

Planning and Environment Act 1987

Priority Projects Standing Advisory Committee

Hepburn Planning Scheme

Referral No 8: 17 Smith Street, Daylesford

7 April 2021

Planning and Environment Act 1987

Priority Projects Standing Advisory Committee Report pursuant to section 151 of the Act

Hepburn Planning Scheme

Referral No 8: 17 Smith Street, Daylesford

7 April 2021



Rodger Eade, Chair



Noelene Duff, PSM, Member



Peter Edwards, Member

Contents

	Page
1 Overview	1
2 Introduction.....	3
2.1 Terms of Reference and letter of referral	3
2.2 Membership	3
2.3 Background to the proposal	3
2.4 Issues considered by the Committee	4
2.5 Process.....	5
3 Site and planning context.....	6
3.1 The subject land	6
3.2 Planning framework	7
3.3 Compliance with the Hepburn Planning Scheme.....	8
4 The issues	9
4.1 Neighbourhood character and urban design	9
4.2 Traffic implications	11
4.3 Stormwater and service issues.....	13
4.4 Vegetation removal.....	15
4.5 Compliance with Clause 56 of the Hepburn Planning Scheme.....	16
5 Other issues	17
5.1 Location of retention basins.....	17
5.2 Compliance with ESO1 and ESO2	17
5.3 Design parameters for later stages of development	18
5.4 Development and implementation of Design Guidelines.....	19
5.5 Mechanisms for including guidance for later development on the site.....	20
5.6 Retention of existing trees	22
5.7 Affordable housing	24
6 Permit conditions.....	25
7 Reasons and recommendations.....	26
7.1 Reasons.....	26
7.2 Recommendation	27

Appendix A Priority Projects SAC Terms of Reference

Appendix B Letter of Referral

Appendix C Tabled documents

Appendix D Committee recommended permit conditions

List of Figures

	Page
Figure 1 Subject site and revised lot plan	6
Figure 2 Aerial view of subject site	6
Figure 3 Oak tree at Smith Street entrance to the site	22

Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
AEP	Annual Exceedance Probability
CFA	Country Fire Authority
Council	Hepburn Shire Council
DELWP	Department of Environment, Land, Water and Planning
ESO	Environmental Significance Overlay
GRZ	General Residential Zone
IDM	Infrastructure Design Manual
MCP	Memorandum of Common Provisions
NOD	Notice of Decision
PPSAC	Priority Projects Standing Advisory Committee
VCAT	Victorian Civil and Administrative Tribunal
VMWC	Victorian Mineral Water Committee

1 Overview

(i) Referral summary

Referral summary	
Date of referral	30 December 2020
Members	Rodger Eade (Chair), Noelene Duff and Peter Edwards
Description of referral	VCAT Proceeding No. P701/2020: Multi lot subdivision and removal of native vegetation at 17 Smith Street, Daylesford
Common name	Referral No.8: 17 Smith Street, Daylesford
Municipality	Hepburn
Planning Authority	Hepburn Shire Council
Applicant	Smith Development Partnership Pty Ltd
VCAT Reference No.	P701/2020
Planning permit application No.	PA2504
Subject land	17 Smith Street, Daylesford
Site inspections	Unaccompanied on 9 February and 2 March 2021
Parties	<p>Council: Nathen Aikman</p> <p>Applicant: Kim Piskuric of Harwood Andrews for Smith Development Partnership Pty Ltd calling expert evidence from:</p> <p style="padding-left: 40px;">Craig Czarny of Hansen partnership in urban design and landscape</p> <p style="padding-left: 40px;">Jonathon McLean of Alluvium in drainage</p> <p>Applicant for review: Jason Kane of Counsel and Richard Keddie representing community submitters including, Debora Semple and Jenni Draper at the preliminary roundtable and calling expert evidence from:</p> <p style="padding-left: 40px;">Felicity Brown on town planning.</p>
Consultation	Roundtable via video link on 15 February and 10 and 11 March 2021.
Information relied upon	VCAT file and supplementary submission by objector group, expert witness statements, draft reports required as a condition on permit and the applicant's revised plans.
Date final information received	31 March 2021
Date of this report	7 April 2021

(ii) Findings

The Committee finds that on balance the application for the subdivision of 17 Smith Street is supported by State and local policy and that the development is likely to result in a Net Community Benefit.

The Committee's findings with respect to unresolved issues raised by objectors are as follows:

- the proposed development is likely to develop its own neighbourhood character aided by design guidelines and will not be inconsistent with the existing character of the adjoining neighbourhood character precincts
- the proposed development is sufficiently distant from the Midland Highway and Raglan Street such that over time there will not be an unacceptably detrimental impact of that key entrance to Daylesford
- no unacceptable traffic impacts have been identified
- the stormwater and drainage proposals are acceptable
- the proposed removal of native vegetation has been appropriately minimised and will be offset as required
- trees 40 and 41 may be removed as proposed. The arborist's report identifies they are not in good health and evidence to the Committee indicates that the species is not suitable in residential environments
- the application for subdivision broadly complies with the relevant objectives and standards in the Hepburn Planning Scheme.

(iii) Recommendation

The Committee recommends:

That the Minister for Planning support this proposal and recommend to the Governor in Council that Hepburn Permit Application PA2504 be issued, subject to the amended conditions included in Appendix D of this report.

2 Introduction

2.1 Terms of Reference and letter of referral

The Priority Projects Standing Advisory Committee (PPSAC) was appointed by the Minister for Planning on 14 June 2020. The purpose of the Committee is set out in its Terms of Reference (Appendix A) to:

... provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes

The Committee was provided with a letter of referral from the Minister for Planning dated 30 December 2020 (Appendix B) that tasked it to provide:

... advice and recommendations on whether a planning permit should be issued, and if so, the appropriate permit conditions.

2.2 Membership

The members of the PPSAC dealing with Referral No. 8 were:

- Rodger Eade, Chair
- Noelene Duff, PSM, Member
- Peter Edwards, Member.

In this report they are referred to as the Committee.

Advice was sought from Debra Butcher of the Priority Projects Standing Advisory Committee on mechanisms to include appropriate design guidance. This advice has informed the Committee's findings in Chapter 5.5.

2.3 Background to the proposal

Victorian Civil and Administrative Tribunal (VCAT) proceeding No. P701/2020 relates to a multi lot subdivision of 53 lots and removal of native vegetation at 17 Smith Street, Daylesford. Revised plans prepared by the applicant as a condition on the permit attached to Hepburn Shire Council's (Council) Notice of Decision reduced the number of lots to 38 plus three superlots and a further lot on which the existing house is located. The amended plans include the retention of a number of trees which had initially intended be removed.

The applicant is Smith Development Partnership Pty Ltd.

A permit is required under the Hepburn Planning Scheme under:

- Clause 32.08 General Residential Zone
- Clause 42.01-2 Environmental Significance Overlay
- Clause 57.17 Native vegetation.

Council issued a Notice of Decision (NOD) to issue a planning permit (permit application PA2504), with conditions, on 6 April 2020. An application for Review of Council's decision was made to VCAT on 4 May 2020 by Ms Deborah Semple and others.

The Committee understands that the following VCAT processes had occurred:

- Practice Day Hearing on 17 July 2020
- Compulsory Conference on 20 July 2020

- Compulsory Conference on 19 August 2020
- Practice Day hearing on 18 September 2020.

The matter was set down for a hearing at VCAT commencing on 9 March 2021.

Following the Practice Day Hearing on 18 September 2020, a VCAT Order stated that it would consider issues under the headings of:

- neighbourhood character
- traffic implications
- stormwater and service issues
- vegetation removal
- compliance with Clause 56 of the Hepburn Planning Scheme.

2.4 Issues considered by the Committee

The Committee determined the issues identified by VCAT in its Order dated 18 September 2020 were appropriate and indicated at the preliminary roundtable. on 15 February 2021 that it would consider only issues under the headings identified by VCAT.

In addition to the issues identified by VCAT, the Minister's letter of referral made reference to the following issues:

- landscape values
- design response
- Aboriginal cultural heritage
- retention of the existing 19th century dwelling.

As a result, the Committee considered urban design and landscape issues as a separate discrete issue and does not consider Aboriginal cultural heritage issues as VCAT did not consider that this was an unresolved issue. It is now proposed to retain the existing 19th century dwelling, so that issue is not considered further in this report.

In addition, the Minister's letter of referral made reference to whether the application meets the objectives or standards of the Hepburn Planning Scheme. As a result, at the preliminary roundtable the Committee indicated that it would accept submissions on broader compliance with the objectives of the Hepburn Planning Scheme rather than simply focussing on the more narrowly defined, Clause 56 compliance.

During the process followed by the Committee, it was made aware of the Minister's letter to VCAT, calling this matter in (Document 42c). That letter raised the issue of the provision of affordable housing for a women's group, named in that letter as Women's Property Initiative and Older Women in Co-Housing. This issue was not addressed in detail by the Committee, firstly because it was not in its letter of referral and secondly it is not the subject of the permit application under consideration, but as the Committee was informed, the subject of a forthcoming permit application. The Committee notes that issues listed in the letter calling the matter in from VCAT did not completely align with those listed in the Committee's letter of referral from the Minister and has tried to accommodate them accordingly.

2.5 Process

The Committee received a letter of referral from the Minister for Planning dated 30 December 2020. It was provided with the VCAT file and electronic copies of key documents from the file from relevant parties were subsequently requested.

On 20 January 2021 the Committee advised parties that it intended to convene a roundtable of parties to the VCAT proceeding on 15 and 16 February 2021. On 22 January 2021 the Committee received an email from Ms Semple raising procedural issues as well as requesting that in the interests of fairness, the roundtable be convened on the dates initially proposed by VCAT. The Committee acceded to this request but held a preliminary roundtable on 15 February to address procedural matters, to gain an understanding of the outstanding issues, and attempt to narrow the range of issues to be addressed.

The roundtable was convened on 10 and 11 March 2021 and proceeded as follows:

1. Introduction by the Committee.
2. Brief summary of each of the following documents tabled by the Applicant:
 - updated subdivision layout plan, revision P
 - updated Stormwater Strategy
 - Design Guidelines
 - Engineering Earthworks Plan
 - Stage 2 grading plan for retaining walls
 - Memorandum of Common Provisions
 - Entrance Dual Carriageway Functional Layout Plan.
3. Consideration of each of the five outstanding issues identified by VCAT and listed in Chapter 2.3, including brief statement by each of the Applicant, Council and objector group followed by relevant expert witness statements and discussion of issues. The issue of urban design and site layout was addressed in conjunction with neighbourhood character.
4. Consideration of urban design issues.
5. Without prejudice discussion of proposed permit conditions.

Figure 2 Aerial view of subject site



Source: Expert evidence of Felicity Brown

3.2 Planning framework

Compliance with State and local policy is considered in this section.

(i) State policy

Both Mr Czarny and Ms Brown, in more detail, cited from the state sections of the Planning Scheme. Ms Brown cited a number of sections from the following clauses on the Planning Scheme:

Clause 11.- Settlement

Clause 12 - Environmental and Landscape Values

Clause 13 - Environmental Risks and Amenity

Clause 15 - Built Environment and Amenity

Clause 19.- Infrastructure.

The State sections quoted provide a framework for planning for future development and identify a number of environmental and related factors which should act as a constraint on that growth.

The *Central Highland Regional Growth Plan* (2014) notes that the outward growth of Daylesford is constrained but also affordability and diversity of housing stock should be addressed to increase the opportunities to live in the town.

(ii) Local Policy, zones and overlays

Ms Brown in her expert evidence cites the following Clauses of the local section of the Planning Scheme as relevant:

Clause 21 – Municipal Strategic Statement

Clause 22 02 – Mineral Springs Protection

Clause 22.08 – Daylesford Neighbourhood Character

Clause 22.11 – Daylesford Neighbourhood Character Precinct Seven

Clause 22.12 - Daylesford Neighbourhood Character Precinct Ten

Clause 22.13 - Daylesford Neighbourhood Character Precinct Eleven

The site is zoned General Residential Zone and the Environmental Significance Overlay (ESO), Schedules 1 and 2 apply.

Particular Provisions at Clauses 52.17 Native Vegetation, Clause 53.01 Public Open space Contribution and Subdivision and Clause 53.18 Stormwater Management in Urban Development apply. In addition, an application to subdivide land must meet the relevant standards of Clause 56, either by meeting specified standards or through an alternative approach accepted by the Responsible Authority.

3.3 Compliance with the Hepburn Planning Scheme

Compliance with a number of the Clauses set out above is addressed in later Chapters of this report which address identified issues, permit triggers and permit conditions. In her expert evidence Ms Brown concluded that the application does not meet the relevant Hepburn Planning Scheme provisions.

However, the Committee is of the view that the application is broadly strategically supported in the Planning Scheme in that it provides for a small amount of growth in Daylesford. This is consistent with the role of Daylesford as set out in the regional growth plan and will result in a relatively small increase in Daylesford's population.

The Committee acknowledges that there are a number of Clauses in the Planning Scheme identified by both Ms Brown and Mr Kane, the Applicant and Council which give rise to the need for significant planning permit conditions to ensure that the Planning Scheme is complied with. These are addressed in following chapters.

The Committee finds that the application broadly complies with the strategic directions and objectives of the Hepburn Planning Scheme.

4 The issues

4.1 Neighbourhood character and urban design

The key issues to resolve are:

- is the neighbourhood character of the proposed development consistent with that of existing development nearby
- whether the proposed urban design features are appropriate.

(i) Submissions and evidence

The *Daylesford Neighbourhood Character Study, 2002* (the Study) describes the character of Daylesford stating, “... the essence of the town’s distinctiveness is its landscape setting”¹. Emphasis is given to the waves of development that have occurred that has led to a diversity of built form throughout the town. The Study denotes the key character issues for Daylesford as being layers of history, type of vegetation, public domain design, vegetated topography, site coverage, space between buildings, boundary edges, lakeside edge and communication about character.

Of further relevance is the reference to new area design where the Study states, “Areas of residentially zoned land that are yet to be developed, if they are of a reasonable size and or separated from an adjoining established residential area, should be allowed to develop their own character, within certain basic parameters. These parameters might include basic principles such as taking account of natural features like creeks or hills”.²

This site is in the General Residential Zone (GRZ) and not covered by any character overlay. Precinct 7 covers the entrance to the site at 17 Smith Street. Precinct 7 is noted as having more modern architecture with further change to the mix of styles since the Study was undertaken. Preferred character for this precinct identifies character elements including the garden setting of the dwellings, consistency of front and sides setbacks, respecting building height and the openness of the streetscape.

Two other character areas, Precinct 10 to the south west is highlighted as an important town entry point with its predominance of Victorian architecture. Precinct 11 to the south east has mixed architectural styles with many post war (50’s and 60’s) and some 1980’s dwellings.

Council submitted that neighbourhood character was a relevant consideration for the subdivision. This could best be managed through specific conditions and the detail in the design guidelines.

The Applicant reinforced the elements of the subdivision’s conformance with the Precinct 7 elements including the low scale of the built form, a lot size consistent with those in Smith Street and the surrounding area, the preservation of the vegetation and enhancement of the garden setting through the landscape response.

Mr Kane for the objectors strongly emphasised the treed landscape as a key character feature including the two Manna Gums which are proposed for removal. The view of the site from the south and east from the Midland Highway was highlighted. In contrast he described the

¹ Daylesford Urban Character Study,2002, p26

² Daylesford Urban Character Study,2002, p33

subdivision as intense, conventional and could lead to a wall of built form without capacity for vegetation between buildings. Mr Kane submitted that the future built form of the superlots was of concern which he argued were akin to a metropolitan medium density development. This is addressed in Chapter 5.3.

Expert witnesses emphasised a range of key issues for the Committee's consideration.

Mr Czarny, an expert witness on urban design for the Applicant, noted six points regarding character compatibility which he stated conformed with the character elements of the adjacent precinct 7. He noted in particular:

- maximum 50 per cent site coverage in Stage One
- the need for more rigid and clear guidelines for Stage Two
- Tree 1 (Oak) and Tree 38 (Oak) should also be retained in addition to the retention of a further 33 trees
- three storey heights should be avoided in the superlots
- the superlots should also conform to the Design Guidelines submitted with the application.

Mr Czarny acknowledged the filtered views to the site from the Midland Highway and Raglan Street but pointed out that the site is more than 200 metres from the Midland Highway. While some excavation would be visible during construction, over time the growth of vegetation would result in protection of that view.

Ms Brown, expert witness on urban design and neighbourhood character for the objectors raised a number of concerns about the overall development:

- insufficient design response to site topography
- lack of a transitional buffer to the east, adjacent to the agricultural land
- visual impact detracting from the key entry point to Daylesford from the Midland Highway
- poor acknowledgement of the character of Precincts 10 and 11
- criticism of the design guidelines as poor practice to manage character in the absence of a strategic policy framework, e.g. the front and side setback guidelines may push ancillary elements to the front of sites which is undesirable.

(ii) Discussion and findings

The Committee acknowledges that the community place a high value on Daylesford's character. It notes that the site is not included as a character precinct in Clause 22.08 of the Hepburn Planning Scheme, however it believes that the nature of the site and the Design Guidelines proposed will result in the development developing a distinctive character of its own over time.

Predominately Stages Two and Three will be visible between trees along the entrance to Daylesford from the Midland Highway and between buildings in Raglan Street. However, the Committee believes that over time, views to the site will become less obvious, particularly when surrounding GRZ land is developed and are not a concern to the extent that the application should be refused. No evidence was led to convince that there would be an unacceptably high impact on the Raglan Street heritage precinct.

The Committee believes that the broad lot layout proposed is acceptable and consistent with the surrounding area and agrees with Mr Czarny that there are concerns about development

on sloping blocks, in particular in Stage Two. It also agrees with Mr Czarny that these concerns can be addressed through Design Guidelines and sufficiently nuanced building envelopes.

Whilst discussion did not lead to agreement on matters raised, the Committee finds as follows:

- the development will develop its own neighbourhood character, not inconsistent with existing development nearby
- the Design Guidelines need to be appropriately incorporated to compel conformance as a requirement across all project stages and the superlots
- the Design Guidelines should be revised to incorporate sufficient detail to maximise positive design outcomes including
 - minor outbuildings permitted outside building envelope (incl. swimming pools)
 - specify maximum site coverage across the subdivision stages
 - limit all development on the site to two storeys including on the superlots
- further detail on the Design Approval Panel³ to ensure a transparent process
- confirmation of affordable housing in conditions (addressed in Chapter 5.7)
- retention of Tree 1 (the Applicant later emphasised this would occur)
- retention of Tree 38 (Oak) was desirable and appropriate building envelope for the associated lot to be addressed in design guidelines.

Tree retention is addressed further in Chapter 5.6

4.2 Traffic implications

The key issues to resolve are:

- can the surrounding road network accommodate increased traffic from the proposed subdivision
- ensuring the Smith Street Oak (Tree 1) remains viable with the proposed site access arrangement.

(i) Submissions and evidence

Council had initially identified that there would be no traffic grounds to refuse the proposal.

The proposed internal ‘principal’ road network (16 metre road reservation generally in accordance with the Infrastructure Design Manual) is designed to cater for 2,500 vehicle movements per day⁴ with the development anticipated to generate around 530 vehicle movements per day (53 lots x 10 vehicle movements per day)⁵. Similarly, Smith Street provides a generous road width that can cater for the additional subdivision traffic with existing school and resident traffic. Council noted that ultimately a road link to Raglan Street from this subdivision would be provided as part of future development within the area.

Council proposed some minor changes to the road layout to accommodate turning areas and access for garbage trucks but did not materially change the overall amended concept. However, Council would require a pedestrian and traffic audit that would demonstrate how the proposed intersection at Smith Street provides a safe environment for all road users in accordance with relevant standards.

³ Recommended by the Committee to be renamed Design Advisory Panel

⁴ Infrastructure Design Manual Table 2 Urban Road/Street Characteristics

⁵ Traffic generation was based on the original application; the revised plans consist of 38 lots (380 vehicles per day) and 3 super lots. Consequently, the initial assessment would be conservative due to the higher lot yield.

The Country Fire Authority (CFA) required a minimum 4 metre vertical clearance above roadways, 3.5 metre minimum carriageway widths (face of kerb to face of kerb, which is greater than the actual pavement width) and suitable road pavement strength to support their vehicles' wheel loads.

The Applicant largely supported Council's traffic assessment.

The proposed solution⁶ to address the challenge of retaining Tree 1 involves constructing the roadway above the tree protection and structural root zones so that no (significant) excavation is required into these zones. Mr Palmer (the applicant's civil engineer) appeared at the roundtable and explained that the proposed retaining walls near the tree would be a post and rail construction which allowed some flexibility in the positioning of the posts to further minimise the potential damage to tree roots.

Mr Kane submitted that the proposal would increase traffic considerably in the surrounding road network and whilst no information was provided regarding the superlots it would be expected that these sites would be intensively developed resulting in more significant traffic flow creating potential safety, congestion and amenity issues, particular as two large school are located north of the site. Further, wider road reservations should be provided to allow for more water sensitive design features to be incorporated to improve/enhance groundwater recharge.

Objectors were also concerned with how the proposed intersection at Smith Street would operate, in particular regarding:

- ensuring the Oak tree remains, given the proximity of the proposed road and potential compaction around the root zone
- adequate visibility for motorists exiting the site to see vehicles and pedestrian due to existing vegetation creating unnecessary risk.

(ii) Discussion and findings

The Committee is comfortable that the additional traffic from the proposed development would not significantly compromise the safety or operation of the surrounding road network. In particular, the anticipated traffic flow of 530 vehicles per day is well below the indicative traffic volume capacity of 2,500 vehicles per day for the principal local road network. Whilst at this stage, detail of the development of the super lots is unknown, the Committee does not believe that the additional traffic would reach the street traffic capacity. Nevertheless, the superlots will need to go through a separate planning permit process where this issue would again be reviewed and assessed.

The Committee notes that the Infrastructure Design Manual (IDM) prepared by and adopted by many regional and country councils, including Hepburn Shire Council, provides design standards for the cross-sectional elements and road reservation widths, similar to Victorian Planning Provisions. The proposed subdivision layout generally conforms with IDM and is considered an appropriate outcome (subject to minor changes as part of detail design around turning bays and garbage truck access).

The proposed concept solution to retain Smith Street Oak tree (Tree 1) appears well thought out and practical and tree pruning up to 4.5 metres above the proposed road surface will

⁶ D49 Entrance dual carriageway functional layout plan

ensure that construction vehicles, as well as garbage trucks, CFA appliances, larger delivery vehicles and the like can access the site.

To provide greater confidence and certainty on the safety and functionality of the design, the proposed permit conditions include a pedestrian and traffic audit to be undertaken that should ensure that the ultimate road design and intersection works will provide a safe environment for all road users. This study has been extended to include Raglan Street/Smith Street intersection due to potential congestion issues at this intersection associated with existing school traffic and proposed subdivision developments along Smith Street.

The Committee finds:

- subdivision traffic can be accommodated on the proposed and existing road network
- the proposed Smith Street intersection treatment to retain the Oak tree appears practical
- implementing a pedestrian and traffic audit (which also include Raglan Street/Smith Street intersection) is appropriate.

4.3 Stormwater and service issues

The key issues to resolve are:

- whether the proposed stormwater management strategy is appropriate
- adequacy of infrastructure services for the proposed subdivision.

The potential adverse impact on ground water recharge and associated protection of the mineral springs aquifer(s) is discussed in Chapter 5.2.

(i) Submissions and evidence

Stormwater management

Mr Kane submitted that land was free draining soil and the majority of rainfall naturally becomes groundwater, not surface flow as evidenced by the lack of riparian vegetation on the ephemeral waterway, on the east side of the site, which occasionally carries storm water. The development will result in increased flows and erosion potential downstream from the site.

Along the eastern boundary of the site, the Applicant proposed to undertake earthworks to allow houses to be constructed along the existing ephemeral waterway and realign the waterway to match the proposed roadway. The objectors did not consider this to be an appropriate outcome, nor the detention system being partially located beyond the site boundary.

Council was generally satisfied with the proposed stormwater management strategy and noted that it was still subject to detail design to finalise some issues such as the exact location of the proposed retarding and bio-detention basins and formalising easements over drainage lines. As part of its NOD Council required the following:

- the drainage system must be designed so that the development does not exceed pre-development flows up to a 1 in 5 year return event (20 per cent Annual Exceedance Probability (AEP))
- where there is no overland escape flow path to accommodate flood waters (north west corner of the site) the detention system will be designed for 1 in 100 year return event (one per cent AEP)

- no concentrated stormwater shall discharge onto adjoining properties.

The Applicant generally concurred with Council's assessment and noted that it was a general concept plan/feasibility study, and that water and drainage authorities had no issues with the proposal. Detailed design will be required at a later stage.

Mr McLean provided expert evidence regarding the proposed stormwater strategy. He stated that the stormwater runoff from the site can be appropriately managed and meets the expectation of the drainage authority requirements, subject to some minor revisions and amendments that could be readily incorporated into permit conditions. To avoid concentrated flows which may cause erosion, weirs or energy dissipating structures would be used.

In relation to the site's eastern boundary where the drainage line was realigned, Mr McLean advised that placing fill to raise properties above flood levels and redirecting overland flow path along a roadway (as opposed to through properties) is a preferable outcome, again a reasonable strategy in terms of stormwater and overland flow management.

Infrastructure services

Objectors questioned the adequacy of infrastructure and services for the proposed subdivision, in particular reticulated sewerage (for protection of groundwater) and more generally; would the current town infrastructure and services be able to accommodate the additional population growth.

Council noted that there were no significant issues from referral authorities and that the land owner would be required to enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunications services. The NOD included standard conditions for infrastructure delivery.

The applicant advised that these matters had already been considered by Council, other relevant authorities and within the permit conditions issued with the NOD.

(ii) Discussion and findings

The Committee is generally satisfied with the proposed stormwater management and infrastructure servicing requirements.

The stormwater management strategy demonstrates how stormwater will be managed across the site and then distributed to the broader drainage network. The Committee accepts that detail design is still required where the exact location of the retarding and bio-retention basins will be resolved; practically these facilities could be shifted further south with a corresponding loss of one or two lots if agreement and resolution between parties could not be reached. The Committee accepts Mr McLean's explanation regarding the realignment of the existing drainage swale along the east side of the site can be achieved in accordance with standard engineering practice.

The Committee also notes that there are rigorous permit conditions around stormwater management that should ensure appropriate outcomes are realised.

Whilst there is some community concern that 'services' may be unable to cope with the additional residents, no evidence or further submissions were made in this regard.

The Committee estimates the proposed subdivision may generate around 100 – 150 residents who would access local services and anticipate that the small increase in population could be readily accommodated.

The Committee finds:

- the proposed stormwater strategy is reasonable subject to detail design and obtaining necessary approvals for the retarding and bio-detention basins being located partially outside of the site
- the subdivision can be adequately serviced.

4.4 Vegetation removal

The issue to resolve is:

- whether native vegetation removal is being appropriately considered and offset where required.

A permit to remove, destroy or lop native vegetation is triggered under Clause 42.01-2 Environmental Significance Overlay (ESO).

Further, pursuant to Clause 52.17, the application proposes to remove native vegetation but to offset that loss to ensure that there is no net loss of biodiversity.

Clause 52.17-2 sets out a number of application requirements to be met for the removal of native vegetation. In the initial permit application, the Applicant submitted that relevant decision guidelines had been met and relevant information had been provided.

(i) Submissions and evidence

At the roundtable the Applicant submitted that certain exemptions to obtain a permit existed under the provisions of Clause 52.12, Bushfire Protection Exemptions. In particular exemptions apply to vegetation along fence lines and vegetation within 10 metres of an existing dwelling.

A Flora and Fauna Report prepared by Mark Trengrove Ecological Services accompanied the application. The report stated that the permit requirement for the removal of native vegetation also included two large trees which are the highly visible Manna Gums, Trees 40 and 41, addressed further in Chapter 5.6. The report also set out offset requirements.

Mr Kane submitted that if it was determined that a permit is required for the removal of Tree 42 the flowering gum, then it should be offset. The Applicant submitted that it was not sufficient to claim that the removal of Tree 42 triggers a requirement for a permit and associated offset. It submitted that such a claim should be supported by evidence.

Mr Kane further submitted that Clause 52.17 outlines a three-step approach when assessing an application for removal. The first step is to ‘avoid the removal...’. The objectors main concern appears to be the removal of trees.

Mr Kane submitted that Mr Trengrove’s assessment against Clause 52.17 is superficial and outdated.

(ii) Discussion and findings

Whilst the Committee appreciates objector concerns regarding the loss of vegetation, the Victoria Planning Provisions provide clear guidance. No evidence was provided that the report prepared by Mr Trengrove was superficial and outdated and the Committee accepts the broad direction of that report. The Committee is satisfied that the removal of native vegetation has been appropriately considered and will be offset as required.

4.5 Compliance with Clause 56 of the Hepburn Planning Scheme

The issue to resolve is whether the requirements of Clause 56 of the Hepburn Planning Scheme has been appropriately assessed and the relevant objectives and standards met.

(i) Submissions and evidence

Each of the Council, the Applicant and Ms Brown undertook an assessment of the application against the objectives and standards of Clause 56 (Rescode) of the Planning Scheme, that are relevant to subdividing land.

The Applicant provided its assessment as part of its application to Council where it concluded that the application complies with all relevant Objectives and Standards.

The Council officer tabled a Rescode Assessment at the Council meeting of 17 March 2020. That report was provided to the Committee. The Officers report concluded that the application complies with all relevant objectives and Standards. It provided comments to support its conclusions.

Ms Brown provided an assessment as Appendix C of her expert evidence. Her conclusions were somewhat different to the Applicant and Council. While she concluded some standards were met others were not or only partially met. She identified in particular Standards C5 Built Environment and C12 Integrated Urban Landscape Objectives to be of particular concern. With respect to the latter both she and Mr Kane pointed out that a required landscape plan had not been submitted with the application.

The Applicant acknowledged this but responded that a landscape design concept had been prepared and while used extensively during consultation with Council was not submitted with the application. A copy was provided to the Committee.

The Applicant submitted that this was not an issue as the required landscape plan would be provided to the satisfaction of Council as a condition on permit.

In the discussion on the compliance with Clause 56 of the Planning Scheme at the roundtable, Mr Kane submitted that the objectors no longer wished to pursue this as an issue.

(ii) Discussion and findings

The Committee has not undertaken its own detailed assessment of compliance with Clause 56 but accepts the broad agreement of the parties that this is not a contested issue. In saying this the Committee notes that some relevant Objectives and Standards are addressed in the context of permit conditions.

The Committee finds that Clause 56 of the Hepburn Planning Scheme is broadly complied with.

5 Other issues

There were a number of issues raised at the roundtable which are relevant to the issue of a planning permit. These are addressed here.

5.1 Location of retention basins

As discussed in Chapter 4.3, two retention basins are proposed as part of the stormwater and drainage management on the site. One of these and part of the other are proposed to be located on the St Michael's Primary School land immediately north of the subject site.

The issue to resolve is whether the location of retention basins where they are located off-site can be appropriately provided for.

(i) Submissions and evidence

Mr Kane submitted that the stormwater strategy relies for its implementation on the use of land external to the site with no evidence having been provided that the external land will be able to be used for this purpose. He submitted that there is no basis for the application to proceed if the stormwater strategy cannot be implemented.

The Applicant acknowledged that the consent of the adjoining landowners is required and submitted that there had been on-going discussions about this and that necessary permits will be obtained.

Council expressed no concern about the proposed arrangement.

(ii) Discussion and findings

The Committee does not comment on the desirability or otherwise of this arrangement but notes that it is satisfied that Condition 7 of the recommended planning permit at Appendix D ensures that appropriate arrangements are in place to ensure that a stormwater management system to the satisfaction of Council will be in place before the plan of subdivision is certified.

The Committee finds that the proposed arrangements with respect to the location of retention basin off site (partially) is appropriately provided for in permit conditions.

5.2 Compliance with ESO1 and ESO2

(i) Submissions and evidence

Mr Kane submitted that the Officer's report to Council on this matter has erroneously omitted reference to ESO1 as a permit trigger and further, that application requirements had not been fully met in respect of ESO1 and ESO2 - that decision guidelines had not been followed.

Council responded that decision guidelines had been applied but that the officer report to Council did not include this assessment. This is because of Council's report guidelines.

It was common ground between parties at the roundtable that despite the wording of the Officer's report to Council that the need for a planning permit is triggered by Clause 42.01, Environmental Significance Overlay. It was further agreed that the provisions of both Schedules 1 and 2 of the ESO apply. Both Council and the Applicant pointed out that certain

exemptions apply with respect to the removal of native vegetation. This issue is addressed in Chapter 4.4.

Mr Kane submitted that there had been no referral to the Victorian Mineral Water Committee (VWMC) as is referenced in a Decision Guideline in ESO2. Council responded that it was in possession of a Department of Environment, Land, Water and Planning (DELWP) memorandum that such a referral is not now required in Hepburn Shire and that further, Goulburn Murray Water, the relevant water authority had raised no concerns regarding groundwater impacts. At that stage Council was not able to locate the memorandum from DELWP. As far as the Committee is aware neither DELWP nor the VMWC were asked to confirm this position.

The Committee is conscious that protection of the mineral springs in that area is of paramount importance for a number of reasons and at the conclusion of the roundtable requested Council to provide it with a copy of the memorandum so that it could assure itself that the Decision Guidelines of ESO2 are fully complied with. Despite searching, Council were unable to locate this document.

(ii) Discussion and findings

The Committee is satisfied that the requirement for a planning permit is triggered by the GRZ, and ESO1 and ESO2. The Committee was provided with all background reports prepared by the applicant as part of its initial application. The Committee does not see it as its role to undertake a ‘first principles’ review of all that documentation but accepts Council’s assurance that the decision guidelines in ESO1 and ESO2 are broadly complied with despite the lack of detail in the report to Council. The Committee understands the need for brevity and lack of high-level technical detail in such reports.

The Committee notes the lack of confirmation DELWP no longer requires a referral to the VMWC but notes that this referral is a decision guideline and not a decision requirement. Further the Committee notes that the VMWC is not a referral authority listed at Clause 66.01 of the Planning Scheme. The Committee regards the protection of groundwater resources is an important issue but understands that referral to the VWMC is not required.

The Committee finds that the requirements of ESO1 and ESO2 are broadly complied with.

5.3 Design parameters for later stages of development

The issue to resolve is whether appropriate design guidance for subdivision Stages Two and Three and development of the proposed superlots should be provided as a requirement on this permit application.

(i) Submissions and evidence

Draft Design Guidelines were tabled at the roundtable together with a draft Memorandum of Common Provisions (Documents 50 and 51) which included building envelopes for Stage One of the subdivision, building setbacks and some other requirements. Similar information was not provided for Stages Two and Three.

The applicant submitted that Design Guidelines would apply to all stages of development and this was confirmed in the Applicant’s version of proposed permit conditions where it proposed

changes to the draft guidelines tabled at the roundtable. They would be submitted to Council for approval.

Mr Czarny gave evidence on the challenges posed by steep lots in Stage Two. He stated that some lots would be classified by the Victorian Planning Authority as “very steep”. He stated that there were design solutions which would allow them to be built on.

There were submissions and expert evidence on design parameters for the superlots. In evidence, Mr Czarny stated that three storey development would not be appropriate on the superlots. All three submitters agreed with Mr Czarny. Mr Czarny expressed concern that even with agreement of the current parties there was no guarantee that the superlots would not be sold off in the future and that under the GRZ, could be developed by a new owner at medium density and three storeys. In response to a question from Council, Mr Czarny canvassed the possibility of further design guidelines for the superlots including site coverage and street facing development.

While accepting the desirability of limiting development to two storeys, the Applicant advised against guidelines which might prove to be unnecessarily restrictive.

(ii) Discussion and findings

The Committee finds that Design Guidelines and other relevant guidance should be developed for both Stages Two and Three of development. These should be based on the guidelines for Stage One but include a number of additions as proposed by the Applicant. These are included as recommended Condition 14.

The Committee notes that the future development of the superlots is not the subject of this permit application and therefore the development of detailed guidelines for that stage is not appropriate at this time also noting that, the Design Guidelines proposed for Stages One to Three will not be appropriate in their current form for the superlots.

However, the Committee finds that the height of the development that takes place on the superlots will be integral to the emerging neighbourhood character of the development and that it is appropriate to consider such a restriction now in the context of this application which creates the three superlots. The Committee agrees with submitters and experts that a two-storey height limit for the development of the superlots is appropriate. The mechanisms for implementing appropriate guidance are considered in Chapter 5.5.

The Committee finds:

- design Guidance for Stages Two and Three of development should be provided as part of the current permit application process
- detailed design parameters for the development of the superlots should be further considered at the time a development proposal is being prepared but that it is appropriate to limit future development to two storeys as a requirement of the current application.

5.4 Development and implementation of Design Guidelines

The issue to resolve is the responsibility for the development and implementation of appropriate design guidance.

(i) Submissions and evidence

The Committee raised questions with the Applicant about the mechanisms that would be put in place to ensure that the draft Design Guidelines which were tabled (Document 50) would be effectively finalised and implemented.

The Applicant responded that it would oversee the finalisation of the Design Guidelines for approval by Council and would be responsible for appointing the Design Approval Panel (DAP) referred to in the Guidelines. In response to questions from the Committee, Council indicated that it did not see itself having a role in the design approval process. It supported the idea but saw it as the Applicant's responsibility. The Applicant acknowledged that the Design Guidelines would be guidelines only and that the proposed Panel would not have an enforceable approval role.

In response to a further question from the Committee about the membership of the Panel, the Applicant responded that it considered that the Panel would be comprised of people with design experience. Mr Kane submitted that suitably experienced community members should be included. The Applicant rejected the notion that community members would have a veto role.

(ii) Discussion and findings

The Committee strongly supports the development and implementation of Design Guidelines and their implementation through a process similar to that proposed in the Guidelines. It considers that in an ideal world Council would have a role in the implementation of these guidelines but fully understands Council's reluctance to have a role on the Committee or to have a role in enforcing the guidelines.

The Committee finds that the use of the word 'guidelines' is at odds with the word 'approval' in the name of the proposed Panel and considers that it should be renamed Design Advisory Panel (DAP) and that the Design Guidelines be revised to reflect this.

The Committee urges the Applicant to carefully consider membership of the Committee to ensure that appropriate advice will be delivered. It considers that the early deliberations of the DAP will play a key role in the emerging character of the development. The Committee does not have firm views on DAP community membership but agrees that a community member if appointed should not have a power of veto. The Committee urges the Applicant to consider a suitably qualified and experienced community member for inclusion on the DAP if one is available.

The Committee urges the Applicant to consult further with Mr Czarny to ensure that the Guidelines are appropriate for all stages of the development and in particular that they provide guidance appropriate to development on steeper blocks. The Committee notes that the Condition 14 iii of the recommended permit conditions at Appendix D addresses this matter.

5.5 Mechanisms for including guidance for later development on the site

The issue to resolve is what are the appropriate mechanisms for inclusion of Design Guidelines and other desired design and lot layout guidance.

(i) Submissions and evidence

As indicated in Chapter 5.3 there was discussion about imposing guidance and restrictions of later stages of development of 17 Smith Street, including the development of the superlots which are created through this application but the development of them is not part of the current application.

There are three types of requirements or restrictions that the Committee considers should be implemented, being:

- building envelopes for later stages of the development. They are currently proposed for Stage 1 via a Memorandum of Common Provisions (MCP).
- Design Guidelines prepared by and proposed to be administered by the Applicant, and which must be implemented in such a way to ensure that they are followed through and adhered to.
- a restriction of two storeys imposed on the superlots which are created as part of this application but the detail of which is subject to further application.

The Committee sought advice from the Applicant on the mechanisms it regarded as appropriate in each instance. It responded subsequent to the roundtable, suggesting three possible mechanisms and the features of them as follows (Document 66):

1. Building envelope restrictions on the plan of subdivision

Building envelopes and maximum building heights and other similar simple restrictions on built form may be shown as restrictions on the plan of subdivision registered under the *Subdivision Act 1988*.

The restriction may be in the form of words, plans, diagrams or a combination. However, this mechanism would not enable detailed design guidelines to be implemented or provide for the assessment of plans.

Further information on restrictions is set out under option 3 below.

2. Section 173 agreement

A section 173 agreement entered into between the responsible authority and the owner may be used to require the future development on subdivided lots to comply with:

- (a) building envelopes, building exclusion areas, tree protection zones and the like; and/or
- (b) specific design guidelines approved by the responsible authority.

The agreement can incorporate the requirements or refer to a separate document which must be complied with.

Compliance with a section 173 agreement can be enforced under the *Planning and Environment Act 1987*.

A section 173 agreement can be ended and amended in accordance with the *Planning and Environment Act 1987* and can create discretion for Council to vary requirements within in.

3. Memorandum of Common Provisions

A MCP is commonly used in circumstances where the following are sought:

- detailed design guidelines/restrictions; and/or
- numerous/significant variations to the *Building Regulations 2018*.

A MCP is a repository of information rather than a restriction, it can make reference to and require compliance with approved design guidelines. It is implemented through a restriction on the plan of subdivision that refers to it and requires compliance with it.

A MCP cannot be amended once registered but a restriction can be varied or removed.
A restriction is more difficult to vary or remove than a section 173 agreement⁷.

For Stage One the Applicant has provided draft Design Guidelines and a draft MCP which includes both building envelopes for Stage One and some restrictions on building heights, setbacks and site coverage. The Applicant's proposed permit Condition 14.7 proposes building envelopes, which address cut and fill building position retaining wall height and vegetation retention for Stage Two be included in the Design Guidelines, to the satisfaction of the Responsible Authority.

(ii) Discussion and findings

The Committee considers that the same approach to desired restrictions should be used for each of the development's three stages together with a height restriction of two storeys on the future development of the superlots. The Committee is of the view that these should be specified in a Memorandum of Common Provisions which is registered as a restriction on the Plan of Subdivision. The Committee finds that consistent with the draft Memorandum of Common Provisions provided for Stage One, the approved MCP should include at least:

- building envelopes for Stages One, Two and Three
- minimum street setbacks
- minimum side and rear setbacks
- maximum site coverage
- maximum building heights including a maximum height of two storeys on the three superlots
- in respect of Stage Two for sloping and corner blocks, building envelopes which address building positioning, cut and fill, retaining wall height and vegetation retention
- a requirement to comply with approved Design Guidelines
- other matters as approved by the Responsible Authority.

The Design Guidelines will address further design guidance as addressed in Chapter 5.3 and permit Condition 14.

5.6 Retention of existing trees

The issue to resolve is which trees currently on site should be retained.

(i) Submissions and evidence

Mr Elms, (arborist for the Applicant) report assessed 47 trees on the site. Only 4 appear to be remnant vegetation, the remainder appear to be planted. Mr Czarny noted in his evidence that the Applicant proposes to retain 37 trees.⁸

It was initially proposed to remove Tree 38 an English Oak but at the roundtable the Applicant advised that further work had been undertaken and it was now proposed to retain that tree as it is in good health and it was felt that residential development on the relevant lot could incorporate it.

⁷ See Document 66

⁸ Expert evidence of Mr Czarny, p15

All parties agreed that the retention of Tree 1, the Oak at the Smith Street access to the site should be retained (see Figure 3). It was acknowledged that the tree would need to be trimmed, particularly on its northern side to allow appropriate vehicle clearance. These challenges are addressed in Chapter 4.2. The Applicant produced a letter (Document 62) from Mr Elms who undertook the initial assessment and had been working collaboratively with the applicant's civil engineers to develop a solution to allow for this Oak tree to remain. Mr Elms recommended pruning of the lower branches up to approximately 4.5 metres above the final road level to protect branches from being struck by construction vehicles.

Figure 3 Oak tree at Smith Street entrance to the site



Source: Mr Czarny's evidence statement, cover page.

Two trees proposed to be removed are Manna Gums (Trees 40 and 41). The Arborist's Report submitted with the initial application identifies these as only in fair health and one is regarded as structurally hazardous and the other is structurally poor. Mr Czarny's evidence was that such trees are not appropriate in a residential environment because of their tendency to drop limbs. Mr Kane submitted that the contribution of these trees to the landscape is significant. He was critical of the fact that no arboreal evidence was called to justify their removal.

(ii) Discussion and findings

The Committee acknowledges the Applicant's commitment to retain as many trees as possible including Tree 38 as these will be important to the emerging character of the development.

The Committee acknowledges that no arboreal evidence was called with respect to the health of Trees 40 and 41 but is satisfied with the evidence of Mr Czarny, a qualified landscape architect that these are inappropriate species for a residential development and together with the tree health assessment in the arborist's report accepts that on balance, they can be removed.

The Committee finds that the retention of Tree 1, the Oak at the Smith Street entrance will be a significant marker to the development and must be retained.

5.7 Affordable housing

The issue to be resolved is whether the provision made for affordable housing is appropriate.

(i) Submissions and evidence

The Act includes an objective to “facilitate the provision of affordable housing in Victoria”. The mechanism to facilitate this is currently a voluntary agreement between a Responsible Authority and a landowner to deliver affordable housing as part of new developments.

There was a limited focus on affordable housing during the roundtable discussion. The Applicant accepted the inclusion of affordable housing and advised that negotiations were underway with a local registered housing association to purchase all of the superlots, but this was not yet finalised.

(ii) Discussion and findings

The Council’s without prejudice draft permit conditions suggest transfer of “unencumbered freehold title to a Registered Housing Agency of a minimum of 4 lots to the satisfaction of the Responsible Authority”. This condition differs from the original due to the negotiations underway and could yield a higher number of affordable housing units in the overall development.

This position was accepted by the Applicant and supported by the Committee given the requirement for review by the Responsible Authority.

Further the Committee notes that the provision of affordable housing for older women was listed by the Minister for calling this matter in from VCAT but was not included in the letter of referral to the Committee (Appendix B). The Committee supports such provision but has not addressed this issue in any detail as it is the subject of a later permit application.

6 Permit conditions

On the second day of the roundtable the Committee undertook a without prejudice discussion of permit conditions with the parties. As part of this process the Applicant tabled a marked-up version of the permit conditions prepared by Council and issued in conjunction with the initial Notice of Decision. Council provided further proposed changes to permit conditions responding to both the Applicants proposed changes and submissions by parties. The objectors did not table any proposed changes to permit conditions but took part in the discussion of conditions.

There was little disagreement between parties on the proposed conditions.

The Committee recommended version of the permit conditions is at Appendix D. The recommended permit conditions show changes tracked from the conditions issued by Council with the Notice of Decisions with ~~deletions~~ and additions tracked as shown here.

7 Reasons and recommendations

The Applicant submitted that whilst the Committee focus was limited to referral items outlined by the Minister and unresolved issues identified by VCAT, that it should have a role in assessing Net Community Benefit and including this assessment in its recommendations to the Minister. The Committee accepts this is a desirable approach.

7.1 Reasons

The Committee considered the Application for the subdivision of 17 Smith Street, Daylesford in the context of the five unresolved issues identified by VCAT, together with urban design issues.

Neighbourhood character and design

The Committee finds that the site is not included as a neighbourhood character precinct at Clause 21.08 of the Hepburn Planning Scheme but will develop a character of its own aided by Design Guidelines and other guidance provided through a Memorandum of Common Provisions. The lot layout and size is consistent with the neighbouring development which appears to have been developed in the last few decades. The development will be visible as a relatively distant view from some locations along the Midland Highway entrance to Daylesford and from Raglan Street but these views will be softened over time by vegetation and tree growth.

Traffic implications

The Committee finds that traffic generated by the proposed development can be accommodated in the surrounding street network. The proposed intersection treatment at the Smith Street entrance to the site appears practical and the proposed pedestrian and traffic audit provides the basis to resolve other outstanding issues.

Stormwater and service issues

The Committee is generally satisfied with the proposed stormwater management and infrastructure servicing requirements. The Committee finds that there are rigorous permit conditions around stormwater management that should ensure appropriate outcomes are realised. Further the Committee finds that the proposed development can be adequately serviced.

Vegetation removal

Much native vegetation which is proposed to be removed and for which a permit is required is the subject of exemptions under Clause 52.12. The Applicant proposes to retain a significant number of the trees on the site including Trees 1 (Oak tree at the Smith Street entrance) and Tree 38 (Oak Tree on the northern boundary). A permit is not required for the removal of these exotic trees. The removal of trees 40 and 41, two Manna Gums was controversial but their removal is considered appropriate by the Committee both on the grounds of their health and because such trees are not considered appropriate in a residential environment. Removal of native vegetation is required to be offset.

Compliance with Clause 56

Issues of concern to the objectors in assessing compliance with Clause 56 of the Hepburn Planning Scheme were mainly addressed under other headings above and no further issues were raised with respect to ResCode compliance.

Net Community Benefit

At the preliminary roundtable objectors to the application sought to raise economic impacts as part of the Committee's assessment of the matter. This issue was not included in the terms of the Committee's referral as were other issues which might normally be considered in a detailed Net Community Benefit assessment. However, in its review of material presented as part of the application and its assessment of the issues considered at the roundtable, the Committee concludes that the subdivision and subsequent development will generate a Net Community Benefit.

7.2 Recommendation

The Committee recommends:

That the Minister for Planning support this proposal and recommend to the Governor in Council that Hepburn Permit Application PA2504 be issued, subject to the amended conditions included in Appendix D of this report.

Appendix A Priority Projects SAC Terms of Reference

Terms of Reference

Priority Projects Standing Advisory Committee

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to advise the Minister for Planning on referred priority planning proposals.

Name

1. The Standing Advisory Committee is to be known as the 'Priority Projects Priority Projects Standing Advisory Committee' (the Committee).
2. The Committee is to have members with the following skills:
 - a. statutory and strategic land use planning
 - b. land development and property economics
 - c. urban design and architecture
 - d. heritage
 - e. civil engineering and transport planning
 - f. social impacts
 - g. environmental planning
 - h. planning law.
3. The Committee will include a lead Chair, Chairs, Deputy Chairs and not less than ten other appropriately qualified members.

Purpose

4. The purpose of the Committee is to provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

Background

5. The Victorian Government has identified Victoria's building and construction sector as a key mechanism to revitalise Victoria's economy during the coronavirus (COVID-19) pandemic.
6. The Government has committed to a fast-track assessment process for priority projects of state and regional significance that are shovel-ready and that will provide immediate benefits to Victoria's economy, keeping Victorians in work and priority infrastructure on track for completion.
7. The BVRT was formally announced on 26 April 2020. The Taskforce was established by the Minister for Planning and Treasurer to help keep Victoria's building and development industry running during the coronavirus crisis. The Taskforce will investigate planning and investment opportunities to boost Victoria's building and development industry over the short, medium and long term.

Method

8. The Minister for Planning or delegate will refer projects by letter to the Committee for advice on whether the project achieves acceptable planning outcomes.
9. The referral letter must specify:
 - a. the specific issues the Minister for Planning seeks advice about
 - b. the mechanism of intervention being considered
 - c. whether, or which previously collected, submissions are to be considered by the Committee
 - d. how the costs of the Committee will be met.

Terms of Reference | Priority Projects Standing Advisory Committee

10. The letter of referral will be a public document.
11. In making a referral, the Minister for Planning or delegate must, either:
 - a. be satisfied that any proposed planning controls for the land make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes, or
 - b. seek advice from the Committee on the drafting of the planning controls or permit conditions.
12. The Committee may inform itself in anyway it sees fit, but must consider:
 - a. The referral letter from the Minister for Planning,
 - b. referred submissions,
 - c. the comments of any referral authority,
 - d. the views of the project proponent,
 - e. the views of the relevant Council,
 - f. The relevant planning scheme.
13. The Committee is not expected to carry out additional public notification or referral but may seek the views of any relevant referral authority, responsible authority or government agency.
14. The Department of Environment, Land, Water and Planning (DELWP) will be responsible for any further notification required. New submissions will be collected by DELWP.
15. The Committee may seek advice from other experts, including legal counsel where it considers this is necessary.
16. The Committee is not expected to carry out a public hearing but may do so if it is deemed necessary and meets its quorum.
17. The Committee may:
 - a. assess any matter 'on the papers'.
 - b. conduct discussions, forums, or video conferences when there is a quorum of:
 - i. a Chair or Deputy Chair, and
 - ii. at least one other member.
18. The Committee may apply to vary these Terms of Reference in any way it sees fit.

Submissions are public documents

19. The Committee must retain a library of any written submissions or other supporting documentation provided to it directly to it in respect of a referred project until a decision has been made on its report or five years has passed from the time of the referral.
20. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain confidential. A document may be made available for public inspection electronically.

Outcomes

21. The Committee must produce a concise written report to the Minister for Planning providing the following:
 - a. A short description of the project.
 - b. A short summary and assessment of issues raised in submissions.
 - c. A draft planning permit including relevant conditions from Section 55 referral authorities, or draft planning scheme control depending on the nature of the referral.
 - d. Any other relevant matters raised in the course of the Committee process.
 - e. Its recommendations and reasons for its recommendations.
 - f. A list of persons or authorities/agencies who made submissions considered by the Committee.
 - g. A list of persons consulted or heard, including via video conference.

Terms of Reference | Priority Projects Standing Advisory Committee

22. Following the completion of a report, the Committee may deliver an oral briefing to the Minister for Planning and/or DELWP. The briefing may be by video conference or telephone.

Timing

23. The Committee is required to submit its reports in writing as soon as practicable, depending upon the complexity of the referred project between 10 and 20 business days from either:
- a. the date of receipt of referral, if no further submissions or information are to be sought, or
 - b. receipt of the final submission of material or final day of any public process in respect of a referral.

Fee

24. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

The costs of the Advisory Committee will be met by each relevant proponent.



Richard Wynne MP
Minister for Planning

Date: 14 / 06 / 2020

Appendix B Letter of Referral



Hon Richard Wynne MP

Minister for Planning
Minister for Housing

8 Nicholson Street
East Melbourne, Victoria 3002

Ms Kathy Mitchell
Chair (Lead), Priority Projects Standing Advisory Committee
Planning Panels Victoria
planning.panels@delwp.vic.gov.au

Ref. MBR044073



Dear Ms Mitchell

CALL IN OF VCAT PROCEEDING P701/2020 AT 17 SMITH STREET, DAYLESFORD

I refer to Victorian Civil and Administrative Tribunal (VCAT) proceeding P701/2020 relating to the proposed subdivision of land at 17 Smith Street, Daylesford, to accommodate a residential development that includes an affordable housing component in partnership with the Women's Property Initiative and Older Women in Co-Housing (WINC). The project was recommended to me for consideration for intervention by the Building Victoria's Recovery Taskforce.

I have decided to call in the proceeding from VCAT under Clause 58(2)(a) of the *Victorian Civil and Administrative Tribunal Act 1998*. I have also decided to refer the matter to the Priority Projects Standing Advisory Committee for advice and recommendations on whether a planning permit should be issued, and if so, the appropriate permit conditions that should be imposed.

On 4 May 2020, a joint application was made to VCAT under section 88 of the *Planning and Environment Act 1987* by a group of 36 objectors seeking a review of Hepburn Shire Council's decision to grant a permit. The notice of decision relates to a 53-lot subdivision, with condition 1 requiring revised plans that show 39 standard lots and three super lots. The proponent wishes to substitute a layout with minor revisions. The development of the super lots will be subject of a future application to include an eco-village housing concept and a community facility/common rooms in the existing 19th century dwelling. The amended plans will be provided to you.

VCAT held a compulsory conference on 19 August 2020; however, objector concerns remain unresolved. It is understood that objector party concerns include neighbourhood character, landscape values, inappropriate design response, access/egress, stormwater, servicing infrastructure capacity, not meeting objectives or standards of the Hepburn Planning Scheme, Aboriginal cultural heritage and retention of the existing 19th century dwelling.

The VCAT hearing was scheduled to start on 9 March 2021, with three parties to the proceeding (the proponent, objector group and council).

Before making a recommendation to the Governor in Council to determine the matter, I am referring the matter to the Priority Projects Standing Advisory Committee to consider the matters raised by objectors and provide advice. I seek your advice on whether the substituted plan results in an acceptable planning outcome and with respect to the unresolved objector concerns.

The cost of the advisory committee will be met by the permit applicant, Smith Development Partnership Pty Ltd.

If you would like more information about this matter, please email Dr Jane Homewood, Executive Director, Statutory Planning Services, Department of Environment, Land, Water and Planning, at jane.homewood@delwp.vic.gov.au.

Yours sincerely



HON RICHARD WYNNE MP
Minister for Planning

30 / 12 / 2020

Appendix C Tabled documents

No.	Date	Description	Presented by
1	18 01 21	Notification letter and; - Letter of Referral - Terms of Reference	Mr Milverton, on behalf of the SAC
2	25 01 21	Priority Projects Standing Advisory Committee (PP SAC) – Letter to all parties in response to procedural matters	Ms Harwood, on behalf of the SAC
3	25 01 21	Email from Ms Semple, Wilmoth & Draper to PP SAC	“
4	24 01 21	Letter from Ms Bissett to Minister Richard Wynne and copied to PP SAC	Ms Ava Bissett of Objector Party
5	28 01 21	Letter from Ms Draper to Minister Richard Wynne and copied to PP SAC	Ms Jenni Draper of the Objector Party
6a	01 02 21	Email letter to PPSAC attaching requested documents	Harwood Andrews on behalf of the Applicant
6b	“	Planning Permit Application PA2504 – Cover Letter	“
7	“	Planning Permit Application PA2504 – Application Form	“
8	“	Planning Permit Application PA2504 – Cover Letter	“
9	“	Planning Permit Application PA2504 – Planning Permit report	“
10	“	Appendix A - Certificate of Title	“
11	“	Appendix A - Copy of Title Plan	“
12	“	Appendix A - Title Instrument	“
13	“	Appendix B - Subdivision Plan	“
14	“	Appendix C - Flora and Fauna report	“
15	“	Appendix D - Arborist report	“
16	“	Appendix E - Clause 56 assessment	“
17	“	Appendix F -Stormwater Strategy report	“
18	“	Appendix G -Entrance Access Layout	“
19	“	Appendix H -Typical Cross Section Layout	“
20	“	Appendix I - Servicing Strategy report	“
21	“	Amended Subdivision Layout Plan V_18-016-004 (Rev P) dated 6 November 2021	“
22	“	Statement of changes	“
23	“	Applicants Grounds in Response – Email letter to VCAT attaching Statement of Grounds and identifying issues for Practice Day dated 22 June 2020	“

No.	Date	Description	Presented by
24	“	Applicant’s Grounds in Response – Statement of grounds form	“
25	“	Applicant’s Grounds in Response – Statement of Grounds on behalf of the Respondent	“
26	01 02 21	Copy of VCAT Application P701/2020	Ms Jenni Draper
27	“	Accompanying Statement of Grounds (Attachment A)	“
28	“	Email from Objector Party to VCAT dated 23 October 2020 - Further details of grounds	“
29	“	Email from Objector Party to VCAT dated 24 July 2020 - Grounds of concern	“
30	“	Email from Objector Party to VCAT dated 21 July 2020 – Request for further information	“
31	“	VCAT Cover letter	“
32	“	VCAT Application Detail (Attachment B) – Not submitted to VCAT	“
33	“	Initial alternative concept plan (without prejudice)	“
34	01 02 2021	Notice Of Decision (NOD) PA 2504	Mr Nathan Aikman on behalf of Hepburn Shire Council
35	“	Officer report supporting the NOD	“
36	“	Email from Hepburn Shire Council to VCAT dated 24 June 2020 – Detail relating to the Application for Review	“
37	04 02 2021	Letter from Ms Corcoran to Minister Richard Wynne and copied to PP SAC	Lesley-Anne Corcoran of Objector Party
38a	10 02 2021	Email from SAC to Harwood Andrews - Timing for providing additional documents	Mr Milverton,
38b	10 02 2021	Email response from Harwood Andrews to SAC - timing for providing additional documents	Harwood Andrews
39	12 02 2021	Email from Debora Semple to SAC - nominating spokesperson for the roundtable discussion	Debora Semple, on behalf of Objector Party
40a	“	Email from Debora Semple to SAC - seeking reason for ministerial call-in	“
40b	12 02 2021	Email response from SAC to Debora Semple	Mr Milverton
41	16 02 2021	Priority Projects SAC - Referral No. 8 17 Smith Street, Daylesford Directions	“

No.	Date	Description	Presented by
42a	15 02 2021	Email from SAC to Ms Semple - requesting correspondence with Minister's Office	"
42b	18 02 2021	Email from Ms Semple to SAC- Providing Letter from Minister's Office and further questions	Ms Semple
42c	"	Letter from Minister Richard Wynne to The Principal Registrar of VCAT	"
42d	19 02 2021	Email from SAC to Ms Semple - Providing response from Chair	Mr Milverton
42e	"	Letter from SAC to Ms Semple - Response to questions on evidence and roundtable discussion	"
42f	"	Email from SAC to Ms Semple - Submission within 'Compliance with Clause 56'	"
43	19 02 2021	Conditions included within NOD	Mr Aikman
44	"	Email letter from HA to PPSAC and parties circulating material	Harwood Andrews
45	"	Applicant - Updated Subdivision Layout Plan (Rev P)	"
46	"	Applicant - Stormwater Management Strategy prepared by Axiom (Rev B)	"
47	"	Applicant - Engineering Earthworks Plan for Stage 1 (Rev D)	"
48	"	Applicant - Stage 2 grading plan (retaining walls for sloping lots)	"
49	"	Applicant - Entrance Dual Carriageway Functional Layout Plan prepared by Axiom	"
50	"	Applicant - Design Guidelines	"
51	"	Applicant - Example Memorandum of Common Provisions prepared for Stage 1 (to be replicated for other stages with varied building envelopes)	"
52	23 02 2021	Email from Ms Draper to SAC - Providing details of expert witnesses	Ms Draper
52a	"	Email from Ms Draper to SAC - Providing details of further expert witness	"
53	02 03 2021	Email letter from HA to PPSAC circulating expert evidence	Harwood Andrews
54	"	Applicant - Witness statement of C Czarny of Hansen Partnership (urban design and landscape)	"
55	"	Applicant - Witness statement of J Mclean of Alluvium Consulting (drainage)	"

No.	Date	Description	Presented by
56	02 03 2021	Email letter from Ms Draper to PPSAC circulating expert evidence	Ms Draper
57	“	Witness statement of Felicity Brown on Planning and Urban Design Evidence	“
58	04 03 2021	Letter from Ms Mackenzie to Minister Richard Wynne and copied to PPSAC	Ms Mackenzie of Objector Party
58a		Updated Letter from Ms Mackenzie to Minister Richard Wynne and copied to PP SAC	“
59	05 03 2021	Email from SAC to Harwood Andrews regarding enquiry on circulation of timetable and document list	Mr Milverton
60	09 03 2021	Written submission of Mr Kane on behalf of Objector Group	Ms Draper
61	10 03 2021	Without prejudice draft conditions	Harwood Andrews
62	“	Arborist assessment - Oak tree at proposed intersection is potentially viable	“
63	10 03 2021	Plan - Approximate lot sizes on surrounding land	Ms Brown
64	10 03 2021	Landscape Plan shown at initial consultation	Harwood Andrews
65	11 03 2021	Traffic Impact Assessment (Driscoll Engineering dated 20 December 2018)	Mr Aikman
66	11 03 2021	Letter from Harwood Andrews regarding mechanisms to include design guidance	Harwood Andrews
67	15.03.2021	Email to Council requesting VMWC memo	Mr Milverton
68	24.03.2021	Request to Council for DELWP memo re the VMWC	“
69	“	Request to Harwood Andrews re clarification of permit condition.	“
70	25.03.2021	Response from Council re VMWC referral	Mr Aikman
71	25.03.2021	Response from Harwood Andrews re permit condition	Ms Piskuric
72	26.03.2021	Further correspondence to Council re VMWC referral	Mr Milverton
73	31.3.2021	Response from Council re VMWC	Mr Milverton

Appendix D Committee recommended permit conditions

Preamble: [A staged Multi-lot](#) subdivision and the removal of native vegetation generally in accordance with the plans endorsed with the permit.

Amended Plans Required (Condition 1)

- 1) Before ~~the any plan(s) of subdivision are certified~~ [Certification of the Plan of Subdivision](#) under the *Subdivision Act 1988*, amended plans and documents to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. [Unless otherwise approved in writing by the Responsible Authority,](#) ~~t~~The plans must be generally in accordance with [the layout shown on Subdivision Layout Plan Rev P dated 6 November 2020 and as submitted to the Advisory Committee](#) ~~advertised plans~~ but further modified to:

- a) [avoid the need for waste disposal vehicles needing to reverse along a street.](#)
- b) [show the retention of tree 38](#)

~~2) — show:~~

- ~~a) — The consolidation of lots 27 and 28 to ensure the retention of the 19th Century component of the existing dwelling 'Middleton House' on a lot with a minimum area of 1000m².~~
- ~~b) — Three (3) super lots are to be identified and created from lots 17-23 for the purposes of an eco-village.~~
- ~~c) — A community park — open space provided in the location of lot 26 to be maintained by an owners corporation.~~
- ~~d) — Develop and supply Sustainable Housing Design Guidelines for the whole of the development to the satisfaction of the Responsible Authority to include the following;~~
 - ~~i) — be administered by the applicant to Council's satisfaction;~~
 - ~~ii) — provide for a vegetation/wildlife corridor around the site.~~
 - ~~iii) — promote sustainably designed housing to a target a 7+ NatHERS or equivalent rating;~~
- ~~iv) — address all other necessary design considerations including façade treatments, fencing, building orientation and setbacks, rainwater tanks, solar etc to the satisfaction of the Responsible Authority.~~
- ~~e) — The provision of an intersection and road design that includes the retention of the existing Oak tree on the site.~~
- ~~f) — The provision of a report from a suitably qualified arborist that confirms that the intersection and road design identified in item 1b) will enable the retention of and ensure the ongoing life of the existing Oak tree at the entrance to the site.~~
- ~~g) — The provision of a cul-de-sac at the at the end of the proposed road within the south-eastern corner of the site (adjoining lots 36-39)~~

~~h) Identification of the provision of retaining walls along the boundaries of proposed lots 41-45.~~

~~Extension to road reserve between lots 16 and 17 through to the northernmost road between lots 23 and 27.~~

~~Alternatively,~~

~~The provision of a cul de sac at the end of the road within the southern portion of the site (adjoining lots 14-17) and a waste management plan that demonstrates how waste can be adequately managed for lots where a 16m road reserve is not provided.~~

- 2) The layout of the subdivision as shown on the endorsed plans must not be altered or modified unless otherwise agreed in writing by the Responsible Authority.
- 3) Before any plan(s) of subdivision are certified under the *Subdivision Act 1988*, a staging plan must be submitted to and approved by the Responsible Authority. When approved the staging plan will be endorsed and form part of this permit.
- 4) The subdivision of the land must proceed in the order of the stages shown on the endorsed plan except with the written consent of the Responsible Authority.
- 5) Before the issue of a Statement of Compliance under the *Subdivision Act 1988* for any stage of the subdivision~~Before the first plan of subdivision is registered~~, the owner must enter into an Agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* to provide the following:
 - ~~a) Unencumbered ownership of Nno less than four (4) lots 4 dwellings constructed will be affordable housing dwellings to be transferred to a Registered Housing Agency with a minimum of one (1) lot per stage of subdivision;~~
 - a) The transfer of the unencumbered freehold title to a Registered Housing Agency of a minimum of four lots for the provision of affordable housing to the satisfaction of the Responsible Authority soon as practicable following the completion of the affordable housing.
 - ~~b) That the affordable housing dwellings will be managed by the Registered Housing Agency and leased as affordable housing.~~

The owner must comply with Clause (a) within 3 months of registration of the final plan of subdivision. The obligations under this condition apply to the parent title and provide an obligation on the parent landowner. The Clauses shall end at the registration of the plan of subdivision which creates the ~~Affordable Housing Lots~~ lots and transfers them to a Registered Housing Agency. The Agreement need not be carried over and registered on the child titles of those lots being transferred to the Registered Housing Agency or retained on any stage in which the obligation to transfer the lots has been met.

The agreement must be registered on title. The owner(s) must pay the costs of all parties including the Responsible Authority in relation to the preparation, execution and registration of the agreement on title.

- 6) The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, and electricity and gas (as relevant) services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
- 7) All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the relevant plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
- 8) The plan(s) of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.
- 9) ~~Before the issue of a Statement of Compliance under the Subdivision Act 1988, the permit holder must pay to the Responsible Authority a cash payment equivalent to 5 per cent of the site value of all the land in the subdivision made in lieu of the provision of land for Public Open Space, unless otherwise agreed in writing by the Responsible Authority required for any given stage.~~ Before the Statement of Compliance is issued under the Subdivision Act 1988 for any stage, the applicant or owner must pay to the Responsible Authority a sum equivalent to 5 % of the site value of all the land in that stage of the subdivision in lieu of the provision of land for public open space purposes. The value of land required by the Responsible Authority and set aside for public open space purposes on the plan of subdivision will be deducted from the amount to be paid for the overall amount.
- 10) Concurrent with the submission of amended plans required by Condition 1 of this permit, a functional layout plan of the intersection of the site and Smith Street and the associated road design to the satisfaction of the Responsible Authority must be submitted and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must demonstrate how the existing Oak tree at the entrance of the site will be retained.
- 11) Concurrent with the submission of amended plans required by Condition 1 of this permit, a report by a suitably qualified arborist must be submitted for approval by the Responsible Authority. The report must confirm that the design of the intersection of the site and Smith Street shown on the functional layout plan required by Condition 10 will allow for the retention the existing Oak tree at the entrance to the site.
- 12) The proposed entrance to the site adjacent to the Oak tree must be constructed without excavation and to the absolute minimum width possible. Any civil works, trenching post holes etc must be undertaken in consultation with the consulting arborist and enforce any recommendations where works are to occur ~~adjacent to the~~ within the tree protection zone of the existing Oak tree at the entrance to the site unless otherwise agreed in writing by the Responsible Authority.
- 13) Any underground services should be installed outside the recommended Tree Protection Zone to the satisfaction of the responsible authority. If this is not possible,

trenches within the Tree Protection Zone should be hand dug with minimum root severance or may be bored under root plate (approx.1.2m deep).

Sustainable Housing Design Guidelines

- 14) Before any plan(s) of subdivision is certified under the *Subdivision Act 1988*, a Memorandum of Common Provisions for all three stages of development must be submitted to and approved as being to the satisfaction of the Responsible Authority and must subsequently be registered on the title of the land. The Memorandum of Common Provisions must include the following:
- i) building envelopes for all Standard, Sloping (lots 207-212) and Corner lots on Plan of Subdivision version P, including in respect of Stage 2, building envelopes which address building position, cut and fill (retaining wall height) and vegetation retention;
 - ii) Sustainable Housing Design Guidelines for all conventional lots (e.g. excluding superlots). The Sustainable Housing Design Guidelines must be generally in accordance with the draft Middleton Field Design Guidelines circulated on 19 February 2021 as part of the Priority Projects Standing Advisory Committee process but modified to address all conventional lots and to include:
 - a) a Table of Contents;
 - b) illustrations and diagrams to demonstrate how the guidelines are to be applied on the Standard, Sloping and Corner lots in accordance with approved building envelopes;
 - c) a requirement for the provision of double fronted dwellings on lots 213-215;
 - d) a requirement for visually permeable boundary fencing along the eastern boundary of lots 213-215;
 - e) landscape guidelines/concepts for lots;
 - f) details of how the Design Guidelines will be implemented and managed to Council's satisfaction;
 - g) replace the term Design Approval Panel with the term Design Advisory Panel.
 - iii) A restriction on the maximum building height of future development on the superlots, specifying a maximum building height of 9 metres, and containing no more than two storeys at any point.

Vegetation Offsets

- 15) Before any works start, the permit holder must advise all persons undertaking the vegetation removal/works on land of all relevant conditions of this permit.
- 16) To offset the removal of 2 large trees and 0.107 hectares of native vegetation the permit holder must secure a native vegetation offset, in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) as specified below: Select General offset, Species offset or both as detailed in the NVR report. Large tree requirement can be met across any offset type
- a) A general offset of 0.041 general habitat units:
 - b) Be located within the North Central Catchment Management Authority boundary or Hepburn Shire Council area.

- c) Have a strategic biodiversity score of at least 0.150
- 17) Before the issue of ~~the~~ Statement of Compliance under the Subdivision Act 1988 for Stage 2, evidence that the required offset has been secured must be provided to the satisfaction of the responsible authority. This evidence is 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. 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 by the responsible authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.
- 18) If a security agreement is entered into as per Condition 17, the applicant must provide the 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.

Telecommunications

- 19) Before the issue of a Statement of Compliance under the Subdivision Act 1988 for each stage of the subdivision ~~Before the issue of Statement of Compliance for the relevant stage~~, 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 all lots in accordance with the provider's requirements and relevant legislation at the time; and
 - b) a suitably qualified person for the provision of fibre ready telecommunication facilities to all lots 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.
- 20) Before the issue of a Statement of Compliance under the Subdivision Act 1988 for each stage of the subdivision ~~for any the relevant stage of the subdivision under the Subdivision Act 1988~~, the owner of the land must provide written confirmation from:
- a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Construction Management

- 21) Before the development starts, a Construction Management Plan must be submitted to, and be to the satisfaction of the Responsible Authority. The Construction Management Plan will then be endorsed and form part of the planning permit. The Construction Management Plan must include details [of how the impact on the amenity of the area will be minimised/mitigated through the construction associated with the subdivision with respect to the following matters](#):
- a) traffic management,
 - b) environmental issues,
 - c) dust control,
 - d) soil erosion,
 - e) mud on roads,
 - f) warning signs,
 - g) construction plant movement areas, and
 - h) storage areas.

Engineering requirements

Stormwater Drainage

- 22) Before the issue of a ~~S~~statement of ~~C~~compliance [under the Subdivision Act 1988 for each stage](#) ~~under the Subdivision Act 1988~~, all underground and surface drainage works that are considered necessary by the Responsible Authority [for each stage](#) shall be constructed in accordance with professionally prepared plans and computations to be provided by the developer and approved by the Responsible Authority prior to the commencement of construction [for each stage](#). The drainage works [for each stage](#) shall include the provision of an onsite stormwater detention system designed to ensure that the post development runoff does not exceed pre development runoff from the development. The drainage works shall be installed to transport stormwater runoff from the subject land and surrounding land and/or adjoining road(s) to an approved point of discharge. No concentrated stormwater shall drain or discharge from the land to adjoining properties. The drainage system must be constructed and completed prior to the issue of the statement of compliance.

Return period for a Detention system is to be 1 in 5 years [\(20% Annual Exceedance Probability\)](#) where there is overland escape path and 1 in 100 years [\(1% Annual Exceedance Probability\)](#) if the failure of the detention system will cause property damage or inundation of freehold titles.

- 23) [Before the issue of a Statement of Compliance under the Subdivision Act 1988 for a stage, a](#)All allotments [in the relevant stage](#) shall be provided with drainage outfall (house connection) connected to the underground drainage system to the satisfaction of the Responsible Authority. House drainage connection shall be constructed in accordance with Infrastructure Design Manual Standard Drawing SD 520.

- 24) Before the issue of a Statement of Compliance under the *Subdivision Act 1988* for a stage, sStormwater for all allotments in the relevant stage shall be connected to the legal point of discharge to the satisfaction of the Responsible Authority.
- 25) Before any plan(s) of subdivision is certified under the *Subdivision Act 1988*~~Prior to certification~~, all drainage easements deemed necessary by the Responsible Authority must be provided by the Permit Holder to protect and facilitate existing and future drainage infrastructure. Easements shall also be provided through properties between the development site and the nominated legal point of discharge. Minimum width of drainage easements shall be 2.0m for stormwater.
- 26) Drainage easements shall be created in accordance with the existing underground drainage infrastructure to the satisfaction of Responsible Authority.
- 27) If the proposed stormwater drainage system includes any works to be undertaken during house construction stage, the Owner must enter into a Section 173 Agreement with the responsible Authority under section 173 and 174 of the Planning and Environment Act, requiring that such works shall be constructed and completed during house/building construction stage.

The Owner and the Responsible Authority shall agree to do all things necessary to register a memorandum of this Agreement on the title of the land pursuant Section 181 of the Planning and Environment Act 1987.

- 28) The Owner must pay all the costs and expenses including Responsible Authority's lawyers checking fees in relation to preparation, execution, registration, enforcement and cancellation of this Agreement including costs for obtaining necessary consents if required by the Land Titles Office before registration of this Agreement.
- 29) Prior to the certification of ~~the~~any plan(s) of subdivision under the *Subdivision Act 1988*, the permit holder must prepare a Stormwater Strategy Plan to identify and record the manner by which the quantity and quality of stormwater shall be managed for the catchment. The stormwater strategy plan must demonstrate how to avoid adverse impact on neighbouring properties and surrounding road network due to the development. Drainage design plans and legal point of discharge will not be considered until the drainage strategy has been established. The Stormwater Strategy Plan must be generally in accordance with the Stormwater Management Strategy (Rev B) prepared by Axiom dated 17 February 2021 by modified to include:
 - a) a catchment plan which includes the internal and external catchments associated with the drainage of the site;
 - b) an overview plan of the proposed sediment basin and bioretention system which identify key levels, treatment area, total footprint, flow transfers and splits and outfall location;
 - c) preliminary calculations for underground storage size of the north-west catchment;

- d) [the engineering options available to manage the major and minor drainage systems in the south-west catchment; and](#)
 - e) [capacity of rainwater tanks to reflect the projected daily water use of 150 litres per lot.](#)
- 30) Where stormwater detention is proposed on public land, including road reserves, the detention system shall be designed in such a way as to minimise the ongoing maintenance costs and maximise the public benefit of the area. No area used for stormwater detention shall be considered for the purposes of public open space.
- 31) It is the responsibility of the developer to meet the requirements for stormwater quality as stated in the BPEM (Best Practice Environmental Management) Guidelines

Note: Additional information for requirements can be found at <https://www.epa.vic.gov.au/business-and-industry/guidelines/water-guidance/urban-stormwater-bpemg>

New Intersection and Road Creation

- 32) All Roads and drainage designs and constructions shall be based on sound engineering practice following the general principles of The Planning Scheme, the Austroads Guidelines, the Co-ordination of Streetworks Code of Practice, Relevant Australian Standards, VicRoads Road Design Guidelines, Infrastructure Design Manual [IDM] and to the satisfaction of Responsible Authority.
- 33) [Before the commencement of works in each stage, p](#)Professionally prepared plans are to be submitted [to and approved by](#) the Responsible Authority for approval ~~prior to construction~~.
- 34) Prior to the certification of [Stage 1 of](#) the subdivision under the *Subdivision Act 1988*, a Traffic and Pedestrian Impact study shall be conducted for the new intersection and the corner of Smith Street and Raglan Street to the satisfaction of the Responsible Authority.
- 35) Prior to the issue of Statement of Compliance [of each stage](#) under the *Subdivision Act 1988*, any recommended works identified within the Traffic and Pedestrian Impact study must be designed, submitted and constructed to the satisfaction of the responsible authority unless otherwise agree in writing by the responsible authority.
- 36) New roads shall include provisions for traffic calming in accordance with section 12.6 of IDM and to the satisfaction of the responsible authority.
- 37) All internal roads within the development shall be in accordance with 'Table 2 - Urban Road/ Street Characteristics' of IDM.

- 38) Minimum width of the road reserve shall be in accordance with 'Table 2 - Urban Road/ Street Characteristics' of IDM.
- 39) The road pavement at a minimum, shall include:
 - a) 200mm compacted depth class 3, 20mm FCR sub base and 100mm compacted depth class 2, 20mm FCR base pavement.
 - b) 2 coat spray seal, 10mm primer seal/7mm rubberised final seal, or 40mm Type H, 10mm asphalt.
 - c) Kerb and channel.
 - d) 1.5m wide concrete footpaths.
 - e) Court Bowls must have a minimum radius of 12.5m.
- 40) All no through traffic roads must terminate with a court bowl.
- 41) The Supervising Consulting Engineer shall provide to Council a report of hold points and inspections for the construction and verification that the roads and drains have been designed and constructed in compliance with the above standards, by providing a list verifying the results of all tests undertaken and corresponding results. The minimum tests required to be provided to the Responsible Authority are:
 - a) Road Sub-grade (Proof Roll)
 - b) Pavement sub-base and base (density test and proof roll)
 - c) Pavement prior to sealing or asphalt application
 - d) Drainage trench and bedding
 - e) Drainage infrastructure prior to backfill
 - f) Drainage pits.

Access

- 42) Vehicle access/crossing to the land is to be located, constructed and maintained to the satisfaction of the Responsible Authority.
- 43) Prior to the issue of a ~~statement~~ Statement of Compliance ~~of~~ for each stage the following will be constructed for the relevant stage to the satisfaction of the Responsible Authority:
 - a) Vehicle access/crossing to all lots is to be constructed in accordance with Infrastructure Design Manual Standard Drawing SD 240 or to approval of Responsible Authority.
 - b) Vehicle access/crossing to the land shall be located so that adequate sight distance is achieved to comply with Australian Standard AS2890.1 :2004 Section 3.2.4 and as specified in Ausroad's Guide to Road Design Part 4A Section 3.4 - 'Sight Distance at Property Entrance'.
 - c) Minimum 10.0m and 9.0m clearance shall be maintained from any road intersection and between adjacent crossovers respectively unless otherwise agreed by the Responsible Authority.

- d) Any proposed vehicular crossing shall have satisfactory clearance to any side- entry pit, power or Telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the applicant's expense.
- 44) The final location and construction of the vehicle crossing is to be approved by the Responsible Authority via a "Consent to Work within the Road Reserve", prior to the undertaking of works.

Access and Mobility

- 45) All footpaths shall be designed and constructed in accordance with the relevant Australian Standards, Infrastructure Design Manual [IDM] and to the satisfaction of the Responsible Authority.
- 46) Minimum width of the footpaths shall be 1.5m and are to be constructed in accordance with IDM Standard Drawings SD 205- Typical Footpath Detail.
- 47) Footpaths shall be provided along at least one side of newly created roads within the development site and connect to the existing Council footpath network to the satisfaction of Responsible Authority.
- 48) Before the issue of a Statement of Compliance for each stage under the *Subdivision Act* 1988, vehicle access/crossings to all lots are to be located and constructed and maintained to the satisfaction of the Responsible Authority.

Landscaping and Road Reserves

- 49) Before ~~the~~ a plan of subdivision is certified under the *Subdivision Act* 1988 for each stage, a landscaping plan for road reserves ~~and~~ public open space and drainage reserves 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. ~~Theis~~ plans must ~~comply~~ be consistent with the Code of Practice for Management of Infrastructure in Road Reserves. The plans ~~and~~ shall provide following information:
 - a) Plant selection, layout and planting density.
 - b) Landscaping design intent.
- 50) Street tree planting shall be designed to meet approximately 40% canopy coverage of new roads and must be selected and planted by a qualified horticulturist/arborist.
- 51) Any existing significant trees intended to remain must be bonded for a period of 24 months.
- 52) Before the issue of a Statement of Compliance for each stage under the *Subdivision Act* 1988, or by any later date that is approved in writing by the Responsible Authority, the

landscape works shown on the endorsed landscape plans must be carried out and completed to the satisfaction of the Responsible Authority.

- 53) The landscaping is to be maintained for a period of 24 months from practical completion of the landscaping. During this period, any dead, diseased or damaged plants or landscaped areas are to be replaced to the satisfaction of the Responsible Authority.
- 54) Before the plan of subdivision is certified for stage 1 and 2 under the *Subdivision Act 1988*, a detailed landscape plan for all public open space areas and water retention areas as relevant 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 must show:
 - (a) all new plantings including their layout to be provided in any public open space area including streetscapes, parklands, water retention areas, buffer zones, service corridors, and environmental reserves
 - (b) 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. All species selected must be to the satisfaction of the Responsible Authority
 - (c) details regarding specific planting techniques to be undertaken, such as planting methodology, root barriers, fertilizer, or any other requirements;
 - (d) the proposed layout, materials and finishes of paths and areas of pavement,
 - (e) detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls, details of drainage infrastructure, utility services, irrigation and water supply infrastructure
 - (f) detailed construction drawings of any buildings or structures within any public open space areas including additional supporting information such as certified structural design computations
 - (g) the removal of all existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds from the land
 - (h) mechanisms for the exclusion of vehicles from reserve areas
 - (i) location and details of public lighting. Any proposed public lighting is to be provided in line with Australian Standards AS/NZS 1158.3.1:2005 – Lighting for roads and public spaces and must not consist of non-standard lighting
 - (j) fencing details for all allotment boundary fencing abutting a reserve to be transferred to Council

all to the satisfaction of the Responsible Authority.

Boundary Lines

- 55) Where a lot has significant cross fall (e.g. lots [201-206](#)), retaining walls and associated cut and fill shall be constructed along the lot boundary line including provisions for boundary fencing to the satisfaction of the responsible authority prior to the issue of a statement of compliance under the *Subdivision Act 1988*.

- 56) All structural retaining walls over 1.0m in height shall have an engineering design and approval to the satisfaction of the responsible authority.
- 57) Existing adjacent property boundaries that will adjoin new road reserves shall have fences replaced with a quality sound reduction product with a minimum height of 2.1 metres, subject to sight distance requirements at road intersections to the satisfaction of the Responsible Authority.

Linemarking and Signage

- 58) Before the issue of a Statement of Compliance for each stage under the *Subdivision Act* 1988, appropriate signage and linemarking throughout the development shall be provided to the satisfaction of the responsible authority

Street lighting

- 59) Before the issue of a Statement of Compliance for each stage under the *Subdivision Act* 1988, energy efficient LED street lighting shall be provided in accordance with the current issue of Australian standard AS/ANZ 1158 – Lighting for Roads and Public Spaces and to the satisfaction of the Responsible Authority.
- 60) New lighting must be located outside the clear zones and meet the standards for category P lighting unless otherwise agreed in writing by the Responsible Authority.

Development Standard

- 61) Prior to Statement of Compliance for each stage it is the responsibility of the development to meet the relevant requirements and standards as set out in the IDM (Infrastructure Design Manual, version 5.20) to the satisfaction of the responsible authority.

Prior to Construction

- 62) Before the plan of subdivision is certified for each stage under the *Subdivision Act* 1988 or any works start, the following items must be satisfied.
 - a) Approval of the constructions plans by the Responsible Authority
 - b) a pre-construction meeting shall be held with the Responsible Authority, the Contractor and the Developer/Developer's Consultant Engineer to discuss and agree on hold point inspections, roadside management, traffic management and any other construction related matters.

Completion of Construction Works

- 63) Before the issue of a Statement of Compliance for each stage under the *Subdivision Act* 1988, the developer must construct and complete road works, drainage and other civil works in accordance with endorsed plans and specifications approved by the Responsible Authority and in accordance with Infrastructure Design Manual. Road works, drainage and other civil works to be constructed must include:

- i) street and drainage in accordance with the approved construction drawings
- ii) road reserve landscaping in accordance with the approved landscape plans
- iii) construction of footpaths
- iv) underground drainage
- v) intersection and traffic control/mitigation measures
- vi) street lighting
- vii) signage and linemarking; and
- viii) high stability permanent survey marks
- ix) lot access

As Constructed Plans

- 64) Before the issue of a Statement of Compliance ~~for each stage~~ under the *Subdivision Act 1988* [for each stage](#), the Developer must provide as-constructed plans for all infrastructure created by this development and vested to the ownership and control of the Responsible Authority. Such plans shall be prepared by a registered surveyor and/or qualified Engineer and endorsed by the Developer's Consultant Engineer and the Contractor.
- 65) As-Constructed plans shall include:
- a) An asset statement of each street including costs
 - b) as constructed' information for the entire work in each development stage detailing information as listed in the Infrastructure Design Manual

Information must be presented in pdf. and dwg. formats, unless otherwise agreed in writing by the Responsible Authority.

Defects Maintenance and Bond

- 66) Before the issue of a Statement of Compliance under the *Subdivision Act 1988* [for each stage](#), the developer must enter into an agreement with the Responsible Authority regarding responsibilities for maintenance and correction of defects of all infrastructure works. Agreement must include the defects liability period, the amount of bond and on how the date of practical completion occurs.
- 67) Before the issue of a Statement of Compliance under the *Subdivision Act 1988* [for each stage](#), the developer must provide the Responsible Authority with a maintenance bond(s) of \$5,000 or 5% of the total cost of infrastructure, whichever is greater.

The bond(s) shall be an unconditional bank guarantee or cash for the predetermined amount. The Responsible Authority will hold the bond(s) until any and all defects notified to the developer before and/or during the liability period have been made good to the satisfaction of the Responsible Authority. A request must be made to

the Responsible Authority for the release of maintenance bond(s) after the defects maintenance period.

- 68) The Defects Liability Period for civil works shall be 12 months from the date of practical completion.
- 69) The Defects Liability Period for landscaping shall be 24 months from the date of acceptance at a minimum bond of \$400 per tree [unless otherwise agreed in writing by the Responsible Authority.](#)
- 70) In accordance with the Subdivision Act 1989, Responsible Authority requires the following fees for works undertaken on this Subdivision.
 - a) Plan checking fee of 0.75% of the value of works
 - b) Supervision fee of 2.50% of the value of works
- 71) All costs incurred in complying with the above conditions shall be borne by the permit holder.

Central Highlands Water Conditions

- 72) Any plan lodged for certification will be referred to the Central Highlands Region Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.
- 73) Reticulated sewerage facilities must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.
- 74) A reticulated water supply must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.
- 75) The owner will provide easements to the satisfaction of the Central Highlands Region Water Corporation, which will include easements for pipelines or ancillary purposes in favour of the Central Highlands Region Water Corporation, over all existing and proposed sewerage facilities within the proposal.
- 76) If required the owner will provide easements to the satisfaction of Central Highlands Region Water Corporation for pipeline or ancillary purposes through other land in the vicinity, as it is considered by the Authority that such easements may be required for the economical and efficient subdivision or servicing of or access to land covered by the subdivision.
- 77) If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision.

Goulburn Murray Water Conditions

- 78) All works within the subdivision must be done in accordance with EPA Publication 960 *“Doing It Right on Subdivisions, Temporary Environmental Protection Measures for Subdivision Construction Sites”*, September 2004.
- 79) Each lot must be provided with connection to the reticulated sewerage system in accordance with the requirements of the relevant urban water authority.
- 80) All stormwater discharged from the site must meet the urban run-off objectives and Standard C25 as specified in Clause 56.07-4 of the Victorian Planning Provisions. All infrastructure and works to manage stormwater must be in accordance with the requirements of the Responsible Authority

Country Fire Authority Conditions

Hydrants

- 81) Prior to the issue of a Statement of Compliance under the *Subdivision Act 1988* for each [stage](#), the following requirements must be met to the satisfaction of the CFA:
 - a) Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
 - b) The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Roads

- 82) 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 4.5 metres above the access way [unless otherwise approved by the Responsible Authority](#).
 - d) Roads more than 60 [metres](#) in length from the nearest intersection must have a turning circle with a minimum radius of 8 [metres](#) (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.

Powercor Conditions

- 83) The plan(s) of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
- 84) The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards.
- 85) The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules.
- 86) The application shall, when required by the Distributor, set aside areas within the subdivision for the purposes of establishing a substation or substations.
- 87) The applicant shall establish easement on the subdivision, for all existing Distributor electric lines where easement have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning of existing easements.

Permit expiry

- 88) This permit will expire if one of the following circumstances applies:
 - a) The plan of subdivision for Stage 1 has is not been certified within 2 years of the date of this permit;
 - b) Any subsequent stage is not certified within 2 years of the previous stage being certified;
 - c) The registration of any ~~the relevant~~ stage of subdivision is not completed within five years of the certification ~~from the date of certification of~~ the plan of subdivision for that stage.

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

NOTES

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)