

## 9.6 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
10 October 2019 – awaiting decision	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
New hearing date – 3 February 2020	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
10 February 2020	VCAT – P1542/2019 Council – TP93/100	Hillview Drive, Broadford	Subdivision of the land into 25 lots and the removal of native vegetation	Appeal against Council's refusal to extend the completion date of the permit

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

### **VCAT decisions since last report**

#### Bunnings Proposal, 63 Anzac Avenue, Seymour (VCAT Ref. No. P1474/2019)

At a Practice Day Hearing on 20 September 2019, the tribunal reached a decision to strike out the two appeals lodged as they were lodged outside of the prescribed time. An order has been received as follows:

- 1 *The applications pursuant to section 126 of the Victorian Civil and Administrative Tribunal Act 1998 to extend the time within which to commence these proceedings are refused.*
- 2 *The application for review filed by applicant 1 and the application for review filed by applicant 2 are struck out because they were lodged outside time.*

The hearing scheduled for 30 January 2020 is therefore vacated and a permit is to issue.

Further to this, discussion on the day in regards to a second appeal acknowledged that if it had of been made in time, the grounds of appeal were purely commercial in nature and not linked to any planning merit or argument. Therefore, if that appeal had been made in time it may have been struck out for these separate reasons.

#### Proposed Major Promotion Sign at 127A Northern Highway, Kilmore (VCAT Ref. No. P323/2019)

Following a hearing on 6 August, 2019, a decision has been received from VCAT which upholds Council's refusal of a major promotional sign at 127A Northern Highway in Kilmore.

The decision placed a lot of emphasis on the good work that had been undertaken in the preparation of the Kilmore Structure Plan and reinforces the need for good strategic planning underpinning Council's day to day planning permit decisions.

In summary the tribunal found:

*I am not satisfied that the proposed sign is acceptable on the review site. I reach that view having regard to the strategic direction for Kilmore that seeks a positive urban design response for township entries and the physical context of the site that would create a highly exposed view of the sign.*

And:

*The physical setting results in the buildings on the review site appearing low scale, especially viewed from the north. The commercial building on the north-west corner of Willowmavin Road and Northern Highway, although more apparent in the streetscape, is nevertheless setback from the road frontages. I do not agree with the applicant that the buildings near and on the review site will frame the proposed sign. Instead, I find the sign, with its relatively large size, will appear as a visually dominant element in its setting and cannot be said to complement or enhance the character of the area.*

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

Proposed Staged Multi-Lot Subdivision at 38-50 Mill Road in Kilmore ((VCAT Ref. No. P510/2019))

Following a hearing on 14 and 15 August 2019, a decision has been received from VCAT which upholds Council's refusal of a staged, multi-lot subdivision and removal of native vegetation at 38-50 Mill Road in Kilmore.

In summary the tribunal found:

*There are many aspects of this development that are acceptable. However, the design has not satisfactorily responded to the specific constraints of this site, particularly the waterway.*

### Activities Carried out Under Delegation

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

Permit No.	Address	Description of Permit	Decision	Date Approved
<b>South Ward</b>				
PLP153/19	16 Milkmaid Street WALLAN	Development of the land for two (2) dwellings	Planning Permit	02/09/19
PLP219/19	215 Wallan Heights Road WALLAN	Buildings and works for the construction of a shed	Planning Permit	02/09/19
PLP017/19	19 Wellington Street WALLAN	Development of the land for eight dwellings	Planning Permit	02/09/19
PLP052/19.01	25 Baden Drive HEATHCOTE JUNCTION	Development of the land for an outbuilding	Amended Planning Permit	10/09/19
PLP317/16.01	189 Hidden Valley Boulevard WALLAN	Use of the land for a display home, construction of a Residential Village	Amended Planning Permit	18/09/19
<b>Central Ward</b>				
PLP169/19	5 Cunninghams Road TYAAK	Use and development of the land for a dwelling	Planning Permit	02/09/19
PLP192/19	8 Fish Court BROADFORD	Development of a single dwelling	Planning Permit	02/09/19
PLP323/18.01	22 Violet Lane BROADFORD	Development of the land for a dwelling	Amended Planning Permit	02/09/19
PLP161/19	55 Searles Lane REEDY CREEK	Extension to an existing dwelling	Planning Permit	09/09/19
PLP262/18	57-59 Sydney Street KILMORE	Buildings and works for the installation of solar panels	Planning Permit	09/09/19
PLP072/19	48 Mountford Crescent KILMORE	Development of the land Dependent Person's Unit	Planning Permit	09/09/19

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PLP158/19	1 Rida Park Drive KILMORE	Development of the land for a dwelling and outbuilding	Planning Permit	10/09/19
PLP209/19	495 South Mountain Road CLONBINANE	Building and works for the installation of solar panels and ancillary equipment.	Planning Permit	10/09/19
PLP018/19.01	7 Fish Court BROADFORD	Development of the land for a dwelling	Amended Planning Permit	10/09/19
PLP306/18	56B Fitzroy Street KILMORE	Development of the land for four (4) dwellings	Notice of Decision	11/09/19
PLP195/19	13 Meade Court KILMORE	Buildings and works for the construction of a new shed	Planning Permit	11/09/2019
PLP110/19	2 Sutherland Street BROADFORD	Multi unit development (3 new dwellings and retention of existing dwelling)	Planning Permit	19/09/2019
PLP314/18	80 Reservoir Road BROADFORD	Multi-lot subdivision and removal of native vegetation (31 lots)	Planning Permit (considered by Delegate Committee)	18/09/2019
PLP326/18	460 Broadford Kilmore Road KILMORE EAST	Use and development of the land for a dwelling and associated outbuilding	Amended Planning Permit	26/09/2019
PLP206/19	26A Trainers Drive KILMORE	Construct a dwelling and outbuilding	Planning Permit	26/09/2019
PLP032/18.02	2 Hunts Road KILMORE	Use and development of the land for the purpose of a restricted place of assembly (Kilmore men's shed)	Amended Planning Permit	26/09/2019
PLP293/18	Tantaraboo Road WILLOWMAVIN	Development of the land for a store associated with the existing Leisure and Recreation (Simulated field and game shotgun target range)	Planning Permit	26/09/2019
<b>North Ward</b>				
PLP196/19	110-112 Wimble Street SEYMOUR	Construction of a building (site office)	Planning Permit	10/09/19
PLP122/19	25 Emily Street SEYMOUR	Extension to an existing building	Planning Permit	09/09/19
PLP296/18	Redbank Road SEYMOUR	Multi-lot subdivision and removal of native vegetation (39 lots)	Notice of Decision (considered)	18/09/19

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			by Delegate Committee)	
PLP193/19	1/22 Emily Street SEYMOUR	Reduction of parking requirements	Planning Permit	25/09/19
PLP290/18	4 Station Street PYALONG	Use and development of the land for a store and reduction in car parking requirements	Planning Permit	26/09/19
PLP207/19	2670 Lancefield Tooborac Road TOOBORAC	Use and development of the land for a dwelling	Planning Permit	26/09/19

### 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.

**10 EXECUTIVE SERVICES**

Nil Reports

**11 NOTICES OF MOTION**

Nil Reports