

9.5 DEVELOPMENT PLAN APPLICATION PLI022/16 FOR RESIDENTIAL SUBDIVISION AT 26-28 & 30 BURGESS LANE, BROADFORD

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File No: PLI022/16

Attachments:

1. Development Plan for Endorsement - Under Separate Cover
2. April Agenda Report - Under Separate Cover
3. April Minutes - Under Separate Cover

Property No.:	114274
Title Details:	Lot A on PS 220658E Vol 09989 Fol 191
Applicant:	Millar Merrigan
Zoning:	General Residential Zone
Overlays:	Development Plan Overlay – Schedule 1 Floodway Overlay Land Subject to Inundation Overlay Environmental Significance Overlay – Schedule 3
Objections Received:	The application was informally advertised by mail to surrounding property owners and occupiers and by placing a sign on site. 7 objections were received. Following changes to the plan the application was again informally advertised by mail to surrounding properties. No further submissions were received.
Cultural Heritage Management Plan Required:	Yes – provided
Officer Declaration of Conflict of Interest:	No officers involved in the preparation of this report have any direct or indirect interest in this matter

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SITE MAP



SUMMARY

Council received an application for approval of a Development Plan to enable the future subdivision and development of land at 26-28 Burges Lane, Broadford (legally described as Lot A on PS 220658E Vol 09989 Fol 191). The submitted plans have been assessed against the requirements of Schedule 1 of Clause 43.04 of the Mitchell Planning Scheme being the Development Plan Overlay. The overlay also applies to the neighbouring property to the south being 30 Burges Lane.

The application was informally advertised by mail to surrounding property owners and occupiers and by placing a sign on site. Seven objections were received. The objections in summary relate to access and traffic issues, fire safety, loss of vegetation and over development of the site. The objections are addressed in detail later in this report.

Following the advertising period Council officers requested a number of changes to the plan which have now been made. This also included indicating a possible future subdivision of the property to the south being 30 Burges Lane. The application was again informally advertised by mail to surrounding properties including the requested changes. No new or additional submissions were received.

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The matter was considered by Council at the April 2018 Ordinary meeting. Council resolved to defer consideration of the application until additional information could be provided in relation to land contamination, retention of trees on site and traffic analysis including emergency access. This information has now been provided and considered through the finalisation of officer's recommendation.

Both the previous agenda item and minutes of the April Council meeting are attached to this report (under separate cover Attachment 2 and 3).

The proposal, in officer's assessment, satisfies the requirements of Schedule 1 of the Development Plan Overlay. The subject site is suitable for residential infill development, as this plan will allow, with a number of detailed requirements being able to be resolved at the planning permit stage. However given the concerns in regards to contamination and the previous land use, a requirement will be included in the recommendation for the applicant to supply supplement confirmation from the geotechnical engineer that the previous testing was sufficient to confirm the presence or not of land contamination.

It is therefore recommended that Council resolve to approve the Development Plan subject to this requirement.

SITE AND SURROUNDS

Subject Site Description

The subject site has a street address of 26-28 Burges Lane in Broadford with the main frontage being to Rupert Street forming the northern boundary of the site. A small portion of the site has frontage to Burges Lane on the east and a number of existing dwellings forming this boundary. The Development Plan Overlay also applies to a property to the south being 30 Burges Lane.

The site is irregularly shaped and the property at 26-28 Burges Lane has an area of approximately 4.7 hectares. The site is legally described as Lot A on PS 220658E Vol 09989 Fol 191.

The property at 30 Burges Lane has an area of approximately 3.7 hectares and is legally described as L30 PS129390 Vol 9381 Fol 465.

The Sunday Creek is located to the west of the site. The Mia Creek is located to the south of both properties.

Planning Background

Council's electronic records do not contain any planning history relevant to the assessment of this application

Title/Restrictions/Agreements

There are no restrictions or agreements on title relevant to the assessment of this application.

Surrounding Area

The surrounding area in which the subject site is located is characterised by dwellings on a mixture of lot sizes. The area surrounding the site is located within the General

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Residential Zone. Land to the north has been developed for a more recent subdivision and consists of dwellings on conventional residential lot sizes.

Land to the west which was part of the original subdivision of the area is generally developed for dwellings on larger lots and land to the immediate south and east consists of dwellings on large lots reflective of the site constraints experienced in the vicinity.

The site is located approximately 700 metres (further by road) from the commercial centre of Broadford.

PROPOSAL

A full description of the proposed Development Plan can be found in the attached April agenda item (attachment 2). In summary the main points of the proposal are as follows:

- Application is made in accordance with the provisions of Clause 43.04 Schedule 1 (Development Plan Overlay) of the Mitchell Planning Scheme to facilitate the eventual subdivision of the land for residential purposes following a planning permit application.
- Access will be provided from Rupert Street in the north with an eventual southern access to Burges Lane which will include a future intersection to Cameron Road.
- Flood affected area to be retained as open space in the eventual development of the area.
- An indicative subdivision layout provided with the application showed a possible overall subdivision of the entire area into approximately 54 residential lots ranging in size from 332 square metres up to a maximum of 6,270 square metres.
- Two existing significant trees are proposed to be retained on site (after originally being proposed to be removed). As per Council previous decision, the applicants have indicated they will guarantee the protection of the trees through the use of Tree Protection Zones on the eventual plan of subdivision for those affected lots.

PLANNING SCHEME PROVISIONS

Zoning

The subject site is affected by the General Residential Zone.

Overlays

The subject site is affected by the following Overlays:

- Development Plan Overlay Schedule 1 (under which this application is being made)
- Environmental Significance Overlay Schedule 3
- Floodway Overlay
- Land Subject to Inundation Overlay

PUBLIC NOTIFICATION (ADVERTISING)

The *Planning & Environment Act 1987* does not mandate any requirements for public exhibition of an application for a Development Plan. However informal advertising was

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carried out by mailing letters to surrounding properties and by placing a sign on the subject site.

Seven objections were received from residents residing near the subject site in either Burges Lane or Rupert Street.

Officers requested a number of changes to the proposed development plan to address officer and resident concerns.

The revised layout was re-advertised by mail to surrounding properties with no new submissions received. However, the seven objections originally received were considered through the previous Council report and resolution.

Consultation

All submitters as well as the Development Plan applicants were invited to address Councillors at the Community Questions and Hearings Committee on 9 April 2018.

REFERRALS

The Development Plan application was informally referred to all relevant external and internal authorities. No issues were identified as part of this process that would prevent the consideration and approval of the development plan.

It should also be noted that the eventual planning permit application for the subdivision of the area would also require referral to the relevant statutory authorities who would then have the ability to apply any required conditions.

Following the resolution of Council to seek further information relating to traffic and access, additional information was provided and has been discussed with Council's Engineering Team who maintain their support for the proposal.

DISCUSSION

Development Plan Overlay (DPO) Schedule 1, of the Mitchell Planning Scheme, applies to the subject site, being 26-28 Burges Lane and also the adjoining land to the south being 30 Burges Lane. The DPO restricts the granting of permits normally permitted under the zone until a Development Plan has been prepared and approved.

The application of the DPO in the Planning Scheme would signal the intent that the subject site would be eventually be developed and that the development should be generally in accordance with the approved Development Plan.

As referenced in the foregoing, Council considered a report in relation to this matter on 16 April 2018 and resolved as follows:

That Council resolve to defer consideration of the proposed development plan (Application No. PLI022/16) at 26-28 and 30 Burges Lane, Broadford on the basis that it requires further information and/or clarification on the following issues:

- *The location of significant trees on proposed lots, in particular, that enable a tree protection zone, and building envelope, to accommodate a future dwelling*
- *Traffic impacts, including the number of access points, from the subdivision onto surrounding road networks with due consideration to emergency services scenarios also*

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- *The extent and impact of any soil contamination on the land by virtue of previous land uses and any mitigating works that may be required.*

In response the applicants have provided the following advice and clarifications. A copy of the previous report to Council is attached for further information.

Tree Protection Zones

The location of the trees as indicated on the attached Development Plan have been based on a detailed survey. The applicants have indicated that they would willingly provide for tree production zones and building envelopes on the Development Plan, but this would necessitate a plan indicating individual lots, which would see a level of detail included on a Development Plan that does not allow for appropriate consideration later through the planning permit application.

In officer's assessment tree protection zones would be more appropriately utilised when the planning permit is considered for subdivision where required. The applicants are willing to accept such conditions come time to consider this application. Officers are satisfied that this approach will ensure the protection of the trees in question at the appropriate level of planning.

Traffic Impacts and Access

In regard to this point the applicants have advised that *both Rupert Street and Burgess Lane are public roads constructed to Council requirements to satisfy this residential area.*

Clause 56.06 of the Planning Scheme refers to Access Street- Level 1, as a street providing local residential access where traffic is subservient, speed and volume are low and pedestrian and bicycle movements are facilitated.

It refers to a minimum carriageway width of 5.5 metres. In this case both carriageway widths are in excess of 5.5 metres. The suggested target speed is 30 kph. The traffic volume is for between 1000vpd to 2000vpd. Adopting a conservative average of 10 traffic movements per lot per day, and our calculation of a total of 160 lots (70 lots north Rupert Street and west of Burgess Road, 25 existing lots in Burgess Lane, 18 lots between Burgess Lane and the Broadford-Strath Creek Road, and the 47 proposed lots) the conservative traffic movements would be 1600 which is within the accepted Traffic Volume (1000-2000 vpd).

The design proposal provides for a through road which in a combination with the existing public roads results in due consideration to emergency scenarios.

Officers from Council's Engineering Team agreed that the total anticipated traffic volume is within the anticipated design parameters and capacity for the existing road network.

Engineering officers have gone on further, in examination of the issues at hand, to state that they would see no significant issues generated at the intersection of Rupert Street and Strath Creek Road. In particular the addition of 470 odd vehicle movements per day from the new proposed subdivision with the anticipation of 10% of these occurring in the peak hour (47 movements) would not be expected to cause any unreasonable congestion or safety issues at the intersection of Strath Creek Road given the existing intersection arrangements and estimated traffic volumes.

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This in officer's assessment would address any concerns relating to the existing and proposed street arrangements ability to cater for traffic or emergency access resulting from the approval of this Development Plan.

Soil Contamination

The applicants have advised officers that it was as a result of the use of the property for wool scouring, that Council required an Environmental Audit prior to consideration and submission of the Development Plan application. The report examines the historical use of the land and supports the development as proposed.

Connolly Environmental, the consultants who undertook the original investigation, have provided additional commentary via email as follows:

The site history search conducted as part of the ESA identified that the site appeared to be vacant rural land, however it was considered likely to have been used as a disposal site for wool scour effluent from the former wool scouring plant that operated in Broadford. The evidence for this was based on information obtained about an adjacent site (which was owned by the same former owner and anecdotally used to dispose of wool scour effluent).

Our soil sampling and analysis included installation of 55 soil bores and was conducted to the Australian Standard (AS4482.1) sampling density and samples were analysed for a range of potential contaminants including heavy metals and pesticides. The analysis of the samples showed:

- *Results were below the adopted human health and ecological assessment criteria, and identified no risks to the beneficial uses of the land;*
- *We concluded that no further environmental investigation was warranted in relation to the proposed low density residential and public open space use of the land.*

Given that the site appears to have remained vacant since our ESA was conducted in 2013, the contamination status of the site is considered unlikely to have changed.

The map below, extracted from the body of the Environmental Report, shows the locations across the site where soil sampling was undertaken. This highlights that sampling occurred across the site including next to the creek where the historical wool scouring was believed to have occurred.

The environmental consultants went on to state, when questioned about the depth of the soil sampling, the following:

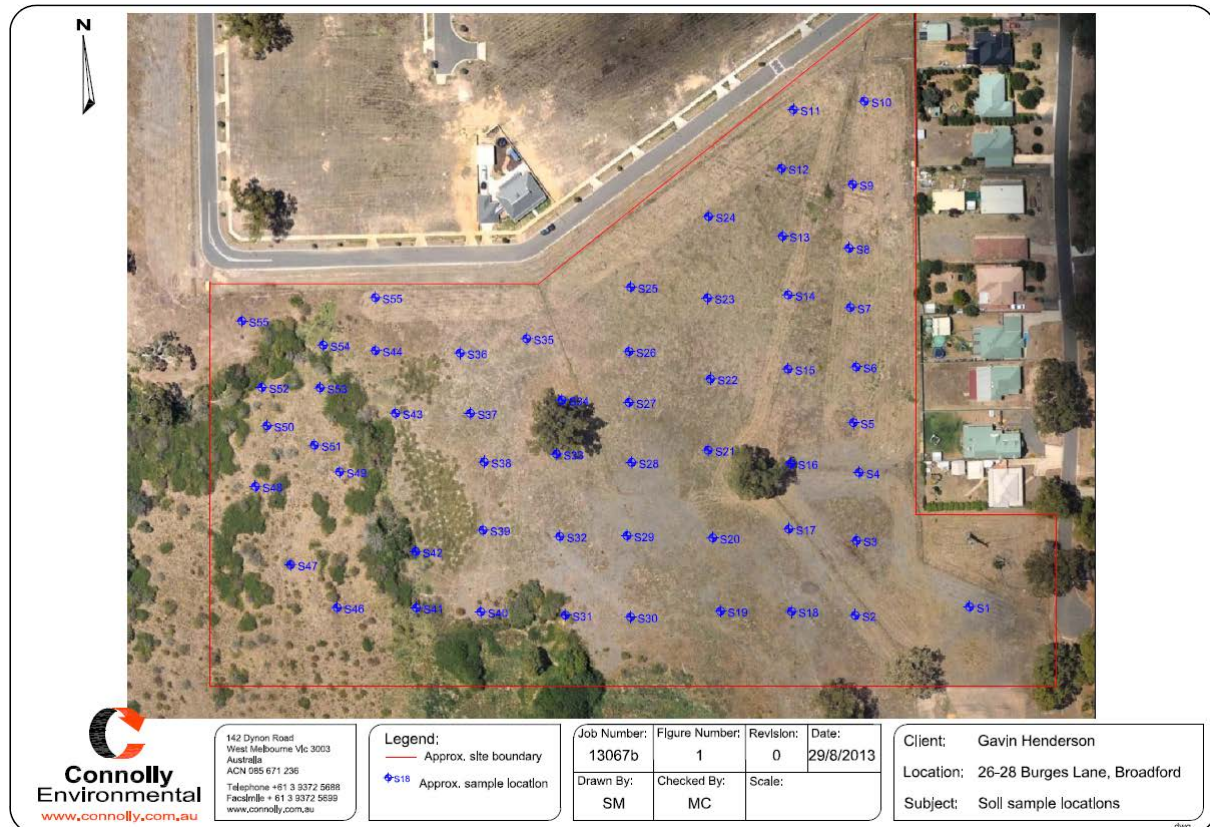
Our soil investigation involved the collection of soil samples at 55 locations at depths ranging from 0.02 to 0.3 m depth. The sampling density met the Australian Standard for sampling density (AS4482.1). Soil samples were collected using a hand auger or a shovel from near surface, which was considered appropriate given the source of the potential contaminants was from overland discharge to surface soils. It was unlikely that higher concentrations would be observed in deeper samples with the contaminants of concern and discharge scenario.

This investigation concluded that the site was appropriate for residential development as proposed.

However, given the concerns expressed in regards to the potential contamination of the land, officers consider it appropriate to allow for the approval of the Development

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Plan including a requirement for applicant's geotechnical engineer to certify that previous testing has been sufficient to confirm the presence of contamination or not.



In light of this additional information officer's recommendation is that the Development Plan should be supported and endorsed to allow for a planning permit application to be lodged for the eventual subdivision of the area.

CONCLUSION

Overall the proposal has strong policy support to approve the Development Plan. A number of the concerns raised during the informal advertising were addressed by the submission of a revised plan. Other matters raised through the assessment of the application will require to be addressed by condition in the eventual planning permit that will be required prior to any development occurring on the site.

Furthermore, the applicants have provided additional information to aid Council's assessment of the Development as resolved at the April 2018 Ordinary meeting relating to traffic, tree protection and soil contamination.

Therefore, it is the officers recommendation that the development plan be approved and endorsed.

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RECOMMENDATION

THAT Council having complied with the relevant Sections of the *Planning and Environment Act 1987*, resolve to approve the Development Plan (Application No. PLI022/16) at 26-28 and 30 Burgess Lane Broadford (Lot A on PS 220658E Vol 09989 Fol 191) subject to the following requirement:

- That the applicant, through its geotechnical consultant, be required to certify that given what is considered to be the prior use of the land, that the geotechnical testing methods were sufficient to reasonably identify the existence or otherwise of contaminated land.