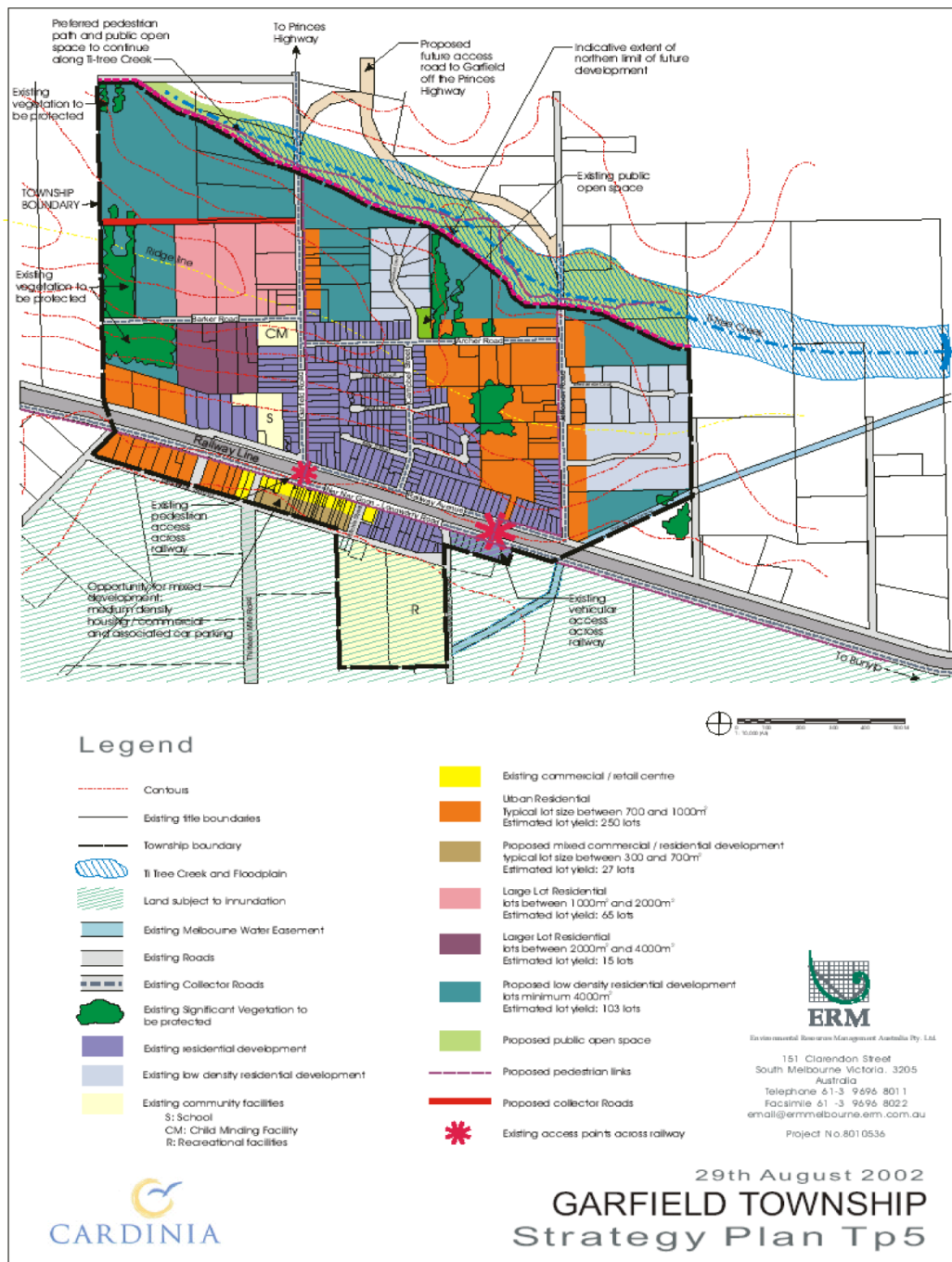
**Table 2** Relevant parts of Plan Melbourne

Outcome	Directions
Outcome 2: Melbourne provides housing choice in locations close to jobs and services	Direction 2.1: Managing the supply of new housing in the right locations to meet population growth and create a sustainable city. Direction 2.5: Provide greater choice and diversity of housing.

Outcome	Directions
Outcome 4: Melbourne is a distinctive and liveable city with quality design and amenity.	Direction 4.3: Achieve and promote design excellence.
Outcome 5: Melbourne is a city of inclusive, vibrant and healthy neighbourhoods.	Direction 5.1: Create a city of 20-minute neighbourhoods. Direction 5.2: Create neighbourhoods that support safe communities and healthy lifestyles.

## ii) Garfield Township Strategy 2002

The Garfield Township Strategy provides guidance for the development of the land.





Council submitted that the Amendment supports the Garfield Township Strategy by:

- responding to environmental and cultural values on the land
- protecting these environmental and cultural values part of the future development of the land
- ensuring that this new development integrates with the adjoining residential area by providing for future road connections to land on the south
- bringing the reticulated sewerage system to this area of Garfield, which will facilitate the future orderly development of the adjoining land parcels.

### **C: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 Low Density Residential Zone. The purpose of the Zone is:

to provide for low density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.

#### **ii) Overlays**

The land is subject to the Design and Development Overlay. The purpose of the Overlay is:

To identify areas which are affected by specific requirements relating to the design and built form of new development.

### **C:4 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.

#### **i) Ministerial Direction on the Form and Content of Planning Schemes, under Section 7(5) of the Planning and-Environment Act 1987.**

The Amendment is consistent with the form and content requirements of this Direction.

#### **ii) Ministerial Direction 1: Potentially Contaminated Land**

This Direction requires the planning authority to ensure that potentially contaminated land is suitable for a use which is proposed to be allowed under an amendment to a planning scheme and which could be significantly adversely affected by contamination. A preliminary referral of the proposal was sent to the Environment Protection Authority who advised:

As the land is currently zoned LDRZ2 and is already being used for sensitive uses (including dwellings), the rezoning needed in order to reduce the minimum lot size is not considered to generate any additional risks to human health or the environment, and therefore EPA does not have any specific concerns to raise with this proposal.

Formal notification of Amendment C268card was sent to EPA. No further comments were received from EPA.

**iii) Ministerial Direction 9: Metropolitan Planning Strategy**

The Amendment is consistent with Ministerial Direction No. 9 – Metropolitan Planning Strategy which requires a planning authority to have regard to the Metropolitan Planning Strategy, Plan Melbourne 2017 - 2050. Plan Melbourne identifies that the growth of Melbourne should occur within the UGB.

**iv) Ministerial Direction 15: The Planning Scheme Amendment Process**

Ministerial Direction 15 provides direction on timeframes to be followed during the planning scheme amendment process. This Amendment will continue to follow appropriate timeframes as required by the Direction.

**v) Ministerial Direction 19 – Part A: Ministerial Direction On The Preparation And Content Of Amendments That May Significantly Impact The Environment, Amenity And Human Health, and Part B: Ministerial Requirement For Information For Authorisation Or Preparation Of Amendments That May Significantly Impact The Environment, Amenity And Human Health**

Ministerial Direction 19 recognises the preventative value of EPA's early involvement in strategic land use planning and requires planning authorities to seek early advice from EPA when undertaking strategic planning processes. The EPA's referral responses are address above.

**vi) *Practitioner's Guide to Victorian Planning Schemes Version 1.5, April 2022***

The Practitioner's Guide-sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy
- a provision is necessary and proportional to the intended outcome and applies the Victoria Planning Provisions in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.

## Appendix D Panel preferred version of the-Planning Permit TP190104

# PROPOSED PLANNING PERMIT

**Permit No.:** T190104

**Planning Scheme:** Cardinia Planning Scheme

**Responsible Authority:** Cardinia Shire Council

▪ GRANTED UNDER SECTION 96I OF THE  
PLANNING AND ENVIRONMENT ACT 1987

**ADDRESS OF THE LAND:** Lot 1 PS436250U, and Lot 1 PS531590N  
49 Garfield Road, Garfield.

**THE PERMIT ALLOWS:** Staged subdivision of the Land, Removal of Native Vegetation, Removal /  
Variation of Easements, and Creation of Restrictions on Plan of Subdivision

**THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:**

Conditions 1-114 inclusive

## PLANS TO BE ENDORSED PRIOR TO CERTIFICATION

### Staged Subdivision Masterplan

1. Before the plan of subdivision for the first stage is certified, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and form part of the permit. The plans must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the Proposed Subdivision Plan 21014P2 Version 14 (June 2021) but modified to show:
  - a. The stages of the subdivision.
  - b. All proposed Reserves clearly delineated, named and numbered including:
    - i. A Drainage Reserve containing the wetlands.
    - ii. A Drainage Reserve containing Teai Tree Creek extending to 30 metres on each side or to the property boundary whichever is lesser and excluding the wetlands.
    - iii. Conservation Reserves containing native vegetation to be retained and enhanced, and Southern Brown Bandicoot habitat corridors.
    - iv. Linear Recreation Reserve adjacent to the perimeter road and
    - v. Recreation Reserve containing the gas transmission pipeline easement.
  - c. Road reserve and road pavement widths, location of vehicle crossovers to each lot, pedestrian paths and shared paths.
  - d. Delineation of a 30 metre setback from the top of bank on both sides of Teai Tree Creek, and delineation of a 10 metre setback from the top of bank on the southern side of Teai Tree Creek.

**Date issued:**

**Date permit comes into operation:**

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

**Signature for the responsible authority:**

- e. The required building setback line for bushfire defensible space on all new lots that interface with hazardous vegetation, including Lot A, to achieve a Bushfire Attack Level construction standard of BAL-12.5 for future dwelling.
- f. Interim vehicle access for the early stages of subdivision that comprise lots A, 14 to 21 and 27 to 36:
  - i. via Sleeper Rise connecting to Barker Road and vehicle access via the existing east-west driveway to be truncated and allow only pedestrian access.
- fg Ultimate vehicle access for the later stages of subdivision that comprise lots 1 to 13 and 22 to 26 via the proposed east-west access road (Road A) connecting to Garfield Road with adequate splays, sight lines and turn treatments.

### Public Open Space Contribution and Land Use Budget Plan

2. A Public Open sSpace Contribution must be made to satisfy the requirements of the schedule to Clause 53.01 of the Cardinia Planning Scheme as follows:
  - a. Conservation Reserves (encumbered) equating to 1.100 hectares.
  - b. Drainage Reserve (encumbered) containing a wetland stormwater retarding basin 0.064 hectares.
  - c. Drainage Reserve (encumbered) containing Tea Tree Creek and a fenced play space and shared path equating to 1.190 hectares.
  - d. APA Gas Pipeline Easement Reserve (encumbered) equating to 0.650 hectares.
  - e. Recreation Reserve (unencumbered) containing shared paths equating to 0.420 hectares.
3. Before the plan of subdivision for the first stage is certified, an amended Land Use Budget Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Land Use Budget Plan will be endorsed and form part of the permit. The plan must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the Land Budget Plan, 21014P3 Version 14 (June 2021) but modified to show:
  - a. The land containing the Conservation Reserves including the location of the Southern Brown Bandicoot Habitat Corridors.
  - b. The land containing the wetland stormwater retarding basin in a Drainage Reserve, and Tea Tree Creek in a Drainage Reserve which must extend 30 metres on each side of the creek (or to property boundaries whichever is lesser) on the north and south sides of the creek.
  - c. The land containing the Gas Pipeline Easement Reserve.
  - d. The land containing Recreation Reserve (unencumbered public open space).
  - e. The Authority each Reserve will be vested in.

### Building Envelope Plan

4. Before the plan of subdivision for the first stage is certified, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and form part of the permit. The plans must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the Building Envelope Plan, 21014P7 Version 14 (June 2021) but modified to show:

**Date issued:**

**Date permit comes into operation:**

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

**Signature for the responsible authority:**

- a. The required building setback for bushfire defendable space consistent with the endorsed Bushfire Management Plan for all proposed lots (including Lot A) to achieve a Bushfire Attack Level construction standard of BAL-12.5 for future dwellings.
- b. The following building setbacks where bushfire defendable space setbacks are not required:
  - i. Minimum front building setback of 10 metres.
  - ii. Minimum side and rear building setback of 5 metres.

### Lot Schedule Plan

5. A Lot Schedule Plan identifying the range of lots sizes to be created to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Lot Schedule Plan must identify:
  - a. all land within the approved subdivision.
  - b. the number and lot size of lots created in each stage together with the cumulative total of any lots created in previous stages.
  - c. the trigger for 50% of the development of the site which will require the delivery of the construction of Road A connecting to Garfield Road.

### Bushfire Management Plan

6. Before the certification of the plan of subdivision, a Bushfire Management Plan must be submitted to and endorsed by the Responsible Authority. The plan must show the following information, unless otherwise agreed in writing by the CFA and the Responsible Authority:
  - a. The design and layout of the subdivision, including lot layout, road design and access points, both pedestrian and vehicular.
  - b. The location of nearby hazards within 150m of the subdivision boundary.
  - c. The location of any bushfire hazards that will be retained or created on the land within the subdivision.
  - d. The location of any areas of vegetation that will not be located on private land and will be managed to a low threat condition, including areas within drainage reserves and open space reserves.
  - e. The setback distance of any development from the bushfire hazard for defendable space purposes where vegetation will be managed on all proposed lots (including Lot A) that are located within the minimum setbacks as follows:
    - i. 48 metres from the Forest Vegetation to the north.
    - ii. 27 metres from the Scrub Vegetation to the north.
    - iii. 33 metres from the Woodland Vegetation to the west.
    - iv. 19 metres from the Grassland Vegetation to the west, east and south.
    - v. 20 metres from the Grassland Vegetation to the west and east on the Gas Pipeline Easement / Council Reserve.
  - f. Notations of vegetation management standards and when vegetation management will occur i.e. annually, quarterly, during the fire danger period.

**Date issued:**

**Date permit comes into operation:**

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

**Signature for the responsible authority:**

- g. The required building setback for bushfire defensible space consistent with the endorsed Bushfire Management Plan for all proposed lots (including Lot A) to achieve a Bushfire Attack Level construction standard of BAL-12.5 for future dwellings. Vegetation must be managed within any area of defensible space to the following standard:
  - i. Grass must be short cropped and maintained during the declared fire danger period this excludes areas where Southern Brown Bandicoot Habitat has been identified as a corridor in consultation with CFA.
  - ii. All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
  - iii. Shrubs must not be located under the canopy of trees.
  - iv. Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
  - v. Trees must not overhang or touch any elements of the building.
  - vi. The canopy of trees must be separated by at least 2 metres.
- h. Details of any other bushfire protection measures that are to be adopted at the site.
- i. Nominate that any building on a new lot will be required to be designed and constructed to a minimum standard of Bushfire Attack Level (BAL) 12.5.

### Environmental Landscape Concept Plan

7. Before the plan of subdivision for the first stage is certified, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and form part of the permit. The plans must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the Landscape Concept Plan prepared by Millar & Merrigan Pty Ltd (21014 Landscape Concept Plan Sheet 1 and Sheet 2 Version 14 (June 2021) but modified to show an Environmental Concept Landscape Plan and include the following:
  - a. Four environmental management areas:
    - i. The Tea Tree Creek Drainage Reserve including:
      - A vegetated creek buffer zone of 30 metres on the north side of the creek, or to the property boundary, whichever is lesser. This distance is measured from the top of the bank.
      - A vegetated creek buffer zone of 10 metres on the south side of the creek. This distance is measured from the top of the bank.
      - A minimum 2.5 metre wide concrete shared path delineating the 10 metre wide vegetated creek buffer zone on the south side of the creek from the bushfire defensible space area that will be accommodated within the remaining 20 metres of the Tea Tree Creek Drainage Reserve. The treatment of this area will be addressed in the Landscape Concept Plan.
    - ii. The Bushland Conservation Reserves including:
      - Conservation areas as shown in the Land Budget Plan, 21014P3 Version 14 (June 2021) that are outside the Tea Tree Creek Drainage Reserve and the Southern Brown Bandicoot Habitat Corridors.

**Date issued:**

**Date permit comes into operation:**

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

**Signature for the responsible authority:**

- A minimum 2.5 metre wide concrete shared path delineating the Bushland Reserves from the bushfire defendable space area that will be accommodated on the adjacent Recreation Reserve (unencumbered public open space). Treatment of the Recreation Reserve adjacent to the Bushland Reserve must be addressed in the Landscape Concept Plan.
- iii. The Southern Brown Bandicoot Habitat Corridor Conservation Reserves including:
- The area shown as proposed habitat corridors on the Landscape Concept Plan 21014C01 Sheet 1 Version 14 (June 2021).
  - A road reserve delineating the eastern Southern Brown Bandicoot Habitat Corridor from the bushfire defendable space area that will be accommodated on the road reserve. Treatment of the road reserve adjacent to the Southern Brown Bandicoot Habitat Corridor will be addressed in the Landscape Concept Plan.
  - A minimum 2.5 metre wide concrete shared path delineating the western Southern Brown Bandicoot Habitat Corridor from the bushfire defendable space area that will be accommodated on the adjacent Recreation Reserve (unencumbered public open space). Treatment of the Recreation Reserve adjacent to the Southern Brown Bandicoot Habitat Corridor will be addressed in the Landscape Concept Plan.
  - The path delineating the western Southern Brown Bandicoot Reserve must be a minimum of 2.5 metres wide and constructed of concrete.
  - Public open space adjacent to the western Southern Brown Bandicoot Reserve will be addressed in the Landscape Concept Plan.
- iv. The location of any existing native trees and vegetation patches that are to be retained or removed.
- b. Land within the Tea Tree Creek Drainage Reserve, Bushland Conservation Reserves, and Southern Brown Bandicoot Habitat Corridor Conservation Reserves will be managed to a bushland standard, in accordance with the plant species and densities defined in the Environmental Landscape Masterplan.

### Environmental Landscape Masterplan

8. Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988, an Environmental Landscape Masterplan for the entire estate to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and one (1) copy must be provided in an approved electronic format. The plan must generally be in accordance with the Environmental Landscape Concept Plan endorsed under condition 7 of this permit and include:
- a. Trees and vegetation patches to be retained including:
    - i. The location of indigenous trees to be retained and removed across the entire site area.
    - ii. Tree protection zones for retained trees within 15 metres of any proposed works or development.
    - iii. Trees that require works in accordance with the endorsed Tree Management Plan.

<b>Date issued:</b>	<b>Date permit comes into operation:</b> (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	<b>Signature for the responsible authority:</b>
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- b. Southern Brown Bandicoot Habitat Corridors including:
- i. The location of the 7 metre wide habitat corridors that must be planted in accordance with planting standards defined in the Environmental Landscape Works Plan, along the eastern and western boundaries, and the 3 metre wide habitat corridor along the eastern boundary (limited to the area within and south of the gas easement).
  - ii. The location of the paths and roads that will form the edge of the Southern Brown Bandicoot Habitat Corridors in accordance with the defendable space distances defined in the Bushfire Management Plan.
  - iii. The location of a fauna underpass to be installed underneath the ~~north-south~~~~eastern~~ entrance road to provide connection from the east side of the road to the west side of the road at the southern end of the eastern Southern Brown Bandicoot Habitat Corridor to the eastern side of Lot 27 36 new subdivision adjoining the southern boundary.
  - iv. The location of Southern Brown Bandicoot interpretive signs.
- c. Bushland Reserves including:
- i. The location of the Bushland Reserves.
  - ii. The location of paths that will form the edge of the Bushland Reserve in accordance with the defendable space distances defined in the Bushfire Management Plan.
  - iii. Weed control management zones, indicating the location of individuals or extent of patches of noxious weeds that must be removed to achieve a cover of less than 1%.
  - iv. Revegetation management zones, indicating where indigenous planting will be required to achieve the minimum planting standards defined in the DSE Native Vegetation Revegetation Planting Standards (2006) for the Ecological Vegetation Class EVC 16 Lowland Forest.
  - v. The location of signs to be installed at the entrances to the Bushland Reserve area that include the reserve name and regulatory symbols.
- d. ~~Tea~~ Tree Creek Drainage Reserve including:
- i. The surveyed location of the creek including the centre line of the creek, top of banks, and 30 metre buffers measured from the top of banks.
  - ii. The location of the vegetated creek buffer area 30 metres to the north of the creek, taken from the top of bank, or to the property boundary, whichever is lesser.
  - iii. The location of the vegetated creek buffer area 10 metres to the south of the creek, taken from the top of bank, including areas of existing vegetation that will be retained.
  - iv. The location of the path approximately 10 metres south of the creek that will form the edge of the Creek Reserve, in accordance with the defendable space distances defined in the Bushfire Management Plan.
  - v. Location of redundant fencing that will be removed.
  - vi. Weed control management zones, indicating the location of individuals or extent of patches of noxious weeds that must be removed to achieve a cover of less than 1%.

**Date issued:**

**Date permit comes into operation:**

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- vii. Revegetation management zones, indicating where indigenous planting will be required to achieve the minimum planting standards defined in the DSE Native Vegetation Revegetation Planting Standards (2006) for the Ecological Vegetation Class EVC 937 Swampy Woodland.

Note: Separate landscape requirements will be included within the Landscape Masterplan required as part of this permit.

### Landscape Concept Plan

9. Before the plan of subdivision for the first stage is certified, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and form part of the permit. The plans must be drawn to scale with dimensions and provided in an electronic format. The plans must be generally in accordance with the Landscape Concept Plan prepared by Millar & Merrigan Pty Ltd (21014 Landscape Concept Plan Sheet 1 and Sheet 2 Version 14 (June 2021) but modified to show:
  - a. A path network consistent with the Environmental Landscape Concept Plan endorsed under condition ~~76~~ of this permit.
  - b. A playspace for children within the ~~Tea~~ Tree Creek Drainage Reserve and outside the 10 metre wide vegetated creek buffer zone on the south side of the creek.
  - c. Fencing around the playspace.
  - d. Any public land that will accommodate bushfire defensible space must be planted with indigenous plants that maximise the requirements of Table 6 of Clause 53.02 (Bushfire Planning) of the Planning Scheme. This land will be maintained in a low-threat condition by Council.
  - e. The wetland Drainage Reserve.
  - ~~ef~~ The treatments for the Road A reservation at the completion of Stage 1 and Stage 2.
  - ~~fg~~ Locations of any protected trees or patches of protected native vegetation to be retained.
  - ~~gh~~ Any Reserve that abuts an area that forms part of the Environmental Management Concept Plan must be landscaped with indigenous species, this includes the area surrounding the playspace. Examples can be found on page 14 and 15 of the *Cardinia Shire Council Developer Landscape Guidelines*.
  - ~~hi~~ All paths within reserves must be a minimum of 2.5 metres and are to be constructed of concrete to the satisfaction of the Responsible Authority.

### Landscape Masterplan

10. Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988, a landscape masterplan for the entire estate to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and one (1) copy must be provided in an approved electronic format. The plan must generally be in accordance with the Landscape Concept Plan endorsed under condition 9 of this permit and include:
  - a. A response to the Cardinia Shire Council Developer Landscape Guidelines, including the Landscape Masterplan checklist (as amended from time to time) [https://www.cardinia.vic.gov.au/landscaping\\_guidelines](https://www.cardinia.vic.gov.au/landscaping_guidelines).
  - b. Key themes, landscape principles and character (including graphical concepts) of the proposed treatment that will define the subdivision.

<b>Date issued:</b>	<b>Date permit comes into operation:</b> (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	<b>Signature for the responsible authority:</b>
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- c. Any road reserves or public open space areas within the defendable space as outlined in Condition 6 must be planted in accordance with Table 6 of Clause 53.02 (Bushfire Planning) of the Planning Scheme.
- d. Street trees along any streets abutting protected vegetation are to be indigenous species selected from Council’s tree planting palette.
- e. All plant species within the protected vegetation area must be indigenous species.
- f. A meandering 2.5m wide concrete pathway is to be shown within the gas easement- [with landscaping along the southern edge of the gas easement between the path and lots that is low level and low maintenance utilising the following indigenous plant species at a density of 6 plants per square metre:](#)
  - [Carex appressa, Tall Sedge](#)
  - [Gahnia filium, Chaffy Saw-sedge](#)
  - [Gahnia sieberiana, Red-fruit saw sedge](#)
  - [Juncus pallidus, Pale Rush](#)
  - [Lepidosperma laterale var. majus, Variable Sword-sedge](#)
  - [Lomandra longifolia ssp. longifolia, Spiny-headed Mat-rush](#)
  - [Poa labillardieri var. labillardierei, Common Tussock-grass](#)
  - [Goodenia ovata, Swamp Goodenia](#)
  - [Correa reflexa, Common Correa:](#)

[The landscaping must be designed and maintained in a Low-threat bushfire state.](#)

All landscaping within the gas pipeline easement is to be to the satisfaction of APA VTS and the Responsible Authority.

- [eg](#) Locations of any protected trees or patches of protected native vegetation to be retained.
- [fh](#) The wetland Drainage Reserve.
- [gi](#) Location of any waterway or waterbody on or adjoining the land.
- [hj](#) How any landscape requirements or guidelines within the Garfield Township Strategy are proposed to be implemented.
- [ik](#) Tree Management Plan as approved by this permit.
- [jl](#) Indigenous planting in the defendable space area within the 30 metre creek buffer zone (between the path and the road on the south side of the creek) must maximise biodiversity outcomes, while also complying with the defendable space requirements defined in the Bushfire Management Plan. This includes:
  - ii. Trees at maturity must have a 5 metre separation between canopies.
  - iii. Shrubs must not be located under the canopy of trees.
  - iv. Individual and clumps of shrubs must not exceed 5 square metres in area and must be separated by at least 5 metres.
  - v. Grass will be short cropped and maintained during the declared fire danger period.

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Note: Separate requirements are included within the Environmental Landscape Masterplan required as part of this permit.

### Tree Management Plan

11. Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988, a Tree Management Plan prepared by a suitably qualified arborist must be submitted to and approved by the Responsible Authority. The Tree Management Plan must include the following to the satisfaction of the Responsible Authority:
  - a. Scaled site plan that identifies tree protection zones of all retained trees within 15 metres of any works, and location of tree protection fencing in accordance with AS4970-2009 Protection of trees on development sites.
  - b. Structural assessment of all retained trees.
  - c. Hazard assessment for all trees within falling distance of paths, reserve assets, and adjacent properties that details pruning or other measures to ensure trees are safe.
  - d. Direction for management activities to improve the health of the retained trees over the long term.
  - e. Recommendations relating to proposed construction methodology for services under retained vegetation.
  - f. The Tree Management Plan must be attached as an appendix to the Environmental Landscape Masterplan and Landscape Masterplan.

### Building Design Guidelines and Fencing Controls

12. Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988, Building Design Guidelines and Fencing Controls, for the entire estate to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The guidelines must be consistent with the Bushfire Management Plan endorsed under condition 6 of this permit, and address and include measures to ensure:
  - a. Dwellings, not garages, dominate the streetscape.
  - b. Dwelling design provides for passive surveillance and attractive streetscapes.
  - c. Topography is suitably addressed through dwelling, fencing and retaining wall design.
  - d. Fencing visible from the public realm is minimised and, provides for passive surveillance and attractive streetscapes.
  - e. Landscaping provides for passive surveillance and attractive streetscapes.
  - f. Where applicable, a Tree or Vegetation Protection Envelope to include the following notation: *Native vegetation shown within this area must not be lopped, destroyed or removed without the written consent of the Responsible Authority. No buildings or construction works are permitted to occur within the Tree or Vegetation Protection Envelope.*

### Hydrogeological Assessment

13. Before the submission and approval of detailed design construction plans (engineering plans) and/or functional layout plans and before the first stage of development is certified under the Subdivision Act 1988, a hydrogeological assessment and design plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.

<b>Date issued:</b>	<b>Date permit comes into operation:</b> (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	<b>Signature for the responsible authority:</b>
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The assessment must address groundwater and salinity conditions on the subject land detail the potential impacts on the proposed development and include a design plan that includes measures required to mitigate the impacts of groundwater and soil salinity conditions on the development. The design plan must detail how the mitigation measures will inform the development of the construction plan and development on the private lots and how they will be managed through the permit process.

When approved, the plan will be endorsed and form part of the permit.

### Stormwater Management Plan

14. Before the plan of subdivision for each stage is certified under the Subdivision Act 1988, a stormwater management plan showing the stormwater works to the nominated point of discharge must be submitted to and approved by the Responsible Authority. The stormwater management plan must be prepared by a suitably qualified person and show details of the proposed stormwater works including all existing and proposed features that may have impact (including trees to be retained, crossings, services, fences, abutting buildings, existing boundary levels etc). The stormwater management plan must be generally in accordance with the drainage strategy prepared by Millar & Merrigan Pty Ltd Version 3 (30 October 2020) and include the mandatory provision of a 10,000 litre water tank for each lot. 5,000 litre for re-use and 5,000 litre for detention for each dwelling. All works must be undertaken in accordance with the approved stormwater management plan.

### Functional Layout Plan

15. Before the submission and approval of detailed design construction plans (engineering plans) and before the plan of subdivision for the first stage is certified under the Subdivision Act 1988, a functional layout plan for the subdivision or stage of subdivision, generally in accordance with the standards, specifications and processes in the *'Engineering Design and Construction Manual for Subdivision in Growth Areas'* dated December 2019 and *Water Sensitive Urban Design Guidelines (South Eastern Councils)* prepared by Melbourne Water, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the functional layout plan will be endorsed and will then form part of the permit. Three copies of the functional layout plan must be drawn to a scale of 1:500 to acceptable drafting standards and an electronic copy (pdf) must be provided. The plan must address the approved hydrogeological assessment endorsed under condition 13 of this permit and be generally in accordance with the functional layout plan prepared by Millar & Merrigan Pty Ltd, 21014E 00 E1-E6 (30 Oct 2020) but modified to show:
- a. The interim vehicle access ~~which is~~ to cater for up to 50% of the sites development (Lots A, 14 to 21 and 27 to 36) and must include:
    - i. the proposed arrangement of the access intersection with Sleeper Rise via the subdivision to the south; and,
    - ii. the temporary truncation of the existing access driveway onto Garfield Road. This road reservation (Road A) (is to be used for pedestrian access only until works commence to provide ultimate vehicle access).
  - b. The ultimate vehicle access ~~which is~~ to cater for above 50% of the sites development and must include:
    - i Road A pavement width to be 5.5 metres from lip to lip of kerb.
    - iii The intersection of Sleeper Rise and Road A designed as an Alternate priority T favouring Road A.

Date issued:

Date permit comes into operation:

Signature for the responsible authority:

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iii Footpath on the southern side of Road A.

iv Kerbs are to be flared at the Garfield Road intersection to allow passing of a B99 and Service (8.8m) vehicle.

v Kerb radius to suit turning movements at bends and intersections.

vi Clearance envelopes for vehicles to be shown on the turning templates.

vii Any services and batters on adjoining properties. This would need the neighbouring properties approval.

viii Pedestrian connectivity to the existing path network on the west side of Garfield Road, and the widening of the road reserve if/where required.

- c. A fully dimensioned subdivision layout, including proposed street names, approximate lot areas, lot numbers and widths of street reservations.
- d. Topography and existing features, including contours for the subject land and any affected adjacent land.
- e. Identification by survey of all trees (or group of trees) existing on the subject land, including dead trees and those that overhang the subject land from adjoining land.
- f. Details of tree protection zones (TPZs) for all trees to be retained on the subject land or adjoining land.
- g. All trees proposed for removal from the subject land clearly designated.
- h. Typical cross-sections for each street type, dimensioning individual elements, services offsets and any other spatial requirements.
- i. Location and alignment of kerbs, indented parking spaces, footpaths, shared paths, bus stops and, traffic management devices and traffic controls.
- j. The proposed minor drainage network and any spatial features requiring access.
- k. The major drainage system, including any watercourse, lake, wetland, sediment pond rain gardens, bio-infiltration system and/or piped elements showing preliminary sizing.
- l. Overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination.
- m. Drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for the construction and maintenance.
- n. A table of offsets for all utility services and street trees.
- o. Preliminary location of reserves for electrical kiosks.
- p. Sufficient notional (unmarked) on-street car parking spaces, at the rate of at least one space per lot, traffic control devices and large vehicle turning overlays.
- q. Sites that are not adjacent to existing or approved infrastructure will be required to show the following information in addition to the above standard requirements:
  - i. The relationship between the subject subdivision stage and surrounding land.

**Date issued:**

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- ii. Proposed linkages to future streets, open space, regional path network and upstream drainage.
- iii. Works external to the subdivision, including both interim and ultimate access requirements.
- iv. Intersections with Category 1 roads showing interim and ultimate treatments.
- v. Drainage and sewerage outfalls including any easements required over other property.

**Waste Management Plan**

16. Before the plan of subdivision for each stage is certified under the Subdivision Act 1988 a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Waste Management Plan must:
- a. Be prepared by a suitably qualified expert.
  - b. Provide detail of the proposed arrangements for collection of waste from the land.
  - c. Be consistent with relevant guidelines prepared by Cardinia Shire Council with respect to waste management.

**Land Management Plan**

17. Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988, a Land Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Land Management Plan must clearly show:
- a. Interim management of the land until ultimate development is completed.
  - b. Details about the placement of fill and prevention of dumping of materials.
  - c. Dust control measures.
  - d. Weed and pest control measures.
  - e. Mowing, slashing and fire risk management.
  - f. Details about grazing and other agricultural activity.
  - g. Access management (e.g. limiting access to the land from existing public roads until their construction to an urban standard) and construction access.

**PLANS TO BE ENDORSED PRIOR TO COMMENCEMENT OF WORKS**

**Construction Management Plan – Gas Pipeline Easement**

18. Prior to the commencement of any works, including demolition, within the gas transmission pipeline easement or on land within 50 metres of the gas transmission pipeline easement, a Construction Management Plan must be submitted to and approved by the responsible authority in accordance with condition 103 and 104 of this permit.

**Construction Environment Management Plan**

19. At least 14 days before any works start, a site-specific Construction Environment Management Plan (CEMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the CEMP will be endorsed and will form part of the permit. All works must be undertaken in accordance with the approved CEMP. The CEMP must address all environmental risks including:

<b>Date issued:</b>	<b>Date permit comes into operation:</b> (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	<b>Signature for the responsible authority:</b>
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- a. The requirements stipulated under conditions 85, 92 and 93 of this permit.
- b. Control of erosion and sediment flows during construction.
- c. Pollution and contamination controls including noise and dust.
- d. Location of stockpiles and stockpile management.
- e. Location of site office and facilities.
- f. Equipment, materials and goods management.
- g. Demarcation between trees to be retained and trees to be removed.
- h. Tree protection zones and location of tree protection fencing for all trees and vegetation to be retained.
- i. Rehabilitation of any disturbed areas that may result from construction activities within any areas of native vegetation to be retained.
- j. Measures to ensure that any soil and equipment is free from noxious weed seeds and other vegetative material that can grow prior to transporting any soil and equipment to or from the site.
- k. Management of weed spread within the site due to construction activities.
- l. Protection of any sites required to be protected under the Aboriginal Heritage Act 2006.

## PLANS TO BE ENDORSED PRIOR TO STATEMENT OF COMPLIANCE

### Environmental Landscape Works Plan

20. Before the statement of compliance for the first stage is issued under the *Subdivision Act 1988*, a Environmental Landscape Works Plan for all areas included in the Environmental Landscape Masterplan (not including works within the Landscape Masterplan) must be submitted to and approved by the Responsible Authority. The detailed Environmental Landscape Works Plan must be prepared by a person suitably qualified or experienced in bushland management to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The Environmental Landscape Works Plan must be drawn to scale with dimensions and one (1) copy must be provided in an approved electronic format (PDF and CAD). The detailed Environmental Landscape Works Plan must be consistent with the endorsed Environmental Masterplan and must show:
  - a. Tree Management Plan as approved by this permit.
    - i. Locations of any protected trees or patches of native vegetation to be retained consistent with the approved Tree Removal Plan endorsed under this permit.
    - ii. The tree protection zone for each retained tree within 15 metres of any proposed works or development must be clearly shown on the site plan.
    - iii. Demarcation of trees that require works in accordance with the endorsed Tree Management Plan.
  - b. The removal of existing disused structures, redundant fencing, foundations, pipelines or stockpiles.
  - c. Southern Brown Bandicoot Habitat Corridors.
    - i. Southern Brown Bandicoot Habitat Corridors must be planted with a combination of the following CFA approved indigenous plant species, at a density of 6 plants per square metre:
      - *Carex appressa*, Tall Sedge

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- *Gahnia filium*, Chaffy Saw-sedge
  - *Gahnia sieberiana*, Red-fruit saw sedge
  - *Juncus pallidus*, Pale Rush
  - *Lepidosperma laterale* var. *majus*, Variable Sword-sedge
  - *Lomandra longifolia* ssp. *longifolia*, Spiny-headed Mat-rush
  - *Poa labillardieri* var. *labillardierei*, Common Tussock-grass
  - *Goodenia ovata*, Swamp Goodenia
  - *Correa reflexa*, Common Correa.
- ii. Provide a costed schedule of works to maintain the Southern Brown Bandicoot Corridors for a minimum of 2 years. Include watering, weed control, and infill plantings.
  - iii. Southern Brown Bandicoot Habitat Corridors must achieve a minimum 50% plant cover at maturity.
  - iv. Any dead or diseased plants must be replaced as soon as practicable.
  - v. Southern Brown Bandicoot Habitat Corridor interpretive signage. Consult with Council’s Environment and Heritage Department to determine suitable content for signage.
- d. Removal of noxious weeds to less than 1% cover in the Bushland Reserve, Creek Reserve, and Southern Brown Bandicoot Habitat Corridors.
- i. Identification of all noxious weed species present on site which that are listed in the Catchment and Land Protection Act.
  - ii. Identification of the extent of noxious weed cover.
  - iii. Detail methods for removal, including a schedule of proposed works.
  - iv. Precision control methods that minimise off-target impacts must be used in environmentally sensitive areas near native vegetation and waterways.
  - v. Staged weed removal will be required for large patches of weeds, to prevent loss of habitat that may be providing refuge for native fauna.
  - vi. Provide a costed schedule of works for all weed removal works, including follow up maintenance for a minimum period of 2 years following weed removal.
- e. Revegetation using indigenous plant species based on the requirements of the appropriate bioregional EVC benchmark defined in the Biodiversity Assessment Report for Garfield Road, Garfield – Updated October 2021 by Indigenous Design Environmental Management for the Bushland Reserve (EVC 16 Lowland Forest) and Creek Reserve (EVC 937 Swampy Woodland), including:
- i. Description of any site preparation works that will be required prior to planting.
  - ii. Planting densities to be calculated in accordance with the DSE Native Vegetation Revegetation Planting Standards (2006), at a minimum.
  - iii. Provide an indigenous plant species list including quantities, based on the requirements of the appropriate bioregional EVC benchmark.

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- iv. Provide a costed schedule for staged revegetation, associated works, and follow up maintenance for a minimum period of 2 years following planting.
- v. Any dead or diseased plants must be replaced as soon as practicable.
- f. Measures to manage all erosion to ensure no active of movement of soil into the creek.
- g. Removal of rubbish and debris, including any temporary fencing.
- h. Details of signs to be installed at the entrances to the Bushland Reserve area that include the reserve name and regulatory symbols using the Open Space and Bushland Naming Template in the Cardinia Shire Council Corporate Signage Manual. The naming of the Bushland Reserve must be determined by Cardinia Shire Council’s place names committee. Where this has not been determined prior to the implementation of this action, this permit condition may be satisfied through the transfer of the current day cost at the time of transfer of funds, to Cardinia Shire Council that will cover the cost of signage development, manufacture and installation, once the reserve name has been determined.

**Landscape Works Plan**

- 21. Before the issue of a Statement of Compliance for each stage of the subdivision under the Subdivision Act 1988, a detailed landscape works plan for all areas not included within the Environmental Landscape Concept Plan must be submitted to and approved by the Responsible Authority. The detailed landscape works plan must be prepared by a person suitably qualified or experienced in landscape design to the satisfaction of the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The landscape works plan must be drawn to scale with dimensions and one (1) copy must be provided in an approved electronic format (PDF and CAD). The detailed landscape works plan must be consistent with the endorsed Landscape Master Plan and must show and include to the satisfaction of the Responsible Authority:
  - a. A detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant. The plant schedule must be:
    - i. Consistent with adjoining sites where roads are continued through.
    - ii. Drought tolerant and proven hardy cultivars suitable to the local conditions.
    - iii. Indigenous plant species (where possible).
  - b. Any road reserves or public open space areas within the defendable space must be planted in accordance with Table 6 of Clause 53.02 (Bushfire Planning) of the Planning Scheme.
  - c. The wetland Drainage Reserve.
  - d. Plantings are not to impact sight lines for vehicles or pedestrians.
  - e. The type and location of new plantings in the road reserves and public open space areas (excluding any area subject to the Environmental Landscape Management Plan associated with this permit).
  - f. A detailed schedule of any landscaping on the gas pipeline easement: with landscaping along the southern edge of the gas easement between the path and lots that is low level and low maintenance utilising the following indigenous plant species at a density of 6 plants per square metre:
    - [Carex appressa, Tall Sedge](#)
    - [Gahnia filium, Chaffy Saw-sedge](#)

<b>Date issued:</b>	<b>Date permit comes into operation:</b> (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	<b>Signature for the responsible authority:</b>
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- [Gahnia sieberiana, Red-fruit saw sedge](#)
- [Juncus pallidus, Pale Rush](#)
- [Lepidosperma laterale var. majus, Variable Sword-sedge](#)
- [Lomandra longifolia ssp. longifolia, Spiny-headed Mat-rush](#)
- [Poa labillardieri var. labillardierei, Common Tussock-grass](#)
- [Goodenia ovata, Swamp Goodenia](#)
- [Correa reflexa, Common Correa.](#)

[The landscaping must be designed and maintained in a Low-threat bushfire state.](#)

All landscaping within the gas pipeline easement is to be to the satisfaction of APA VTS and the Responsible Authority.

- [fg](#) Locations of any protected trees or patches of protected native vegetation to be retained.
- [gh](#) The proposed road reservation widths and the treatment of interfaces with surrounding road reserves, including areas within the road reserves set aside for the retention of existing vegetation.
- [hi](#) The tree protection zone for each protected tree must be clearly shown on the site plan.
- [ij](#) The removal of existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds.
- [jk](#) WSUD interpretive signage.
- [kl](#) Locations of substations.
- [lm](#) Entrance treatments.
- [mn](#) Location of any waterway or waterbody on or adjoining the land.
- [no](#) Tree Management Plan as approved by this permit.

Note: The landscaping works shown on the endorsed landscape masterplan/s are to be used to inform the final construction drawings and landscape specifications developed for construction and approved by open space. The landscaping works shown on the approved landscape plan/s must be carried out and completed to the satisfaction of the Responsible Authority. Separate landscape requirements will be included within the Environmental Landscape Concept required as part of this permit.

**SECONDARY CONSENT**

- 22. The layout of the subdivision and details shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority

**SECTION 173 AGREEMENTS**

**Bushfire Management**

- 23. Before the plan of subdivision for each stage is certified under the Subdivision Act 1988, the owner must enter into an agreement with the responsible authority under Section 173 of the Planning & Environment Act 1987 which is recorded on the Certificate of Title of the land. The agreement must:

<b>Date issued:</b>	<b>Date permit comes into operation:</b> (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	<b>Signature for the responsible authority:</b>
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- a. Incorporate the building envelopes endorsed under this permit.

- b. Incorporate the Bushfire Management Plan endorsed under this permit.
- c. State that the owner of the land must implement the bushfire protection measures set out in the Bushfire Management Plan incorporated into the agreement to the satisfaction of the responsible authority on a continuing basis.

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 Design Guidelines and Fencing Controls

24. Before the plan of subdivision for each stage is certified under the Subdivision Act 1988 the Building Design Guidelines and Fencing Controls must be implemented in the form of either a Notice of Restriction on the certified Plan of Subdivision or through an agreement with the Responsible Authority under Section 173 of the Planning & Environment Act 1987, which is recorded on the Certificate of Title of the land. The restriction or agreement must provide ~~that(as appropriate):~~

- a. Except with the written consent from the Responsible Authority, the registered proprietor ~~or f~~ proprietors of any burdened lot must not ~~;~~ build or allow to be built on the land any dwelling (and/or associated works), other than in accordance with the ~~approved~~ Building Design Guidelines and Fencing Controls ~~as approved under Condition 12 by Cardinia Shire Council.~~
- b. Only one (1) single dwelling is permitted on each lot.
- ~~c. Mandatory provision of a 10,000 litre water tank for each lot. 5,000 litre for re-use and 5,000 litre for detention as outlined in the drainage strategy prepared by Millar & Merrigan Pty Ltd, dated 30 October 2020 to be installed with each dwelling development.~~
- ~~d~~ c Include an appropriate sunset clause being 15 years after the plan of subdivision is registered and expressed as a date (e.g. 31 December 2036).

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).

### CERTIFICATION

- 25. The certification of each stage of the plan of subdivision under the *Subdivision Act 1988* must include a creation of restriction on a separate sheet showing the building envelopes in accordance with the endorsed Building Envelope Plan.
- 26. Before a plan of subdivision is certified for each stage of the subdivision, ~~a~~ restrictions must be included on the plan of subdivision which state that:
  - a dwellings and associated outbuildings must be located inside of the prescribed building envelope, unless with the prior written consent of the Responsible Authority. The building envelopes must be in accordance with the endorsed Building Envelope Plan and designed to consider the provision of solar access and any other requirements provided on the plans endorsed to this permit as relevant. The building envelopes and associated restrictions cannot be varied except with the consent of the Responsible Authority.

<b>Date issued:</b>	<b>Date permit comes into operation:</b> (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	<b>Signature for the responsible authority:</b>
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b Fencing that will allow the free movement of the Southern Brown Bandicoot to the rear boundary of No. 40 (Lot 18 LP8091) Barker Road must be provided and maintained on the following lots:

- i. Lot 35: southern (rear) boundary and eastern (side) boundary.
- ii. Lot 36: western (side) boundary and eastern (side) boundary.

ac a 10,000 litre water tank, 5,000 litre for re-use and 5,000 litre for water detention, must be installed with each dwelling within the subdivision in accordance with the Storm Water Drainage Strategy endorsed under Condition 14.

2627 All existing and proposed easements and sites for existing or required utility services, roads, public open space and other infrastructure on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

2728 The plan of subdivision submitted for certification under the Subdivision Act 1988, must show land for Reserve vested to the relevant Responsible Authority, generally in accordance with the plans approved under this permit.

2829 The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authorities in accordance with Section 8 of that Act.

## **ENVIRONMENT CONDITIONS – COUNCIL (SEE ALSO DELWP ENVIRONMENT CONDITIONS)**

### **Vegetation Removal**

2930 The extent of vegetation removal as shown on the endorsed plan/s must not be altered or modified without the further written consent of the Responsible Authority.

3031 Once the vegetation removal has commenced it must be continued and completed to the satisfaction of the Responsible Authority.

3132 Except where specified on the endorsed plan, no vegetation may be removed, destroyed or lopped without the written consent of the Responsible Authority.

3233 Vegetation removal and disposal must not cause damage to vegetation stands to be retained or to drainage lines or watercourses.

3334 All fallen timber and debris from the works must be cleaned up to the satisfaction of the Responsible Authority within three (3) months of the completion of works and may not remain on the subject land in a manner, which may constitute a fire hazard.

### **Tree Protection**

3435 Before any site works and before the removal, destruction or lopping of any native vegetation, all vegetation approved for removal must be clearly marked on site as retained or removed in accordance with this permit, to the satisfaction of the Responsible Authority.

3536 Before the commencement of any works, tree protection fencing must be erected in accordance with the Australian Standard AS4970-2009 Protection of Trees on Development Sites to the satisfaction of the Responsible Authority. The tree protection fencing must remain in place until the completion of any works approved by this permit.

3637 No earthworks, compaction or modification of existing drainage patterns may be undertaken which present a risk to any vegetation to be retained, remnant trees, understorey or revegetated areas.

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### Environmental Landscaping Timeframe for Completion (stages)

[3738](#) Before the issue of a Statement of Compliance for each stage of the subdivision under the Subdivision Act 1988, the works shown on the approved detailed Environmental Landscape Works Plan for that stage (excluding works included in the Landscape Masterplan and detailed Landscape Works Plan associated with this permit) must be carried out and completed to the satisfaction of the Responsible Authority, or by agreement with the Responsible Authority bond environmental landscaping works incomplete at the completion of civil works. Payment can be made in the form of a cash bond or bank guarantee. The bond will be released upon satisfactory completion of works. Refer to the Cardinia Shire Council Developer Landscape Guidelines, (as amended from time to time) for bond calculation details.

Note: At practical completion, the outstanding environmental landscape works bond will be released and only an environmental landscape maintenance bond will be retained. Contact Council’s Environment and Heritage Department in relation to the cash bond or bank guarantee amount.

### Environmental Landscaping Maintenance Bond

[3839](#) Before the issue of a Statement of Compliance for each stage of the subdivision under the Subdivision Act 1988, bonding must be provided to the Responsible Authority to cover all environmental landscaping works (excluding works included in the Landscape Masterplan and detailed Landscape Works Plan associated with this permit) for a twenty four (24) month maintenance period. Payment can be made in the form of a cash bond or bank guarantee. Refer to the Cardinia Shire Council Developer Landscape Guidelines, (as amended from time to time) for bond calculation details. A Certificate of Final Completion will be issued by the Responsible Authority and the bond released, less any moneys retained for imperfect works, following the satisfactory completion and satisfactory maintenance of the environmental landscaping for a minimum of 24 months. Final completion will not be granted between 1 November and 31 March. Contact Council’s Environment and Heritage Department in relation to the costs of the cash bond or bank guarantee.

## LANDSCAPING AND PUBLIC OPEN SPACE CONDITIONS

### Stock Inspection

[3940](#) Before the installation of trees to be planted within the streetscape, an inspection of the plant stock must be undertaken by Council's Landscape Development Department. Any trees deemed unsuitable must not be planted within the streetscape.

### Surveillance

[4041](#) The permit holder must notify Council's Landscape Development Department a minimum of seven (7) days before commencing street tree planting and landscaping (excluding works included in the Environmental Landscape Masterplan and detailed Environmental Landscape Works Plan associated with this permit) so that surveillance of the works can be undertaken.

### Landscaping Timeframe for Completion (stages)

[4142](#) Before the issue of a Statement of Compliance for each stage of the subdivision under the Subdivision Act 1988, the landscape works shown on the approved detailed landscape works plan for that stage (excluding works included in the Environmental Landscape Masterplan and detailed Environmental Landscape Works Plan associated with this permit) must be carried out and completed to the satisfaction of the Responsible Authority or by agreement with the Responsible Authority, bond landscaping works incomplete at the completion of civil works. Payment can be made in the form of a cash bond or bank guarantee. The bond will be released upon satisfactory completion of works. Refer to the Cardinia Shire Council Developer Landscape Guidelines, (as amended from time to time) for bond calculation details.

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Note: At practical completion the outstanding landscape works bond will be released and only a landscape maintenance bond will be retained. Contact Council’s Landscape Development Department in relation to the cash bond or bank guarantee amount.

Practical completion for landscape works will not be granted until ‘as constructed’ plans are provided in AutoCAD as well as digital landscape information in accordance with the current version of A-SPEC. All graphical information is to be provided in the datum of GDA94 and projection of MGA Zone 55. Refer to A-SPEC website [www.a-specstandards.com.au/o-spec](http://www.a-specstandards.com.au/o-spec) for minimum Council requirements. The submitted information is to the satisfaction of the Responsible Authority.

### Landscaping Maintenance Bond

[4243](#) Before the issue of a Statement of Compliance for each stage of the subdivision under the Subdivision Act 1988, bonding must be provided to the Responsible Authority to cover all landscaping works (excluding works included in the Environmental Landscape Masterplan and detailed Environmental Landscape Works Plan associated with this permit) for a twenty four (24) month maintenance period. Payment can be made in the form of a cash bond or bank guarantee. Refer to the Cardinia Shire Council Developer Landscape Guidelines, (as amended from time to time) for bond calculation details. A Certificate of Final Completion will be issued by the Responsible Authority and the bond released, less any moneys retained for imperfect works, following the satisfactory completion and satisfactory maintenance of the landscaping for a minimum of 24 months. Final completion will not be granted between 1 November and 31 March. Contact Council’s Open Space Department in relation to the costs of the cash bond or bank guarantee.

### Fencing to Public Open Space

[4344](#) Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, or at any other time agreed to by the Responsible Authority, all fencing along a common boundary with land which is or is intended to become public open space must be provided to the satisfaction of the Responsible Authority.

## ENGINEERING CONDITIONS

### Implementation of Technical Report

[4445](#) The recommendations and mitigation measures as set out in the following reports must be implemented to the satisfaction of the Responsible Authority. All works must be carried out in accordance with the following reports:

- a. Drainage Strategy, 49 Garfield Road, Garfield Multi-Lot Subdivision, Millar & Merrigan (V3 30/10/2020) (Reference 24661)
- b. Traffic Impact Assessment, 49 Garfield Road, Garfield, Proposed Residential Subdivision (V3 19/07/2021) O’Brien Traffic (Reference 18107).

### Land Management Plan Implementation

[4647](#) All parts of the land must be maintained in accordance with Council’s Guidelines for Land Management During Development.

### Intersection

[4647](#) Before the issue of a Statement of Compliance for the stage comprising more than 50% of the subdivision under the Subdivision Act 1988 is issued, the intersection of Garfield Road must be designed and constructed in accordance with plans and specifications approved by the Responsible Authority.

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### Relocation of Existing Services

4748 Before the issue of a Statement of Compliance for each stage of the subdivision under the Subdivision Act 1988, all services, including drainage and/or sewerage, servicing any existing dwelling or building on the lot(s), must be relocated (if required) to the satisfaction of the Responsible Authority, to ensure that they do not cross the boundaries between the proposed lots.

### Compliance with DSPEC

4849 Before the issue of a Statement of Compliance for each stage of the subdivision under the Subdivision Act 1988, the permit holder must provide survey enhanced “as constructed” GIS data for the drainage, road and footpath information components of the subdivision, in accordance with the current version of D-SPEC and R-SPEC. Council’s preferred format for the submission of the graphical data is in “MapInfo Native Format”. A secondary format is “MapInfo MID/MIF”. Grid Co-ordinates must be MGA zone 55 (GDA 94). Please refer to the A-SPEC website for further information: [www.a-specstandards.com.au](http://www.a-specstandards.com.au).

### Fire Hydrants

4950 Before the issue of a Statement of Compliance for each stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide Council with written confirmation from a suitably qualified professional that the requirements of Clause 56.09-3 (Fire Hydrants Objectives Standard C29) of the Cardinia Planning Scheme have been provided on the land.

### Street Lighting

5051 Before the issue of a Statement of Compliance for each stage of the subdivision under the Subdivision Act 1988, lighting of streets and pedestrian/cycle paths must be designed and provided in accordance with Australian Standard 1158.1 to the satisfaction of the Responsible Authority.

### Fill & Removal of excavated material

5152 No fill or excavated material for or from this development is to be carted/hailed into or from the site without first obtaining the further written consent from Council’s Engineering Department at least seven (7) days prior to the cartage/haulage works commencing to the satisfaction of the Responsible Authority.

### Geotechnical Certificate

5223 Before the issue of a Statement of Compliance for the subdivision, a certificate from a geotechnical engineer must be submitted to and approved by the Responsible Authority certifying that the filling of any dam on the subject land has been undertaken in accordance with acceptable engineering standards.

### Construction Plans

5354 Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, all works specified on the approved construction plans must be constructed or carried out in accordance with those plans to the satisfaction of the Responsible Authority.

### Minimal Soil Erosion

5455 Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.

<p><b>Date issued:</b></p>	<p><b>Date permit comes into operation:</b> (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)</p>	<p><b>Signature for the responsible authority:</b></p>
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### Batters



~~5556~~ The slope of batters, both cut and fill, must not exceed 2:1 (horizontal: vertical) or, where this is not practicable, batters must be stabilised by other means to the satisfaction of the Responsible Authority.

**Filling of Land – Residential Use**

~~5657~~ Land to be filled must be filled and compacted (in accordance with AS 3798/1996) to comply with fill density tests in order to support residential house foundations. The results of the tests must be to the satisfaction of the Responsible Authority.

**Haulage on Council roads**

- ~~5758~~ All roads used for the purpose of haulage of imported or exported materials for construction must be:
- a. Approved in writing by the Responsible Authority for the submitted haulage strategy, at least seven days prior to the commencement of use.
  - b. Maintained in accordance with the Responsible Authority's maintenance intervention levels, or as requested by the Responsible Authority if the road deteriorates during the haulage period.
  - c. Reinstated to the satisfaction of the Responsible Authority.

**Fill & Removal of excavated material**

~~5859~~ No fill or excavated material for or from this development is to be carted/hailed into or from the site without first obtaining the further written consent from Council’s Engineering Department at least seven (7) days prior to the cartage/haulage works commencing to the satisfaction of the Responsible Authority.

**Temporary Turn Around Areas**

~~5960~~ Any temporary vehicle turning areas provided on roads which are intended to be continued at a future time must be constructed in accordance with engineering construction plans approved by the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.

~~6061~~ A sign of at least one (1) sqm in area must be displayed in a prominent position near the temporary vehicle turning area while a temporary turning area is in operation advising that it is a temporary turning area only. The sign must be removed after the temporary vehicle turning area is removed.

**Service substations, kiosk sites etc**

~~6162~~ All service substations, kiosk sites and the like must not be located on/address/front any land identified as public open space (including encumbered open space) or land to be used for any municipal purpose unless otherwise agreed by the Responsible Authority.

**Street Number Markers**

~~6263~~ Reflective street number markers must be provided on the kerb in front of each lot to the satisfaction of the Responsible Authority.

**Works & Matters to be Completed**

- ~~6364~~ Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988 the following must be completed to the satisfaction of the Responsible Authority:
- a. Power and telephone lines placed underground from the main point of service supplied by the relevant authority outside the boundaries of the land must be provided to all new dwellings/lots.

<b>Date issued:</b>	<b>Date permit comes into operation:</b> (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	<b>Signature for the responsible authority:</b>
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- b. All driveways must be designed and constructed in accordance with Cardinia Shire Council’s specifications.

To the satisfaction of the Responsible Authority.

**Outfall Drainage**

~~6465~~ Before the plan of subdivision for each stage is certified under the Subdivision Act 1988, outfall drainage for the subdivision must be designed and constructed to a satisfactory point of discharge in accordance with plans and specifications approved by the Responsible Authority.

**Stormwater sediment control during construction - small scale projects**

~~6566~~ Sediment control measures must be undertaken during construction to the satisfaction of the Responsible Authority to ensure that the development subject land is adequately managed in such a way that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the stormwater drainage system.

**Control of run-off**

~~6667~~ No polluted and/or sediment laden run-off is to be discharged directly or indirectly into drains or watercourses.

**Stormwater Overflows**

~~6768~~ Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.

**Waste Management Plan Implementation**

~~6869~~ All waste generated by the use of the land must be managed in accordance with the Waste Management Plan for the land approved by the Responsible Authority.

**Provision of Services**

~~6970~~ Lots within the subdivision must be provided with reticulated water and sewerage, gas, underground power and telecommunications connections to the satisfaction of the Responsible Authority.

~~7071~~ Before the plan of subdivision for the first stage is certified under the Subdivision Act 1988, the permit holder must nominate the telecommunications fibre to the premises (FTTP) network provider to Council's Subdivision Department.

**FOREIGN INVESTOR TAX**

~~7172~~ Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, a Foreign Resident Capital Gains Withholding Clearance Certificate in accordance with Section 14-220(1) of the Tax Act must be provided to Council along with a current copy of title. The copy of title must have been produced no more than 14 days prior to the day the Statement of Compliance is to be issued by Council. The owner of the land as listed on the title must match the vendor name listed on the Clearance Certificate.

**CERTIFICATE OF PRACTICAL COMPLETION**

**Roads & Drainage**

~~7273~~ Before a certificate of practical completion is issued, all road and drainage infrastructure must be designed and constructed in accordance with plans and specifications approved by the Responsible Authority. The works must comply with the standards nominated in the Cardinia Shire Council “Engineering Design and Construction Manual (EDCM)”, and the “Water Sensitive Urban Design (WSUD) Guidelines”.

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## Closed-Circuit Television (CCTV)

~~7374~~ Before a certificate of practical completion is issued, CCTV results for the full length of all stormwater drainage pipes where Council is the responsible authority, must be submitted for assessment. The submitted information is to be to the satisfaction of the Responsible Authority.

### “As constructed” Drawings

~~7475~~ Before a certificate of practical completion is issued, “as constructed” digital road and drainage information in AutoCAD format with all Xrefs binded into the drawings and showing any amendments during construction, must be submitted for all civil works where Council is the Responsible Authority.

## GENERAL

~~7576~~ The subdivision and development of land must be generally in accordance with the plans endorsed under this permit and subject to the conditions set out in this permit.

~~7677~~ The subdivision of the land must proceed in the order of stages shown on the endorsed plan/s except with the prior written consent of the Responsible Authority.

~~7778~~ Once the subdivision/development of each stage starts, it must be continued and completed to the satisfaction of the Responsible Authority.

~~7879~~ The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities and electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.

~~7980~~ Within four (4) weeks of the registration of the plans at the Land Titles Office the following must be sent to the Responsible Authority:

- a. A Certificate of Title for all land vested in the Responsible Authority on the plan of subdivision.
- b. A clear A3-size photocopy of the Title Office approved Plan of Subdivision.

## MAINTENANCE

### Landscaping Ongoing Maintenance

~~8081~~ The landscaping shown on the endorsed landscape plans (excluding works included within the Bushland Reserve or Creek Reserve Management Plans associated with this permit) must be maintained to the satisfaction of the Responsible Authority for a minimum of 24 months from the date of practical completion of the landscaping. All maintenance activities are to be undertaken until a Certificate of Final Completion is issued by the Responsible Authority. During this period:

- a. Any dead, diseased or damaged plants or landscaped areas must be repaired or replaced except for within the final 12 months of the maintenance period whereby trees must not be replaced. In accordance with the Cardinia Shire Council developer landscape guidelines ([https://www.cardinia.vic.gov.au/landscaping\\_guidelines](https://www.cardinia.vic.gov.au/landscaping_guidelines)) (as amended from time to time) funds will be retained from the landscape maintenance bond for the works to be undertaken by Council following issuing of final completion.
- b. The Responsible Authority may direct maintenance activities to be undertaken.

The direction to undertake maintenance activities must be completed within 14 days of the written notification being received from the Responsible Authority.

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## Environmental Landscaping Ongoing Maintenance

**8182** The environmental landscaping shown on the endorsed Environmental Landscape Masterplan and Environmental Landscape Works Plan (excluding works included within the Landscape Plans associated with this permit) must be maintained to the satisfaction of the Responsible Authority for a minimum of 24 months from the date of practical completion of the environmental landscaping. All maintenance activities are to be undertaken until a Certificate of Final Completion is issued by the Responsible Authority. During this period:

- a. Any dead, diseased or damaged plants or environmental landscaped areas must be repaired or replaced except for within the final 12 months of the maintenance period whereby trees must not be replaced. In accordance with the Cardinia Shire Council developer landscape guidelines ([https://www.cardinia.vic.gov.au/landscaping\\_guidelines](https://www.cardinia.vic.gov.au/landscaping_guidelines)) (as amended from time to time) funds will be retained from the environmental landscape maintenance bond for the works to be undertaken by Council following issuing of final completion.
- b. The Responsible Authority may direct maintenance activities to be undertaken.
- c. The direction to undertake maintenance activities must be completed within 14 days of the written notification being received from the Responsible Authority.

## MANDATORY CLAUSE 66 CONDITIONS

**8283** The owner of the land must enter into an agreement with:

- a. a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirement and relevant legislation at the time.
- b. a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

**8384** Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988 written confirmation must be provided to the Responsible Authority from:

- a. a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- b. suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

## OTHER AUTHORITY CONDITIONS

### DELWP Environment Conditions - Native Vegetation Removal and Offset Planting

**8485** Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.

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**8586** The total area of native vegetation permitted to be removed totals 0.884 hectares, comprised of:

- a. 7 patches of native vegetation with a total area of 0.432 hectares [containing 4 large trees]
- b. 4 large scattered trees
- c. 7 small scattered trees.

**8687** To offset the permitted clearing in accordance with Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017), the permit holder must secure a general offset of 0.237 general habitat units as defined in Native Vegetation Removal Report ID IND 2021 026:

- a. located within the Port Phillip and Westernport Catchment Management boundary or Cardinia Shire Council municipal area
- b. with a minimum strategic biodiversity score of at least 0.405
- c. The offset(s) secured must also protect 8 large trees.

**8788** Before any native vegetation is removed evidence that the offset required by this permit has been secured must be provided to the satisfaction of the Responsible Authority. This evidence must be one or both of the following:

- a. an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site,  
AND/OR
- b. credit extract(s) allocated to the permit from the Native Vegetation Credit Register.

**8889** A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning Approvals at the Department of Environment, Land, Water and Planning Port Phillip regional office.

**8990** Where the offset includes a first party offset(s), the permit holder must provide an annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.

**9091** Within 6 months of the conclusion of the permitted clearing of native vegetation under this permit, the offset requirements can be reconciled with the written agreement of the responsible authority and the Department of Environment, Land, Water and Planning.

**9192** A suitably qualified wildlife handler or zoologist is to be present when felling trees/removing native vegetation, to ensure affected wildlife is not harmed. If displaced wildlife that cannot be relocated on site to an appropriate location away from the construction footprint, or injured wildlife is captured, please contact DELWP on 136 186 for further advice.

**9293** Within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and/or development, the following is prohibited:

- a. Any vehicle or pedestrian access, trenching or soil excavation, and
- b. Storage or dumping of any soils, materials, equipment, vehicles, machinery, or waste products, and
- c. Entry or exit pits for underground services, and

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- d. Any other actions or activities that may result in adverse impacts to retained native vegetation.

**Ausnet**

9394 Enter into an agreement with AUSNET Electricity Pty Ltd for supply of electricity to each lot on the endorsed plan.

**APA**

9495 Buildings, structures, roadway, pavement, pipeline, cable, fence or any other improvement on or under the land within the gas transmission pipeline easement must not be constructed without prior consent in writing from the pipeline licensee/operator (APA VTS Australia (Operations) Pty Ltd). No structure or vegetation will be permitted on the easement that prohibits maintenance of line of sight along the pipeline easement.

9596 Prior to the commencement of any works within the gas transmission pipeline easement, the proponent must enter a Third Party Works Authorisation agreement with the pipeline licensee/operator (APA VTS Australia (Operations) Pty Ltd). Works within the easement must comply with any conditions attached to a third party works approval.

9697 The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to APA VTS Australia (Operations) Pty Ltd in accordance with section 8 of that Act.

9798 Any lots directly abutting the gas transmission pipeline easement must not rely upon the gas transmission pipeline easement as their accessway to the lot. Any carriageway or road required to provide direct access to lots must be located off the gas transmission pipeline easement.

9899 No civil infrastructure providing for water, sewer, electric, telecommunications and other like services will be accepted within the gas pipeline easement, other than service crossings to the satisfaction of the pipeline licensee/operator (APA VTS Australia (Operations) Pty Ltd).

99100 Prior to the approval of any landscape plans depicting any planned landscaping, including the planting of vegetation, species details, surface treatments, furniture structures or improvements on or immediately abutting the gas transmission pipeline easement the Responsible Authority will seek the view of the pipeline licensee / operator APA VTS Australia (Operations) Pty Ltd) in this matter.

100101 Prior to the approval of any detailed engineering plans for the proposed road crossings over the gas transmission pipeline/ transmission gas pipeline easement the Responsible Authority will seek the view of the pipeline licensee / operator APA VTS Australia (Operations) Pty Ltd) in this matter. These crossings must not result in any reduction in the cover over the pipeline asset.

101102 The existing ground cover level over the high pressure gas pipeline easement is not to be reduced and must be maintained to the satisfaction of the pipeline licensee/operator (APA VTS Australia (Operations) Pty Ltd).

102103 Prior to the commencement of any works, including demolition, within the easement or on land within 50 metres of the gas transmission pipeline easement, a Construction Management Plan must be submitted to and approved by the responsible authority. The plan must:

- a. Prohibit the use of rippers or horizontal directional drills unless otherwise agreed by the operator of the gas transmission pipeline.
- b. Avoid significant vibration, heavy loadings stored over the pipeline and heavy vehicle / plant crossings of the pipeline within the easement.
- c. Be endorsed by the operator of the gas transmission pipeline where the works are within or crossing the relevant gas transmission easement.
- d. Include any other relevant matter to the satisfaction of the responsible authority.

<b>Date issued:</b>	<b>Date permit comes into operation:</b>	<b>Signature for the responsible authority:</b>
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**applies comes into operation)**

~~103~~104 The responsible authority must be satisfied that the gas transmission pipeline licensee (APA VTS Australia (Operations) Pty Ltd) has reviewed and approved the Construction Management Plan. The Construction Management Plan must be implemented to the satisfaction of the responsible authority. The Construction Management Plan may be amended to the satisfaction of the responsible authority.

**South East Water**

~~104~~105 The certified Plan of Subdivision will need to show sewerage supply easements over all existing and/or proposed South East Water sewer mains located within the land, to be in favour of South East Water pursuant to Section 12 (1) of the Subdivision Act.

~~105~~106 The certified Plan of Subdivision should show water supply easements over all existing and/or proposed South East Water water mains located within the land, to be in favour of South East Water pursuant to Section 12 (1) of the Subdivision Act.

**Water supply**

~~106~~107 The owner of the subject land must enter into an agreement with South East Water Limited for the provision of water supply and fulfill all requirements to its satisfaction.

**Sewerage supply**

~~107~~108 The owner of the subject land must enter into an agreement with South East Water Limited for the provision of sewerage and fulfill all requirements to its satisfaction.

**Melbourne Water**

~~108~~109 Prior to Certification, the owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water’s drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.

~~109~~110 Prior to issue of a Statement of Compliance, a separate application direct to Melbourne Water must be made for approval of any new or modified stormwater connection to Melbourne Water's drains or watercourses, and/or waterway crossing. The connection of the wetland outfall to Tea Tree Creek should be at 45 degrees to the flow in Tea Tree Creek.

~~110~~111 The setback to Tea Tree Creek should include a minimum area of 10 metres from the top of bank vegetated with naturally occurring native species.

**Country Fire Authority**

**Water Hydrants**

~~111~~112 Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 the following requirements must be met to the satisfaction of the CFA:

- a. Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.

**Date issued:**

**Date permit comes into operation:**

**Signature for the responsible authority:**

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

- b. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Note –CFA’s requirements for identification of hydrants are specified in ‘Identification of Street Hydrants for Firefighting Purposes’ available under publications on the CFA web site ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au)).

**Roads**

~~112~~113 Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.

- a. The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.
- b. Curves must have a minimum inner radius of 10 metres.
- c. Have a minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.
- d. Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.

**Fuel management**

~~113~~114 Areas of public open space or common property must be managed to a minimum fuel condition during the declared fire danger period.

**Expiry**

~~114~~115 This permit will expire if:

- a. The plan of subdivision for the first stage is not certified within two (2) years of the date of this permit; or
- b. The plan of subdivision for the last stage of the subdivision is not certified within 10 years of the date of this permit; or
- c. The registration of the last stage of the subdivision is not completed within five (5) years from the date of certification of that plan of subdivision.

The starting of the subdivision is regarded by section 68(3A) of the *Planning and Environment Act 1987* as the certification of a plan, and completion is regarded as the registration of the plan.

The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with section 69 of the *Planning and Environment Act 1987*.

**Notes:**

**Cultural Heritage Management Plan**

- All activities carried out on the site must comply with the approved Cultural Heritage Management Plan for all stages on plan identifier CHMP 15483 dated 31 October 2019.

<b>Date issued:</b>	<b>Date permit comes into operation:</b> (or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)	<b>Signature for the responsible authority:</b>
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- Works must cease immediately upon the discovery of any Aboriginal cultural material, and Aboriginal Affairs Victoria must immediately be notified of any such discovery.



- Development on the land subject to this permit must cease immediately upon the discovery of any suspected human remains. The Police or State Coroner must be informed of the discovery without delay. If there are reasonable grounds to suspect that the remains are Aboriginal, the discovery must also be reported to Aboriginal Affairs Victoria.

**APA**

- If you are planning on undertaking any physical works on property containing or proximate to a pipeline, or are seeking details on the physical location of a pipeline, please contact Dial Before you Dig on 1100, or APA directly on [APAprotection@apa.com.au](mailto:APAprotection@apa.com.au)
- An early works agreement from APA is required for any assessments/approvals that require greater than 3 days assessment or supervision. Lead in times for agreements can be up to 12 weeks. Please contact APA at [APAprotection@apa.com.au](mailto:APAprotection@apa.com.au) or 1800 103 452 to discuss the issue.
- Where access to the pipeline will not be readily available because of the proposed development e.g. significantly obstructed by pavement etc an assessment of the condition of the pipeline coating will be required prior to development commencing. Any re-coating works required as a result of this assessment or due to future inaccessibility will be at the developers expense and to the satisfaction of the pipeline licensee/operator (APA VTS Australia (Operations) Pty Ltd).

**South East Water**

- Detailed servicing requirements will be assessed when the land is developed. Note that due to the contours of the land, a booster pump station will likely be required to service some of the future subdivided land parcels.

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**Date issued:**

**Date permit comes into operation:**

(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)

**Signature for the responsible authority:**

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## IMPORTANT INFORMATION ABOUT THIS PERMIT

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### WHAT HAS BEEN DECIDED?

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The Responsible Authority has issued a permit. The permit was granted by the Minister under section 96I of the **Planning and Environment Act 1987** on approval of Amendment No. C262 to the Cardinia Planning Scheme.

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### WHEN DOES THE PERMIT BEGIN?

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The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

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### WHEN DOES A PERMIT EXPIRE?

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1. A permit for the development of land expires if—
    - the development or any stage of it does not start within the time specified in the permit; or
    - the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of a permit, unless the permit contains a different provision; or
    - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
  2. A permit for the use of land expires if—
    - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
    - the use is discontinued for a period of two years.
  3. A permit for the development and use of land expires if—
    - the development or any stage of it does not start within the time specified in the permit; or
    - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
    - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development: or
    - the use is discontinued for a period of two years.
  4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—
    - the use or development of any stage is to be taken to have started when the plan is certified; and
    - the permit expires if the plan is not certified within two years of the issue of the permit.
  5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.
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### WHAT ABOUT REVIEWS?

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- In accordance with section 96M of the **Planning and Environment Act 1987**, the applicant may not apply to the Victorian Civil and Administrative Tribunal for a review of any condition in this permit.
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