

9.3 VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION

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File No: CL/04/004

Attachments: Nil

SUMMARY

The following is a summary of planning activity before the Victorian Civil and Administrative Tribunal (VCAT) as well as a list of decisions on planning permit applications dealt with under delegated powers for the period detailed.

RECOMMENDATION

THAT Council receive and note the report on the Victorian Civil and Administrative Tribunal Hearings and Activities carried out under delegation.

Victorian Civil and Administrative Tribunal (VCAT) activity update.

Upcoming appeals

The following is an update of the upcoming VCAT appeals.

APPEAL DATE	REFERENCE NOS.	ADDRESS	PROPOSAL	APPEAL AGAINST
6 August 2019 – awaiting decision	VCAT – P323/2019 Council – PLP252/18	127A Northern Highway, Kilmore	Installation and display of a major promotion sign	Appeal against Council's refusal to grant a planning permit
13 August 2019 – awaiting decision	VCAT – P125/2019 Council – PLP206/18	8 Eden Place, Wallan	Development of the land for multiple dwellings	Appeal against Council's refusal to grant a planning permit
14 & 15 August 2019 – awaiting decision	VCAT – P510/2019 Council – PLP003/18	38-50 Mill Road, Kilmore	Staged multi-lot subdivision and removal of native vegetation	Appeal against Council's refusal to grant a planning permit
10 October 2019	VCAT – P668/2019 Council – PLP129/18	63 High Street, Broadford	Buildings and works for the construction of an office building, 2-lot re-subdivision, reduction of car parking requirements and alteration of access to a Road Zone Category 1	Appeal against Council's refusal to grant a planning permit
28 November 2019	VCAT – P1085/2019 Council – PLP344/18	7 McCarthy Court, Wallan	Buildings and works for the construction of 7 dwellings	Appeal against Council's refusal to grant a planning permit
30 January 2020	VCAT – P1474/2019 Council – PLP212/18	Bunnings proposal, 63 Anzac Avenue, Seymour	Use and Development of the land for trade supplies and restricted retail	Appeal against Council's notice of decision to grant a planning permit

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION (CONT.)

			premises, alteration of access to a Road Zone - Category 1, reduction of bicycle parking requirements and display of signage	
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VCAT decisions since last report

45 & 75 Willowmavin Road, Kilmore (VCAT reference No. P481/2019)

Planning Permit PLP358/17 was issued for a 4 lot subdivision of industrial land and the creation of easement. The applicant had appealed a number of conditions in the permit and a VCAT hearing was scheduled 21 August 2019.

On 8th of July 2019, Council Officers attended a compulsory conference for the application. The purpose of the conference is to discuss ways to resolve the dispute regarding the permit conditions with a VCAT member present.

The main issues discussed were conditions requiring land for overland flow paths for drainage purposes and the public open space contribution. After much discussion, the permit applicant and Council Officers came to an agreement on appropriate conditions to be included on the permit negating the need for a full VCAT Hearing.

The compromise position saw the area required for drainage purposes being retained but a lower open space contribution being agreed to. This is considered a fair outcome by all parties. An order has now been received to vary the original permit issued by Council in the manner agreed and the matter has now concluded.

5 Springridge Boulevard, Wallan (VCAT reference No. P57/2019)

Council refused permission for a 2 lot subdivision of land at 5 Springridge Boulevard in Wallan on 19 November 2018 for the following reasons:

- 1) *The proposal is inconsistent with the purpose of the General Residential Zone as the development does not respect the neighbourhood character of the area. The proposed lots sizes and lot frontages are not consistent with the other lots within the surrounding estate and therefore not in keeping with the neighbourhood character.*
- 2) *The proposal will undermine the neighbourhood character of the area and will create a precedent for smaller lots within the estate.*
- 3) *The proposal is contrary to the orderly planning of the area and the density of future development will not be in keeping with the surrounding area.*
- 4) *The proposal is inconsistent with the objectives of the Development Plan Overlay*

An application for review was lodged at VCAT on 15 January 2019, with a Compulsory Conference held on 15 February 2019. The matter proceeded to a hearing on 24 July 2019.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION (CONT.)

An order has now been received from the tribunal affirming Council's decision and no permit is to issue. In reaching this decision the member determined that the subdivision fails to meet planning policy in relation to neighbourhood character and the General Residential Zone. The subdivision will create lots significantly smaller than lots in the immediate area with smaller frontages and the additional crossover will also be out of character.

51 Tootle Street, Kilmore (VCAT Reference P2664/2018)

A planning permit was issued for a multi lot subdivision of land and removal of Native Vegetation at 51 Tootle Street in Kilmore on 30 November 2018. The applicant had appealed a number of conditions included in the permit. In the main those issues were negotiated and resolved with the outstanding issue to be resolved involving the requirement for provision of open space as part of the development.

Condition 2 of the permit issued included a requirement for a cash contribution equivalent to 4% of the value of the land in lieu of public open space. By negotiation a land contribution has now been secured slightly in excess of this requirement, therefore, Council have consented to the removal of this condition removing the need to proceed to a hearing.

An order has been received from the tribunal confirming the outcome and an amended permit has been issued drawing this matter to a close.

Activities Carried out Under Delegation

A list of planning permit applications dealt with under delegated powers for the month of July 2019 is included below.

Permit No.	Address	Description of Permit	Decision	Date Approved
South Ward				
PLP129/19	2 - 32 Station Street WALLAN	Buildings and works associated with the Wallan train station and native vegetation removal	Planning Permit	03/07/19
PLP008/19	2910 Epping Kilmore Road HEATHCOTE JUNCTION	Use and development of the land for a dwelling and creation of access to Road Zone Category 1	Planning Permit	09/07/19
PLP185/19	52 Charles Street WALLAN	Buildings and works for the construction of a dwelling	Planning Permit	10/07/19
PLP219/18	11 Freeway Drive WALLAN	Buildings and works for the construction of twelve warehouses, reduction in car parking requirements and removal of vegetation	Planning Permit	18/07/19
P305214/08.04	41 Queen Street WALLAN	Amendment to planning permit P305214/08.04 issued for the use and development of a medical	Section 72 Amendment	23/07/19

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION (CONT.)

		centre and business identification signage to allow for alterations and additions to the building and variation to permit conditions.		
PLP266/18	112 Bentinck Street WALLAN	Construction of 3 dwellings on a lot	Notice of Decision	30/07/19
Central Ward				
PLP067/19	119 - 125 Powlett Street KILMORE	Works associated with an existing motor vehicle sales yard	Planning Permit	09/07/19
PLP130/18.02	12B Melrose Drive KILMORE	Buildings and works for the construction of a dwelling	Section 72 Amendment	12/07/19
PLP004/19	7 high Street BROADFORD	Development of the land for two (2) dwellings on a lot, subdivision of the land and creation of access to a Road Zone Category 1	Planning Permit	17/07/19
PLP154/19	3 Fish Court BROADFORD	Development of the land for a dwelling	Planning Permit	18/07/19
PLP204/19	East Street KILMORE	Removal of existing stairs, construction of concrete retaining walls	Planning Permit	22/07/19
PLP337/18	1708 Broadford Wandong Road BROADFORD	Variation of a restrictive covenant	Planning Permit	23/07/19
PLP211/18	50 Highgate Road KILMORE	Multi-lot subdivision, removal of easements and removal of native vegetation	Notice of Decision (considered by Delegate Committee)	25/07/19
PLP098/19	280 Jeffreys Lane BROADFORD	Use of the land for animal training and development of an associated building (horse arena, storage and workshop)	Notice of Decision	29/07/19
PLP223/18	37 Willowmavin Road KILMORE	Development of the land for a concrete batching plant	Planning Permit	29/07/19
PLP121/19	25 Searles Lane REEDY CREEK	Use and development of land for a dwelling	Planning Permit	31/07/19
North Ward				
PLP106/18	215 Schoolhouse Lane TALLAROOK	Use and development of the land for a telecommunications facility and removal of native vegetation	Planning Permit	01/07/19
PLP324/18	305 Youngs Lane TOOBORAC	Development of the land for a dwelling and outbuildings and use of the land for industry	Planning Permit	03/07/19
PLP045/19	280 Dons Lane GLENHOPE EAST	Removal of native vegetation	Planning Permit	04/07/19
PLP259/16.01	Oak Street SEYMOUR	4 lot subdivision	Section 72 Amendment	09/07/19

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION (CONT.)

PLP075/19	265 Kennys Lane TOOBORAC	2 lot subdivision (resubdivision)	Planning Permit	18/07/19
PLP126/19	205 Majors Line Road TOOBORAC	Native Vegetation Removal	Planning Permit	22/07/19
PLP138/19	Bassett Lane HILLDENE	Development of the land for an agricultural building	Planning Permit	22/07/19
PLP054/19	4/115 Anzac Avenue SEYMOUR	Use of the land for a place of assembly (internet cafe and hobby workshop) and reduction of car parking requirements	Planning Permit	25/07/19

CHARTER OF HUMAN RIGHTS IMPLICATIONS

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report. Failure to comply with the Child Safe Standards and associated legal responsibilities would be a breach of human rights.

OFFICER DECLARATION OF CONFLICT OF INTEREST

No officers involved in the preparation of this report have any direct or indirect interest in this matter.