

Planning and Environment Act 1987

Priority Projects Standing Advisory Committee Report

Whittlesea Planning Scheme

Referral No 2: Harvest Home Road, Wollert

23 September 2020

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Priority Projects Standing Advisory Committee Report pursuant to s151 of the Act

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Members of the Priority Projects Standing Advisory Committee who considered this referral:

A handwritten signature in black ink, appearing to read 'Lester Townsend'.

Lester Townsend, Chair

A handwritten signature in black ink, appearing to read 'Mandy Elliott'.

Mandy Elliott, Member

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Glossary and abbreviations

the Act	<i>Planning and Environment Act 1987</i>
BVRT	Building Victoria's Recovery Taskforce
the Committee	Priority Projects Standing Advisory Committee
Council	Whittlesea City Council
DELWP	Department of Environment, Land, Water and Planning
DV	Development Victoria
MCP	Memorandum of Common Provisions
Planning Scheme	Whittlesea Planning Scheme
PPSAC	Priority project Standing Advisory Committee
Proponent	Development Victoria
VCAT	Victorian Civil and Administrative Tribunal

1 Overview

(i) Referral summary

Referral summary	
Date of referral	9 August 2020
Members	Lester Townsend (Chair) and Mandy Elliott
Description of referral	VCAT Proceeding No. P803/2020: a multi-lot subdivision (89 lots), including construction of dwellings on lots less than 300 square metres, creation of a 0.92 hectare conservation reserve, removal of native vegetation in a Vegetation Protection Overlay Schedule 2 and associated buildings and works.
Common name	Referral No 2: Harvest Home Road, Wollert
Municipality	Whittlesea
Planning Authority	City of Whittlesea
Applicant	Development Victoria
VCAT Reference No.	P803/2020
Planning permit application No.	Whittlesea: 718576
Subject land	Lot: AA PS: 701533F – 286 Harvest Home Road, Wollert (52A Eaststone Avenue, Wollert)
Site inspection	Google Street view August 2019 photos
Parties	Council: City of Whittlesea Applicant: Development Victoria
Consultation	Round table discussion through video link (MS Teams), 8 September 2020: <ul style="list-style-type: none"> - City of Whittlesea represented by Briana Eastaugh of Maddocks, assisted by Ankit Shah and Jessica Higgins of Council - Development Victoria represented by Jessica Kaczmarek of Norton Rose Fulbright with comments from Michael Collie
Information relied upon	VCAT file, Council reports, circulated background material and tabled submissions, verbal submissions at the round table discussion
Date final information was received	15 September 2020
Date of this report	23 September 2020

(ii) Findings

The Committee finds the proposal is generally in accordance with the Aurora Development Plan: Part 2 (Amendment September 2016).

The Committee finds the proposal is well supported by State and local policy, it responds well to its locality and it will provide affordable housing opportunities for those in need. In relation to the key issues addressed at the round table, the Committee finds that:

- The level of development is generally in accordance with the Development Plan.
- The proposal integrates with the town centre in a fashion that is generally in accordance with the Development Plan.
- The shared space pedestrian link shown on the northern town centre plan is a link between the access road from Harvest Home Road to the station, and activity centre. The proposed development does not prevent this link being provided in the future on the rail reserve land. In this regard the proposal is generally in accordance with the Development Plan.
- With the moving of the road from the conservation reserve side of the subject land to the rail reserve side of the subject land there is a need to provide an appropriate connection to the conservation reserve and the Committee finds that the proposed pedestrian link does this.
- The provision of mixed uses is 'strongly encouraged' but not mandated.
- The Committee notes that reuse of dwellings including terrace housing for commercial purposes is not uncommon in Melbourne and the use of the townhouses for non residential use is a matter of zoning as much as built form. The mixed use aspirations of this land may come to fruition once the transport link is provided.
- The proposed uses are generally in accordance with the Development Plan.
- The proposed housing mix is generally in accordance with the Development Plan.
- The proposed lots sizes are generally in accordance with the Development Plan.
- The material presented to date is sufficient to give confidence that appropriate housing outcomes can be delivered on the lots with the subject land
- The permit should allow for construction of dwellings on a lot less than 300 square metres.
- The proposal will deliver affordable housing. In this regard, the proposal is generally in accordance with the Development Plan.
- There is no reason to refuse the proposal due to amenity impacts of the proposed rail corridor.
- The lanes and Growling Crescent do not need to be widened. The widths are generally in accordance with the Development Plan.
- The L-shaped lane is an acceptable outcome in the proposed context.
- The lot orientations are acceptable and general in accordance with the Development Plan.
- There is no need for a paper road along the side of the lots with a side to the conservation reserve.
- The permit should not require a left in, left out arrangement at Harvest Home Road.

(iii) Recommendation

The Priority Projects Standing Advisory Committee recommends:

- 1. That the Minister for Planning support this proposal and recommend to the Governor in Council that a permit for application 718576 under the Whittlesea Planning Scheme be issued for 'Subdivision, construction of a single dwelling on a**

lot less than 300 square metres, removal of native vegetation, creation of easements and reserves and associated buildings and works in accordance with the endorsed plans' subject to the amended conditions in Appendix E.

2 Introduction

2.1 Terms of Reference and letter of referral

The Priority Projects Standing Advisory Committee (the Committee) 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 (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.

The Committee was provided with a letter of referral from the Minister for Planning dated 9 August 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.

This is Referral No. 2 of the Committee.

The Committee convened a round table discussion with the parties to the VCAT proceedings and focused on the issues in dispute, which related to:

- whether the proposal is generally in accordance with the approved Aurora Development Plan: Part 2 (Amendment) September 2016 (Development Plan)
- whether the permit application included the construction of dwellings on lots less than 300 square metres
- integration with the rest of the Town Centre and the station and surrounding land in terms of built form, access, layout or the urban landscape
- the provision of a mix of uses
- lot sizes and dimensions
- housing diversity and affordability
- the proposed density
- the proposed development typology and whether small terrace lots are able to integrate with the surrounding urban environment
- amenity impacts on residents close to a future railway and station
- the intended use activation, and required landscaping of the open space link
- street widths
- the L-shaped lane
- lots with sides to the conservation reserve
- the proposed permit conditions.

2.2 Membership

Due to the issues to be resolved, the members of the Committee dealing with Referral No. 2 comprised:

- Lester Townsend, Chair
- Mandy Elliott, Member.

The Committee was assisted by Georgia Thomas, Project Officer from the Office of Planning Panels Victoria.

2.3 Background to the proposal

VCAT proceeding No. P803/2020 relates to a multi-lot subdivision (89 lots), including creation of a conservation reserve, removal of native vegetation in a Vegetation Protection Overlay Schedule 2 and associated buildings and works.

A permit is required by the Whittlesea Planning Scheme (Planning Scheme) under:

- Clauses 37.02-3 and 3.1 of the CDZ4 to subdivide land
- Clause 42.02-5 – Removal of native vegetation.

The Whittlesea City Council (Council) issued a refusal to grant a permit for the proposal on 20 March 2020. An appeal was lodged by Development Victoria (the Proponent) on 13 May 2020.

The grounds of refusal are set out on Appendix D. In summary, the grounds of refusal included that:

- the subdivision application is inconsistent with the Aurora Development Plan: Part 2 (Amendment, 2016)
- the lot layout and dimensions do not result in a high density/mixed used residential outcome
- the scale of development is not appropriate for a key gateway location on the edge of a Town Centre
- the subdivision is generally inconsistent with a number of objectives and strategies of the Planning Policy Framework.

2.4 Process

The Committee received the letter of referral from the Minister for Planning dated 9 August 2020. The Committee wrote to the parties to the VCAT proceeding on 18 August 2020 advising of its referral and inviting those parties to a round table on Wednesday 8 September 2020. This letter included the Terms of Reference and the referral (Document 1). The letter indicated that a Hearing did not seem to be required in this case and that a round table would be convened. The letter further invited any party to raise any procedural matter if they had concerns about what was proposed. The Committee was provided with the relevant VCAT file on 20 August 2020.

On 24 August 2020 the Committee directed that Council provide a without prejudice set of draft conditions in a Microsoft Word format by 28 August 2020 or as soon as practicable after that date so that the Committee and the Proponent can review these in advance of the round table. This was provided on 1 September 2020.

On 1 September 2020, Maddocks on behalf of Council advised:

We have been instructed to inform the Committee in advance of the round table discussion that Council ... considers that a hearing will be required in this case.

Council's concerns with the proposal are extensive and many of which are unable to be appropriately addressed through planning permit conditions. Critically, in Council's opinion the proposal is not generally in accordance with the Aurora Development Plan: Part 2 (Development Plan) which applies to the land. ...

Council is of the view that a hearing will be required to provide the parties with an opportunity to ventilate these and other issues associated with the proposal.

The Committee reviewed the information provided and advised that it was confident the matters raised by Council could be adequately ventilated on 8 September 2020.

The Committee advised that it proposed to structure the proceedings, hear submissions and conduct discussions on the issues of compliance in terms of the elements or characteristics of the proposal. The Committee advised that it proposed to deal with each issue in turn and parties will be given the opportunity to address the Committee briefly on each issue, addressing compliance with the Development Plan, policy and Clause 56 standards with respect to that issue.

At the round table discussion, Council and the Proponent agreed certain issues need to be addressed in permit conditions but disagreed over the appropriate wording. Council was given a further opportunity to refine permit conditions. Revised conditions were circulated to the Proponent on 15 September 2020.

The Committee thanks all parties for the way in which they participated in this process and for their willingness to engage.

3 Site and planning context

3.1 The subject land

The subject land is a rectangular shaped lot located to the north of Harvest Home Road in Wollert. The subject land has a total area of 5.21 hectares with a frontage to Harvest Home Road with a width of approximately 175 metres and a side boundary with a width of approximately 300 metres. The subject land is vacant and currently contains patches of native vegetation and trees. The subject land is relatively flat with a slope of 4 metres from north east to south west.

Relatively speaking, this is a small parcel of land within the Northern Town Centre which sits between:

- A conservation reserve:
The Development Plan recommends such reserves are retained as ‘no go’ areas with access restricted. This reserve reduces opportunity for connectivity but provides a green break between the edge of the Northern Town Centre and the conventional residential density development to the east. Due to works undertaken as part of the proposal, there will be passive recreation opportunities on the western perimeter of the conservation reserve; and
- The public transport corridor:
If and until the railway line and station are constructed, provides a green open space and amenity surrounding residents and forms a green connection between the retail uses and the core town centre.

To the east and west of the site is currently a mix of vacant land and residential dwellings. To the south of the site along Harvest Home Road is residential dwellings, open space and the existing southern portion of the Aurora Village activity centre, comprising of a supermarket, community centre, retail stores and Harvest Home Primary School. To the north of the site is vacant land which is currently being developed as a future aged care facility.

The subject land is located within the Epping North Growth Area and the Aurora Estate Northern Town Centre (proposed). The site is strategically important due to its proximity to planned transport infrastructure and a planned neighbourhood activity centre. The population of Aurora is expected to increase to approximately 25,000 people.

Figure 1 **Subject land**



Source: Council Delegate Report. Aerial photo of subject land and surrounds, NearMap, 25 November 2019

3.2 Planning framework

(i) State policy

The relevant objectives and strategies of the Planning Policy Framework that apply to the application are as follows:

- **Clause 11.01-1S ‘Settlement’:**
To promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.
- **Clause 11.02-3S ‘Sequencing of development’:**
To manage the sequence of development in areas of growth so that services are available from early in the life of new communities.
- **Clause 11.03-1S ‘Activity Centres’:**
To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.
- **Clause 15.01-1S ‘Urban design’:**
To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.
- **Clause 15.01-3 ‘Subdivision design’:**
To ensure that the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.
- **Clause 15.01-4S & 4R ‘Healthy neighbourhoods’:**
To achieve neighbourhoods that foster healthy and active living and community wellbeing.

To create a city of 20 minute neighbourhoods, that give people the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.

- **Clause 16.01-2R 'Housing opportunity areas – Metropolitan Melbourne':**
To locate new housing in designated locations that offer good access to jobs, services and transport.
- **Clause 16.01-2S 'Location of residential development'**
To locate new housing in designated locations that offer good access to jobs, services and transport.
- **Clause 16.01-3S 'Housing Diversity':**
To provide for a range of housing types to meet diverse needs.
- **Clause 16.01-5 'Housing Affordability':**
To deliver more affordable housing closer to jobs, transport and services.
- **Clause 18.02-2S 'Public Transport':**
To facilitate greater use of public transport and promote increased development close to high-quality public transport routes.

Other relevant objectives and strategies include:

- **Clause 12.01-1S 'Protection of biodiversity':**
seeks to assist the protection and conservation of Victoria's biodiversity.
- **Clause 12.01-2S 'Native Vegetation Management':**
seeks to ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.
- **Clause 12.05-2S 'Landscapes':**
seeks to protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments.
- **Clause 15.02-1 'Energy and resource efficiency':**
seeks to encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.
- **Clause 16.01-1S & 1R 'Integrated housing':**
seeks to promote a housing market that meets community needs.
- **Clause 18.01-1S 'Land use and transport planning':**
seeks to create a safe and sustainable transport system by integrating land use and transport.
- **Clause 18.01-2S 'Transport system':**
seeks to coordinate development of all transport modes to provide a comprehensive transport system.
- **Clause 18.02-3S 'Road system':**
seeks to manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure.
- **Clause 19.03 'Development Infrastructure':**
seeks to facilitate the timely provision of planned infrastructure to communities through the preparation and implementation of development contributions plans and infrastructure contributions plans.

(ii) Local Planning Policy Framework

The relevant objectives and specific strategies of Local Planning Policy Framework are as follows:

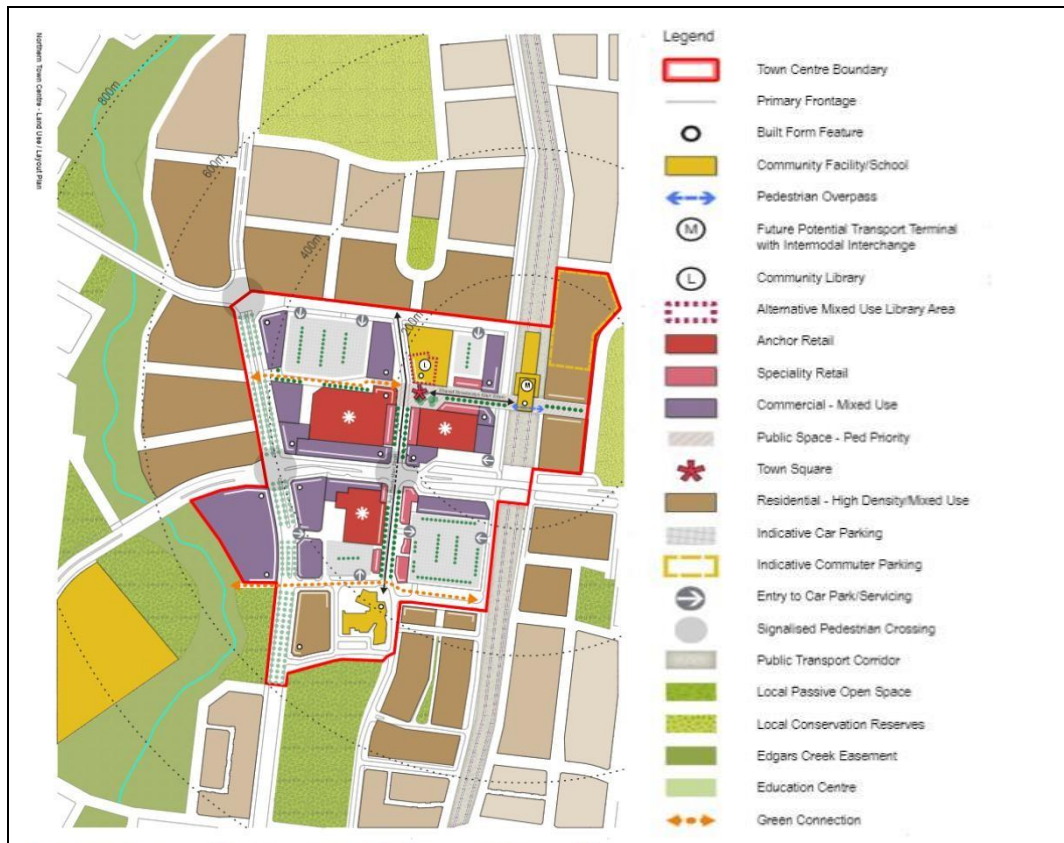
- **Clause 21.04-1 ‘Activity Centre Planning’, Objective 1, Strategy 1.7:**
To provide for a number of major and neighbourhood activity centres each with its own role and function.
- **Clause 21.04-2 ‘Urban Growth’, Objective 1, Strategy 1.7:**
Seeks to effectively manage urban growth.
- **Clause 21.08-1 ‘Urban Design’, Objective 3, Strategy 3.4 and Objective 5, Strategy 5.4:**
To support places and spaces that connect people; to ensure new development in Activity Centres achieves high quality urban design outcomes; to support a universally accessible built environment; to design walkable communities.
- **Clause 21.08-2 ‘Subdivision’, Objective 1, Strategy 1.1:**
To ensure that subdivision design is site responsive.
- **Clause 21.08-3 ‘Environmentally Sustainable Design’:**
To promote and facilitate development that incorporates best practice environmentally sustainable design.
- **Clause 21.09-1 ‘Capacity and Location’, Objective 1, Strategy 1.1, Strategy 1.2 and Strategy 1.3:**
To provide for a range of residential communities that has a unique identity and sense of place.
- **Clause 22.10 ‘River Redgum Protection Policy’:**
This policy recognises the River Redgum as an asset to the City of Whittlesea, and seeks to protect River Red Gums from encroaching developments in urban and rural areas.

The objectives and requirements of Clause 56 are relevant to the subdivision application.

3.3 Zoning

The subject land is in the Comprehensive Development Zone – Schedule 4. Pursuant to Clause 37.07-3.1 a subdivision must be generally in accordance with the relevant development plan approved under a Development Plan Overlay. As such, the subdivision must be considered generally in accordance with *Aurora Development Plan: Part 2 (Amendment), September 2016*, (Development Plan).

The site is located within the Northern Town Centre and is highlighted in the plan below.

Figure 2 Northern Town Centre Plan

NOTE: Reoriented by the Panel with north facing up the page

Pursuant to Clause 5.7 of the Development Plan, the principles and plan shown above takes precedence to any inconsistencies within the overall plan. As such, it is noted that the overall plan on page 23, which nominates the site as 'residential – medium density' is superseded by the above plan which nominates the site as 'residential – high density/mixed use'.

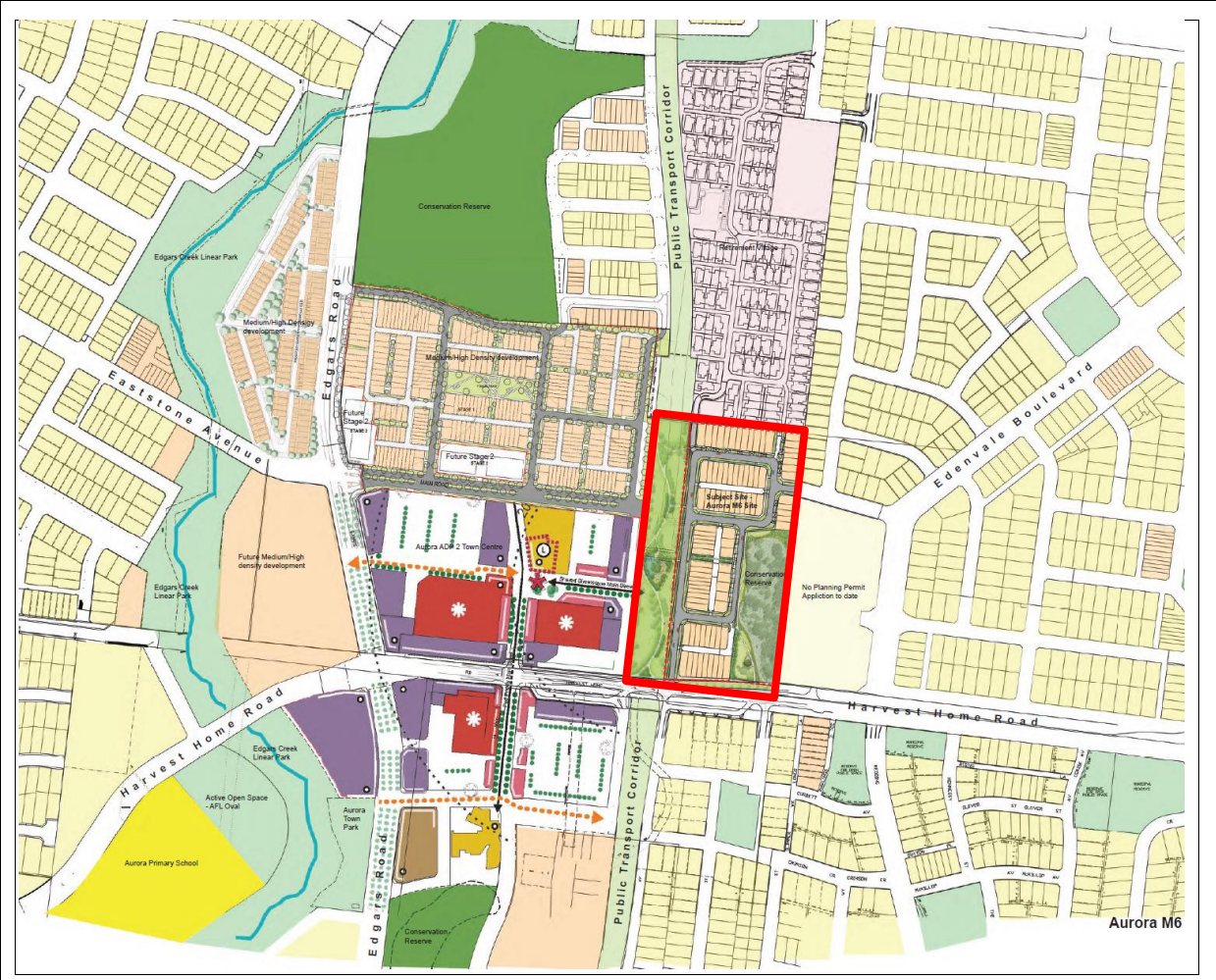
3.4 The proposal

The proposal is for a multi-lot subdivision (89 lots), including construction of dwellings on lots less than 300 square metres, creation of reserve, removal of native vegetation in a Vegetation Protection Overlay Schedule 2 and associated buildings and works.

The proposal will consist of townhouses on relatively small lots.

Figure 3 shows the Development Victoria proposal in context with surrounding proposed and approved land uses.

Figure 3 The proposal in context



4 Is the proposal generally in accordance with the Development Plan?

(i) The issue

A threshold issue is whether the proposed subdivision is generally in accordance with the Development Plan, being the approved plan in accordance with the DPO23.

Under the relevant provisions of the Comprehensive Development Zone Schedule 4 and DPO23, a permit may only lawfully be granted where the proposal is *generally in accordance with* the approved Development Plan.

(ii) What constitutes ‘generally in accordance’?

Council submitted that the proposal is not ‘generally in accordance with’ the Development Plan and therefore a permit could not be issued. Council acknowledged that the Development Plan provides a framework for more detailed planning at the subdivision plan and permit application stage but submitted that such plans need to be in accordance with the general intent of the Development Plan, which it says the current application before the Committee is not.

Both Council and Development Victoria submitted that the matter of generally in accordance with has been an issue raised at a number of Tribunal cases and in Panel hearings. In *Mainstay Group Pty Ltd v Moreland SC [2005] VCAT 2189*, the Tribunal said:

... general accordance is a question of fact to be judged on the facts and circumstances of each case. The less detail and precision there is in the primary document or documents, the more flexibility is given by the phrase generally in accordance with.¹

In *Casey Gardens Developments Pty Ltd v Casey CC [2009] VCAT 2489* (Casey Gardens), the Tribunal made further comments on this issue. In doing so it said:

It is appropriate to read the development or master plan as a whole when making this assessment.

In our view, while the application of the “*generally in accordance with*” test will vary according to the facts and circumstances of each case, we do not think that this should involve an assessment akin to laying an application plan on a light box above an approved development plan and then undertaking a “spot the difference” examination.

Rather, the question before us is whether the departures identified by the responsible authority are sufficiently confined and otherwise acceptable having regard to the objectives, responses and plans comprising the approved development plan. We agree with Mr Taylor that this stage of the process can usefully be described as being a “*gateway test*”.

It is expected that there will be a progression or refinement of numerous aspects of a development plan between its approval and the preparation of detailed application plans. To this extent, it is relevant that the requirement in the planning scheme is not that any permit issued be strictly “*in accordance with*” a development plan. As a

¹ Quoting the earlier decisions of *Canet v Brimbank CC [2003] VCAT 13* and *Raftopoulos v City of South Melbourne* (unreported) appeal No 1989/34936; *Amber Vision PL v Wyndham CC [2007] VCAT 1297*.

minimum, however, there must be a fair degree of uniformity between the key aspects of a development plan, particularly where they are provided in detail, and the proposal for which a permit is sought.²

Council presented that across a number of key cases, the Tribunal emphasised the correct approach to what constitutes *generally in accordance* is to consider the document as a whole, having considered regard to all its contents.

Council suggested that the following principles are relevant to responding to the task before this Committee:

- general accordance is a question of fact to be judged on the facts and circumstances of each case
- the degree of 'compliance' is relative to the type of plan or document and its level of detail and it is not necessary that a proposal be identical to that described in the plan
- it is appropriate to read the plan as a whole when making this assessment, and to have regard to the objectives, responses and plans comprising the approved plan.

(iii) What does the Development Plan say?

The Development Plan is a detailed document comprising text and plans. At the heart of the document (section 5) is a series of 'objectives and responses' to particular themes, a number of which are particularly relevant to the current proposal. Council highlighted the following themes as being particularly important to the Committee's consideration:

- subdivision design and landscape character (section 5.1)
- housing (section 5.2)
- retail and commercial (section 5.7)
- the Northern Town Centre (section 5.8)
- the transportation system (section 5.12).

(iv) Submissions

Council submitted that the proposal would result in important variations from the Development Plan. It stated:

Variations which are at odds with the Development Plan's (and Places Victoria's) stated objectives, result in a significant lost opportunity and make it clear that the Permit Application is not generally in accordance with the Development Plan. These variations relate to the key issues before the Committee. In summary they include:

- The lot layout and dimensions do not result in 'High Density / Mixed Use' outcomes. Further, no mixed uses are envisaged and the subdivision would deliver uniform two storey townhouse style development at odds with:
 - Section 5.1.1 – Objectives, Subdivision Design & Landscape Character (page 22) and Section 5.1.3(e) – Subdivision Design, Lot Sizes (page 25), which seeks a range of housing options, including apartment-style housing within walkable catchments of the primary activity centres.
 - Section 5.7.1(e) – Character (page 44, final dot point), which states that buildings should be a minimum of two storeys across each Town Centre.
 - Section 5.8(d) – Northern Town Centre, Character (page 45), which states that building heights in excess of three storeys will be appropriate in key gateway

² At [10] – [11].

locations, on key arterial routes, on main streets and on the eastern edge of the Northern Town Centre at the interface with the rail reserve.

- The 6.5 metre wide 'reserve' through the centre of the site would not deliver a meaningful 'Public Space – Ped Priority' link which is a continuation of the 'Shared Streetscape Main Street' from the Town Square as envisaged by the Northern Town Centre Plan.
- No 'Primary Frontages' would be provided along the above link as sought by the Northern Town Centre Plan and section 5.7.1 (b).
- The significant number of additional variations from the subdivision design objectives at section 5.1.3 of the Development Plan (from page 24), including objectives which seek to:
 - Section 5.1.3(d) Access Lanes – carefully design access lanes to ensure safety and security, including ensuring they are short in length and provide no 'hiding places' that would compromise personal security;
 - Section 5.1.3(e) Lot Sizes – as noted above, and additionally, the provision of a significant number of lots below 180 square metres; and
 - Section 5.1.3(f) Lot Orientation and Dimensions – which notes that the quality of solar access to lots is 'determined strongly by the lot shape and orientation'. A significant number of the lots would not meet the indicative lot widths and depths in the table at page 25. The narrow east-west lots through the centre of the proposal are of particular concern to Council.

Development Victoria submitted that the Development Plan is a detailed document that covers a range of matters appropriate to the land which it applies and that the language used in the Development Plan provides for discretion and it reduces the level of prescription.

Development Victoria submitted there is no reasonable basis to assert that the proposed development is not generally in accordance with the Development Plan.

Development Victoria submitted that the application is generally in accordance with the Development Plan as it is consistent with the principles and objectives of the Development Plan; sits appropriately within the Northern Town Centre and will provide an acceptable outcome whether or not rail is delivered to Epping North.

Development Victoria submitted that the designation of the site as 'Residential – High Density/Mixed Use' is a key prescriptive component of the Development Plan which provides for mixed uses, residential or both. It stated that high density residential development is clearly a use envisaged by the Development Plan on this site and that the absence of a mixed use component is a relevant factor to the *merits* of the proposal, not a factor in determining whether the proposal is generally in accordance with the Development Plan.

(v) Discussion and findings

The site clearly presents an opportunity for residential high density development within the overall Aurora project area. The critical issue in this instance is that the proposal is not seeking to deliver the type of development that Council had envisaged for the site at the time of the Development Plan, which is apartments and mixed use.

The issue of whether the proposed development is generally in accordance with the Development Plan is a threshold legal issue – it is not a threshold issue in the sense that it can be determined before examining the various elements of the proposal. It is not the case that the proposal is clearly not in accordance with the Development Plan, for example the way it would be if it proposed low density residential development on the site.

In this case, the contention is that taking the development as a whole, and the objectives of the Development Plan as a whole, the mismatch between what is proposed and what the Development Plan seeks is so great that one can only conclude that it is not generally in accordance with the Development Plan.

The issues on how the proposal does or does not comply with the Development Plan will be dealt with in the following chapter.

5 Issues

The issues as discussed at the round table discussion are presented under the following headings:

- Underdevelopment
- Integration with the rest of the Town Centre
- The pedestrian/open space link
- The provision of a mix of uses
- Housing diversity
- Lot sizes and dimensions
- Can the lots be developed with an acceptable housing outcome
- Housing affordability
- Amenity impacts on residents close to a future railway and station
- Street widths
- The L-shaped lane
- Lots with sides to the conservation reserve
- Harvest Home Lane intersection.

In making its submissions of specific issues, Council submitted that many of these issues go to the heart of the ‘generally in accordance with’ question as well as the merits of the proposal which Council submitted will result in a poor design outcome when assessed against the Planning Policy Framework, Local Planning Policy Framework, Clauses 56 and 65 of the Planning Scheme.

5.1 Underdevelopment

(i) The issue

Council concerns (as recorded in the Delegate’s Report³) include:

... and the subject [land] is nominated as one which can accommodate high density development due to its proximity to planned transport and a planned neighbourhood activity centre. The proposed subdivision of the land will result in development that is inconsistent with the intended outcome of a compact urban area and is an underdevelopment in comparison to the planned mixed use/high density outcome nominated for the site.

...

The site is considered to be capable of accommodating a higher density than currently proposed. The proposal has not taken advantage of this opportunity to boost the density to maximise accessibility to facilities and services.

(ii) What does the Development Plan say?

The Development Plan says:

... In some particular areas, such as around town centres and public open spaces, it is intended to provide alternative dwelling types, including apartment-style housing, at a denser level than that noted above. A small number of larger lots are also envisaged.

³ Document 2

This range of lot sizes and densities will reinforce the range of housing options throughout Aurora.

The site is nominated as 'Residential – high density/mixed use'.

The Delegate Report concedes that *"The proposed subdivision achieves the net residential density specified in the ADP2"* but was concerned that *"higher densities are strongly encouraged in locations such as the subject [land] that are to form part of the Northern Town Centre"*.

The Development Plan⁴ targets 27 lots per hectare in high density residential areas and 20 lots per hectare in medium density areas. The proposed density in the application plan is 30 lots per net developable hectare, which is higher than both the approved Development Plan high and medium density stipulations. This density clearly meets the requirements set out in the Aurora Development Plan.

The Development Plan states in section 5.8 (d):

Building heights in excess of three storeys will be appropriate:

- In key gateway locations
- On key arterial routes
- On main streets
- On the eastern edge of the Town Centre, at the interface with the rail reserve.

(iii) Submissions

Council submitted that the proposal represents a missed opportunity for the built form of the Subject Land to integrate appropriately with this setting. It stated:

- The Subject Land is a key site which is a perfect candidate to deliver on key objectives of the Development Plan and to form an integrated part of the Northern Town Centre. It sits on the eastern edge of the town centre, specifically nominated by the Development Plan as forming part of the Northern Town Centre, being included within the Town Centre Boundary.
- ... in the context of the broader Aurora Development Plan area, there are precious-few opportunities to deliver high density and mixed use residential outcomes. This designation is confined to within and immediately abutting town centres.⁵

Council said that the development failed to capitalise on the site's location and deliver *"meaningful"* high density residential and mixed use development (including through apartment style development) as envisaged by the Development Plan.

Council believed that the site was a unique strategic location and the character and built form for it should reflect that. In Council's submission, the site should result in a variation in built form typologies, including some apartment style development including and in excess of three storeys.

⁴ page 22

⁵ Document 46, paragraphs 80, 82

Is the site a gateway location

There was some discussion as to whether the site was a gateway site to the Northern Town Centre. Development Victoria's response⁶ included: *"there is nothing on the Northern Town Centre-Land Use / Layout Plan that identifies the subject land as a 'key gateway location'."*

Council found this response *"frustrating"* submitting:⁷

On any objective assessment, the Subject Land is a gateway location. A label on a plan should not be required. Indeed, the Committee will observe that no 'gateway locations' are specifically identified. Rather, the Development Plan leaves this to a common-sense approach and identifies specific criteria for where building heights in excess of three storeys will be appropriate (see page 45). The Subject Land exhibits every one of these attributes.

(iv) Discussion and findings

The issue is essentially one of 'underdevelopment'. Council is seeking apartment style development (with a mix of uses) in excess of three storeys, whereas the proposal presents town houses in a form of high density.

There is no debate that the proposal meets the density requirements of the Development Plan. The question is whether the density should be higher or expressed in a different built form.

An apartment development application was not before the Committee. An apartment building may be an encouraged or even a preferable design typology for this site compared to the proposal, but it is not a required built form in this area. The Committee notes that the plan for the southern activity centre has a precise notion in regards to 'Mixed Use - Speciality Retail to Ground Floor'. It was clearly open to the drafters of the Development Plan to require a specific typology if they thought that this was essential to achieving the outcomes sought by the Development Plan.

It is not clear from a reading of the entire Development Plan what precisely is meant by a 'gateway site'. Such sites are not marked on plans as the text in the Development Plan suggests.

The Committee does not think the site is a gateway site. The Development Plan identifies a range of locations as gateways and these appear to have different characteristics to the subject land. In any case, it's not clear what turns on this as the Development Plan is only aspirational in terms of gateway sites and it doesn't establish a requirement for higher built form nor greater densities. Given the fact that it's not clear that the site is in fact a gateway site and that the Development Plan does not mandate outcomes for gateway sites, the Committee is not persuaded that on this ground the proposal is not generally in accordance with the Development Plan.

The Committee agrees with Development Victoria that the type of development which Council is seeking on this site is unrealistic. The opportunity for higher built forms will undoubtedly arise through the development of the balance of the activity centre, particularly in the core of the town centre where the Development Plan gives specific

⁶ Document 40

⁷ Document 46, paragraph 85.

guidance on built form outcomes. The Committee cannot recommend a refusal of the application based on it not delivering an apartment typology.

The Committee finds:

- The level of development is generally in accordance with the Development Plan.

5.2 Integration with the rest of the Town Centre

(i) The issue

The issue is whether the proposal generally integrates with the Northern Town Centre. The pedestrian link is discussed in the next section.

(ii) What does the Development Plan say?

In regard to the activities in the Northern Town Centre the Development Plan says:

Mixed Use buildings containing upper storey residential opportunities are strongly encouraged within the core Town Centre area, with particular focus around the potential future train station.⁸

(iii) Submissions

Council concerns (as recorded in the Delegate's Report) include:

- The subdivision does not provide an adequate response to the site context and insufficient consideration has been given to integrating the subdivision with the rest of the Town Centre or the station in terms of built form, layout or the urban landscape.
- Further, the subdivision layout and small terrace lots that are proposed are unable to sufficiently demonstrate a response to or integration with the surrounding urban environment.

Development Victoria responded⁹:

The subdivision layout has been designed to provide appropriate connections to the adjoining retirement village to the north as well as future development to the east.

Contextual links

Council advised that the context plan for the Subject Land, detailing adjacent sites and natural features was never provided despite Council requesting this information in both its requests for further information.

At the round table discussion, Development Victoria tendered (Attachment A to its submissions) a site context plan prepared by Murphy Landscape Consultancy (reproduced at Figure 3) which shows the proposal in its setting within the Northern Town Centre and within the Development Plan area more broadly. Development Victoria submitted that the plan illustrates how the lot sizes and anticipated built form integrate will with the surrounding urban environment.

In Development Victoria's view:

⁸ Development Plan, (page 45)

⁹ Document 40

- townhouses introduce a human scale to the town centre to facilitate movement within the site, as well as providing a point of the connection throughout the Town Centre
- the proposal achieves integration with the balance of the town centre through:
 - introducing built form of human scale that encourages activity within the site and through to the core retail component of the town centre
 - facilitating pedestrian and cycling access between the conservation reserve and the town centre
 - providing a layout that facilitates north-south and east west movements through the site to enable connections through to surrounding land.

(iv) Discussion and findings

It is not clear why small terrace lots cannot integrate with an activity centre. This is a common development pattern across significant areas of inner Melbourne. The Committee does not accept that only apartment style development can integrate with an activity centre.

On more specific issues:

- The link to the retirement village to the north is appropriate from an access point of view and the Committee can see no reason why it could not be delivered in an acceptable form.

Leaving aside the pedestrian/open space link which is discussed below, the Committee finds:

- The proposal integrates with the town centre in a fashion that is generally in accordance with the Development Plan.

5.3 The pedestrian/open space link

(i) The issue

Council concerns (as recorded in the Delegate's Report) include:

While the layout achieves a reasonably permeable pedestrian network the lack of activation of the street in this location is an inappropriate outcome that presents a lack of safety and poor pedestrian environment within a neighbourhood activity centre through side interfaces to pedestrian links. It is also unclear if the pedestrian and cyclist access to the train station through the site/neighbourhood activity centre is facilitated and safeguarded due to the inconsistency of the proposed pedestrian route to the Development Plan and uncertainty regarding the ultimate form the rail will take.

(ii) What does the Development Plan say?

In regard to the Northern Town Centre and pedestrian linkages, the Development Plan states:

The Town Centre's focal point should be connected to Edgars Creek via a direct and obvious linear open space linkage through the western part of the Town Centre.¹⁰

Further, Section 5.8(c) of the Development Plan provides:

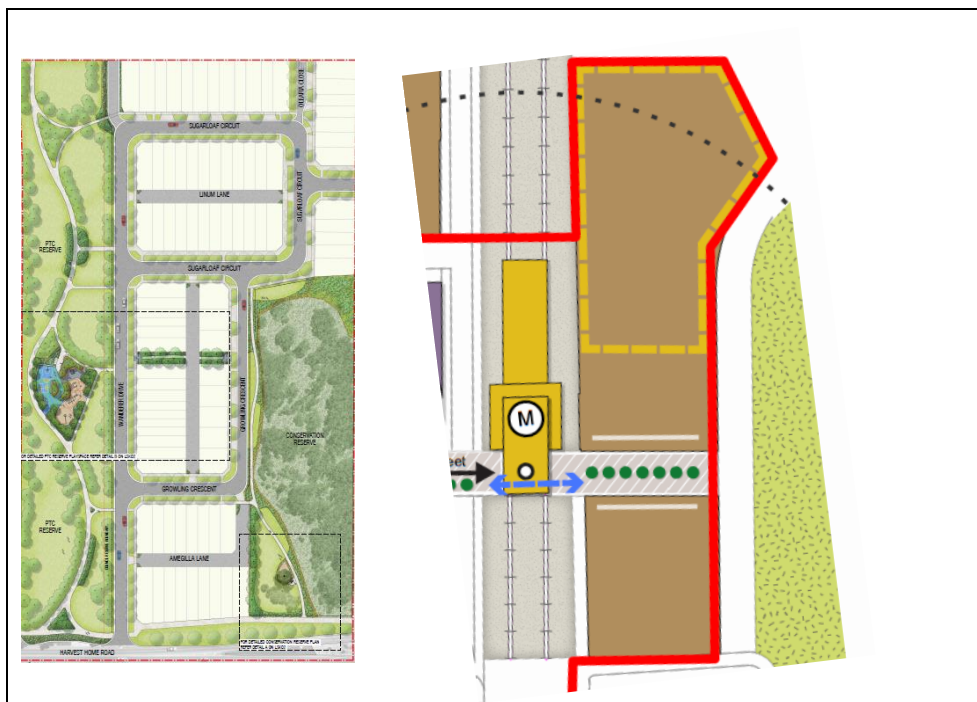
Main streets are to be located to create view lines between key civic and public transport nodes such as the potential future train station, library and community

¹⁰ Development Plan, page 45

centre. The public realm and architectural treatments at this location should reflect the relative importance of this location.

The Development Plan indicates a clear link between the future train station and the conservation reserve adjacent to the site. The proposal does not show the link as clear and instead indicates pedestrian movement through a linear passive open space area at the front of the development.

Figure 4 The proposal and the Development Plan highlighting the pedestrian connection



Source: Produced by the Committee from [insert original sources]

(iii) Submissions

Council submitted that the pedestrian link needs to be consistent with Clause 56.06-1 (Integrated urban landscape objectives) and that the link needs to provide an opportunity to provide an attractive landscape setting in a public space that contributes to the character and identity of this new neighbourhood.

Council concerns¹¹ with Development Victoria's proposal include:

- The subdivision does not appropriately orient lots to support active street frontages where nominated in the Northern Town Centre plan.
- Street-based community interaction and pedestrian safety to the public space/pedestrian link has not been appropriately considered. This is demonstrated through lots siding on to the space and inadequate spatial consideration given to this in the overall layout.

The proposal does not orient lots to the pedestrian link and conceives it as a landscaped link as opposed to a more 'urban treatment', as shown in Figure 5.

¹¹ As outlined in the Council Delegate Report Document 2

Figure 5 Proposed pedestrian link treatment



PEDESTRIAN LINK BETWEEN PTC RESERVE & CONSERVATION RESERVE

Council concerns also include:

- The width of the Reserve created for the public open space/pedestrian link is insufficient to landscape in accordance with the Northern Town Centre plan and is inappropriate to service its intended function within the pedestrian network.
- The public open space nominated within the Northern Town Centre plan has not been appropriately created in the submitted plans. It is not wide enough to cater for the intended use and required landscaping and is not oriented or dimensioned to ensure that passive surveillance is achieved to the area.
- The public open space/pedestrian link has not been designed to achieve safety, efficiency or convenience. The dimensions are not appropriate for the level of pedestrians and cyclists that are intended to utilise the space and natural surveillance to the area has not been achieved.

Council's submission is that what the Northern Town Centre Plan seeks is the provision of a pedestrian boulevard through the Subject Land, by encouraging primary frontages to the link and sight lines through it. Council notes in its submission that the hatched grey area is nominated within the Northern Town Centre Plan as a 'Shared Streetscape Main Street' and states:¹²

The desired outcome is consistent with clause 21.08-1 (Urban design) of the Scheme which includes an objective to ensure new development in activity centres achieves high quality urban design outcomes. This objective includes a strategy 3.4 which is:

Support the urban design outcomes identified in the approved plans for ... the Aurora Town Centres and other activity centres.

Another objective of this policy is to design walkable communities, strategy 5.3 being:

Create a permeable, direct and well-connected pedestrian and cycling network between destinations including public transport stops, homes, services, schools and recreation spaces.

Council regard the proposed pedestrian link as being inconsistent with the Development Plan and submitted that there were sound urban design reasons for seeking this outcome and specifically identifying it on the plan. This treatment was intended to provide an

¹² Paragraphs 93 and 94, Document 46

activated, attractive main street setting which would be a community focal point, providing permeable pedestrian priority from the Conservation Area through to the Town Square.

Council submitted that the proposed plan will result in poor integration between built form and this public space, falling short of both the objectives of the Development Plan and Clause 56.06. Council insisted that the pedestrian link should form a focal part of the subdivision which embraces and seeks to provide activated frontages and prioritise the pedestrian scale.

Development Victoria responded that:¹³

- the pedestrian link will be easily accessible and will promote a permeable pedestrian network through the site and to adjoining land uses
- as dwellings are proposed to side onto this link, it is expected that upper floor windows will be provided which will assist in providing passive surveillance of this space to increase perceptions of safety
- no cross section or minimum width for the pedestrian link between the neighbourhood activity centre / railway station to the west and the conservation reserve to the east is specified in the Development Plan – *“the 6.5 metres specified is considered an appropriate width to allow this area to function as a comfortable pedestrian link and to accommodate appropriate landscaping”*
- the assumption of an in-cut railway line and station shaped the urban design thinking behind the town centre. In that scenario, the overhead link was important as it represented the sole connection point between the core town centre and this site.

(iv) Discussion and findings

Considering the plan for the Northern Town Centre as a whole, the Committee considers that the open space link has more to do with providing access from the proposed road to the station and providing space for an overpass over the rail line, than it does providing access from the town centre to the conservation reserve. Indeed, the Committee notes the Development Plan states in regard to conservation reserves:¹⁴

The primary purpose of these spaces is to protect and enhance areas of greatest ecological and / or cultural value. ...

Public access, once in public ownership, to some conservation areas will be restricted to protect significant habitat or other features. These spaces will be designed to allow access at the perimeter, in selected portions or on contained paths, which combined with an interpretative program, provide recreational benefit

The Committee also notes that the Northern Town Centre plan explicitly states some of the thinking behind the pedestrian link and this does not reference the conservation reserve:

Main streets are to be located to create viewlines between key civic and public transport nodes such as the potential future train station, library and community centre. The public realm and architectural treatments at this location should reflect the relative importance of this location.

¹³ Document 40

¹⁴ Development Plan, page 39

The Town Centre's focal point should be connected to Edgars Creek via a direct and obvious linear open space linkage through the western part of the Town Centre.

On the face of it, it is difficult to see why such a broad pedestrian link would be required to connect a conservation reserve, which will have only limited recreational value with the town centre. It seemed far more likely that the link was intended to connect the street network to the station in an inviting fashion. Given that the street has now been moved adjacent to the railway station, it would be appropriate for the Main Street pedestrian connection to stop at that street as an urban condition.

This does not mean there is no merit in providing connection to the conservation reserve, but this connection would be for people who wish to visit the conservation reserve from the town centre for its natural values. For this purpose, a landscaped link is appropriate.

From the round table discussions, it is clear that landscaped pedestrian connections are a feature of the approved development to the north of the activity centre, albeit with a requirement that they be widened to 10 metres. The landscaped pedestrian connection as proposed is consistent in style with other approved links within the immediate development area.

The Committee finds:

- The shared space pedestrian link shown on the northern town centre plan is a link between the access road from Harvest Home Road to the station, and activity centre. The proposed development does not prevent this link being provided in the future on the rail reserve land. In this regard the proposal is generally in accordance with the Development Plan.
- With the moving of the road from the conservation reserve side of the subject land to the rail reserve side of the subject land there is a need to provide an appropriate connection to the conservation reserve and the Committee finds that the proposed pedestrian link does this.

5.4 The provision of a mix of uses

(i) The issue

Council concerns (as recorded in the Delegate's Report) include:

The subdivision does not allow for the provision of a mix of uses and services ...

(ii) What does the Development Plan say?

The Development Plan says in Section 5.8:

Mixed Use buildings containing upper storey residential opportunities are strongly encouraged within the core Town Centre area, with particular focus around the potential future train station. One full line supermarket will be located to the south of Harvest Home Road with the potential for an additional smaller Supermarket adjacent or within the block located immediately to the east.

Clause 56 says:

Standard C3

A subdivision should implement any relevant activity centre strategy, plan or policy for the area set out in this scheme.

(iii) Submissions

Council submitted the character of each Town Centre in the Development Plan is expected to follow a number of guiding principles for consistency of approach, which specifically includes seeking a mix of uses in the Town Centres and the immediately abutting residential areas. Council was concerned that:

- the proposed subdivision layout locks in small, terrace lots that are not readily adaptable
- there is no future proofing this site and it highly reduces the ability for any meaningful redevelopment in the future which may be warranted as the rail infrastructure within the Northern Town Centre evolves overtime.

Council contended that mixed use buildings containing upper storey residential opportunities (such as shop-top or apartment buildings with commercial ground floor/residential second and third floor) are more appropriate in this location.

Development Victoria submitted:

- 7.1 The amount of land shown in the High medium density/ mixed use development in the Development Plan is extensive. It is clear from this that it is not the intention nor the expectation that mixed use development occur in all of these designated areas.
- 7.2 The strongest encouragement in the Development Plan for mixed use development is within the *core* of the town centre – the site is not in the core of the activity centre
- 7.3 In such a broad development area as that covered by this Development Plan, it is not the expectation that every site must be all things. The ability for each site to make its contribution to the overall objectives of the Development Plan must be considered in light of the constraints and opportunities posed by that site.

(iv) Discussion and findings

The Development Plan includes the notations across various plans:

- Anchor Retail
- Speciality Retail
- Commercial
- Commercial - Mixed Use
- Mixed Use - Commercial
- Mixed Use - Speciality Retail to Ground Floor
- Residential - High Density/Mixed Use
- Residential - Medium Density
- Residential - Standard Density.

The Committee notes that the Southern Town Centre specifically calls for:

Mixed-use buildings containing ground floor speciality retail units and upper floor residential uses are to be located along the northern side of the main street.

A mixed use building is located to the east of the public transport corridor which could accommodate ground floor retail, café or restaurant uses.

That centre identifies 'Mixed Use - Speciality Retail to Ground Floor' lots on the layout plan of the centre.

The Committee agrees that if the notation 'Residential - high density /mix use' is taken to mean a requirement for mixed use at ground level this would significantly expand the extent of the activity centre.

The guidelines for the Southern Town Centre are quite specific compared with the Northern Town Centre. It was clearly open to the drafters of the plan to specify a mixed use outcome if this was to be required. It would seem clear that the notation 'Residential - High Density/Mixed Use' is intended to specify high density residential and to allow or encourage but not require a mixed use component.

The Committee finds:

- The provision of mixed uses is 'strongly encouraged' but not mandated.
- The Committee notes that reuse of dwellings including terrace housing for commercial purposes is not uncommon in Melbourne and the use of the townhouses for non residential use is a matter of zoning as much as built form. The mixed use aspirations of this land may come to fruition once the transport link is provided.
- The proposed uses are generally in accordance with the Development Plan.

5.5 Housing diversity

(i) The issue

Council concerns (as recorded in the Delegate Officer's report) include:

The subdivision ... will result in a built form outcome that is similar to previous approvals in the surrounding area. As a result, a diverse range of housing types in the area is not able to be achieved and the subdivision does not facilitate an adaptable subdivision pattern that can facilitate the intended outcome in the future

(ii) What does the Development Plan say?

Section 5.2 of the Development Plan regarding housing includes:

- provide a greater level of housing diversity in order to facilitate a wider range of dwelling types, styles, forms and costs appropriate to the needs of the community and to maximise opportunities for entry into home ownership;

(iii) Submissions

The Council submitted¹⁵ that:

A fundamental principle of the Development Plan is the importance of diversified housing typologies, so much so it is one of the Development Plans fundamental guiding principles.

... By contrast, the proposal fails to offer a diversity of housing or efficiently use the land in the manner sought.

... what is being provided as a 'medium density' in most outer suburban subdivisions. In fact, the proposal for the Subject Land either mirrors the existing dwelling typologies that are available surrounding the site (east and west) or other recently approved applications with inferior strategic locations.

¹⁵ Document 46, paragraphs 114, 116 and 118

Development Victoria submitted¹⁶:

Council indicated in its delegate's report that this proposal does not contribute to housing diversity because there is a high quantity of similar townhouse development in the area. It is likely that this is because town houses are an affordable housing product which do provide an affordable alternative to conventional residential development. Presumably this was considered by Council when these other proposals were considered to be consistent with the Development Plan and approved.

Townhouses are an affordable housing option which are deliverable at this point in the development cycle and, unlike apartments, will fulfil an immediate need for affordable housing. The proposal offers a range of lot sizes which will contribute to the diversity of the offering and cater to the needs of a variety of home buyers. This is encouraged in the Development Plan at clause 5.1.3(e) which states that '*A diversity of lot sizes can assist in providing choice and an opportunity for a variety of dwelling and household types*'.

(iv) Discussion and findings

The Development Plan seeks density and diversity of housing. This is not diversity for its own sake, but to cater for a wider cross section of housing needs and to serve *"the needs of the community and to maximise opportunities for entry into home ownership"*. It seems to the Committee that the proposal provides an alternative dwelling type to conventional suburban development – namely townhouses on small lots. These are an alternative to the conventional lots, but also an alternative to the indicative townhouse lots. They are not apartments, but the Development Plan mentions apartment-style development as a possible diverse form, not the only diverse form sought.

Diversity does not mean every development has to be different from every other or that every typology is represented: it means that there is a range of housing *"types, styles, forms and costs"*. The proposal is clearly part of a diverse range of options offered in Aurora, and the fact that there are other similar developments does not mean that this proposal will not contribute to diversity. What would show a lack of diversity was if the proposal was the same as all other developments not just a selection of nearby developments.

The Committee finds:

- The proposed housing mix is generally in accordance with the Development Plan.

5.6 Lot sizes and dimensions

(i) The issue

Are the lot sizes appropriate?

(ii) What does the Development Plan say?

Section 5.1.3 of the Development Plan specifically address a number of subdivision design considerations relating to lot size and dimensions. It states:

... The majority of lots will be in the range of 300 to 500 square metres, however there will be opportunity for smaller lots (180 to 300 square metres) to be located close to facilities such as public open space.

¹⁶ Document 48, paragraphs 4.5 and 4.6

...

Car parking to all dwellings will be provided in accordance with the requirements of the Scheme. Double garages at the main street frontage will be only provided generally where the lot width is 12.5 metres or greater. Single garages at the main street frontage will be provided generally where the lot width is less than 12.5 metres

(iii) Submissions

Development Victoria provided an assessment of how the proposed lots aligned with the indicative lot dimensions.

Table 1: Proposal response to lot size parameters

Indicative Lot Width	Proposed Lot Width (m)	Indicative Lot Depth/	Proposed Lot Depth (m)	Number of lots on plan (Percentage)
North-south lot with front access (garage at main street frontage)				
10.5+	7.4	25+ on north side 28+ on south side	27	12 lots (13%)
North-south lot with rear access (garage at rear on access lane)				
6.5-10.5 Minimum 9.5 on corners	6.5	30+ on north side 32+ on south side	25.8	41 lots (46%)
East-west lot with front access (garage at main street frontage)				
12.5+ Minimum 10.5 with single garages and duplex houses	8	25-32	21	12 lots (13%)
East-west lot with rear access (garage at rear on access lane)				
Min 7.5	7.8	30-32	22.4	24 lots (27%)

According to Council, only 24 of the 89 proposed lots have an area greater than 180 square metres, while 33 of the lots are of an east/west orientation. This is clearly at odds with Sections 5.1.3(e) and (f) of the Development Plan and Council considers that these outcomes will result in poor urban design and amenity outcomes.

Council acknowledged that the parameters shown were indicative, but submitted that there was a stark difference between what is indicated and what the proposal would deliver. It said that it was not the intention that the density targets would be achieved in the form of the proposed subdivision. Rather, as informed by Section 5.8(b) of the Development Plan, mixed use buildings containing upper storey residential are intended to achieve the desired density.

(iv) Discussion and findings

The Committee notes that the Development Plan states (5.1.2) that:

... it is intended to provide alternative dwelling types, including apartment-style housing, at a denser level than that noted above. ... This range of lot sizes and densities will reinforce the range of housing options throughout Aurora.

The lot sizes in the Development Plan are clearly stated to be indicative and relate to the ease of achieving six star energy rating. There is nothing to say they are a requirement. Town houses on smaller lots are clearly an alternative housing product. Whether the lots can deliver an acceptable housing outcome is addressed in the next section.

There is some reference to garage widths related to lot widths and this can be taken to be a concern about streetscape presentation. The Committee notes that the townhouses are proposed to be two storeys and as such the impact of the garages will be lessened in the overall presentation to the street.

The Committee finds:

- The proposed lots sizes are generally in accordance with the Development Plan.

5.7 Can the lots be developed with an acceptable housing outcome

(i) The issue

The permit application included permission to construct dwellings on lots less than 300 square metres. Council sought further information on this issue. Council considered that the lack of more detailed information meant that Development Victoria was no longer pursuing this permission. At the round table discussion, it became clear that Development Victoria was seeking permission to construct dwellings on lots of less than 300 square metres and had not formally amended the application to remove this part of the application.

As such, this element of the application is still before the Committee even though the Committee notes that it has not been part of the general description in this matter to date.

At the round table discussion, Development Victoria made it clear that it intended to rely on the material presented to date.

The issues before the Committee is this: is the material presented to date in conjunction with an appropriate planning permit condition sufficient to give confidence that appropriate housing outcomes can be delivered on the lots as proposed.

(ii) What does the Development Plan say?

The Development Plan (Provision 7.2 on page 76) specifies the following varied approach to achieving a preferred neighbourhood character.

- Reduced minimum front and side street setbacks of dwellings.
- Increased maximum building height of dwellings.
- Increased maximum site coverage of dwellings.
- Increased maximum length and height of new boundary walls.
- Increased minimum setback of north-facing, ground floor, habitable room windows from the north boundary of lots.
- Reduced minimum amount of private open space for a single dwelling on a lot to equate with the minimum amount of private open space for two or more dwellings on a lot.

(iii) Submissions

In its letter of 15 September 2020,¹⁷ Council advised that its practice for the past three years including all recent subdivision permits issued in Aurora:

- requires a Memorandum of Common Provisions (MCP) be prepared to respond to particular design guidelines and the building regulations, while allowing for some variations to be applied for
- requires approval of the MCP before the certification of the Plan of Subdivision, and
- allows for approval of the construction of dwellings on the lots to follow under the 'Fast Lane' planning permit application process.

Importantly, this process still requires an applicant to apply for a planning permit to construct a dwelling on a lot less than 300 square metres and applicants can do so under Council's Fast Lane process. With the MCP in place, as explained by Council at the round table, the Fast Lane approval process can occur in 15 days.

In Council's experience the 'concept plans' submitted under previous processes required a significant number of secondary consent applications as building designs for lots changed. Council advised that, in any event, this process never allowed a blanket approval with only building envelopes considered. Rather, the full approval process was deferred to the subsequent approval of plans under conditions. Council has grave doubts about the validity of such a process as the planning permit is inherently uncertain in that as at the date of the grant of the permit, one has no idea about the development being permitted.

The development of Council's Fast Lane process was a direct response to resolving the constant issues and problems that these historic permits based on concept plans created. In regard to the previous concept plan process, Council stressed:

We cannot emphasise enough how poor a process it was.

Council confirmed that its current process for a combined construction of dwellings/subdivision application would include a full set of architectural plans, as well as a Sustainability Management Plan and Green Travel Plan in accordance with Council's environmentally sustainable development policy.

Development Victoria submitted in its letter of 21 September 2020:

The Committee had the benefit of hearing from Mr Collie about the proposed process during the roundtable. [Development Victoria] relies on that submission but makes the following corrections to the information provided by Council:

- Council refers to concerns about 'concept plans'. [Development Victoria] notes that full plans for each of the dwellings have been provided. The only part of the plans which are 'indicative' are the building renders.
- The Advisory Committee has before it an application for buildings and works (together with subdivision and removal of native vegetation). [Development Victoria] does not wish to seek individual approval of each of the dwellings under Council's Fast Lane process and, it is not what has been applied for ...
- Council misunderstands that the purpose of the approved building envelopes is to approve building envelopes in accordance with the Building Regulations with the intention of varying clause 54 and 55 (as applicable) requirements and is a process specifically contemplated in section 7.2 of the Development Plan. The

¹⁷ Document 52

memorandum of common provisions is merely the mechanism for ensuring the approved building envelopes as required under the permit, are included in the material provided to Land Victoria to be incorporated on titles.

[Development Victoria] does not agree to Council's amendments to Condition 8 and continues to support [Development Victoria's] proposed wording for that condition

(iv) Discussion and findings

The requirement for a planning permit for a dwelling on a lot less than 300 square metres (or 500 square metres) is a provision that applies across all of Victoria. Requiring a planning permit ensures that an appropriately designed dwelling is constructed, especially in relation to impacts of neighbours. This case is somewhat different – this is a new subdivision where all the lots are less than 300 square metres. This is not an infill development of a small single dwelling or a multiunit development amongst existing houses.

The issue is how to ensure that the dwellings are of an appropriate design. The Committee thinks that this question plays out differently in a growth area with a developer such as Development Victoria. The Committee has reviewed the plans of the dwellings submitted as part of the application.

The Committee accepts Development Victoria's approach that the permit include permission for the dwellings and that building envelopes be included on the plan of subdivision. This would seem an approach that is explicitly contemplated by the development plan and would not seem to need secondary consent applications.

The Committee finds:

- the material presented to date is sufficient to give confidence that appropriate housing outcomes can be delivered on the lots with the subject land
- permit should allow for construction of dwellings on a lot less than 300 square metres.

5.8 Housing affordability

(i) The issue

The issue is whether the proposal provides for adequate housing affordability.

(ii) What does the Development Plan say?

The Development Plan notes on page 13:

Greater dwelling choice, including smaller dwellings, also creates the opportunity for existing family and social networks to remain intact by encouraging the families and friends of the traditional occupiers of new developments - young couples and families - to join them. This contributes to the social and cultural diversity aspects of sustainability.

The guiding principles (section 4.1) and housing objectives (section 5.2.3) of the Development Plan specifically seek to deliver affordable housing in Aurora.

(iii) Submissions

Council submitted that the Development Plan supports what is now Clause 16.01-4S of the Planning Policy Framework which seeks to deliver more affordable housing closer to jobs, transport and services. One of the strategies to achieve this in Clause 16.01-4S is by:

Increasing choice in housing type, tenure and cost to meet the needs of households as they move through life cycle changes and to support diverse communities.

Council submitted that it is unclear how the objective of delivering affordable housing is achieved through this proposal. Additionally, Council submitted that affordable housing should not come at the expense of poor amenity and planning outcomes for its residents.

Development Victoria submitted that it is the Victorian Government's primary property developer. It has a legislative duty to deliver Victorian Government policies on affordable and diverse housing and urban renewal, and to demonstrate best practice. Housing affordability is a critical issue and Development Victoria plays an important role in addressing this issue by accelerating the supply of affordable housing to the market. It submitted:

Development Victoria has undertaken price point analysis based on recent market results and has determined that the entirety of the 89 lots would achieve 100 per cent affordability for moderate income earners and almost 20 per cent for low income families based on the *Planning and Environment Act 1987* affordability thresholds.

(iv) Discussion and findings

The Committee accepts the market research underpinning the submission of Development Victoria that the development as proposed will provide for affordable housing. The Committee does not accept that poor amenity outcomes will result at the expense of the proposed affordability outcomes of the development.

The Committee finds:

- The proposal will deliver affordable housing. In this regard, the proposal is generally in accordance with the Development Plan.

5.9 Amenity impacts on residents close to a future railway and station

(i) The issue

Council concerns (as recorded in the Delegate's Report) include:

It is unclear at this time if the development of the land provides an appropriate outcome for this location as the ultimate grade separation of the railway is not certain. Nevertheless, inappropriate provision is able to be made through any potential subdivision permit to minimise the amenity impacts on residents in such close proximity to a future railway and station.

(ii) Submissions

Development Victoria responded (in Document 40):

It is unknown when the rail corridor will be delivered and as such, it is unreasonable to expect the subdivision to provide noise attenuation measures for infrastructure that may be many years away from being delivered. It is the expectation therefore, that any development of the rail corridor will include noise attenuation measures to provide adequate protection to the amenity of existing dwellings.

(iii) Discussion and findings

It is not clear what might be required to address this issue. Clearly, residential development abutting rail corridors is common. If there is an issue to address it would be acoustic protection to the residences, but in the absence of any information about what is proposed for the transport corridor (it might be a busway or a railway or something else) there is no justification for any requirements on this proposal.

The Committee notes that Development Victoria advised at the round table discussion that the dwellings would be double glazed, primarily for energy reasons, but that this will reduce potential noise intrusion.

The Committee finds:

- There is no reason to refuse the proposal due to amenity impacts of the proposed rail corridor.

5.10 Street widths

(i) The issue

The issue is whether the proposed street widths are adequate.

(ii) What does the Development Plan say?

Section 5.1.3 of the Development Plan specifically address a number of subdivision design considerations relating to streets, including laneways.

Clause 5.1.4(e) of the Development Plan provides that the intent of the landscape approach to access lanes is to provide clear and safe access for pedestrians, cyclists and motorists.

Indicative cross sections are provided at Clause 5.12.5(b) and describes typical rear access lanes as 6.4 metres wide to allow for garages with 4.8 metre wide doors and an internal depth of 6 metres to be constructed on the property boundary with the lane.

(iii) Submissions

Council submitted¹⁸:

Council is broadly satisfied with the street widths shown, with the exception of the proposed access lane widths and the reservation of Growling Crescent which condition 1c) seeks to increase to ensure all services can be accommodated.

Laneways are shown at 7 metres wide. Council Standard Engineering Requirements indicate that laneways must be a minimum of 8 metres wide to accommodate public lighting as they are over 60 metres in length. Laneways over 60 metres in length are considered to be unsafe without appropriate public lighting.

Development Victoria submitted that it relied on the traffic impact assessment prepared by TTM dated 17 January 2020¹⁹. Development Victoria also relied on the correspondence from TTM dated 7 September 2020 in relation to permit conditions related to traffic matters (TTM Conditions Response)²⁰.

¹⁸ Document 46, paragraphs 128, 129

¹⁹ Document 37

²⁰ Document 50

Development Victoria submitted that it understands that Council has concerns in relation to the following street widths:

- **Street B (Growling Crescent)**
This street is currently shown as 11.23 m and Council consider that a width of 12.05 is required to cater for services.
- **Laneways:**
are currently shown as 7 metres and Council considers that a width of 8 metres is required

Development Victoria presented a cross section which illustrated that a 11.23 metre width is sufficient to cater for services (save for telco services – which are not uncommonly located in footpaths).

(iv) Discussion and findings

Any increase in street widths will be at the expense of the depths of the residential allotments. The lots need to run east-west so they front the conservation reserve and the rail corridor. Widening the lane or Growling Crescent will reduce the lot sizes.

The issue is the location of the telecom service under the footpath and the desire to avoid pit lids in the footpath paving. The Committee was told that the approach to servicing proposed by Development Victoria was consistent with the balance of the Aurora development.

In this situation, the Committee does not think that the widening is appropriate when balanced against the potential for slightly deeper lots.

It is not clear to the Committee why a lane needs to be widened by 1 metre along all its whole length to accommodate lighting. The Committee specifically asked Council at the Round table discussion why it was necessary to widen the lane and the response was couched in terms of it being Council policy. Council did not articulate a specific functional reason.

In terms of garbage collection, again, it is not clear why 8 metres is required to accommodate this function. The Committee is aware of many streets in inner Melbourne where the width between parked cars is significantly less than 8 metres, and yet garbage is collected.

The Committee finds:

- The lanes and Growling Crescent do not need to be widened. The widths are generally in accordance with the Development Plan.

5.11 The L-shaped lane

(i) The issue

Council concerns (as recorded in the Delegate's Report) include:

- Further, the L-shaped laneway within the south of the site does not provide for the safe and efficient collection of waste and recycling materials from lots.

The Delegate's Report does not detail why this is the case.

(ii) What does the Development Plan say?

Section 5.1.3 of the Development Plan (page 25) specifically address a number of subdivision design considerations relating to laneways including:

While the density and urban design benefits of access lanes are clear, they will be designed carefully to ensure safety and security. The access lanes are relatively short in length and provide no 'hiding places' that would compromise personal security. Careful attention to lighting will ensure clear views at night through the access lanes.

(iii) Submissions

Development Victoria acknowledged that Council does not support the use of an L-shaped lane. Development Victoria submitted that because the eastern edge of the laneway adjoins the conservation reserve the land is not a typical L-shaped lane. In particular, it joins the part of the conservation reserve which will developed as well-lit, landscaped open space.

(iv) Discussion and findings

The Committee understands the issue of safety and functionality in L-shaped lanes however in terms of the proposed L-shaped lane it will have clear sightlines along both its lengths from each end. The short section will be visible from the conservation reserve and the pedestrian paths proposed within this section of the conservation reserve and the southern East West section will be visible from each end.

The Committee finds:

- The L-shaped lane is an acceptable outcome in the proposed context.

5.12 Lots with sides to the conservation reserve**(i) The issue**

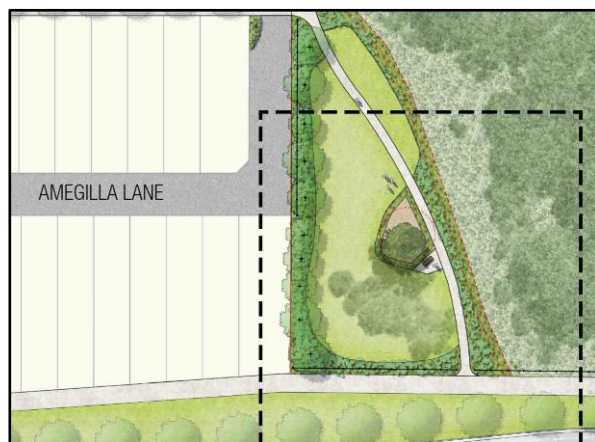
The issue is whether the lots proposed adjoining the conservation reserve are in accordance with the Development Plan.

Figure 6 Extract landscape master plan showing lots with side to conservation reserve

Northern lot



Southern lot

**(ii) What does the Development Plan say?**

The Development Plan states under section 5.5.4 that:

As a matter of principle all conservation areas will have a road frontage, however, where Council agrees otherwise a 4 metre paper road frontage is required, which includes a 1.5 to 2.5 metre path and landscaping.

(iii) Submissions

Development Victoria submitted²¹:

The proposal achieves general compliance with 5.5.4 of the Development Plan which seeks to have a road frontage to all conservation reserves. The requirement is met for all lots except two.

The ability to comply wholly with this requirement is affected by the shape and location of the conservation reserve.

It is not proposed to introduce paper roads adjacent to these two lots on the basis that no services are proposed in those locations.

(iv) Discussion and findings

The allotment is a relatively narrow development parcel between a railway reserve and a conservation reserve it is not possible to orient lots to the conservation reserve, rail reserve Harvest Home Road and other connecting streets. The Committee believes that the lot layout strikes an appropriate balance between providing casual surveillance to the reserve balanced against the desirability for lots to front the streets.

In respect of the required 'paper road', the purpose of this seem to be not just for services but for an access path. With respect to the proposal this is not required adjacent to the southern lot with its side to the conservation reserve, because an access path is proposed further into the reserve. In terms of the northern lot, it is not clear where such a path would connect to given the development to the east is unresolved.

The Committee finds:

- The lot orientations are acceptable and general in accordance with the Development Plan.
- There is no need for a paper road along the side of the lots with a side to the conservation reserve.

5.13 Harvest Home Road intersection

(i) The issue

The configuration of the intersection with Harvest Home Road is not agreed.

(ii) Submissions

Access from Harvest Home Road

Council submitted²²:

The Permit Application proposes full directional access into the site from Harvest Home Rd. To achieve this, it proposes changes to the existing service road to the south of Harvest Home Rd which would impact the existing access arrangements of

²¹ Document 48, paragraphs 14.1 – 14.3

²² Document 46, paragraphs 102, 103

residents to the south. Currently, residents can enter and exit Whitelight Avenue. In the proposed ultimate scenario (providing full directional access to the Subject Land), they would only be able to exit. The service lane between Whitelight Av and Efficient Street is currently 2-way and in the ultimate would be one way.

Ultimately, any changes that would alter the current traffic arrangements if undertaken by Council would require community consultation and as such Council would require the same approach if developer-led. As such, as noted in the Delegate Report (reflected in condition 1b), Council does not support full access to the site from Harvest Home Road at this time.

(iii) Discussion and findings

The Committee agrees with the observations from TTM Traffic that a left in, left out arrangement could result in the need for U turns on Harvest Home Road. The Committee accepts submissions that change to access arrangements are part and parcel of what happens during the development of new subdivisions.

In any case, this is not something that should be mandated by the permit conditions. If indeed a left in, left out intersection is the best traffic arrangement then this should be what is built. There is simply not enough information at this stage to definitively require a left in, left out intersection as part of this process.

The Committee finds:

- The permit should not require a left in, left out arrangement at Harvest Home Road.

6 Permit conditions

Council circulated a ‘without prejudice’ version of draft conditions before the round table discussion. At the round table discussion, there was a discussion over changes that were sought by Development Victoria. For a number of proposed changes, Development Victoria conceded that the condition may not need to be deleted but might require rewording. Council was given seven days after the round table discussion to provide alternative wording to Development Victoria. Council provided its revised permit conditions in response on the 15 September 2020.²³

1. Subdivision and Staging Layout Pan

Development Victoria sought the deletion of:

- a) A sequential staging plan showing the order of the subdivision and corresponding timing of works internal and external to the site
- b) The intersection to Harvest Home Road/Wanderer Drive to be nominated as left in and left out
- c) Growling Crescent to be nominated with a minimum width of 12.05 metres to accommodate all services including gas, water, recycled water, electrical, optic fibre and storm water drains behind kerbs (500mm C/C)
- d) A 3 metre wide ‘strip’ abutting the conservation reserve and southern site boundary to be nominated with a minimum width of 4 metres to accommodate services (paper road)
- e) Lots with rear access on corners to be nominated with a minimum lot width of 9.5 metres in accordance with Section 5.1.3(f) of the Aurora Development Plan Part 2
- f) All laneways nominated with a minimum width of 8 metres to allow for lighting

At the round table discussion the Council agreed to the deletion of ‘d’ and ‘e’.

The Committee agrees to the deletion of:

- point ‘a’ as it is not intended to subdivide the land in stages.
- point ‘b’ because it does not consider that Harvest Home Road should be mandated as a left in left out intersection as discussed in Chapter 5.13
- point ‘c’ for the reasons set out in Chapter 5.10
- point ‘f’ for the reasons set out in Chapter 5.10.

In its 15 September version Council sought to update the points dealing with access points, native vegetation and tree protection. Development Victoria submitted that condition dealing with access points should be relocated with changes to new Condition 3. The Committee agrees with the location, but thinks it is still worth pointing out the need to deal with the treatment of the public/private road transition at the boundary of the adjoining the retirement village site to the north.

Development Victoria did not dispute the points dealing with native vegetation and tree protection.

²³ Document 53

2. Arborist Report

Development Victoria sought a change to the condition requiring the submission of an arborist report to be before the issue of a statement of compliance. At the round table discussion, it was agreed that before the certification of the plan was appropriate.

In its 15 September version Council sought to update the condition. Development Victoria submitted on 21 September that it agrees with Council's changes.

3. Functional Layout Plan

The Committee agrees to the deletion of point 'j' relating to car parking as it is requiring provision in excess of the Planning Scheme.

At the round table discussion, it was agreed that the functional layout plan condition point 'k' or to refer to road network being designed for an 8.8 metre design service vehicle and checked for a 12 metre designed service vehicle. Development Victoria submitted that traffic advice from TTM is that a swept paths for laneways are appropriate if designed for a 6.4 metre long 'small rigid vehicle'. The Committee understands that one of the factors at issue here is the method of rubbish collection; if the lane is to be used for rubbish collection then the Committee understands that it may need to be serviced by a larger vehicle. The TTM advice states:

In this case there is neither intention nor need for garbage collection in any of the lanes because all lots have frontage to a more suitable street. The longest rear access lane, between Growling Street and Sugarloaf Circuit, has a mid-block footpath reserve crossing it and a street lighting pole can be placed just within the reserve, to provide light to the lane. Residents of terrace lots with rear lane access will be able to take bins from the rear garages along the lanes to a bin point on the connecting street, with walk distances not exceeding about 40 metres

Point 's' deals with the situation where roads that are intended to connect to an adjoining subdivision terminate at the boundary before the adjoining road is constructed. The Committee agrees there is no need to specify designs for turnaround treatments at the termination of roads as the relevant road is short and there is no real prospect that somebody would enter this road without knowing that it was a dead end.

Development Victoria initially sought the deletion of point 't' at the round table discussion. Development Victoria agreed that there was a need for a functional layout plan of the design of the intersection of Wanderer Drive / Harvest Home Road but that it should not specify left in left out treatment.

7. Restriction on Plan of Subdivision – Design Requirements

The Committee does not support the proposed condition 7 relating to design requirements.

The Committee was told that these requirements were for amenity reasons. It seems to the Committee that they are not so much for amenity but for a particular character or design outcome. They do not seem to go to issues of amenity in terms of overshadowing or overlooking. Sheer two storey walls are not inappropriate in an activity centre.

8. Management of Bushfire Buffers on Adjoining Land

The permit requires the owner of the land entered into a section 173 agreement with abutting land owners to deal with the maintenance of adjoining land as low threat land for bushfire buffer purposes. Development Victoria sought for these agreements to be before the issue of the statement of compliance.

Council advised that in their experience these agreements can be time consuming to negotiate and that it is better for them to begin earlier in the process.

The Committee does not disagree that they may be time consuming and thus Development Victoria ought to start these negotiations as soon as it can. However, there is no need for this to be completed before compliance. If these take time then it is appropriate that the last potential point they are required is specified in the permit.

9. Restriction on Plan of Subdivision – Building Envelopes

In its 15 September version Council sought to revise the condition to accord with its current process. This is discussed in Chapter 5.7.

Council also sought to include the following:

- c) require that the side wall of the first level of any dwelling on a corner lot not be constructed less than 900mm from the ground level wall that faces a side street, except where a suitable alternative design response is provided for within the MCP and indicated on the associated building envelope plan;
- d) require that any garage must not be constructed less than 5 metres from the road alignment at the front of the lot

For the reasons set out above the Committee does not support these provisions.

10. Kangaroo Management Plan

The permit requires the appropriate management of kangaroo populations on the subject land.

Council advised that the Department of Land, Water and Planning do not want to be responsible for approval of Kangaroo Management Plans made under conditions of permits outside of a PSP process. In its 15 September version Council sought to revise the condition to reflect this. Development Victoria does not agree with the proposed rewording of this condition.<sup>[L]
[SEP]</sup>

Development Victoria, in response to the Council wanting to maintain the Kangaroo Management Plan condition, submitted on 21 September²⁴ that the Kangaroo Management Plan condition ought to be deleted on the basis that:

There is no statutory or planning basis for the imposition of the condition.

DELWP have not requested the condition be imposed and, in fact, have indicated to Council that it does not seek to be the agency which 'signs off' on any Kangaroo Management Plan where there is not statutory obligation to do so. DV would also query whether Council has the requisite expertise to review and approve such a plan.

Council's RFI on this issue stated:

²⁴ Document 54

A Wildlife Officer from the Department of Environment Land Water and Planning has informed Council that a group of approximately 250 landlocked kangaroos are using the subject [land]. The Secondary College to the north have lodged an application for a permit to control the group, and DELWP have advised we must undertake any control works together with all the property owners within this area addressing this matter. In considering this request, a Kangaroo Operations Plan is required to be submitted. [SEP] Council's approach misrepresents DELWP's proposal to tackle the issue on a precinct wide basis, rather than a site by site basis.

DV relies on the advice from Biosis dated 12 December 2019 (document 26) which states that kangaroo management is not a site specific issue. The advice recommends:

To successfully manage the landlocked kangaroo problem within the Aurora Development Biosis recommend the following:

- *Collaborate with all large land holders within the Aurora Development (Development Victoria, Lendlease, Hexa Group and the Secondary School).*
- *Preparation of a Kangaroo Management Plan (referred to as a Kangaroo Operations Plan in the council letter) which will outline the management specifications*
- *Undertake population surveys of the group located at Aurora (needed for the management plan and to determine control numbers etc.).*
- *Apply for Authority to Control Wildlife (ATCW) to implement plan/ work under the schools permit (discussion with the school and DELWP needed).*
- *Undertake management.*

Management actions could include:

- *Culling*
- *Fertility control.*

[Development Victoria] is fully prepared to participate in and make a financial contribution towards the preparation of a Kangaroo Operations Plan and will continue to liaise with Council on this issue.

However, it is submitted that the measures to manage kangaroos are outside the scope of this planning permit and, as a result, a requirement for DV to prepare a Kangaroo Management Plan should not be imposed as a condition of this permit.

The Committee agrees that the issue of kangaroo management is broader than one permit application, however is not convinced that the deletion of a condition that allows the matter to be addressed is appropriate. The Committee considers Council's revised conditions which they state are similar to other Aurora development permit conditions regarding kangaroo management should be included in the permit unless an existing Kangaroo Management Plan for the Aurora development exists and is being implemented.

The Committee agrees with Council that the condition allows for an appropriate management regime.

Plain English

In the interests of consistency and plain English in conditions (except referral authority conditions) the Committee has replaced:

- 'shall' with 'must'
- 'prior to' with 'before'
- 'commence' with 'start'.

Numbering

To make it easier to reference deleted conditions, the Committee has not renumbered the permit conditions. This will need to be done before any permit is issued.

Conditions may also need to be reordered so that they are located under the correct heading in relation to the approval stages of the subdivision.

7 Reasons and recommendations

The critical issue in this matter is whether the proposed town house development is in keeping with the Aurora Development Plan.

The Committee considers that, while apartment style development with ground floor mixed uses would be supported by the Development Plan, it is not a requirement of the Development Plan.

The proposal will provide affordable housing and contribute to the diversity of housing n offer in the growth area.

In terms of the layout of the proposal, the Committee finds that the layout of the proposal is generally in keeping with the Development Plan. The critical issue is the treatment of the extension of the proposed main street in the Northern Town Centre. Although described as a connection between the town centre and the conservation reserve, the Committee believes that a more accurate reading of the development Plan is that it is a link between the access road from Harvest Home Road to the station and because that access road has shifted to the west the termination of the main street can also shift to the west.

In relation to whether the permit should include permission for dwellings on lots less than 300 square metres the Committee considers the process outlined by Council whereby the permit requires a MCP and subsequent permits for the dwellings are delivered by Council's 'Fast Lane' process is not appropriate for this application.

The Committee considers that the proposal can be supported, and a permit should issue, given:

- the broad policy support around increasing densities around activity centres
- the provisions in the Development Plan
- the ability of the proposal to deliver affordable housing in a location that will have good access to facilities
- the response of the layout to a relatively constrained site between an conservation reserve and transport corridor.

Appendix A Priority Projects SAC 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 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.
- 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.
- 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: MBR042888



Dear Ms Mitchell

REFERRAL OF CALL IN OF VCAT PROCEEDING P803/2020 – 286 HARVEST HOME ROAD, WOLLERT (AURORA) TO THE PRIORITY PROJECTS STANDING ADVISORY COMMITTEE

I refer to VCAT proceeding no. P803/2020 relating to the proposed use and development of land for a multi-lot subdivision (89 lots), including creation of reserve, removal of native vegetation in a Vegetation Protection Overlay Schedule 2 and associated buildings and works. The project was referred to me by the Building Victoria's Recovery Task Force.

I advise that I have decided to call in the proceeding from the Victorian Civil and Administrative Tribunal (VCAT) under Clause 52(2)(a) of the *Victorian Civil and Administrative Tribunal Act 1998* and refer the matter to the Priority Projects Standing Advisory Committee for advice on whether a planning permit should be issued, and if so, the appropriate permit conditions.

The Whittlesea City Council issued a notice of decision to refuse a permit on 20 March 2020, and the applicant lodged an appeal on 13 May 2020 to review the decision of the responsible authority. There are two parties to the VCAT proceeding. A compulsory conference was scheduled for 8 September 2020 and the hearing date is scheduled for 12 November 2020.

The cost of the committee will be met by the applicant, Development Victoria.

Supporting information will be provided to assist the advisory committee.

If you would like more information, please contact Jane Homewood, Executive Director, Statutory Planning Services, Department of Environment, Land, Water and Planning, on (03) 8683 0975 or email jane.homewood@delwp.vic.gov.au

Yours sincerely

HON RICHARD WYNNE MP
Minister for Planning

09 / 08 / 2020

Appendix C Document list

No.	Date	Description	Presented by
1	18 08 20	Notification letter with the following attachments: - Letter of referral - Terms of Reference	Ms Thomas, PPV
2	"	Delegate Report	Ms Higgins, Council
3	"	Request for further Information to Applicant 18 06 19	"
4	"	Letter to Applicant - Outstanding Information - Second RFI 06 09 19	"
5	"	PNPE2 Table - Orders 8 & 9 - P803 2020	"
6	"	Attachment 1 - Notice of Refusal	"
7	"	Attachment 2 - Zoning Map	"
8	"	Attachment 3 - List of Names & Addresses for Notice	"
9	"	Locality Plan - Attachment 3	"
10	"	Order 7 - Notice Details	"
11	"	Referral - APA- 718576 - 52a Eaststone Avenue, Wollert	"
12	"	FW Referral - Aurora estate - 52a Eaststone Avenue, Wollert	"
13	"	CFA response - 52a Eaststone Avenue, Wollert 718576	"
14	"	Email - Response to application for Planning permit for development - MWA-1137353 - 52A Eaststone Avenue, Wollert	"
15	"	Planning Referrals Section 55 52A Eaststone Avenue, Wollert Delegate Response 718576	"
16	24 08 20	Further directions	Ms Thomas, PPV
17	27 08 20	Lot Layouts & Building Envelopes 20 01 20	"
18	"	Revised Subdivision Layout 20 01 20	"
19	"	Streetscapes 20 01 20	"
20	"	Indicative Development Plans 20 01 20	"
21	"	Aurora M6 Concept Layout - Mark-up plan 3 01 02 19	"
22	"	Plan Notations for IV16 DV site 31 01 19	"
23	"	Referral Response of 52a Eaststone Avenue Strategic Planning	"
24	01 09 20	Email Letter to PPV	Ms Eastaugh, Maddocks
25	"	Draft Conditions - 286 Harvest Home Road, Wollert	

No.	Date	Description	Presented by
26	"	Kangaroo management RFI response – Biosis letter 12 12 2019	Mr Knight, Development Victoria
27	"	VCAT Application for Review to the Major Cases List	"
28	"	Whittlesea Council – Application not supported email 10 03 2020	"
29	"	Aurora Conservation Reserves Net Gain Tracking Report 2019 – Biosis Version 8	"
30	"	Aurora Lobed Needle Grass Management Plan – Biosis April 2019	"
31	"	Aurora - 52A Eaststone Avenue, Wollert – Whittlesea Council Delegate Report	"
32	"	Aurora M6 - Email correspondence between DV and Whittlesea Council	"
33	"	Aurora M6 Ecological Values and Constraints Report – Biosis 17 05 2019	"
34	"	Aurora M6 Landscape Masterplan – MDG 24 04 2020	"
35	"	Aurora M6 Site Context Plan – Collie 12 12 2019	"
36	"	VCAT Lodgement Letter – Norton Rose Fulbright 13 05 2020	"
37	"	Aurora M6 - Lot B, 360Q Harvest Home Road, Epping North - Traffic Engineering Report – TTM Consulting 17 01 2020	"
38	"	VCAT Orders 01 06 2020	"
39	"	Aurora - 52A Eaststone Avenue, Wollert – Whittlesea Council Refusal to Grant a Permit	"
40	"	Response to the grounds of refusal prepared by Mike Collie of Collie Town Planners	"
41	"	Proposed memorandum of common provisions for approved building envelopes under Part 5 of the Building Regulations.	"
42	"	Aurora M6 Development - Planning Permit Application 718576 - Council Officer Delegate Report	"
43	"	Aurora M6 Development - Planning Permit Application 718576 - Email from Joe Carbone Whittlesea Council CEO 21 04 20	"
44	02 09 20	Letter from Chair, PPSAC regarding proceedings	Mr Townsend, Chair PPSAC
45	04 09 20	Email of additional matter to be addressed by Council	Ms Eastaugh, Maddocks

No.	Date	Description	Presented by
46	07 09 20	Council submissions	Ms Olivia, Maddocks
47	“	Draft Conditions of permit with Development Victoria’s mark-up	Ms Kaczmarek, SC Norton Rose Fulbright
48	“	Development Victoria submissions	“
49	“	Attachment A Aurora M6 Site Context Plan	“
50	“	TTM conditions response	“
51	08 09 20	Council - notated Plan of Subdivision	Ms Olivia, Maddocks
52	15 09 20	Email Letter to Chair, PPSAC	Ms Eastaugh, Maddocks
53	“	Draft Conditions - 286 Harvest Home Road Wollert	“
54	21 09 20	Email Letter to Chair, PPSAC	Ms Kaczmarek, SC Norton Rose Fulbright
55	21 09 20	Development Victoria’s revised changes to Council’s final draft conditions	“

Appendix D Grounds of refusal

1. The subdivision is inconsistent with the Aurora Development Plan: Part 2 (Amendment, 2016) and the Northern Town Centre Land Use/Layout Plan (p. 46):
 - a The lot layout and dimensions do not result in a high density/mixed use residential outcome and are not adaptable to facilitate the strategic plan for the area in the future.
 - b The scale of development is not appropriate for a key gateway location on the edge of the Town Centre and directly interfacing with a rail reserve.
2. The subdivision is generally inconsistent with the objectives and strategies of the Planning Policy Framework as follows:
 - a Clause 11.01-1S-Settlement;
 - b Clause 11.02-3S-Sequencing of development;
 - c Clause 11.03-1S& 2S-Activity centres;
 - d Clause 15.01-1S-Urban design;
 - e Clause 15.01-3S-Subdivision design;
 - f Clause 15.01-4S & 4R-Healthy neighbourhoods;
 - g Clause 16.01-2R-Housing opportunity areas –Metropolitan Melbourne;
 - h Clause 16.01-2S-Location of residential development;
 - i Clause 16.01-3S& 3R-Housing diversity;
 - j Clause 16.01-4S-Housing affordability;
 - k Clause 18.01-2S-Public Transport.
3. The subdivision is generally inconsistent with the objectives and strategies of the Local Planning Policy Framework as follows:
 - a Clause 21.04-1-Activity Centre Planning, Objective 1, Strategy 1.7.
 - b Clause 21.04-2-Urban Growth, Objective 1, Strategy 1.7.
 - c Clause 21.08-1-Urban Design, Objective 3, Strategy 3.4 and Objective 5, Strategy 5.4.
 - d Clause 21.08-2-Subdivision, Objective 1, Strategy 1.1.
 - e Clause 21.09-1 –Capacity and Location, Objective 1, Strategy 1.1, Strategy 1.2 and Strategy 1.3.
4. The subdivision is inconsistent with the objectives and requirements of Clause 56 as follows:
 - a Clause 56.03-1-Compact and walkable neighbourhoods and Standard C2
 - b Clause 56.03-2-Activity centre and Standard C3
 - c Clause 56.03-4 –Built environment and Standard C5
 - d Clause 56.03-5 –Neighbourhood character and Standard C6
 - e Clause 56.04-1 –Lot diversity and distribution and Standard C7
 - f Clause 56.04-4 –Street orientation and Standard C10
 - g Clause 56.05-1 –Integrated urban landscape and Standard C12
 - h Clause 56.05-2 –Public open space provision and Standard C13
 - i Clause 56.06-2 –Walking and cycling network and Standard C15
 - j Clause 56.06-7 –Neighbourhood street network detail and Standard C17 and C20.

Appendix E SAC preferred version of Permit Conditions

Tracked Added

~~Tracked Deleted~~

SUBDIVISION, CONSTRUCTION OF A SINGLE DWELLING ON A LOT LESS THAN 300 SQUARE METRES, REMOVAL OF NATIVE VEGETATION, CREATION OF EASEMENTS AND RESERVES AND ASSOCIATED BUILDINGS AND WORKS IN ACCORDANCE WITH THE ENDORSED PLANS

CONDITIONS TO BE SATISFIED ~~PRIOR TO~~ BEFORE CERTIFICATION OF THE PLAN OF SUBDIVISION

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Subdivision ~~and Staging~~ Layout Pan

~~Prior to~~ Before the approval of the Subdivision Layout ~~and Staging Plan~~, an amended ~~Subdivision Layout Plan~~ to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and form part of the permit. The plan must be generally in accordance with the Submission Plan, Drawing No. SP001, Version E, dated 20 January 2020 as prepared by Collie Pty Ltd but amended to show:

- ~~a) A sequential staging plan showing the order of the subdivision and corresponding timing of works internal and external to the site;~~
- ~~b) The intersection to Harvest Home Road/Wanderer Drive to be nominated as left in and left out;~~
- ~~c) Growling Crescent to be nominated with a minimum width of 12.05 metres to accommodate all services including gas, water, recycled water, electrical, optic fibre and storm water drains behind kerbs (500mm C/C);~~
- ~~d) A 3 metre wide 'strip' abutting the conservation reserve and southern site boundary to be nominated with a minimum width of 4 metres to accommodate services (paper road);~~
- ~~e) Lots with rear access on corners to be nominated with a minimum lot width of 9.5 metres in accordance with Section 5.1.3(f) of the Aurora Development Plan Part 2;~~
- ~~f) All laneways nominated with a minimum width of 8 metres to allow for lighting;~~
- ~~g) Access points to the subject site and individual lots, including demonstrating the treatment of the transition into the adjoining site to the north;~~
-) Native vegetation to be shown and clearly nominated for retention or removal in accordance with the Aurora M6 ecological values and constraints report, prepared by Biosis, dated 17 May 2019;
- ~~h) Tree Protection Zones of trees to be retained wholly within the conservation area as nominated in the Arborist Report to be submitted in accordance with Condition 2.~~

The tree protection zone of the trees to be retained within the conservation area and any individual trees within proximity to buildings and works. Tree protection zones must be in accordance with the arborist report to be submitted in accordance with Condition 2 and the conservation area protection zone as identified in Figure 3 of the Aurora M6 ecological values and constraints report, as prepared by Biosis, dated 17 May 2019.

2. Arborist Report

Before the approval of the subdivision layout an arborist report must be submitted which identifies all trees on the site and clearly indicates trees to be retained and trees to be removed as well as tree protection zones in accordance with Whittlesea Standard SDL.2.01 (November 2014) of any individual trees within proximity to buildings and works that would not be protected by the conservation area protection zone identified in Figure 3 of the Aurora M6 ecological values and constraints report, as prepared by Biosis, dated 17 May 2019.

~~Prior to~~ Before ~~the approval of the Subdivision Layout and Staging Plan~~ certification of the Plan of Subdivision, an Arborist Report must be submitted to the satisfaction of the Responsible Authority which must:

- a. identify all trees on site;
- b. clearly indicate trees to be retained and removed;
- c. identify Tree Protection Zones in accordance with Whittlesea Standard SDL.2.01 (November 2014).

3. Functional Layout Plan

Before the submission and approval of construction plans (engineering plans) and the certification of the ~~relevant~~ Plan of Subdivision ~~for each stage~~, a functional layout plan for the subdivision ~~or stage of subdivision~~, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn at a scale of 1:500 to acceptable drafting standards and an electronic copy (PDF) must be provided. The Functional Layout Plan must be generally in accordance with the Subdivision Layout Plan endorsed under Condition No. 1, but amended to show:

- a) a fully dimensioned subdivision layout, including approximate lot areas, lot numbers, open space areas, widths of street reservations, ~~stage boundaries~~ and the relationship between the site ~~stage~~ and the surrounding land;
- b) topography and existing features, including contours for the subject land and any affected adjacent land;
- c) identification by survey of all trees (or group of trees) existing on the site, including dead trees and those that overhang the site from adjoining land;
- d) details of tree protection zones (TPZs), for all trees to be retained on site;
- e) all trees proposed for removal from the site (including dead native trees) clearly designated;
- f) typical cross-sections for each street type, dimensioning individual elements, services offsets and any other spatial requirements identified in the Aurora Development Plan Part 2, ~~and the paper roads fronting conservation areas and open space;~~
- g) a table of offsets for all utility services and street trees;
- h) location and alignment of kerbs, indented parking spaces, footpaths on the subject land and between the subject land and the nearest other subdivision, shared paths on the subject land and between the subject land and the nearest other existing subdivision, bus stop locations marked with a cross;
- i) the location of any traffic management devices required to service the subdivision (signals, roundabouts, splitter islands, etc);
- ~~j) provision of notional on-street parking for all lots at a rate of one space per lot~~
- k) swept path diagrams demonstrating that the road network (~~ex~~including laneways unless required to allow for garbage collection) have been designed for a 8.8 metre design service vehicle and checked for a 12.5 metre design service vehicle in accordance with Austroads Design Vehicle and Turning Path templates;
- l) any spatial requirements for drainage as identified in the submitted Drainage Strategy and the proposed overland flow paths;

- m) overland flow paths (100 year ARI) to indicate how excess runoff will safely be conveyed to its destination;
- n) drainage outfall system (both interim and ultimate), indicating legal point of discharge and any access requirements for construction and maintenance;
- o) preliminary location of reserves for electrical kiosks, ~~with Stage 1 of any staged subdivision providing an overall masterplan showing the location of substations throughout the estate; and~~
- p) works external to the subdivision, including both interim and ultimate intersection design requirements and layouts.
- q) proposed linkages to future streets, open space, regional path network and upstream drainage;
- r) indicative shared path alignments through the reserves. The shared paths abutting reserves must ensure no encroachment into the Tree Protection Zones of any existing native vegetation;
- ~~s) the designs for the turnaround treatments at the termination of roads;~~
- t) the design of the intersection to Wanderer Drive / Harvest Home ~~Road with left in and left out treatment;~~
- u) The treatment for the access points to the subject land to be clearly detailed on the plans, including the treatment of the public/private road transition at the boundary of the adjoining site to the north (retirement village).

4. Contamination Assessment

~~Prior to~~ Before the certification of the Plan of Subdivision, a contamination assessment of the entire subdivision area must be prepared by a suitably qualified and experienced person. The report must include recommendations and an implementation strategy to be undertaken by the developer in the event that any part of the subdivision (including within open space areas) is found to be contaminated in any way. The assessment must be submitted to and approved by and to the satisfaction of the Responsible Authority.

5. Implementation of the Approved Site Contamination Assessment

~~Prior to~~ Before the certification of the Plan of Subdivision and any subdivision works ~~commencing~~ starting on site (including, but not limited to, early works), the conclusions/recommendations as outlined in the Contamination Report approved under Condition No. 4 of this permit are to be undertaken on site. Written confirmation from a suitably qualified professional is to be provided to the Responsible Authority to verify that these works have been completed to the satisfaction of the Responsible Authority before the Certification of the Plan of Subdivision and any works ~~commencing~~ starting on site.

6. Certification Plan Requirements

Before a plan of subdivision is certified under the Subdivision Act 1988, six copies of the plan including two signed heavyweight copies must be submitted to the Council, unless lodged electronically via SPEAR. The plan must show all bearings, distances, street names, lot numbers and any necessary easements and reserves, in accordance with the approved Functional Layout Plan.

~~7. Restriction on Plan of Subdivision – Design Requirements~~

~~Prior to the certification of the Plan of Subdivision, a restriction must be nominated on the Plan of Subdivision for all lots, requiring that:~~

- ~~a. the side wall of any wall above the ground level of a dwelling on a corner lot must not be constructed:~~
 - ~~i. less than 900mm from the external façade of the ground level wall that faces a side street; or~~

- ~~ii. with less than 30% glazing for the area of the wall and the remainder of the wall must be constructed in contrasting material finishes to that of the ground floor wall.~~
- ~~b. any garage on a burdened lot must not be constructed less than 5 metres from the road alignment at the front of the lot; and~~
- ~~c. development of lots with a width of 10 metres or less where measured at the front wall of the dwelling, must not contain any garage other than a single garage opening where access is proposed from the lot frontage.~~

~~The restriction is to then be registered on the Plan of Subdivision.~~

8. Management of Bushfire Buffers on Adjoining Land

~~Prior to~~ Before the ~~certification issue of the statement of compliance~~ of ~~a the Plan of~~ Subdivision, the owner of the land must enter into an agreement under section 173 of the Planning and Environment Act 1987 with each abutting land owner which makes provision for the following:

- a) The provision of a “*low threat*” buffer on the adjoining property at all times;
- b) That a buffer be maintained on all that adjoining land to at least the standards and extents specified in Bushfire Development Report, as prepared by Terramatrix, dated April 2019;
- c) That where there is any dispute or lack of clarity over the nature of or works to maintain the specified buffer, the Responsible Authority (Whittlesea City Council) may give written advice to direct particular standards of maintenance or may further define any matter associated with the buffer as required.

The costs for preparation and execution of the agreement ~~shall~~must be borne by the permit holder.

Evidence of such agreement, to the satisfaction of the Responsible Authority, must be provided to the Responsible Authority before ~~Certification~~ the issue of the statement of compliance of the ~~Plan of~~ Subdivision.

Council may consider waiving this requirement ~~on a stage by stage basis~~ should suitable evidence be demonstrated that the bushfire risk has been removed.

~~9. Restriction on Plan of Subdivision – Building Envelopes~~

~~Prior to the certification of the Plan of Subdivision for each stage, a plan showing Building envelopes for each lot is to be submitted and approved by the Responsible Authority.~~

~~The plan may not require a building envelope for a lot if:~~

- ~~• It is specified that any development on that lot will be subject to the ‘Small Lot Housing Code’ and~~
- ~~• The lot is less than 300 square metres in area~~

~~The approved Building Envelope plan is to then be applied to the associated Plan of Subdivision and registered accordingly.~~

~~The Building Envelope for any lot will be deemed to expire for that lot:~~

- ~~• After the issue of a Certificate of Occupancy for the whole of the building (where the lot may only contain one habitable building);~~

~~Or~~

- ~~• After 10 years from the date of certification of the Plan of Subdivision containing that lot.~~

~~Whichever occurs first.~~

9. Restriction on Plan of Subdivision – Approved Building Envelopes

Before a statement of compliance for the subdivision is issued, an approved building envelope must be submitted to and approved by the responsible authority. The approved building envelope must show a building envelope for each relevant lot to the satisfaction of the

responsible authority. The building envelopes, created as a result of this permit, are approved building envelopes for the purposes of applying parts 4 and 5 of the building regulations.

The plan of subdivision certified under the Subdivision Act 1988 by Whittlesea City Council must include a restriction that buildings conform to the building envelopes. The restriction must provide for:

- a) buildings to be constructed only in conformity with the approved building envelope;
- b) an approved building envelope to be amended to the satisfaction of Whittlesea City Council and any criteria or matters that must be considered by Whittlesea City Council in deciding on an amendment to a building envelope;
- c) an approved building envelope to cease to have effect on the lot containing the envelope ten years after an occupancy permit has been issued for the dwelling on the lot.

10. Kangaroo Management Plan

Before the Certification of the Plan of Subdivision, a Kangaroo Management Plan prepared by a suitably qualified professional must be submitted to and approved by the Responsible Authority.

The Kangaroo Management Plan must be prepared in accordance with the recommendations as outlined in the memorandum Ref: Matter 25681), as prepared by Biosis, dated 12 December 2019 and must include:

- a. Strategies to avoid land locking kangaroos;
- b. Management requirements to respond to the containment of kangaroos in an area with no reasonable likelihood of their continued safe existence, or management and monitoring actions to sustainably manage a population of kangaroos within a suitable location;
- c. Evidence of any authorisation obtained from the Department of Environment, Land, Water and Planning under the Wildlife Act 1975, or a statement identifying that an authorisation is not required;
- d. A response outlining how the Kangaroo Management Plan is consistent with any requirements of an authorisation required under part c) of this condition, if applicable.

Once approved, the Kangaroo Management Plan will be endorsed by the Responsible Authority and will form part of the permit.

The endorsed Kangaroo Management Plan must be implemented to the satisfaction of the Responsible Authority.

~~Prior to the Certification of the Plan of Subdivision and the commencement of works, a Kangaroo Management Plan prepared by a suitably qualified professional must be submitted to and approved by the Responsible Authority.~~

~~The Kangaroo Management Plan must include:~~

- ~~a. Strategies to avoid land locking kangaroos, including staging of subdivision;~~
- ~~b. Management requirements to respond to the containment of kangaroos in an area with no reasonable likelihood of their continued safe existence, or management and monitoring actions to sustainably manage a population of kangaroos within a suitable location.~~
- ~~c. Evidence of any authorisation obtained from the Department of Environment, Land, Water and Planning under the Wildlife Act 1975, or a statement identifying that an authorisation is not required.~~
- ~~d. A response outlining how the Kangaroo Management Plan is consistent with any requirements of an authorisation required under part c) of this condition, if applicable.~~

~~Once approved, the Kangaroo Management Plan will be endorsed by the Responsible Authority and will form part of the permit.~~

~~The endorsed Kangaroo Management Plan must be implemented to the satisfaction of the Responsible Authority.~~

11. Net Gain Tracking Report

Before the certification of the Plan of Subdivision under the Subdivision Act 1988 for any stage, the Aurora Net Gain and Offset Tracking System Report, May 2008 (tracking system report) must be updated and submitted to and approved by the responsible authority. When approved by the responsible authority, the updated tracking system report will be endorsed and will then form part of the permit. Where the tracking system report includes a plan, the plan must be drawn to scale with dimensions. The tracking system report must include:

- a. appropriate offsets to compensate for the loss of native vegetation as determined by a final flora, fauna and habitat hectare assessment of the land;
- b. details of the following:
 - i. means of calculating the offsets;
 - ii. locations where offsets will be provided;
 - iii. type of offsets to be provided for each location;
 - iv. details of revegetation including the number of trees, shrubs and other plants, species mix and densities;
 - v. means of interim protection for newly established vegetation until established;
 - vi. methods of permanent protection for the offsets;
 - vii. persons from time to time responsible for implementing and monitoring the offsets;
 - viii. time frames for implementing the offsets;
 - ix. any earth works, drainage and other works associated with the provision of offsets.

When approved, the tracking system report must be implemented to the satisfaction of the responsible authority.

CONDITIONS TO BE SATISFIED ~~PRIOR TO~~ BEFORE THE START OF WORKS

12. Landscape Masterplan

~~Prior to~~ Before the approval of the civil works plans (engineering plans), a landscape masterplan to the satisfaction of the responsible authority for each sub-precinct must be submitted to and approved by the Responsible Authority. When approved, the landscape masterplan will be endorsed and will then form part of the permit. The landscape masterplan must be drawn to scale with dimensions and three copies must be provided. The landscape masterplan must show:

- a. the overall landscaping theme to be developed for the subdivision;
- b. the type or types of species to be used for street tree planting in the subdivision;
- c. the principles of the proposed treatment of the open space reserves;
- d. the shared path network;
- e. a management plan for the Red Gums proposed for retention to ensure their integrity during the site development and landscape maintenance period must be submitted with the landscape masterplan.

13. Telecommunication Services Agreement

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

- a. a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- b. a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless

the Applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

14. Civil Engineering Plan, Landscape Works Plan and Site Management Plan

Before any works associated with the subdivision (or staged subdivision) start, a detailed civil engineering plan, and a site management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The civil engineering plan, and site management plan will not be considered or approved until the functional layout plan(s) for the relevant stage has been approved by the Responsible Authority, the Plan of Subdivision has been certified, a draft landscape works plan for the relevant stage has been submitted for comparison against the civil engineering plan and the locations of other authorities' services have been provided to the satisfaction of the Responsible Authority. When approved, the civil engineering plan, landscape works plan and a site management plan 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. The plans must include:

- a. a civil engineering plan including:
 - i. specifications of the proposed works that are to become public assets within and outside of the subdivision as required by this permit;
 - ii. all necessary computations and supporting documentation, including a Certificate of Compliance (design) for any structure, traffic data, road safety audit and geotechnical investigation report;
 - iii. all details of works consistent with the approved functional layout plan, submitted draft landscape works plan and lodged plan of subdivision;
 - iv. design for full construction of streets and underground drainage, including measures to control / capture pollutants and silt;
 - v. provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan;
 - vi. provision of public lighting and underground electricity supply within all streets;
 - vii. traffic control measures;
 - viii. provision of street name plates to the Council standard design including a schedule of individual signs and associated street numbers;
 - ix. provision of footpaths in all streets and reserves and between the subject land and the nearest other existing subdivision in accordance with the approved functional layout plan;
 - x. shared paths in accordance with the approved Development Plan within streets and reserves;
 - xi. provision of underground easement drains of sufficient capacity to serve all lots being created to a legal point of discharge and the provision of an inlet on each such lot;
 - xii. the location and provision of vehicle exclusion mechanisms abutting reserves;
 - xiii. details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves;
 - xiv. appropriate mechanisms for protecting environmental and heritage assets during the construction phase of the subdivision;
 - xv. provision for the utilisation of any surplus top soil from this stage;
 - xvi. permanent survey marks;
 - xvii. unless an alternative empty conduit network is being installed that is suitable for fibre optic infrastructure and the Applicant has evidence of an access agreement between the carrier putting in the conduit and the National Broadband Network Company, the provision of conduits, including pits and ancillary works for optical fibre telecommunications services or any equivalent alternative approved by the Responsible Authority and the conduit ~~shall~~must be designed in accordance with Clause 22.13 Telecommunications Conduit Policy of the Whittlesea Planning Scheme and Planning Guidelines for Conduits for Optic Fibre Services, 2001;

- xviii. survey details of the canopy trunk location and size of trees to be retained and associated tree protection zones;
 - xix. details in relation to all filling on the site which must be compacted to specifications approved by the Responsible Authority;
 - xx. the relocation underground of all existing aerial services, including electricity and telecommunications assets, within streets abutting the subdivision;
 - xxi. the location of any earthworks (cut or fill) or service provision in a location outside the designated tree protection zone which does not adversely impact on the health and integrity of any trees to be retained; and
 - xxii. a separate signage and line marking plan identifying the road layout, proposed signs, line marking, RRPMS and a sign schedule.
- b. a landscape works plan to be submitted including:
- i. all details of works consistent with any approved landscape masterplan;
 - ii. the removal of all existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds;
 - iii. all proposed street-tree planting using semi - advanced trees; with maximum container size of 45 litres or equivalent (larger sizes will incur additional establishment and extended maintenance obligations);
 - iv. earth shaping including the supply and spread of sufficient topsoil and sub soil if required on the proposed areas of open space to provide a stable, free draining surface and hydro-seeding of proposed grass areas (including within the drainage reserve if applicable);
 - v. mechanisms for the exclusion of vehicles;
 - vi. all proposed open space and streetscape embellishments such as installation of pathways, park lighting, garden beds, seating, shelters, picnic facilities, boardwalks, tree planting, signage, drinking fountains, irrigation systems, playgrounds, artwork, retaining walls, protective fencing (temporary and permanent), wetlands and ornamental water bodies (including within the drainage reserve if applicable); and
 - vii. hazard reduction pruning of trees to be retained, to the satisfaction of the Responsible Authority.

Where sufficient detail is shown on the endorsed landscape masterplan, to the satisfaction of the Responsible Authority, stage landscape plans may not be required.

- c. a Site Management Plan which must:
- i. address occupational health and safety; traffic management, environmental controls and cultural heritage and/or dry stone wall protection measures to the satisfaction of the Responsible Authority;
 - ii. be submitted to the Responsible Authority a minimum of 21 days before a required pre-starting meeting (attended by authorised representatives of the construction contractor and project superintendent as appointed by the developer) on the site of the works;
 - iii. identify any site offices, workspaces, personnel rest and amenity areas, hardstands, material laydown areas, and stockpiles;
 - iv. include the proposed route for construction vehicle, equipment and machinery access to the site including a program for the upgrade and maintenance works required along this route while works are in progress;
 - v. address the location of parking areas for construction and sub-contractors' vehicles, equipment and machinery on and surrounding the site, to ensure that they cause minimum disruption to surrounding properties;
 - vi. include measures to reduce the impact of noise, dust and other emissions created during the construction process;

- vii. demonstrate all environmental and cultural heritage and/or dry stone wall protection measures identified on a drawing(s) drawn to scale and prepared in accordance with Melbourne Water standards for such drawings;
- viii. provide measures to ensure that no mud, dirt, sand, soil, clay or stones are washed into or allowed to enter the storm water drainage system;
- ix. include means by which foreign material will be restricted from being deposited on public roads by vehicles, equipment and machinery associated with the building and works on the land to the satisfaction of the Responsible Authority;
- x. address any recommendations of any approved Cultural Heritage, Dry Stone Wall and Conservation Management Plans applying to the land;
- xi. identify the location and method of any Tree Protection Zones; and
- xii. ensure that all contractors working on the site must be inducted into an environmental management program for construction works.

All works must be carried out generally in accordance with the measures set out in the Site Management Plan approved by the Responsible Authority. The developer must keep the Responsible Authority informed in writing of any changes to the Site Management Plan. If in the opinion of the Responsible Authority the changes represent a significant departure from the approved Site Management Plan then an amended Site Management Plan must be submitted to and approved by the Responsible Authority.

15. Tree Protection Zone Fencing

Before any buildings, works or demolition start on a lot, open space and/or road reservation, each Tree Protection Zone on that lot, open space and/or road reservation must:

- a. be fenced with temporary fencing in accordance with the attached specifications, to the satisfaction of the Responsible Authority;
- b. include a notice on the fence to the satisfaction of the Responsible Authority advising on the purpose of the Tree Protection Zone, the need to retain and maintain the temporary fencing and that fines will be imposed for removal or damage of the fencing and trees.

The Tree Protection Zone temporary fencing must be maintained until works are completed; including the construction of a dwelling if the land is a lot, to the satisfaction of the Responsible Authority or until such earlier date as is approved by the Responsible Authority in writing.

A copy of the tree protection zone(s) are to be included in any contract for the construction of the estate or for any other works which may impact upon the trees.

16. Tree Protection Bonding

~~Prior to~~ Before the commencement start of the subdivision hereby permitted, or at such later date as the Responsible Authority may approve in writing, there must be provided to the Responsible Authority a bank guarantee for the amount of \$100,000 as security deposit for the satisfactory completion of the requirements in relation to tree preservation and to ensure that trees are not damaged during the construction phase.

Upon completion of the subdivision works to the satisfaction of the responsible authority, the bank guarantee will be returned to the developer.

Where it is determined to the satisfaction of the Responsible Authority that a tree covered by a tree protection envelope has been damaged as a result of buildings and works by the Applicant or its contractors, to an extent that it affects detrimentally the life, health and appearance of the tree or its contribution to the streetscape, financial damages will be paid by the Applicant with all monies to be used to purchase trees for planting on the land or to prune or otherwise rehabilitating existing trees, all to the satisfaction of the Responsible Authority. The extent of damages must be established through the appointment of an independent suitably qualified person.

17. Stormwater Drainage

Any stormwater drain, temporary drainage out falls and ancillary works, required as a condition of a Melbourne Water Drainage Scheme, or that are designated to become the responsibility of

the Council for maintenance, must be designed and constructed to the satisfaction of the Responsible Authority.

Before the approval of construction plans for roadworks and drainage, the designs for such works and the details of maintenance requirements (asset management and maintenance schedule) must be submitted to and approved by the Responsible Authority.

18. Striped Legless Lizard Salvage

In accordance with the current EPBC Act approval, salvage for Striped Legless Lizard (SLL) must be undertaken within identified habitat of the Aurora Development Area as shown in Appendix 2 of the Aurora Conservation Management Plan, ~~prior to before~~ the ~~commencement start~~ of construction. Salvage must be undertaken in accordance with the SLL salvage at Aurora Section C and beyond (Biosis Research 2009) report and advice from Alan Webster at DELWP provided in 2015.

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION WORKS

19. Layout Not Altered

The subdivision as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

20. Native Vegetation Removal

- a. No native vegetation must be destroyed, felled, lopped, ring barked or uprooted, without the consent of the Responsible Authority;
- b. ~~Prior to Before~~ any removal or pruning works of native trees ~~commencing starts~~, the subject tree must be inspected by an appropriate zoologist to determine the presence of any native animals living or nesting in the tree. Should any native animals be detected they must be caught and relocated to a site deemed appropriate by the zoologist;
- c. Each tree nominated for removal must be suitably marked ~~prior to before~~ the ~~commencement start~~ of any works and an inspection arranged with an appropriate Council officer to verify that the trees marked accords with this permit;
- d. The Applicant must contact Council's Parks and Open Space Department to arrange for an appropriate officer to be present on site to supervise the removal of the trees;
- e. The project manager is to ensure that tree removal is carried out in a safe manner;
- f. The project manager is to locate all services either above or below ground ~~prior to before~~ the ~~commencement start~~ of any works;
- g. Stumps and any surface roots are to be ground down below ground level. Ground and chipped material to a depth of 50mm is to be removed from site at the direction of the project manager;
- h. The project manager must supply and replace suitable topsoil and seed the area making certain that the reinstated ground surface is level, even and safe;
- i. All stumps not removed immediately after removal of the tree are to be paint marked with a suitable bright yellow reflective marking paint;
- j. All stumps must be removed within 14 days of removal of the tree;
- k. After a tree has been felled, the tree must be protected from firewood harvesting via temporary fencing and signage to the satisfaction of Council until such time as the tree has been relocated for habitat or mulched;
- l. Wherever possible and appropriate, native trees to be removed should be retained for use in core conservation areas for habitat purposes or in open space as urban art, park furniture etc. to the satisfaction of the responsible authority. All timber less than 300mm diameter and branch/leaf material should be shredded for reuse as mulch;
- m. Each native tree nominated for removal or pruning works ~~shall must~~ be suitably marked ~~prior to before~~ its removal or works ~~commencing starting~~ and an inspection

arranged with an appropriate Council officer to verify that the tree marked accords with this permit;

- n. At the completion of the works, the Applicant is to arrange for an appropriate Council officer to inspect the site to ensure compliance with the planning permit;
- o. No buildings or works, including loading and unloading, storage of materials, dumping of waste, vehicle access, parking and other construction activity is to occur within a tree protection zone without the written consent of and to the satisfaction of the Responsible Authority.

21. Filling of Land

All filling on the site must be carried out, supervised, completed and recorded in accordance with AS 3798 (Guidelines on earthworks for commercial and residential developments) to specifications to the satisfaction of the Responsible Authority. The geotechnical authority responsible for supervision and testing under this condition must be independently engaged by the Applicant and not be engaged by the contractor carrying out the works. Before the issue of a Statement of Compliance unless otherwise agreed in writing by the responsible authority, compaction test results and a report ~~shall~~must be provided to the satisfaction of the Responsible Authority.

22. Conservation Management Plan

Works on site must be carried out in accordance with the approved Aurora Conservation Management Plan (Biosis Research 2008) and to the satisfaction of the Responsible Authority.

CONDITIONS TO BE SATISFIED ~~PRIOR TO~~ BEFORE THE ISSUE OF A STATEMENT OF COMPLIANCE

23. Connection to Telecommunication Services

Before the issue of a Statement of Compliance for any 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.

24. Statement of Compliance with Deferment of Engineering Works

~~Prior to~~ Before the issue of a Statement of Compliance for any stage or by such later date as is approved by the responsible authority in writing, the Applicant may seek, to the satisfaction of the Responsible Authority, the issue of the Statement of Compliance but with deferment of completion of specified civil construction works shown on the endorsed construction plans and all or part of landscape construction works shown on the endorsed plans, provided the following requirements have been met:

24.1 Civil Works

- a. all relevant referral authorities have consented to the issue of a Statement of Compliance;
- b. civil construction works have been completed except for the wearing course asphalt works, the landscaping component of the works and any other minor works as agreed with the responsible authority;
- c. an amount equivalent to 150% the agreed estimated cost of outstanding civil construction works will be required by the responsible authority as security deposit;
- d. a works program is provided setting out the proposed timing of all outstanding construction works;

- e. a site safety plan that ensures continuous public safety measures are maintained until completion of the deferred works.

Upon completion of the deferred civil construction works the Applicant must notify the responsible authority to enable its inspection. If the works have been completed to its satisfaction, the Responsible Authority must refund fully the security deposit.

24.2 Landscape Works

- a. An amount equivalent to 150% of the agreed estimated cost of outstanding streetscape / landscape construction plus an agreed amount for the maintenance works will be required by the Responsible Authority as security deposit;
- b. A works program is provided setting out the proposed timing of all outstanding landscape construction works. Works must start within 3 months of issue of Statement of Compliance for the given stage of the subdivision and must be completed ~~prior to~~ before occupancy of any new dwelling within the given stage.

Upon completion of the deferred landscaping construction works, the Applicant must notify the Responsible Authority to enable its inspection. Subject to satisfactory completion of the deferred landscaping, a Certificate of Practical Completion for landscaping will be issued, triggering the ~~commencement~~ start of the maintenance period. If the works have been completed to its satisfaction, the responsible authority must refund fully the security deposit.

25. Foreign Resident Capital Gains Withholding Certificate

~~Prior to~~ Before the issue of a Statement of Compliance for any stage of the subdivision, the permit holder must provide a valid Foreign Resident Capital Gains Withholding Certificate and a current copy of Title for the entire land. The name on the Foreign Resident Capital Gains Withholding Certificate must match the name on Title.

CONDITIONS TO BE SATISFIED FOLLOWING CONSTRUCTION WORKS

26. Notification of ~~Commencement~~ Start of Street Tree Planting and Landscaping Works

The developer must notify the Responsible Authority a minimum of 7 days ~~prior to~~ before commencing street tree planting and landscaping so that surveillance of the works can be undertaken. At this time, the developer must provide written advice to Council from a suitably qualified and experienced arborist confirming that the tree stock to be installed within the stage has been inspected and is healthy, free of root girdling, fit for purpose and meets all standards and benchmarks contained within AS 2303:2005 – Tree Stock for Landscape Use.

27. Completion of Landscape Works

Before occupation of the development ~~commences~~ starts or by such later date as is approved by the Responsible Authority in writing, the landscape works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority. Upon completion of the landscape construction works, the Applicant must notify the Responsible Authority to enable its inspection. Subject to satisfactory completion of the landscaping in accordance with the endorsed plan, a Certificate of Practical Completion for landscaping will be issued, triggering the ~~commencement~~ start of the maintenance period.

28. Landscape Maintenance

- a. All landscaping (except for grass in nature strips of streets abutting private property) shown on the approved stage landscape plans, must be maintained to the satisfaction of the responsible authority for a minimum period of 18 months ending on 31 May of the given year from the date of issue of a Certificate of Practical Completion of landscaping, including that any dead, diseased or damaged plants are to be replaced, bare areas of grass are re-established, mulched surfaces reinstated, damaged or faulty infrastructure repaired or replaced etc. Rectification works must not be deferred until the completion of the maintenance period;
- b. To ensure all assets as identified in the approved stage landscape plans are retained in a safe and functional state and to prolong functional life of the asset, landscape

works ~~shall~~**must** be maintained in accordance with Council's Minimum Landscape Maintenance Specification of Services and Works (May 2010);

- c. Upon the completion of maintenance of the street tree planting and landscaping works, the developer must notify the responsible authority to undertake an inspection ~~prior to~~**before** the issue of the Certificate of Final Completion.

29. As Constructed Engineering Plans

City of Whittlesea requires As Constructed data from Consultants/Developers for newly built assets as per A-Spec (specifications to maintain Asset Registers).

Asset information must be projected to GDA94 in digital format to include D-Spec (drainage data), R-Spec (road data) and O-Spec (open space data) as per "A-Spec" specifications.

29.1 Civil Works

~~Prior to~~**Before** Council's consent to Practical Completion, the following must be submitted to the satisfaction of the Responsible Authority:

- a. a complete set of 'as constructed plans' of site works (amended if necessary to show any changes that may have occurred during construction), which include Civil, electrical and telecommunication works, in digital file format AutoCAD (recent version) and PDF. The digital files must have a naming convention (Subdivision name_Stage) to enable identification of Council assets listed and should be projected to GDA94-MGA Zone 55;
- b. a list of asset quantities which include the following Council assets:
 - i. total length of Roads, Footpath, Kerb and Channel,
 - ii. total number of Bridges, WSUD features, Traffic calming devices,
 - iii. total length of pipe and number of pits for Drainage & Telecommunications,
 - iv. total number of streetlights, and
 - v. total number of road reserve assets;
- c. asset information must include D-Spec (drainage data) and R-Spec (road data) as per "A-Spec" specifications (the Consultant/Developer Specifications for the delivery of digital data to Local Governments) in ESRI Shape Files (preferred format) or MapInfo with attributions. All GIS and CAD data submitted must be in Map Grid Australia Zone 55 projection and referenced to Geocentric Datum of Australia (GDA) 1994.

Please refer to website for detailed A-Spec Standards: <http://www.a-specstandards.com.au/>

Bonds will not be released until such time the drawings are delivered in the correct format to Council.

29.2 Landscape Works

Within 21 days of the issue of Certificate of Practical Completion for landscaping, the following "As Constructed" drawings and digital information must be submitted to Council by the Developer/Consultant:

- a. Landscape Architectural Drawings in the following format:
 - i. One (1x) PDF images of "As-Constructed" plans, and
 - ii. One (1x) DXF (preferred format) or DWG files (recent version) including attribution, at 1:1 scale, on MGA94 Zone 55 Grid Co-ordinates, stored on compact disc(s) or sent by email (preferred);
- b. "As Constructed detail" of the works as digital data for the Open Space assets information component of the subdivision, in accordance with the current version of O-SPEC. The preferred format is:
 - i. GIS Format (refer to O-SPEC for further information). – ESRI Shape files (preferred format) with attributions.
 - ii. Horizontal Datum – GDA94 on MGA94 Zone 55 Grid Co-ordinates Vertical Datum – AHD.

- ii. Referenced to existing PSM Survey marks where available.

Please refer to the following website for detailed O-Spec Standards:

<http://www.a-specstandards.com.au/o-spec>

Bonds will not be released until such time the drawings are delivered in the correct format to Council.

30. Removal of Top Soil

No top soil is to be removed from land covered by the subdivision without the written consent of the Responsible Authority.

31. Amenity

The amenity of the area must not be detrimentally affected as part of any development works by the use or development through the:

- a. Transport of materials, goods or commodities to and from the land;
- b. Appearance of any building, works or materials; or
- c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

32. Reticulated Services

Reticulated water, drainage, sewerage and electricity reticulation underground must be available to each lot shown on the endorsed plans before any lot can be used for houses.

33. Time Limit

This permit will expire if:

- a. The Plan of Subdivision for the first stage is not certified within 2 years of the date of this permit; or
- b. The Plan of Subdivision for any subsequent stage of the subdivision is not certified within 2 years of the date of the certification of the previous stage of the subdivision;
- c. The registration of any stage of the subdivision is not completed within 5 years of the date of certification of the plans of subdivision.

The Responsible Authority may extend the time if a request is made in writing before the permit expires or within six months afterwards.

REFERRAL AUTHORITY CONDITIONS

34. AusNet Conditions

The Plan of Subdivision submitted for certification must be referred to AUSNET ELECTRICITY SERVICES PTY LTD in accordance with Section 8 of the *Subdivision Act 1988*. The Applicant must –

- Enter in an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for supply of electricity to each lot on the endorsed plan.
- Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for the rearrangement of the existing electricity supply system.
- Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by AUSNET ELECTRICITY SERVICES PTY LTD.
- Provide easements satisfactory to AUSNET ELECTRICITY SERVICES PTY LTD for the purpose of “Power Line” in the favour of “AUSNET ELECTRICITY SERVICES PTY LTD” pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing AUSNET ELECTRICITY SERVICES PTY LTD electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
- Obtain for the use of AUSNET ELECTRICITY SERVICES PTY LTD any other easement required to service the lots.

- Adjust the position of any existing AUSNET ELECTRICITY SERVICES PTY LTD easement to accord with the position of the electricity line(s) as determined by survey.
- Set aside on the Plan of Subdivision Reserves for the use of AUSNET ELECTRICITY SERVICES PTY LTD for electric substations.
- Provide survey plans for any electric substations required by AUSNET ELECTRICITY SERVICES PTY LTD and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. AUSNET ELECTRICITY SERVICES PTY LTD requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act before the registration of the Plan of Subdivision.
- Provide to AUSNET ELECTRICITY SERVICES PTY LTD a copy of the Plan of Subdivision submitted for certification that shows any amendments that have been required.
- Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by AUSNET ELECTRICITY SERVICES PTY LTD. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998.
- Ensure that all necessary auditing is completed to the satisfaction of AUSNET ELECTRICITY SERVICES PTY LTD to allow the new network assets to be safely connected to the distribution network.

APA Group Conditions

35. Easements in favour of “*Australian Gas Networks (VIC) Pty Ltd*” must be created on the plan to the satisfaction of APT.
36. The Plan of Subdivision submitted for certification must be referred to APT O&M Services Pty Ltd, in accordance with Section 8 of the Subdivision Act 1988.

CFA Conditions

37. Hydrants

Before the issue of a Statement of Compliance under the Subdivision Act 1988 the following requirements must be met to the satisfaction of the CFA:

- a. Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries;
- b. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

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

Melbourne Water Conditions

38. Before the issue of a Statement of Compliance, the Owner ~~shall~~**must** enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water’s drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.
39. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water’s drains or watercourses.
40. Before Certification, the Plan of Subdivision must be referred to Melbourne Water, in accordance with Section 8 of the Subdivision Act 1988.
41. Before the issue of a Statement of Compliance for the subdivision, engineering plans of the subdivision (in electronic format) must be submitted to Melbourne Water for our records.

These plans must show road and drainage details and any overland flow paths for the 100 year ARI storm event.

42. Before the issue of a Statement of Compliance for the subdivision, a Site Management Plan detailing pollution and sediment control measures must be submitted to Melbourne Water.
43. Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of overland flows.
44. The subdivision is to make provision for overland flows from the upstream catchment utilising roads and/or reserves.
45. Any road or access way intended to act as a stormwater overland flow path must be designed and constructed to comply with the floodway safety criteria outlined within Melbourne Water's Land Development Manual.
46. Easements or reserves ~~shall~~**must** be created over existing and proposed Melbourne Water assets on the Plan of Subdivision to the satisfaction of Melbourne Water.
47. The developer is to negotiate with any downstream landowners to obtain a free draining outfall through their property. Approval is to be forwarded to Melbourne Water for our records before construction commencing.
48. Any temporary outfall is to be arranged to the satisfaction of Melbourne Water, Council and the affected downstream property owner(s).
49. Before the issue of a Statement of Compliance for the subdivision, a separate application direct to Melbourne Water must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses.

Notes

Public Lighting Note

Before the preparation of construction plans for street lighting can be completed Council approval to the type and colour of poles and lanterns will be required.

Street Numbering Note:

Property Numbers will be allocated by the City of Whittlesea in accordance with Council's Street Numbering Policy. Please do not give potential buyers any interim numbering as this often leads to confusion and problems once the correct number is issued. Please check with Council's Subdivision Department or GIS Department to verify all street numberings before ~~commencement~~**the start** of any advertising for sale or lease.

Cultural Heritage Management Plan

Development must at all times comply with the recommendations of the Cultural Heritage Management Plan No. 10647 approved by the Wurundjeri Tribe Land and Compensation Cultural Heritage Council.