

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

Author: James McNulty - Manager Development Approvals

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
26 October 2018 – awaiting decision	VCAT – P768/2018 Council – PLP199/17	530 Arkells Lane, Bylands	Use and development of the land for a transfer station	Appeal against Council's notice of decision to grant a planning permit
14 January 2019	VCAT – P1364/2018 Council – PLP328/17	9 Eden Place, Wallan	Construction of 6 dwellings on a lot	Appeal against Council's refusal to grant a planning permit
1 April 2019 (2 days) – Hearing 4 February 2019 – Compulsory Conference	VCAT – P1751/2018 Council – PLP015/18	Wallara Waters, 170 Wallan Whittlesea Road, Wallan	Staged Multi-lot subdivision	Appealing VicRoads Conditions included on the permit
5 February 2019	VCAT – P1835/2018 Council – PLP177/17	67 High Street, Wallan	4 lot subdivision	Appeal against Council's refusal to grant a planning permit

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

Compulsory Conference – 31 January 2019 Hearing Date – 21 March 2019	VCAT – P2029/2018 Council – PLP218/13	85 Reservoir Road, Broadford	Staged multi-lot subdivision, removal of easements and removal of native vegetation	Appeal against Council's refusal to grant a planning permit
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VCAT decisions since last report**440 Doctors Creek Road, Clonbinane**

Council had previously approved the use of the above land for a place of assemble (recreation use) and accommodation to facilitate a yoga retreat on the land. This decision was appealed by neighbouring residents.

The hearing occurred on Thursday 22 November 2018 with the member orally affirming Council's decision to issue a permit on the day. A written order confirming the decision has since been received by Council.

The presiding member on the day confirmed Council's decision that this was a suitable and permissible use in the zone. The member held that Bushfire risk associated with the proposal has been adequately addressed through the submitted Bushfire Management Statement and referral to the CFA (who provided conditional consent) and that the existing buildings on the site have been constructed to a standard to minimise bushfire risk and the permit applicant is willing to close on days of severe and higher bushfire risk.

In response to the appellant's concerns over enforcement of non-compliance, the Member indicated that when issuing a permit one must assume that adherence and compliance to all conditions will occur. The member held that a number of other points of objection were adequately addressed through permit conditions and notes on the permit itself such as food handling and effluent treatment.

In the order received a minor change has been made to the preamble listed on the permit and one condition of the permit to clarify intent.

Activities Carried out Under Delegation

A list of planning permit applications dealt with under delegated powers for the month of November 2018 are included below.

Permit No.	Address	Description of Permit	Decision	Date Approved
South Ward				
PLP194/18	175 Northern Highway WALLAN	Development of the land for a dwelling	Planning Permit	02/11/18
PLP136/18	38 Hadfield Road East UPPER PLENTY	Buildings and works for the construction of a shed and removal of vegetation	Planning Permit	15/11/18
PLP176/18	88-94 High Street WALLAN	Buildings and works for installation of generator	Planning Permit	14/11/18

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

PLP107/18	54-56 Stanley Street WALLAN	Use and development for a childcare centre	Notice of Decision to Grant a Permit	23/11/18
PLP230/18	16 Windsor Drive WALLAN	Buildings and works for the construction of an outbuilding	Planning Permit	14/11/18
PLP267/18	35 Lords Road UPPER PLENTY	Development of the land for an outbuilding	Planning Permit	29/11/18
Central Ward				
PLP024/15.02	55 Sutherland Street KILMORE	9 lot subdivision	Amended Planning Permit	05/11/18
PLP244/18	75 Willowmavin Road KILMORE	Buildings and works associated with existing industry and reduction of car parking requirements	Planning Permit	05/11/18
PLP158/18	Clarke Street KILMORE	Buildings and works for the construction of an open sided shed	Planning Permit	14/11/18
PLP164/18	5 Hamilton Street KILMORE	3 lot subdivision SPEAR S124785T	Planning Permit	12/11/18
PLP278/18	117/33 The Elms Boulevard KILMORE	Alterations & additions to an existing residential dwelling	Planning Permit	15/11/18
PLP271/18	109/33 The Elms Boulevard KILMORE	Addition of a verandah to an existing residential building	Planning Permit	15/11/18
PLP214/18	315 Union Lane BYLANDS	Development of the land for an outbuilding	Planning Permit	14/11/18
PLP236/18	33-39 Burgess Road KILMORE	Use and development of the land for a single dwelling	Planning Permit	15/11/18
PLP231/18	22 Glanville Drive KILMORE	Development of the land for warehouses	Planning Permit	15/11/18
PL6278/06.02	70 Kilmore Lancefield Road KILMORE	Use and development of the land for the purpose of a nursing home (aged care facility) and a Retirement Village and associated car parking and to alter access to a Road Zone (Category 1) within a Residential 1 Zone	Amended Planning Permit	27/11/18
PLP026/18	395 Sunday Creek Road SUNDAY CREEK	2 lot subdivision and removal of native vegetation SPEAR S116606T	Planning Permit	26/11/18
PLP285/18	98/33 The Elms Boulevard KILMORE	Construction of a verandah	Planning Permit	29/11/18
PLP027/18	51 Tootle Street KILMORE	Multi lot subdivision and removal of native vegetation	Planning Permit	30/11/18 (considered by Delegate Committee)
North Ward				

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

PLP133/18	2 Abdallah Road SEYMOUR	Removal of native vegetation associated with a minor utility installation	Planning Permit	05/11/18
PLP270/18	56 High Street SEYMOUR	VICSMART Construction of a front fence	Planning Permit	05/11/18
PLP216/18	Hume Freeway TALLAROOK	Buildings and works associated with an existing service station	Planning Permit	14/11/18
PLP260/18	10 Mitchell Court SEYMOUR	Buildings and works for the construction of a dependent person's unit	Planning Permit	14/11/18
PLP281/18	7 Kurkurac Court HIGH CAMP	VICSMART Buildings and works associated with an agricultural shed	Planning Permit	26/11/18
PLP220/18	55 Highlands Road SEYMOUR	Buildings and works for the construction of a domestic shed	Planning Permit	28/11/18

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.