

# Minutes

## Planning Committee Meeting

Wednesday, 22nd June 2022

**City of Kingston  
Planning Committee Meeting**

**Minutes**

**22 June 2022**

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The meeting commenced at 7.02 pm in the Council Chamber, 1230 Nepean Highway, Cheltenham.

**Present:** Cr Steve Staikos (Mayor)  
Cr Jenna Davey-Burns (Deputy Mayor)  
Cr Tamsin Bearsley  
Cr Tim Cochrane  
Cr Tracey Davies  
Cr Chris Hill  
Cr George Hua

**In Attendance:** Peter Bean, Chief Executive Officer  
Jonathan Guttmann, General Manager Planning and Place  
Jaclyn Murdoch, Manager City Development  
Phil De Losa, Manager Governance  
Patrick O’Gorman, Governance Officer  
Gabrielle Pattenden, Governance Officer  
Lindsay Holland, Facilities Officer

**1. Apologies**

Apologies from Cr Eden, Cr Howe, Cr Oxley and Cr Saab were submitted to the meeting.

**Moved: Cr Bearsley**

**Seconded: Cr Hill**

That the apologies from Cr Eden, Cr Howe, Cr Oxley and Cr Saab be received.

**CARRIED**

**2. Confirmation of Minutes of Previous Meetings**

**Moved: Cr Hill**

**Seconded: Cr Hua**

That the Minutes of the Planning Committee Meeting held on 18 May 2022 be confirmed.

**CARRIED**

**3. Foreshadowed Declaration by Councillors, Officers or Contractors of any Conflict of Interest**

Cr Staikos foreshadowed a declaration of a conflict of interest in Item 4.7.

**4. Planning and Place Reports**

**4.1 Town Planning Application Decisions - May 2022**

**Moved: Cr Davies**

**Seconded: Cr Cochrane**

That the report be noted.

**CARRIED**

**4.2 KP-2019/825 - 252-258 Lower Dandenong Road, Mordialloc**

It is recorded that Jenny Connolly spoke on behalf of objectors.

**Moved: Cr Cochrane**

**Seconded: Cr Davies**

That the Planning Committee adopt a position to refuse the proposal to use and develop the land for a service station and convenience restaurant, reduction in the car parking requirement for the convenience restaurant, create/alter access to a road in a Transport Zone 2, and display signage at No.252-258 Lower Dandenong Road, Mordialloc and advocate for a refusal at the Victorian Civil and Administrative Tribunal, on the following grounds:

1. The proposal will result in an unreasonable amenity outcome for the adjoining residential properties, particularly from the 24/7 drive-through operation, inadequate landscape buffer and overshadowing.
2. The proposal does not satisfy the objectives and policies of Clause 22.07 (Outdoor Advertising Policy) and requirements of Clause 52.05 (Signs).
3. The proposal fails to meet the objectives and strategic directions of Clause 18.02-7S (Airports and airfields), Clause 21.08-2 (Industry), Clause 21.09-5 (Moorabbin Airport), Clause 22.02 (South East Non Urban Area) and Clause 45.02 (Airport Environs Overlay) as the proposal has not sufficiently demonstrated it will be an acceptable public safety risk with respect to aviation for the adjoining Moorabbin Airport.

**CARRIED**

**4.3 KP-2021/595 - 1-4 Nepean Highway, Aspendale (Lot 1 on TP011006P)**

It is recorded that Bob Westrup spoke on behalf of objectors.

It is recorded that Paul Little spoke on behalf of the applicant.

**Moved: Cr Bearsley**

**Seconded: Cr Cochrane**

That the Planning Committee determine to issue a Notice of Refusal to Grant a Planning Permit for buildings and works to an existing hotel, partial demolition, an increase of the red line area and a reduction of the car parking requirement at 1-4 Nepean Highway, Aspendale (Lot 1 on TP011006P), on the following grounds:

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1. The proposed Deck 03 fails to meet the desired outcomes of the General Residential Zone with regards to adverse amenity impacts (noise) upon neighbouring residential properties.
2. The proposed works and red line area as they relate to Deck 03 are considered to unreasonably impact the amenity of neighbouring residential properties allowing an inappropriate scale and intensity of development.
3. The proposed patron numbers and music relating to Deck 03 will cause an adverse amenity (noise) impact on neighbouring residential properties.

**CARRIED**

**4.4 KP-2021/767 - 30 Healey Street, Moorabbin**

It is note that Anthony Scarpaci attended the meeting but did not speak due to the deferral of the item to the 27 June Council 2022 Meeting.

**Procedural Motion**

**Moved: Cr Hill**

**Seconded: Cr Bearsley**

That consideration of this item be deferred until the 27 June 2022 Council Meeting.

**CARRIED**

**4.5 KP-2021/532 - 453 Boundary Road, Heatherton**

It is recorded that Mathew Cocciardi spoke on behalf of objectors.

It is recorded that Seamus Fraser spoke on behalf of the applicant.

**Moved: Cr Hua**

**Seconded: Cr Davies**

That Planning Committee determine to support the proposal and issue a Notice of Decision to Grant a Permit for the use and development of the land for Leisure and Recreation (Paintball Games Facility), alter access to a road in a Transport Zone 2 and display of signage in accordance with the endorsed plans at 453 Boundary Road, Heatherton, subject to the following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be substantially in accordance with the amended plans prepared by d.j.t design Pty Ltd, Job no. 2022-02, Drawing No's. A.01 to A.09 inclusive, Revision N (1), dated 19 April 2022, but modified to show:
  - a) elevations of the signs showing the colours, images and/or text to the satisfaction of the Responsible Authority;
  - b) the elevations of the container and toilet buildings nominated as painted in a muted tone or clad with a higher quality material to the satisfaction of the Responsible Authority;

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- c) the minimum 3 metre high fence continued along the internal paintball/miniball zone boundaries to separate the car park and internal walkway from the play areas;
- d) the elevation plans of buildings no. 7 and 8;
- e) the provision of a full colour palette, finishes and building materials schedule for all external elevations and driveways of the development. The materials, colours and finishes must be natural muted tones and non-reflective to the satisfaction of the Responsible Authority;
- f) the provision of bicycle parking spaces in accordance with the requirements of Clause 52.34-5 of the Kingston Planning Scheme;
- g) visual splays at the entrance to the site in accordance with Design Standard 1 (accessways) of Clause 52.06-9 of the Kingston Planning Scheme, with the signs relocated outside of the splays;
- h) two disabled car parking spaces in accordance with the applicable Australian Standard;
- i) the timber sleepers re-located 600mm from the front of the car parking spaces to allow vehicle overhangs;
- j) the location of tree protection measures illustrated to scale and labeled on the Ground Floor Plan as per the endorsed Tree Management Plan;
- k) a notation which states 'all car parking spaces within the Tree Protection Zone (TPZ) of the trees to be retained along the southern edge of the carpark and the neighboring trees adjacent the carpark's northern boundary are to be completely permeable and installed completely above-grade, unless with written consent from Council's Vegetation Department';
- l) a cross-sectional diagram of the permeable car parking space surface and sub-base layers in relation to existing ground level;
- m) a notation which states 'the Natural Ground Level (NGL) to be retained, with no more than minor leveling works (<100mm in depth) outside approved structures, within the Tree Protection Zone (TPZ) of the trees to be retained along the southern edge of the carpark and within the adjacent fenced area';
- n) the 'Raised Sleeper Planter Box' between the internal rows of car parking spaces replaced with a minimum 1-meter-wide garden bed set at or slightly below the level of the adjacent car parking spaces and a notation which states 'all car parking spaces within 1 meter either side of this garden bed are to be completely permeable, unless with written consent from Council's Vegetation Department';
- o) a minimum 1-meter-wide landscaped garden bed incorporated along the northern and eastern boundaries of the carparking area;
- p) a minimum 5-meter-wide landscaped garden bed incorporated along the outside edge of all 'Buffer Zones';
- q) any changes as required by Condition 17 of this permit (Tree Management and Protection Plan);
- r) a notation which states 'prior to the commencement of development, property boundary, footpath and vehicle crossing levels must be obtained from Council's Roads and Drains Department with all levels raised or

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- lowered to the satisfaction of the Responsible Authority’;
- s) a notation which states ‘any proposed stormwater discharge must be located at least 500mm from the vehicle crossing’;
  - t) all requirements of Melbourne Water, in accordance with Condition 4 to 8 (inclusive) of this permit;
  - u) all requirements of the Department of Transport, in accordance with Condition 9 to 11 (inclusive) of this permit;
  - v) a legend which identifies the different fencing types/materials which delineate the boundaries (site and internal zone boundaries), including the heights and materials of construction, and the plans amended to be consistent with the legend; and
  - w) the Proposed Landscape Plan prepared for this address by DJT Design (07/04/2022 Rev.N(1)) to be amended by a suitably qualified landscape professional to the satisfaction of the Responsible Authority to:
    - i. Nominate a minimum 10 species for planting at this site; with all species to be planted at this site to be locally indigenous as per Gippsland Plains EVC Numbers 3, 48, 53, 55, 68 and 125;
    - ii. Include the Tree Protection Zones (TPZ) calculated in accordance with AS4970-2009 of all existing trees to be retained on the site, and all trees on neighbouring properties or within the nature-strip where the Tree Protection Zones of such trees fall partially within the subject site;
    - iii. The delineation of all garden beds, paving, grassed area, retaining walls, fences and other landscape works;
    - iv. A range of plant types from ground covers to large shrubs and trees planted in the garden beds along the outside edge of the ‘Buffer Zones’ at adequate planting densities (e.g. plants 1 metre width at maturity planted 1 metre apart, and a minimum of one (1) canopy tree capable of growing to a minimum 15 metres in height planted every 10 metres);
    - v. Substitute the ‘*Syzygium australe* "Select Form"' shown along the site boundaries for River Red Gum (*Eucalyptus camaldulensis*);
    - vi. Substitute a minimum eight (8) of the ‘*Correa alba*’ to be planted between the two rows of carspaces at the centre of the carparking area with indigenous canopy trees capable of growing to 10 metres in height and 6 metres in width;
    - vii. Include indigenous species capable of growing to a minimum three (3) metres in height in the garden beds along the northern and eastern edges of the carparking area;
    - viii. All trees provided at a minimum of 2 metres in height at time of planting, medium to large shrubs to be provided at a minimum pot size of 200mm;
    - ix. Tree protection measures including for street trees accurately drawn to scale and labelled as per the endorsed Tree Management Plan.

**Endorsed Plans**

- 2. The development and use as shown on the endorsed plans must not be altered

without the prior written consent of the Responsible Authority.

3. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

**Melbourne Water**

4. Finished floor levels of the buildings must be constructed no lower than 18.69 metres to Australian Height Datum (AHD).
5. Any new fencing must be 'open style', a minimum of 50% of construction to allow for the conveyance of floodwaters.
6. Imported fill must be kept to a minimum on the property and must only be used for the sub floor areas of the buildings.
7. Any new or modified stormwater connection to Melbourne Water's drainage system must obtain separate approval from Melbourne Water's Asset Services Team.
8. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

**Department of Transport**

9. Prior to the commencement of the buildings and works, amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be generally in accordance with the plans submitted (Traffix Group, Drw. No. G29933/-01-01, Issue E, dated 3 November 2021) but modified to show:
  - a) A deceleration lane to be designed with a minimum length of 45 metres with 20 metres taper length as per 'Austroad Guide to Road design part 4a: Unsignalised and Signalised Intersections'. The deceleration lane must have a minimum width of 3.3 metres.
  - b) The provision of a splitter island to separate entering and exiting traffic.
  - c) Any existing features such as kerb and channel, trees, and any other features.
  - d) The access arrangement approved for the property at 433 Boundary Road.
  - e) Swept path diagram(s) to demonstrate that queueing from the exit will not obstruct traffic entering the site car park.
  - f) A function stage road safety audit by a Department of Transport qualified road safety auditor that is independent from Traffix Group, that is the author of the road safety audit must not be associated with Traffix Group in any way.
10. Prior to the commencement of any works on Boundary Road, detailed plans in relation to the approved functional layout plan must be submitted for approval.
11. Prior to commencement of the use, the following roadworks on Boundary Road must be completed at no cost to and to the satisfaction of the Head, Transport for Victoria, and the Responsible Authority:
  - a) Proposed left turn deceleration lane, crossover, and any associated works.



**Viva Energy Australia**

12. A valid Dial Before You Dig will be obtained and held onsite prior to and during any construction. (refer to : <https://www.vivaenergy.com.au/operations/our-pipelines> for further info).
13. Prior to commencement of any works, the proponent and its contractors will liaise with and obtain a Right of way permit from Viva Energy Australia, and all terms and conditions specified therein will be adhered to at all times.
14. Adherence to the applicable Viva Energy Australia procedures and regulations outlined therein will be maintained at all times.
15. Allowance must be made to ensure suitable congregation points and safe evacuation paths are available from the complex in the event of an emergency or pipeline leak.

**Trees to be Retained**

16. The retention of the six (6) English Elms (*Ulmus procera*) near the centre of the site's front setback (numbers 2, 3, 4, 5 and 6 on the plans for this site).

**Tree Management and Protection Plan**

17. Concurrent with the endorsement of plans, a Tree Management Plan prepared by a suitably qualified arborist in accordance with AS4970-2009, must be submitted to and be endorsed by the Responsible Authority and incorporating:
  - a) A Tree Management Plan (written report) must provide details of:
    - i. Any non-destructive root investigation undertaken to determine the location and distribution of roots of trees nominated on the Tree Protection Plan.
    - ii. Proposed footings and construction methods for any buildings or structures within the Tree Protection Zone nominated on the Tree Protection Plan.
    - iii. How excavation impacts, including soil level changes, on trees to be retained will be managed.
    - iv. How the canopy of trees nominated on the Tree Protection Plan will be protected.
    - v. Any other measures required to demonstrate the successful ongoing retention and viability post-construction of any trees nominated on the Tree Protection Plan.
  - b) A Tree Protection Plan (scale drawing) must provide details of:
    - i. The Tree Protection Zone and Structural Root Zone, calculated in accordance with AS4970-2009, for all trees to be retained on the site and for all trees on neighbouring properties where the Tree Protection Zone falls partially within the subject site.
    - ii. Tree protection fencing, or ground protection where required, provided in accordance with AS4970-2009.
    - iii. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.
    - iv. Appropriate signage on any tree protection fencing prohibiting access, excavation, changes in soil levels, or any storage within the Tree Protection Zone in accordance with AS4970-2009 unless with the prior written consent and under the direct supervision of the

- consulting arborist.
- v. Maintenance of the area(s) within the Tree Protection Zone in accordance with AS4970-2009.
  - vi. Any pruning to be undertaken being in accordance with AS4373-2007.
  - vii. A notation to refer to the Tree Management Plan.
18. All protection measures identified in the Tree Management Plan must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management Plan, to the satisfaction of the Responsible Authority.
19. Prior to the commencement of works, the name and contact details of the project arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

**Street Trees**

20. Tree Protection Fencing is to be established around the seven street trees with the site's nature-strip prior to demolition and maintained until all works on site are complete.
- a) The fencing is to be a 1.8 metre high temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's side panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting
  - b) The fencing is to encompass the entire nature strip with each end 3 metres from the base of the tree.

**Drainage and Water Sensitive Urban Design**

21. Unless with prior written consent of the Responsible Authority, before the development commences the following Integrated Stormwater Management (drainage) documents must be prepared, by a suitably qualified person, to the satisfaction of the Responsible Authority.
- a) Prior to submitting detailed engineering plans, a comprehensive stormwater management (drainage) strategy for the site must be prepared that addresses the requirements specified within Council's "Civil Design requirements for Developers – Part A: Integrated Stormwater Management".
  - b) The stormwater management (drainage) strategy must include a report with MUSIC modelling results demonstrating water sensitive urban design treatments that achieve Victorian best practice objectives. These may include the use of an infiltration or bio-retention system, rainwater tanks connected for reuse, or other treatments to the satisfaction of the Responsible Authority.
  - c) The water sensitive urban design treatments as per conditions 21a & 21b above must be implemented on-site, unless an alternative agreement for stormwater quality in-lieu contribution is reached with the Responsible Authority.
  - d) Detailed Stormwater Management (drainage) Plan(s) must be prepared, with supporting computations, showing the stormwater (drainage) works to the nominated point of discharge in line with approved Stormwater Management (drainage) Strategy Report. The plan(s) must show all details

of the proposed stormwater works including all existing and proposed features that may have an impact on the stormwater (drainage) works, including landscaping details.

22. Stormwater (drainage) works must be implemented in accordance with the approved stormwater management (drainage) plan and to the satisfaction of the Responsible Authority including the following:
- a) All stormwater (drainage) works must be provided onsite so as to prevent overflows onto adjacent properties.
  - b) The implementation of stormwater (drainage) detention system which restricts stormwater discharge to the maximum allowable flowrate calculated as per Council's "Civil Design requirements for Developers – Part A: Integrated Stormwater Management".
  - c) All stormwater (drainage) works must be maintained to the satisfaction of the Responsible authority.

### **Car Parking & Access**

23. Before occupation of the development hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
- a) Constructed to the satisfaction of the Responsible Authority.
  - b) Properly formed to such levels that they can be used in accordance with the plans.
  - c) Surfaced to the satisfaction of the Responsible Authority.
  - d) Drained to the satisfaction of the Responsible Authority.
  - e) Line-marked to indicate each car space, all access lanes and, if necessary, the direction in which vehicles are to travel to the satisfaction of the Responsible Authority.
  - f) In accordance with any Council adopted guidelines for the construction of car parks.

Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

24. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.
25. Concrete kerbs or other barriers must be provided to the satisfaction of the Responsible Authority to prevent direct vehicle access to an adjoining road other than by a vehicle crossing.
26. Any existing vehicular crossing not in accordance with the endorsed plan must be removed and the kerb reinstated in a manner satisfactory to the Responsible Authority and any proposed vehicular crossing must be fully constructed to the Responsible Authority's standard specification.

### **Cultural Heritage Management Plan**

27. The building and works hereby approved must be carried out in accordance with the approved Cultural Heritage Management Plan No. 18070 prepared by Benchmark Heritage Management Pty Ltd and approved by the Acting Director Heritage Services, First Peoples – State Relations, acting under authority delegated by the Secretary, Department of Premier and Cabinet on 21 April 2022.

**Use Operations**

28. Once the use has started it must be continued to the satisfaction of the Responsible Authority.
29. The use must operate only between the hours of:  
Monday to Sunday:                    7:00am to 6:00pm  
Or otherwise as approved by the Responsible Authority in writing.
30. No more than one-hundred and fifty (150) patrons may be present on the premises at any one time, unless with further written consent of the Responsible Authority.
31. No more than twelve (12) staff may be present on the premises at any one time, unless with further written consent of the Responsible Authority.

**Signs**

32. The location and details of the signs as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
33. All signs must be located wholly within the title boundary of the land.
34. Signs must not be illuminated internally or by external lights except with the prior written consent of the Responsible Authority.
35. No additional signs or other advertising or identification may be erected or displayed on the site without written Council consent.
36. The signs must not be animated, and no flashing or intermittent lights may be displayed.
37. Once the erection of the signs has commenced it must be continued and completed to the satisfaction of the Responsible Authority.
38. The signs shown on the endorsed plans must be constructed to the satisfaction of the Responsible Authority and must be maintained to the satisfaction of the Responsible Authority.

**General Amenity**

39. The amenity of the area must not be detrimentally affected by the use, through the:
  - a) Transport of materials, goods or commodities to or from the land.
  - b) Appearance of any building, works or materials.
  - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
  - d) Presence of vermin.
  - e) Any other way.
40. Noise levels emanating from the premises must not exceed those required to be met under the *Environment Protection Regulations 2021* under the *Environment Protection Act 2017* and the 'Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues' (Publication 1826.4, Environment Protection Authority, May 2021) to the satisfaction of the Responsible Authority.
41. All materials (i.e. paintballs) must be contained on site and must not detrimentally impact the surrounds.

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42. Any damaged fencing must be repaired within a reasonable timeframe to ensure no materials exit the site in accordance with the condition above
43. No goods or packaging materials shall be stored or left exposed outside the building so as to be visible to the public from a road or other public place.
44. All external surfaces of the building elevations must be finished in accordance with the schedule on the endorsed plans and maintained in good condition to the Responsible Authority's satisfaction.

**Infrastructure and Road Works**

45. Any relocation of pits/power poles or other services affected by this development must be relocated to the satisfaction of the relevant servicing authority and the Responsible Authority, at the cost of the owner/developer.
46. Property boundary and footpath levels must not be altered without the prior written consent from the Responsible Authority.
47. Any reinstatements and vehicle crossings are to be constructed to the satisfaction of the Responsible Authority.
48. Vehicle crossings and other reinstatements must be constructed to council's industrial strength specifications.
49. The replacement of all footpaths, including offsets, must be constructed to the satisfaction of the Responsible Authority.
50. Any redundant vehicle crossings must be removed (including redundant portions of vehicle crossings) to the satisfaction of the Responsible Authority.
51. All front and side fences must be contained wholly within the title property boundaries of the subject land.

**Completion of Works**

52. Prior to the occupation of the buildings hereby permitted, all buildings and works and the conditions of this permit must be complied with to the satisfaction of the Responsible Authority, unless with the further prior written consent of the Responsible Authority.
53. Prior to the occupation of the buildings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. Thereafter, the landscaping shall be maintained the satisfaction of the Responsible Authority.

**Time Limits**

54. In accordance with section 68 of the *Planning and Environment Act 1987* (the Act), this permit will expire if one of the following circumstances applies:
  - The development is not started within two (2) years from the date of permit issue.
  - The development is not completed within four (4) years from the date of permit issue.
  - The use is not commenced within two (2) years from the date of permit issue.
  - The use is discontinued for a period of two (2) years.
  - This permit (or part of the permit that relates to advertising signs) expires 15 years from the date of permit issue.

In accordance with Section 69 of the Planning and Environment Act 1987, an

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application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

55. Once the use has discontinued, the land must be restored to its original condition within six (6) months of the permit expiry date.

**Note:** Environment Protection Authority (EPA) Victoria set out the requirements pertaining to site construction hours and permissible noise levels.

**Note:** The proposed development requires roadworks within the declared road and the road reserve. A separate approval for this activity is required to be obtained from Department of Transport under the *Road Management Act*. Please contact Department of Transport prior to commencing any works.

**Note:** Prior to the commencement of the development, you are required to obtain the necessary Health Department approval for a wastewater treatment system on the land.

**Note:** Any buildings and works to be located within an easement requires separate consent from Council and/or the relevant service authority. This will need to be obtained prior to the issue of a building permit.

**Note:** Prior to the commencement of the development you are required to obtain the necessary Building Permit.

**Note:** The applicant/owner must provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with the planning permit.

**Note:** The applicant/owner must provide a copy of this planning permit and any endorsed plans to any external contractor to ensure that all trees to be retained on site are protected during any works.

**Note:** Before removing / pruning any vegetation from the site, the applicant or any contractor engaged to remove any vegetation, should consult Council's Vegetation Management Officer to verify if a Local Laws Permits is required for the removal of such vegetation.

**Note:** Any landscape plan prepared in accordance with conditions must comply with Council's Landscape Checklist.

**Note:** The applicable flood level for the property varies from 18.39 metres to Australian Height Datum (AHD) down to 17.41 metres to AHD.

**Note:** All buildings and works must be carried out in accordance with the approved Cultural Heritage Management Plan no. 18070 as required by the *Aboriginal Heritage Act 2006*. A copy of the approved CHMP must be held on site during the construction activity.

**CARRIED**

**4.6 KP-2021/845 - 71 Argus Street, Cheltenham**

**Moved: Cr Davies**

**Seconded: Cr Cochrane**

That Planning Committee determine to support the proposal and issue a Notice of Decision to Grant a Permit to the use of the land for an Education Centre (Kindergarten) in accordance with the endorsed plans at 71 Argus Street, Cheltenham, subject to the following conditions:

**Endorsed Plans**

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

**Use Operations**

2. Once the use has started it must be continued to the satisfaction of the Responsible Authority.
3. The use must operate only between the hours of:  
Monday to Friday: 7:00am to 6:00pm  
Or otherwise as approved by the Responsible Authority in writing.
4. No more than sixty six (66) students may be present on the premises at any one time, unless with further written consent of the Responsible Authority.

**Amenity**

5. The amenity of the area must not be detrimentally affected by the use, through the:
  - i) Transport of materials, goods or commodities to or from the land.
  - ii) Appearance of any building, works or materials.
  - iii) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
  - iv) Presence of vermin.
  - v) Any other way.
6. Noise levels emanating from the premises must not exceed those required to be met under the *Environment Protection Regulations 2021* under the *Environment Protection Act 2017* and the 'Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues' (Publication 1826.4, Environment Protection Authority, May 2021) to the satisfaction of the Responsible Authority.

**Time Limits**

7. In accordance with section 68 of the *Planning and Environment Act 1987* (the Act), this permit will expire if one of the following circumstances applies:
  - The use is not commenced within two (2) years of the issue date of this permit.
  - The use is discontinued for a period of two (2) years.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

**Note:** Environment Protection Authority (EPA) Victoria set out the requirements pertaining to site construction hours and permissible noise levels.

**Note:** Prior to the commencement of the development you are required to obtain the necessary Building Permit.

**Note:** The applicant/owner must provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with the planning permit.

**Note:** The applicant/owner must provide a copy of this planning permit and any endorsed plans to any external contractor to ensure that all trees to be retained on site are protected during any works.

**Note:** Before removing / pruning any vegetation from the site, the applicant or any contractor engaged to remove any vegetation, should consult Council's Vegetation Management Officer to verify if a Local Laws Permit is required for the removal of such vegetation.

**CARRIED**

#### **4.7 KP-2021/664 1126-1146 Centre Road, Oakleigh South**

Cr Staikos declared a material conflict of interest in this item as he owns property in the vicinity of the proposed development and left the meeting at 7.59pm prior to any discussion on the matter.

It is recorded that the Manager City Development, Jaclyn Murdoch was not present for this item.

It is recorded that Kee Ong spoke on behalf of the applicant.

**Moved: Cr Hill**

**Seconded: Cr Hua**

That the Planning Committee determine to support the proposal and issue a notice of decision to grant a planning permit for the use and development of a warehouse and office (up to 34.6 metres in height), a reduction in the car parking requirement, alterations to the access to a road in a Transport Zone 2 and the display of signage at 1126-1146 Centre Road, Oakleigh South, subject to the following conditions:

#### **Amended Plans**

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be substantially in accordance with the advertised plans prepared by I2C submitted to Council on 22 November 2021, but modified to show:
  - a) The landscape plan prepared for this site by PLAN/E (November 2021) to be modified by a suitably qualified landscape professional to the satisfaction of the Responsible Authority to incorporate:



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- (i) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant with all plants chosen to be to the satisfaction of the Responsible Authority.
- (ii) A survey, including, botanical names of all existing trees to be retained or removed on the site including tree protection zones for trees to be retained calculated in accordance with AS4970-2009.
- (iii) A survey including botanical names, of all existing trees on neighbouring properties where the tree protection zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
- (iv) The delineation of all garden beds, paving, grassed area, retaining walls, fences and other landscape works.
- (v) A range of plant types from ground covers to large shrubs and trees, provided at adequate planting densities (e.g. plants 1 metre width at maturity planted 1 metre apart); with all species to be planted at this address to be locally indigenous as per Gippsland Plains EVC Numbers 48, 55 and 175.
- (vi) The canopy trees to be planted within the rain gardens in the southern car park and by the 'bin enclosure' are to be indigenous canopy trees capable of growing to a minimum mature height of 12 metres; with similar sized indigenous canopy trees to be planted at the same density within the garden beds between the rows of car parking spaces in the north-east car park.
- (vii) Canopy trees to be planted within the Centre Road frontage are to be substituted for indigenous species capable of growing to a minimum 10 metres in height at maturity.
- (viii) Three (3) River Red Gums (*Eucalyptus camaldulensis*) or similarly sized indigenous species planted within the garden bed to the north-east of the hardstand truck manoeuvring area; with similarly sized indigenous canopy trees planted at 10 metre spacing within the garden bed along the eastern edge of the hardstand, and with suitable indigenous understorey planting to be incorporated in both positions.
- (ix) One (1) indigenous canopy tree capable of growing to minimum 6 metres in height planted in the top corner of each car parking space along the eastern and southern boundary of the southern car park.
- (x) A range of indigenous plant types from ground covers to large shrubs and trees to be planted in the easement along the site's rear boundary at adequate planting densities (e.g. plants 1 metre width at maturity planted 1 metre apart, and a minimum 1 canopy tree to 10 metres in height planted every 10 metres).
- (xi) All trees provided at a minimum of 2 metres in height at time of planting, medium to large shrubs to be provided at a minimum pot size of 200mm.
- (xii) Where possible passive irrigation is to be provided to all areas of landscaping and to all existing trees to be retained at this site (e.g. by modifying kerbs and drains, or grading car parking spaces and other hard surface areas to direct rainwater into garden beds).

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- (xiii) The provision of notes regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.
- (xiv) The location of any tree protection measures including for street trees accurately drawn to scale and labelled as per the endorsed tree management plan.
- b) The location of tree protection measures illustrated to scale and labelled on the ground floor plan as per the endorsed tree management plan.
- c) The retention of trees 1-3, 8-9, 15, and 22-32 (numbered as per the Arboricultural Impact Assessment for this site prepared by Greenwood Consulting, 16 November 2021) and any changes required as a result.
- d) The proposed layout of the site's Centre Road frontage be modified where required to allow for the retention and ongoing viability of trees 1-3, 8-9, 15, and 22-32 in accordance with AS4970-2009 Protection of Trees on Development Sites and to the satisfaction of Council.
- e) A 2 metre wide raingarden or bioswale to be installed along the middle of the two double rows of car parking spaces within the north-east carpark.
- f) Where possible without compromising vehicle manoeuvring, the north-east corner of the hardstand truck manoeuvring area is to be replaced with a landscaped garden bed and a minimum 2-metre-wide landscaped garden bed is to be incorporated along the length of the hardstand's eastern edge, unless otherwise with written consent from the Responsible Authority.
- g) Where within tree protection zone (TPZ) of trees 1-3, 8-9, 15, 22-32, 76-79 and 81-93, car parking spaces and the one-way driveway along the site's boundaries are to be completely permeable and installed completely above-grade, unless with written consent from Council. Cross-sectional diagrams showing the permeable driveway and car parking space surfaces and sub-base layers in relation to natural ground level are to be included on the ground floor plan.
- h) A 1 metre wide garden bed or cut-outs for tree planting (as per Diagram 1 of Clause 52.06-09) connected with a 1-meter-wide permeable strip, are to be incorporated along the top of each car parking space in the eastern and southern row of car parking spaces in the southern car park.
- i) All requirements of Transport for Victoria, in accordance with condition 33 of this permit.
- j) Vehicle crossovers constructed at a 90 degree alignment with the kerb on Centre Road and all internal driveways must align with the existing / proposed vehicle crossovers.
- k) The surface material of all driveways / accessways and car parking spaces nominated in all-weather coloured concrete sealcoat, or similar.
- l) The provision of a full colour, finishes and building materials schedule (including samples) for all external elevations and driveways of the development.
- m) A notation on the floor / site plan(s) stating: "The redundant vehicle crossover must be removed, kerb and channel must be reinstated and the extension to the existing footpath up to the wing of the vehicle crossing must be constructed to the satisfaction of the Responsible Authority".

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- n) A notation indicating the location, type and size of the visitor bicycle parking spaces or amend the BESS assessment accordingly.
- o) A notation indicating bin locations on plans.
- p) Provide on the flat roofs and exposed concrete driveway, high SRI paints and materials (SRI>50).
- q) The recommendations of the road safety audit prepared by Road Safety Audits and dated 18 May 2022.
- r) Any changes required by the tree management plan required by condition 16 of this planning permit.
- s) Any requirements of the waste management plan required by condition 30 of this planning permit.

**Endorsed Plans**

- 2. The development and use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
- 3. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced

**General Amenity**

- 4. The amenity of the area must not be detrimentally affected by the development through the:
  - (a) Transport of materials, goods or commodities to or from the land.
  - (b) Appearance of any building, works or materials.
  - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
  - (d) Presence of vermin.
  - (e) Any other way.
- 5. The development of the site shall not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. In this regard any nuisance shall be assessed in accordance with the Australian Standards AS1055 and AS2107 relating to the measurement of Environmental Noise and recommended sound levels.
- 6. The use and development must comply at all times with the EPA Publication 1826 'Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues' (EPA 1826).
- 7. No goods or packaging materials shall be stored or left exposed outside the building so as to be visible to the public from a road or other public place.
- 8. All external surfaces of the building elevations must be finished in accordance with the schedule on the endorsed plans and maintained in good condition to the satisfaction of the Responsible Authority.

**Heavy Vehicles Hours of Operation**

- 9. The use of heavy vehicle to or from the development herein approved must only operate between 6:00am and 7:00pm, Monday to Sunday.

**Car Parking and Traffic**

10. Concrete kerbs or other barriers must be provided to the satisfaction of the Responsible Authority to prevent direct vehicle access to an adjoining road other than by a vehicle crossover.
11. Any existing vehicular crossover not in accordance with the endorsed plans must be removed and the kerb reinstated in a manner satisfactory to the Responsible Authority and any proposed vehicular crossover must be fully constructed to the Responsible Authority's standard specification.
12. The loading and unloading of goods to and from vehicles must only be carried out on the land.

**Street Tree Protection**

13. Tree protection fencing is to be established around the street trees within the Centre Road nature-strip prior to demolition and maintained until all works on site are complete and:
  - i. The fencing is to be a 1.8 metre high temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's side panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting.
  - ii. The fencing is to encompass the entire nature strip with each end 3 metres from the base of the tree.

**Vegetation**

14. Trees 1-3, 8-9, 15, and 22-32 (numbered as per the Arboricultural Impact Assessment for this site prepared by Greenwood Consulting, 16 November 2021) must be retained as part of this development unless with written consent from the Responsible Authority.
15. No vegetation is to be removed from the area of the site marked as 'Reserved for Future Use' on the plans for this address unless with written consent from the Responsible Authority.

**Tree Management and Protection Plan**

16. Concurrent with the endorsement of plans required by condition 1 of this planning permit, a tree management plan must be submitted to and be endorsed by the Responsible Authority and incorporating:
  - a) A tree protection plan (scale drawing) with a notation referring to the tree management plan must provide details of:
    - i) The tree protection zone and structural root zone, calculated in accordance with AS4970-2009, for all trees to be retained on the site and for all trees on neighbouring properties where the tree protection zone falls partially within the subject site.
    - ii) Tree protection fencing, or ground protection where required, provided in accordance with AS4970-2009.
    - iii) Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.
    - iv) Appropriate signage on any tree protection fencing prohibiting access, excavation, changes in soil levels, or any storage within the tree protection zone in accordance with AS4970-2009 unless with the prior written consent and under the direct supervision of the consulting arborist.

- v) Maintenance of the area(s) within the tree protection zone in accordance with AS4970-2009.
- vi) Any pruning to be undertaken being in accordance with AS4373-2007.
- b) A tree management plan (written report) must be prepared by a suitably qualified arborist, with reference the tree protection plan and provide details of:
  - i) Any non-destructive root investigation undertaken in accordance with AS4970-2009 to determine the location and distribution of roots of trees nominated on the tree protection plan.
  - ii) Proposed footings and construction methods for any buildings or structures within the tree protection zone nominated on the tree protection plan.
  - iii) How excavation impacts, including soil level changes, on trees to be retained will be managed.
  - iv) How the canopy of trees nominated on the tree protection plan will be protected.
  - v) Any other measures required to demonstrate the successful ongoing retention and viability post-construction of any trees nominated on the tree protection plan.
- 17. All protection measures identified in the tree management plan must be implemented, and development works undertaken on the land must be undertaken in accordance with the tree management plan, to the satisfaction of the Responsible Authority.
- 18. Prior to the commencement of works, the name and contact details of the project arborist responsible for implementing the tree management plan must be submitted to the Responsible Authority.

**Environmentally Sustainable Design**

- 19. Concurrent with the endorsement of plans required by condition 1 of this planning permit, an amended sustainable design assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the sustainable design assessment will be endorsed and will form part of this planning permit. The sustainable design assessment must be generally in accordance with the sustainable design assessment prepared by Simpson Kotzman, dated 23 September 2021, amended 17 November 2021, but modified to:
  - a) Meet the minimum 50 per cent overall score and minimums in Energy (50 per cent), Water (50 per cent), IEQ (50 per cent) and Stormwater (100 per cent) categories in BESS to demonstrate best practice in sustainable design.
  - b) Commit to a water heating system/s within one star availability or 85% or better than the most efficient equivalent capacity unit or amend the BESS assessment accordingly.
  - c) Demonstrate that stormwater treatment will be provided to meet BESS requirements.
  - d) Commit to the provision of twenty-six (26) bicycle parking spaces or amend the BESS assessment accordingly.

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- e) Provide further information in the sustainable design assessment and on the drawings that show how the allocation of recycling waste facilities that are just as convenient as general waste.
- f) Commit to light-coloured or reflective finishes for the non-visible flat roofs and concrete driveway to help mitigate the urban heat island effect.

Or to the satisfaction of the Responsible Authority.

- 20. Prior to the occupation of any building approved under this planning permit, written confirmation from the author(s) or similarly qualified person or company of the endorsed sustainable design assessment is to be submitted to the Responsible Authority that all of the required measures specified in the sustainable design assessment have been implemented.
- 21. All works must be undertaken in accordance with the endorsed sustainable design assessment to the satisfaction of the responsible authority. No alterations to the sustainable design assessment may occur without the written consent of the Responsible Authority.

**Green Travel Plan**

- 22. The provisions, recommendations and requirements of the endorsed green travel plan, prepared by GTA Consultants now Stantec and dated 22 September 2021, must be implemented and complied with to the satisfaction of the Responsible Authority. No alterations to the green travel plan may occur without the written consent of the Responsible Authority.

**Drainage and Water Sensitive Urban Design**

- 23. Unless with prior written consent of the Responsible Authority, before the development commences the following integrated stormwater management (drainage) documents must be prepared, by a suitably qualified person, to the satisfaction of the Responsible Authority:
  - a) Prior to submitting detailed engineering plans, a comprehensive stormwater management (drainage) strategy for the site must be prepared that addresses the requirements specified within Council's "Civil Design requirements for Developers – Part A: Integrated Stormwater Management".
  - b) The stormwater management (drainage) strategy must include a report with MUSIC modelling results demonstrating water sensitive urban design treatments that achieve Victorian best practice objectives. These may include the use of an infiltration or bio-retention system, rainwater tanks connected for reuse, or other treatments to the satisfaction of the Responsible Authority.
  - c) The water sensitive urban design treatments as per conditions 22(a) and (b) above, must be implemented on-site, unless an alternative agreement for stormwater quality in-lieu contribution is reached with the Responsible Authority.
  - d) Detailed stormwater management (drainage) plan(s) must be prepared, with supporting computations, showing the stormwater (drainage) works to the nominated point of discharge in line with approved stormwater management (drainage) strategy report. The plan(s) must show all details of the proposed stormwater works including all existing and proposed features that may have an impact on the stormwater (drainage) works, including landscaping details.

24. Stormwater (drainage) works must be implemented in accordance with the approved stormwater management (drainage) plan and to the satisfaction of the Responsible Authority including the following:
- a) All stormwater (drainage) works must be provided onsite so as to prevent overflows onto adjacent properties.
  - b) The implementation of stormwater (drainage) detention system which restricts stormwater discharge to the maximum allowable flowrate calculated as per Council's "Civil Design requirements for Developers – Part A: Integrated Stormwater Management".
  - c) All stormwater (drainage) works must be maintained to the satisfaction of the Responsible authority.

**Infrastructure and Drains**

- 25. Property boundary and footpath levels must not be altered without the prior written consent from the Responsible Authority.
- 26. All reinstatements and vehicle crossovers must be constructed to the satisfaction of the Responsible Authority.
- 27. All redundant vehicle crossovers must be removed (including redundant portions of vehicle crossovers) to the satisfaction of the Responsible Authority.
- 28. All front and side fences must be contained wholly within the title property boundaries of the subject land.

**Airports Regulations 1996**

- 29. Concurrent with the endorsement of plans required by condition 1 of this planning permit, 'prior to the commencement of construction, evidence must be provided to confirm that the proposal meets with the requirements of the *Airports (Protection of Airspace) Regulations 1996* and be below the relevant Obstacle Limitation Surface (OLS), unless with the written consent of the relevant authority.

**Waste Management Plan**

- 30. Concurrent with the endorsement of plans required by condition 1 of this planning permit, a waste management plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the planning permit. The waste management plan should include, but is not limited to, the following:
  - a) Calculations showing that the use will be sufficiently catered for with the proposed number of garbage and recycling bins.
  - b) The size and location for the storage of general waste and recyclables on the ground floor and details of screening from view, where required.
  - c) A plan showing that the storage area is sufficient to cater for the number of bins.
  - d) The size and location for the storage of recyclables within the building.
  - e) Details of ventilation if garbage bins are in enclosed areas.
  - h) A description of ease of disposal that does not disadvantage recycling.
  - i) The consideration of the ease of taking the fully laden bins to the collection point(s).
  - j) Private contractor options, if applicable, detailing the methods of collection

with regard to site and road network constraints and the potential requirement to manoeuvre garbage trucks, including a collection plan.

- k) Confirmation of the hours and frequency of pick-up for general and recyclable waste, with regard to potential noise impacts to the surrounding neighbourhood.
31. The waste management plan must be implemented to the satisfaction of the Responsible Authority. The waste management plan must not be modified unless with the written consent of the Responsible Authority.

**Construction Management Plan**

32. Prior to the commencement of any buildings and works on the land (including demolition), a construction management plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The construction management plan must be prepared in accordance with the City of Kingston Construction Management Policy and Construction Guidelines. The construction management plan must specify and deal with, but is not limited to, the following elements:
- i. Public safety, amenity and site security.
  - ii. Traffic management.
  - iii. Stakeholder management.
  - iv. Operating hours, noise and vibration controls.
  - v. Air quality and dust management.
  - vi. Stormwater and sediment control.
  - vii. Waste and materials re-use.

When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with during the undertaking of all works.

**Department of Transport Conditions**

33. Prior to the endorsement of plans, amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:
- a) Prior to the commencement of the use, the crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
  - b) Unless otherwise agreed in writing with the Head, Transport for Victoria, prior to the commencement of the use, the two disused/redundant vehicle crossings on Centre Road must be removed, and the area reinstated to kerb and channel the satisfaction of the Responsible Authority and at no cost to the Head, Transport for Victoria.
  - c) Vehicles must enter and exit the site in a forward direction at all times.

**Site Environmental Assessment**

34. Prior to the commencement of the development, an environmental assessment report or a preliminary risk screening assessment (**PRSA**) under the *Environment Protection Act 2017* must be submitted to, and be to the satisfaction of, the Responsible Authority. The environmental assessment report or a



preliminary risk screening assessment is to be conducted by a competent professional practitioner with relevant experience in the field. The owner must comply with the findings of the site assessment to the satisfaction of the Responsible Authority. The environmental assessment report or a preliminary risk screening assessment must be subject to, in the case of a preliminary risk screening assessment, the requirements of the *Environment Protection Act 2017* in relation to preliminary risk screening assessments:

- a) Specify the name and qualifications of the person who has conducted the report.
- b) Provide comment on the potential for off-site contamination to have migrated to the subject land from neighbouring land. Soil sampling and analysis of the subject site may be required where access to definitive information regarding neighbouring land is not obtainable or is inconclusive.
- c) Specify the potential subsurface presence and migration of landfill gasses by addressing the direct measurement of LFG using appropriately installed subrace minoring bores, if necessary.
- d) Specify the industrial process or activity, waste or substance in respect of which the report was conducted.
- e) Specify the segment of the environment in respect of which the report was conducted.
- f) Include an evaluation of the environmental quality of the relevant segment of the environment.
- g) Include an assessment of any clean up that is necessary, including recommendations relating to the carrying out of the clean up and any compliance requirements to enable the land owner to ensure that the land is suitable for the proposal.
- h) Include a further recommendation to the Responsible Authority as to whether the condition of the land is such that an Environmental Audit should be conducted taking into consideration the proposed use.

**Environmental Audit, if required**

35. If pursuant to condition 33 of this planning permit an environmental audit is recommended then, prior to the commencement of the development, an environmental audit in accordance with the *Environment Protection Act 2017* must be submitted to, and be to the satisfaction of, the Responsible Authority. At a minimum, the scope of the environmental audit must include:
  - a. The identity of the site or activity the audit covers.
  - b. The elements of the environment the audit assesses, such as land, water, air and noise.
  - c. Consideration of the standards and reference documents in the audit.
  - d. Any exclusion from the audit and the reason known at the time of scoping the audit.
36. After the completion of the environmental audit, the auditor must prepare and provide to the Responsible Authority:
  - A) An environmental audit statement in accordance with the *Environment Protection Act 2017* that the environmental conditions of the land are suitable for the development that is the subject of this permit; and

- B) An environmental audit report in accordance with the *Environment Protection Act 2017*.
37. Where an environmental audit statement is issued for the land, and any condition of that statement requires any maintenance or monitoring of an ongoing nature, the owner(s) must enter into an agreement with Council pursuant to Section 173 of the *Planning and Environment Act 1987*. Where a Section 173 agreement is required, the agreement must be executed prior to the commencement of the use. All expenses involved in the drafting, negotiating, lodging, registering and execution of the agreement, including those incurred by the Responsible Authority, must be met by the owner(s).
38. Prior to any remediation works (if required) being undertaken in association with the environmental audit statement, a 'remediation works' plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of an environmental audit statement.
39. No works to construct the development hereby approved shall be carried out on the land and no building contract to construct the development hereby approved may be entered into, other than in accordance with a building contract that stipulates that works must not be commenced until such time as conditions 33 and 34 are satisfied.
40. Where a statement of environmental audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the statement.
41. Where a statement of environmental audit is issued for the land, prior to the commencement of the use and prior to the issue of an occupancy permit under the *Building Act 1993*, a letter prepared by an environmental auditor appointed under the *Environment Protection Act 2017* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.

### **Signage**

42. The location and details of the signs as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
43. All signs must be located wholly within the title boundary of the land and must not protrude above the overall height of the building.
44. The signs must not be located within or encroach onto the road reservation.
45. Signs must not be illuminated internally or by external lights, except with the prior written consent of the Responsible Authority or if shown as illuminated on the endorsed plans.
46. No further sign(s) or other advertising or identification may be erected or displayed on the site without written Council consent.
47. The sign(s) must not be animated and no flashing or intermittent lights may be displayed.
48. The intensity of the light on the sign(s) must be limited so as not to cause glare or distraction to motorists or other persons or loss of amenity in the surrounding area all to the satisfaction of the Responsible Authority.

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49. Once the erection of the sign(s) has commenced it must be continued and completed to the satisfaction of the Responsible Authority.
50. The sign(s) shown on the endorsed plans must be constructed to the satisfaction of the Responsible Authority and must be maintained to the satisfaction of the Responsible Authority.
51. This permit (or part of the permit that relates to advertising signs) expires 15 years from the date of issue of the permit.

**Completion of Works**

52. Once the development has started, it must be continued and completed to the satisfaction of the Responsible Authority.
53. Prior to the occupation of the development hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. Thereafter, the landscaping shall be maintained to the satisfaction of the Responsible Authority.

**Permit Expiry**

54. This permit as it relates to use and development (buildings and works) will expire if one of the following circumstances applies:
  - a) The development is not started within two (2) years of the issue date of this permit.
  - b) The development is not completed within four (4) years of the issue date of this permit.
  - c) The use is not commenced with five (5) years of the date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

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**Note:** Prior to the commencement of the development or use you are required to obtain the necessary building permit.

**Note:** Environment Protection Authority (EPA) Victoria set out the requirements pertaining to site construction hours and permissible noise levels.

**Note:** The applicant/owner must provide a copy of this planning permit to any appointed building surveyor. It is the responsibility of the applicant/owner and building surveyor to ensure that all building development works approved by any building permit is consistent with the planning permit.

**Note:** The proposed development requires works within the road reserve. Separate approval under the *Road Management Act 2004* for this activity may be required from the Head, Transport for Victoria. Please contact the Department of Transport (Roads) prior to commencing any works.

**Note:** A copy of the construction management plan is to be provided to Council and be made available for inspection prior to commencement of the development.

**Note:** Prior to endorsement of the of the construction management plan, an approved road occupation and works permit which covers occupation of Council land for construction activities, arranging a works zone and assessment of traffic management plans (if applicable) must be obtained. The developer will be responsible for any costs related to this permit, to the satisfaction of the

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Responsible Authority.

**Note:** Prior to endorsement of the construction management plan, an asset protection permit must be approved by the Responsible Authority (if applicable).

**Note:** Vehicle crossovers must be constructed at a 90 degree alignment with the kerb and all internal driveways must align with the existing/proposed vehicle crossover.

**Note:** Prior to the commencement of development, property boundary, footpath and vehicle crossover levels must be obtained from Council's roads and drains department with all levels raised or lowered to the satisfaction of the Responsible Authority.

**Note:** Property boundary and footpath levels must not be altered without the prior written consent from the Responsible Authority.

**Note:** The footpath must be reconstructed to Council's commercial standards to the satisfaction of the Responsible Authority.

**Note:** Road reserve assets such as pits and power poles are to be shown on the plans. The vehicle crossovers should be no less than 1 metres from any stormwater or utility assets. Not all road assets are indicated on the plans and the vehicle crossovers may conflict with existing stormwater side entry pits.

**Note:** Any side entry storm water pit within a proposed vehicle crossover must be constructed to the satisfaction of Council's roads and drains department.

**Note:** Any proposed stormwater discharges must be located at least 500mm from the vehicle crossovers.

**Note:** The storm water pits in both streets are to be at least 500mm from the proposed vehicle crossovers or they are to be located wholly within the vehicle crossovers, if so they must be constructed to the satisfaction of Council's roads and drains department.

**Note:** The applicant/owner must seek confirmation from AirServices Australia and/or the Airport Lessee Company to ensure the proposal does not intrude into the OLS or PANS-OPS surface.

**CARRIED**

Cr Cochrane left the meeting at 8:09pm

The Mayor Cr Staikos returned to the meeting at 8.09pm

**4.8 KP-2021/695 - 8 Plant Grove, Heatherton**

Cr Cochrane returned to the meeting at 8:12pm

It is recorded that Jill Romeril spoke on behalf of the applicant.

**Moved: Cr Davies**

**Seconded: Cr Cochrane**

That the Planning Committee determine to support the proposal and issue a Planning Permit for Buildings and works (storage shed) on land affected by an Environmental Significance Overlay at 8 Plant Grove, Heatherton, subject to the following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and 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 be substantially in accordance with the plans submitted to Council on 7 October and 13 December 2021, but modified to show:
  - a) A survey, including, botanical names of all existing trees to be retained or removed on the site including Tree Protection Zones for trees to be retained calculated in accordance with AS4970-2009.
  - b) Removal or pruning of the dead tree located along the front boundary near the south-west corner of the property.
  - c) The provision of a colour schedule, with colours to be non-reflective.
  - d) the location of existing and proposed artificial lighting on the plans, if no artificial lighting - a notation stating so.

**Endorsed Plans**

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

**Tree Management and Protection Plan**

3. Concurrent with the endorsement of plans, a Tree Management Plan prepared by a suitably qualified arborist in accordance with AS4970-2009, must be submitted to and be endorsed by the Responsible Authority and incorporating:
  - a) A Tree Management Plan (written report) must provide details of:
    - i. Tree protection measures that will be utilized to ensure all trees to be retained remain viable post-construction.
    - ii. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.
  - b) A Tree Protection Plan (scale drawing) must provide details of:
    - i. The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.
    - ii. The location of tree protection measures to be utilized.
    - iii. A notation to refer to the Tree Management Plan.
4. All protection measures identified in the Tree Management Plan must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management Plan, to the satisfaction of

the Responsible Authority.

5. Prior to the commencement of works, the name and contact details of the project arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

**Drainage and Water Sensitive Urban Design**

6. Stormwater drainage of the site must be provided so as to prevent any overflows onto adjacent properties and be directed to the nominated point of discharge.

**Conditions Required by Viva Energy Australia**

7. All works proposed will remain within the boundary of the property known as 8 Plant Grove, Heatherton.
8. No vegetation will be planted within 6m either side of the pipeline (distance is calculated from the outermost point of the pipeline)
9. Any vegetation planted between 3-6m from the pipeline must be low lying with a non-invasive root system and discussed with Viva Energy Australia prior to planting.
10. The applicant must hold valid Dial Before You Dig responses on site prior to and for the duration of all works.
11. Works must not commence until all the appropriate permits from Viva Energy Australia are obtained (as per directions provided with the Viva Energy Australia Dial Before you dig plans) and they are able to ensure adherence to all the terms and conditions outlined in the permits (including works methodology, offset/alignment specifications and any viva signage requirements)
12. The applicant is to ensure appropriate evacuation plans are in place and a designated congregation point upwind and away from the pipeline is established.

**General amenity conditions**

13. The amenity of the area must not be detrimentally affected by the development and/or use, through the:
  - a) Transport of materials, goods or commodities to or from the land.
  - b) Appearance of any building, works or materials.
  - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
  - d) Presence of vermin.
  - e) Any other way.
14. Before occupation of the development hereby permitted, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
15. The development of the site shall not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. In this regard any nuisance shall be assessed in accordance with the Australian Standards AS1055 and AS2107 relating to the measurement of Environmental Noise and recommended sound levels.
16. The loading and unloading of goods to and from vehicles must only be carried out on the land.

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17. No goods or packaging materials shall be stored or left exposed outside the building so as to be visible to the public from a road or other public place.
18. All external surfaces of the building elevations must be finished in accordance with the schedule on the endorsed plans and maintained in good condition to the Responsible Authority's satisfaction.

**Completion of Works**

19. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

**Expiry**

20. In accordance with Section 68 of the Planning and Environment Act 1987 (The Act), this permit will expire if one of the following circumstances applies:
  - The development is not started before two (2) years from date of this permit.
  - The development is not completed before four (4) years from the date of permit issue.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

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**Note:** Prior to the commencement of the development or use you are required to obtain the necessary Building Permit.

**Appendix 2: The Aboriginal Heritage Planning Questionnaire Tool**

Department of Premier and Cabinet

Process List

Project Name: Storage Shed - Plant Grove  
 Project Location: 8 Plant Grove Heatherton  
 Date: 09-Dec-2021

	QUESTION	ANSWER
Question 1	Is the proposed activity , or all the proposed activities, exempt?	No
Question 2	Are you undertaking a High Impact Activity as listed in the Aboriginal Heritage Regulations?	Yes
Question 2(b)	Is the activity for or associated with a purpose for which the land was being lawfully used prior to 28 May 2007?	Yes
Answer:	<p style="text-align: center; color: #808080; font-weight: bold; margin: 0;">ON THE BASIS OF THE ANSWERS YOU HAVE ENTERED</p> <p style="text-align: center; color: #808080; font-weight: bold; margin: 0;">YOU ARE NOT REQUIRED BY THE REGULATIONS TO PREPARE A CULTURAL HERITAGE MANAGEMENT PLAN FOR THIS PROJECT</p>	
	<p style="font-size: 0.8em; color: #808080; margin: 0;">This process list is for information purposes only; the result must not be relied upon by a statutory authority in deciding whether a cultural heritage management plan is required for a proposed activity.</p>	

**CARRIED**

**4.9 KP-2021/763 - 370-440 Old Dandenong Road and 100 Tootal Road (part),  
Dingley Village**

It is recorded that Miranda Bailey spoke on behalf of the applicant.

**Moved: Cr Hua**

**Seconded: Cr Davey-Burns**

That the Planning Committee determine to support the proposal and issue a Planning Permit for the use of the land for leisure and recreation (private dog play park), associated works (accessway & carparking) and display of business identification signage in accordance with the endorsed plans at 370-440 Old Dandenong Road and 100 Tootal Road, Dingley Village, subject to the following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be substantially in accordance with the advertised plans, but modified to show:
  - a) a Site Plan which includes:
    - i. boundaries and title dimensions of the site;
    - ii. contours of the land;
    - iii. the width of the landscape buffer adjacent to the Tootal Road frontage;
    - iv. the width of the landscape strips internal to the site;
    - v. the dimensions of each of the Park areas;
    - vi. the dimensions of the area set aside for vehicle access and car parking;
    - vii. The location of existing vegetation to be retained, including the *Eucalyptus pryoriana* subsp. *pyroriana* (Coast Manna Gum);
    - viii. The location of vegetation to be removed within the accessway, and
    - ix. the location of the crossover and accessway
  - b) all trees and vegetation proposed to be removed;
  - c) a detailed plan showing the exact location of the proposed crossover, fully dimensioned, including setbacks from vegetation to be retained, title boundaries and the distance from any infrastructure within the Tootal Road reserve, including the bus stop;
  - d) one (1) bicycle parking space, in accordance with the requirements of Clause 52.34;
  - e) a Waste Management Plan in accordance with Condition 15;
  - f) the provision of a landscape plan in accordance with the submitted development plans, to the satisfaction of Responsible Authority and incorporating:
    - i. A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.



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- ii. The location of existing *Eucalyptus pryoriana* subsp. *pyroriana* (Coast Manna Gum) shown to be retained, with the encroachment of the accessway not exceeding 10% of the TPZ.
- iii. The location of existing vegetation to be retained.
- iv. The location of vegetation to be removed within the accessway.
- v. The location of the vegetation to be planted.
- vi. The perimeter of the site excluding the Tootal Road frontage, and along the length of both sides of the car parking area to be planted with *Eucalyptus pryoriana* subsp. *pyroriana* (Coast Manna Gum) at 20 metre spacings.
- vii. The internal planting areas between the dog parks to be planted with a mixture of groundcovers, shrubs and trees with species to be from Ecological Vegetation Classes Damp Sands Herb-rich Woodlands and Heathy Woodlands.
- viii. All trees provided at a minimum of 2 metres in height at time of planting, medium to large shrubs to be provided at a minimum pot size of 200mm.
- ix. Notes regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.

**Endorsed Plans**

2. The development and use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
3. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

**Tree Management Plan**

4. Concurrent with the endorsement of plans, a Tree Management Plan prepared by a suitably qualified arborist in accordance with AS4970-2009, must be submitted to and be endorsed by the Responsible Authority and incorporating:
  - a) A Tree Management Report (written report) must provide details of:
    - i. Tree protection measures that will be utilized to ensure all trees to be retained remain viable post-construction.
    - ii. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.
  - b) A Tree Protection Plan (scale drawing) must provide details of:
    - i. The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighboring properties where any part of the Tree Protection Zone falls within the subject site.
    - ii. The location of tree protection measures to be utilized.
    - iii. A notation to refer to the Tree Management Report.

**Use Conditions**

5. Unless with the further written consent of the Responsible Authority, the use may

only operate between the following:

Monday to Sunday: 6.00am to 8.00pm

6. Unless with the further written consent of the Responsible Authority, not more than forty (40) patrons (excluding staff) in association with approved land use may be permitted on the land at any one time.
7. Unless with the further written consent of the Responsible Authority, not more than three (3) staff in association with approved land use may be permitted on the land at any one time.

**Car Parking & Access**

8. Before use of the development hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
  - i. Constructed to the satisfaction of the Responsible Authority.
  - ii. Properly formed to such levels that they can be used in accordance with the plans.
  - iii. Surfaced to the satisfaction of the Responsible Authority.
  - iv. Drained to the satisfaction of the Responsible Authority.
  - v. Line-marked to indicate each car space, all access lanes and, if necessary, the direction in which vehicles are to travel to the satisfaction of the Responsible Authority.
  - vi. In accordance with any Council adopted guidelines for the construction of car parks.

Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

9. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.

**Roads and Drains Department**

10. Vehicle crossings must be constructed at a 90 degree alignment with the kerb / edge of bitumen on Tootal Road and all internal driveways must align with the proposed vehicle crossing.
11. Vehicle crossings must be constructed to council's industrial strength specifications or to satisfaction of the responsible authority.
12. All front and side fences must be contained wholly within the title property boundaries of the subject land.

**Drainage and Water Sensitive Urban Design**

13. Unless with prior written consent of the Responsible Authority, before the development commences the following Integrated Stormwater Management (drainage) documents must be prepared, by a suitably qualified person, to the satisfaction of the Responsible Authority:
  - a) Prior to submitting detailed engineering plans, a comprehensive stormwater management (drainage) strategy for the site must be prepared that addresses the requirements specified within Council's "Civil Design requirements for Developers – Part A: Integrated Stormwater Management".
  - b) The stormwater management (drainage) strategy must include a report

- with MUSIC modelling results demonstrating water sensitive urban design treatments that achieve Victorian best practice objectives. These may include the use of an infiltration or bio-retention system, rainwater tanks connected for reuse, or other treatments to the satisfaction of the Responsible Authority.
- c) The water sensitive urban design treatments as per conditions 13a & 13b above must be implemented on-site, unless an alternative agreement for stormwater quality in-lieu contribution is reached with the Responsible Authority.
  - d) Detailed Stormwater Management (drainage) Plan(s) must be prepared, with supporting computations, showing the stormwater (drainage) works to the nominated point of discharge in line with approved Stormwater Management (drainage) Strategy Report. The plan(s) must show all details of the proposed stormwater works including all existing and proposed features that may have an impact on the stormwater (drainage) works, including landscaping details.
14. Stormwater (drainage) works must be implemented in accordance with the approved stormwater management (drainage) plan and to the satisfaction of the Responsible Authority including the following:
- a) All stormwater (drainage) works must be provided onsite so as to prevent overflows onto adjacent properties.
  - b) The implementation of stormwater (drainage) detention system which restricts stormwater discharge to the maximum allowable flowrate calculated as per Council's "Civil Design requirements for Developers – Part A: Integrated Stormwater Management".
  - c) All stormwater (drainage) works must be maintained to the satisfaction of the Responsible authority.
  - d) Waste Management
15. A Waste Management Plan (WMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Plan will be endorsed and will then form part of the permit. The plan must include, but is not limited to, the following:
- a) The manner in which waste will be stored and collected, including type, size and number of containers.
  - b) b. Spatial provision for on-site storage.
  - c) c. The size of the collection vehicle and the frequency, time and point of collection.
16. The WMP must be implemented to the satisfaction of the Responsible Authority. The WMP must not be modified unless without the written consent of the Responsible Authority.

**General amenity conditions**

17. The amenity of the area must not be detrimentally affected by the development and/or use, through the:
- i. Transport of materials, goods or commodities to or from the land.
  - ii. Appearance of any building, works or materials.
  - iii. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour

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steam, soot, ash, dust, waste water, waste products, grit or oil.

- iv. Presence of vermin.
- v. Any other way.

**Signage**

- 18. The type, location, size and material of construction of the sign shown on the endorsed plans shall not be altered without the written consent of the Responsible Authority.
- 19. The signs, including their structure, as shown on the endorsed plans must at all times be maintained in good order and condition, to the satisfaction of the Responsible Authority.
- 20. All signs must be located wholly within the title boundary of the land.
- 21. Signage must not be internally or externally illuminated.

**Completion of Works**

- 22. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

**Expiry (Signage)**

- 23. This permit as it relates to signage will expire fifteen (15) years from the issue date of this permit.
- 24. On expiry of the permit the sign and structures built specifically to support it must be removed.

**Expiry (Use/Development)**

- 25. This permit as it relates to use / development (buildings and works) will expire if one of the following circumstances applies:
  - a) The development is not started within two (2) years of the issue date of this permit.
  - b) The development is not completed within four (4) years of the issue date of this permit.
  - c) The use is not commenced within two (2) years of the issue date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

**CARRIED**

**5. Confidential Items**

Nil

The meeting closed at 8.21pm.

**Confirmed.....**

**The Mayor 20 July 2022**