

**Knox Planning Scheme Amendment C184knox and Permit
Application P/2020/6049
Former Norvel Road Quarry, Ferntree Gully**

Panel Report

Planning and Environment Act 1987

14 May 2024

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether to adopt the Amendment.
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority may also recommend to the Minister that a permit that applies to the adopted Amendment be granted. The Minister may grant or refuse the permit subject to certain restrictions. [sections 96G and 96I of the PE Act]

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Knox Planning Scheme Amendment C184knox and Permit Application P/2020/6049 and Permit Application P/2020/6049

Former Norvel Road Quarry, Ferntree Gully

14 May 2024



Lisa Kendal, Chair



Peter Bettess, Member

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Glossary and abbreviations

2020 vegetation assessment	Vegetation assessment prepared in June 2020 included in the Biodiversity Assessment (September 2023)
Amendment	Knox Planning Scheme Amendment C184knox
Arborist Report	<i>Arboricultural Assessment and Report - Norvel Estate, Ferntree Gully</i> , Treemap Arboriculture, April 2023
Biodiversity Assessment	<i>Biodiversity Assessment - 29Q Northville Rd, Ferntree Gully</i> , Ecolink Consulting, December 2020
CFA	Country Fire Authority
CHMP	Cultural Heritage Management Plan
Council	Knox City Council

DEECA	Department of Environment, Energy and Climate Action
DELWP	<i>Department of Environment, Land, Water and Planning</i>
Environmental Audit	<i>Environmental Audit Report, Australian Environmental Auditors, 20 April 2016</i>
ESO2	Environmental Significance Overlay Schedule 2 – Sites of biological significance
Geotechnical Assessment	<i>Geotechnical Assessment, Civil Test Pty Ltd, 11 March 2015</i>
Knox Housing Strategy	Knox Housing Strategy 2015
Landscape Plan Guidelines	<i>Knox Landscape Plan Guidelines, Knox City Council, 2019</i>
Landscape Report	<i>Norvel Estate, Ferntree Gully – Landscape Report, Urbis, March 2023</i>
Lorimer Report	<i>Norvel Estate Plant Regeneration, Dr Lorimer, October 2021</i>
Minister	Minister for Planning
Ministerial Direction 1	Ministerial Direction 1 Potentially Contaminated Land
Ministerial Direction 19	Ministerial Direction 19 Amendments that may result in impacts on the environment, amenity and human health
Ministerial Direction on Form and Content	Ministerial Direction 7(5) Form and Content of Planning Schemes
Native Vegetation Guidelines	<i>Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment Land Water and Planning 2017)</i>
NRZ7	Neighbourhood Residential Zone, Schedule 7 – Norvel Estate
PCRZ	Public Conservation and Resource Zone
PE Act	<i>Planning and Environment Act 1987</i>
Permit Application	Planning Permit Application P/2020/6049
Planning Report	<i>Norvel Estate, Norvel Road, Ferntree Gully – Town Planning Report, Urbis, March 2023</i>
Planning Scheme	Knox Planning Scheme
PPN30	Planning Practice Note 30: Potentially Contaminated Land
PPRZ	Public Park and Recreation Zone
Proponent	Norvel Estate Pty Ltd
Site 34	Site 34: Blind Creek Billabong and Quarry
Stormwater Management Plan	<i>Stormwater Management Plan – proposed Residential Development, Norvel Road, Ferntree Gully, Cardno, May 2021</i>

SBS Study	<i>Sites of Biological Significance in Knox – 2nd Edition</i>
SUZ2	Special Use Zone, Schedule 2 - Earth and Energy Resources Industry
Traffic and Transport Assessment	<i>Traffic and Transport Assessment – Norvel Estate Residential Development, Cardno, March 2023</i>
TPZ	Tree Protection Zone
Urban Context and Design Report	<i>Norvel Estate, Ferntree Gully – Urban Context Report and Design Response, Urbis, February 2023</i>
Urban Design Guidelines	<i>Urban Design Guidelines – Revision D 30 May 2021</i>
Urban Stormwater: BPEM	<i>Urban Stormwater: Best Practice Environmental Management Guidelines, CSIRO 1999</i>

Overview

Amendment summary

The Amendment and Permit Application	Knox Planning Scheme Amendment C184knox and Permit Application P/2020/6049
Common name	Former Norvel Road Quarry, Ferntree Gully
Brief description	The proposal seeks to rezone land to facilitate a residential development, recognise open space and conserve the natural environment
Subject land	The former Norvel Road Quarry site, Ferntree Gully, and land at the Seecal Road, Castricum Place, Norvel Road Reserves and adjoining bushland in Ferntree Gully (see Figure 1)
The Proponent	Norvel Estate Pty Ltd
Planning Authority	Knox City Council
Authorisation	4 April 2022, with conditions
Exhibition	14 June to 21 July 2023
Submissions	Number of Submissions: 31 Opposed or raising issues: 25

Panel process

The Panel	Lisa Kendal (Chair) and Peter Bettess
Supported by	Georgia Brodrick, Project Officer, Planning Panels Victoria
Directions Hearing	By video, 25 January 2024
Panel Hearing	In person at the PPV Hearing Room 2, 1 Spring Street, Melbourne and online – 12 and 13 March 2024
Site inspections	Unaccompanied, 4 March 2024
Parties to the Hearing	Knox City Council, represented by Matthew Gilbertston of Glossop Town Planning Norvel Estate Pty Ltd, represented by John Cicero of Best Hooper Lawyers, who called the following expert evidence: <ul style="list-style-type: none"> - Biodiversity from Dr Stuart Cooney of Ecolink Consulting - Drainage from Nick Glasson of Stantec - Traffic from Brett Young of Ratio Consultants - Planning from David Crowder of Ratio Consultants Geoff Spillane Leonara and Stuart Minican
Citation	Knox PSA C184knox [2024] PPV
Date of this report	14 May 2024

Executive summary

Combined Knox Planning Scheme Amendment C184knox and Permit Application P/2020/6049 (the Amendment) and Planning Permit Application P/2020/6049 (Permit Application) seeks to facilitate development of Norvell Estate in Ferntree Gully.

Norvell Estate is a proposed 138 lot residential development on the site of the former Norvel Road Quarry which was used for clay extraction and closed in around 2009.

The Knox Planning Scheme identifies the:

- site as Strategic Investigation Site 6, suitable for residential development at a range of densities
- northern part of the site which contains bushland abutting the Blind Creek corridor as a site of biological significance in the municipality of Knox
- surrounding land as Knox Neighbourhood Area with detached houses and dual occupancy as preferred housing types.

The Amendment seeks to:

- rezone the land from Special Use Zone Schedule 2 – Earth and Energy Resources Industry (SUZ2) to Neighbourhood Residential Zone Schedule 7 – Norvel Estate (NRZ7)
- rezone the existing bushland from SUZ2 to Public Conservation and Resource Zone
- rezone the abutting linear reserve from part SUZ2 and part Neighbourhood Residential Zone Schedule 4 to Public Park and Recreation Zone
- rezone part of the Castricum Place, Seecal Road, and Norvel Road reserves from SUZ2 to NRZ7
- amend Clause 22.07 Development in Residential Areas and Neighbourhood Character to exempt the NRZ7 from Clause 22.07.

The Permit Application seeks a permit for the staged subdivision of residential lots, development of pathways, removal of native vegetation and associated works. Knox City Council and Norvel Estate Pty Ltd (the Proponent) have entered into section 173 agreements relating to transfer of bushland to Council, requiring urban design outcomes and securing eight lots for social housing.

In response to exhibition of the Amendment and Permit Application 31 submissions were received. There were several supporting submissions and one submission supporting the proposed social housing.

No authorities objected to the proposal, however some requested changes to planning permit conditions. The Proponent did not make a submission during exhibition of the proposal, however it sought a number of changes to permit conditions through the Hearing process.

Key issues raised in submissions included:

- land contamination and stability
- biodiversity and native vegetation
- traffic and transport
- stormwater and flooding.

The Panel considers the site is ideally located for residential development. The Amendment and Planning Permit will provide for additional housing and housing choice in an established well-serviced residential area on a large, generally unconstrained site.

Subject to its recommendations, the Panel concludes:

- The rehabilitated quarry land is adequately stable following quarry closure and site rehabilitation and is suitable for residential development.
- The Biodiversity Assessment is adequate to inform native vegetation offsets.
- The biodiversity impacts of the new proposed bushland/pathway and educational signage have not been adequately considered and should be considered as part of a separate process.
- Traffic and transport impacts are acceptable.
- The proposed management of stormwater is appropriate.
- The proposal will improve outcomes related to existing flooding on surrounding land.
- The proposal is acceptable with regard to other issues including housing density, landscaping, fencing, amenity impacts, sustainable development, open space provision, specific lot requirements and service authority requirements are appropriate.

The proposal will result in net community benefit with:

- provision of housing, including social housing, close to jobs, services and transport
- protection of a designated site of biological significance
- provision of open space with connectivity to an existing open space/bushland corridor along Blind Creek.

The Panel concludes Amendment is well founded and strategically justified and makes proper use of the Victoria Planning Provisions. The Planning Permit should be issued subject to changes to the planning permit recommended by the Panel.

Recommendations

Based on the reasons set out in this Report, the Panel recommends:

- 1. Adopt Knox Planning Scheme Amendment C184knox and Permit Application P/2020/6049 as exhibited, subject to amending the Neighbourhood Residential Zone Schedule 7, as shown in Appendix D of this Report.**
- 2. Issue Planning Permit P/2020/6049 as exhibited, subject to the conditions as shown in Appendix E of this Report.**

PART 1 – INTRODUCTION AND CONTEXT

1 Introduction

1.1 The site and proposal

(i) The proposal

The proposal is to develop the Norvel Estate on the former Norvel Road Quarry land in Ferntree Gully (see Figure 1).

Norvel Estate Pty Ltd (Proponent) is the Proponent for the proposal, which includes combined Knox Planning Scheme Amendment C184knox (the Amendment) and Planning Permit Application P/2020/6049 (Permit Application).

Figure 1 Subject site



Source: Expert Witness Statement, David Crowder, page 13

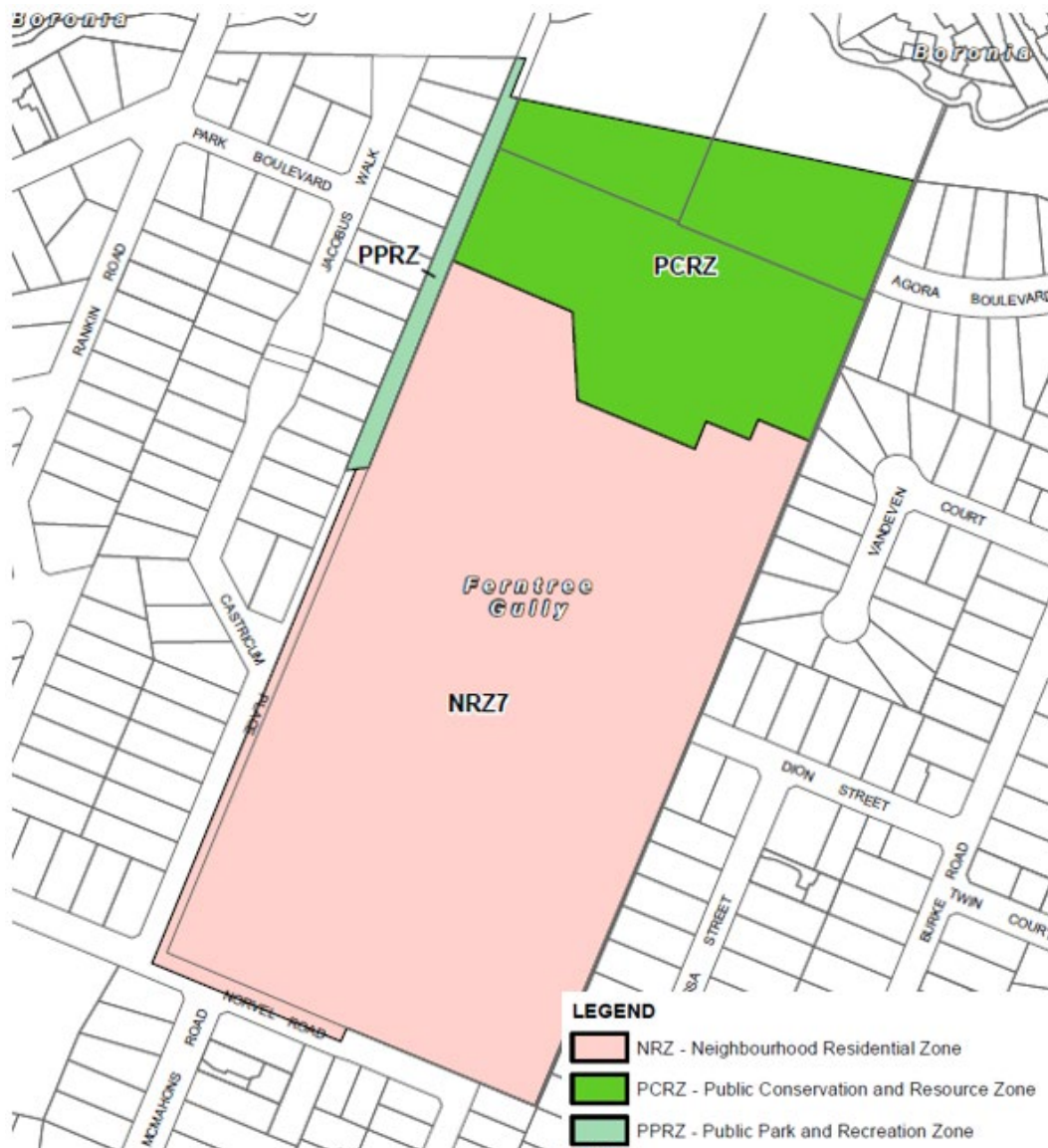
The Amendment

The Amendment proposes to amend the Knox Planning Scheme (Planning Scheme) to:

- rezone land from the Special Use Zone Schedule 2 – Earth and Energy Resources Industry (SUZ2) to Neighbourhood Residential Zone Schedule 7 – Norvel Estate (NRZ7)
- rezone the existing bushland from SUZ2 to the Public Conservation and Resource Zone (PCRZ)
- rezone the abutting linear reserve from part SUZ2 and part Neighbourhood Residential Zone Schedule 4 to Public Park and Recreation Zone (PPRZ)
- rezone part of the Castaicum Place, Seecal Road, and Norvel Road reserves from SUZ2 to NRZ7
- amend Clause 22.07 Development in Residential Areas and Neighbourhood Character to exempt the NRZ7 from Clause 22.07
- amend Planning Scheme Map 2 to reflect the rezoning.

The rezoning plan is shown in Figure 2.

Figure 2 Rezoning proposal



Source: Exhibited Map 2 (excerpt with Panel modification)

Permit Application

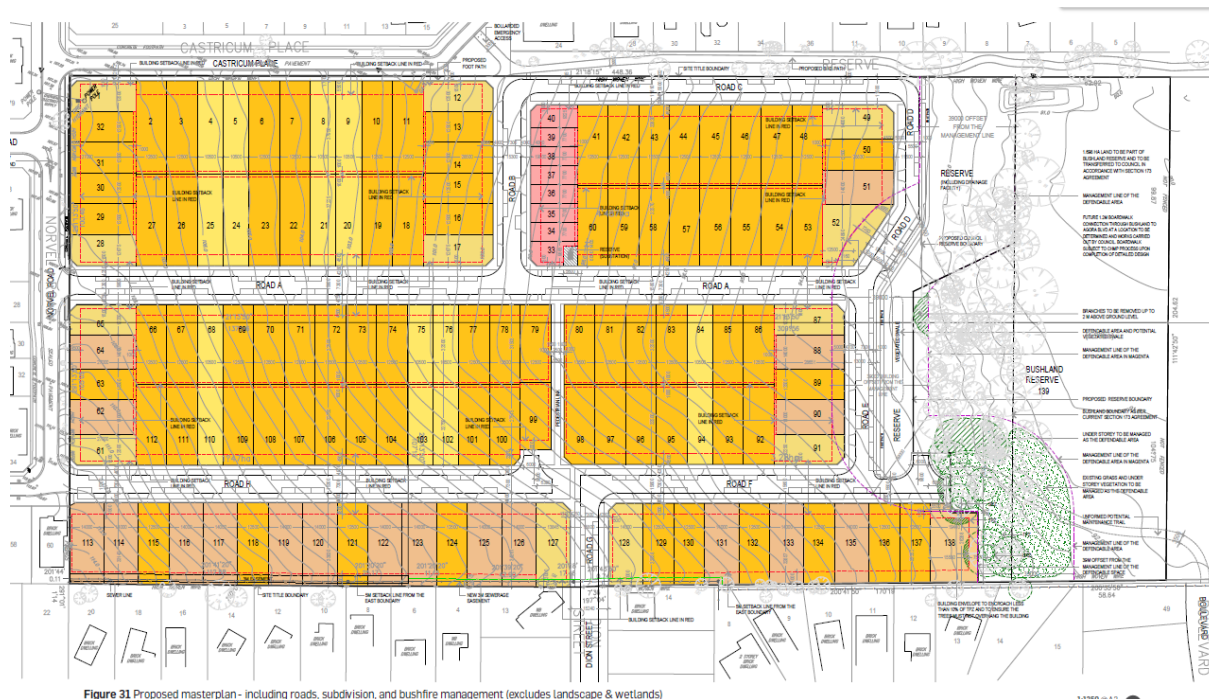
Details of the Permit Application and proposed subdivision include:

- Norvel Estate is proposed to be 9.2 hectares, consisting of 138 lots including eight residential lots for social housing
- lot sizes ranging from 116 square metres to 581 square metres
- three vehicle access connections to the external road network are proposed comprising:
 - a new connection to Norvel Road at the south of the site (located approximately in the same location as an existing crossover)
 - the extension of Norvel Road running north to south into the site at the southern boundary
 - the extension of Dion Street into the site at the eastern site boundary
- local roads servicing the new dwellings including:
 - Access Street – 7.3 metre carriageway
 - Access Place – 5.5 metre carriageway

- pedestrian footpaths along all streets with a residential frontage
- construction of a wetland, heavily vegetated swale for stormwater purposes and several flood mitigation systems
- underground reticulated utility services
- removal of three trees, protection of 108 trees, 173 new street trees and landscaping
- 2.07 hectares of open space comprising the Bushland Reserve (Lot 139) and the Reserve (Lot 140)
- provision of a new shared path along the western site boundary connecting Castricum Place and the Blind Creek Trail.

The subdivision masterplan is shown in Figure 3.

Figure 3 Norvel Estate subdivision masterplan



Source: Context and Design Response Report, page 31

(ii) Site details

Location and context

The site is located in Ferntree Gully approximately 30 kilometres east of Melbourne CBD.

The land affected by the proposal includes the former Norvel Quarry, adjoining bushland and the road reserves for Seecal Road, Castricum Place and Norvel Road. Figure 4 shows the land parcels affected by the Amendment.

The former Norvel Quarry was used for clay extraction to manufacture bricks from the 1950s to around 2009, and has since been rehabilitated.

The approximately 9.2 hectare site is bound by Norvel Road to the south, Blind Creek to the north, Castricum Place to the west and residential properties to the east.

The site is undulating and gently sloping towards Blind Creek. The northern end of the site contains native vegetation/bushland, some of which is high quality remnant vegetation.

Figure 4 Land affected by the Amendment



Source: Council Part A submissions

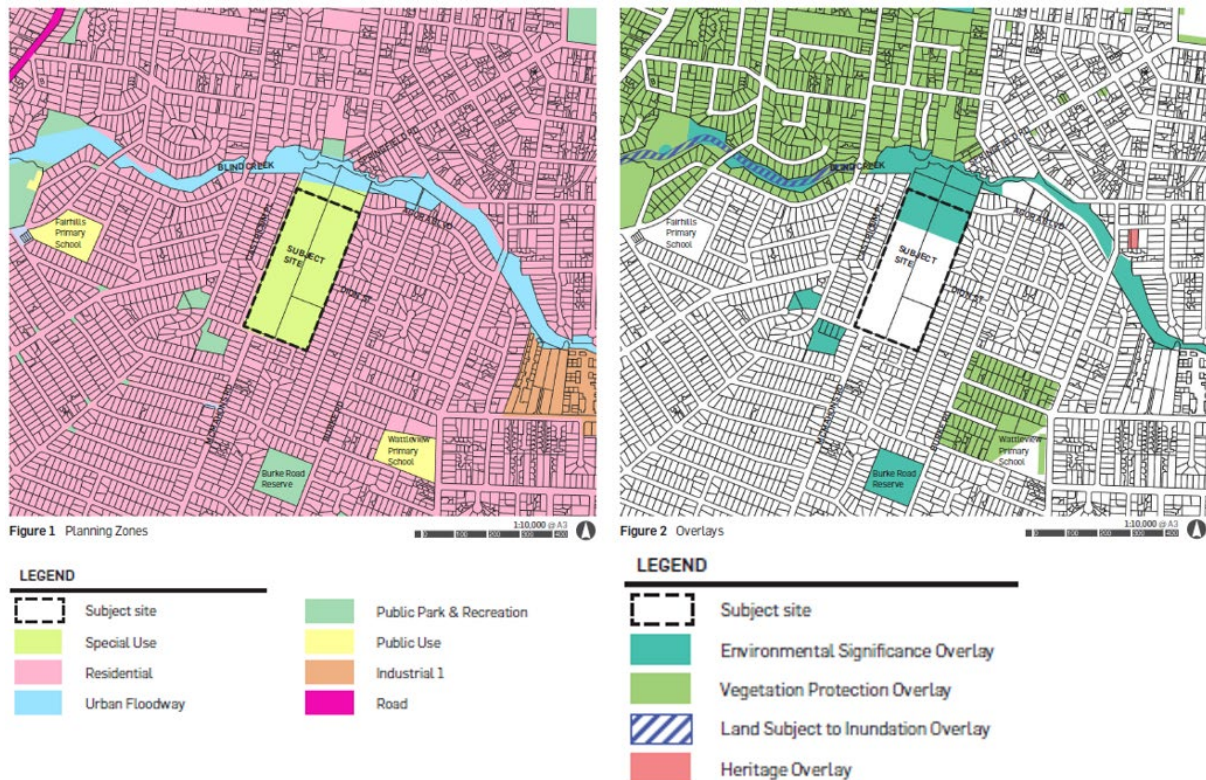
The following are within proximity of the site:

- three bus stops (between 836 – 940 metres) and Boronia Train Station (1.33 kilometres to the north)
- the Principle Bicycle Network along Blind Creek Trail
- three primary schools within 800 metres
- Boronia Junction approximately 800 metres away including library, basketball stadium and shops.

Existing planning controls

Current land use zone and overlay provisions are show in Figure 5. The Environmental Significance Overlay Schedule 2 – Sites of biological significance (ESO2) applies to part of the site. The surrounded residential land is zoned Neighbourhood Residential Zone Schedule 4 – Knox Neighbourhood Areas, and the bushland along Blind Creek to the north is zoned Urban Floodway Zone.

Figure 5 Current zone and overlay provisions



Source: Urban Context and Design Report, page 5

(iii) Supporting documents

The following supporting documents were exhibited with the proposal:

- *Affordable Housing Strategy – Norvel Estate, Ferntree Gully, Affordable Development Outcomes*, February 2023
- *Arboricultural Assessment and Repo–rt - Norvel Estate, Ferntree Gully, Treemap Arboriculture*, April 2023 (Arborist Report)
- *Biodiversity Assessment - 29Q Northville Rd, Ferntree Gully*, Ecolink Consulting, December 2020 (Biodiversity Assessment)
- *Bushfire Development Report*, Terramatrix, January 2021 updated July 2022 and March 2023
- *Cultural Heritage Management Plan*, Andrew Long + Associates, February 2023
- *Norvel Estate, Ferntree Gully – Landscape Report*, Urbis, March 2023 (Landscape Report)
- *Social Impact Assessment – Norvel Estate*, publicplace, February 2021
- *Stormwater Management Plan – proposed Residential Development, Norvel Road, Ferntree Gully*, Cardno, May 2021 (Stormwater Management Plan)
- Planning Report
- *Traffic and Transport Assessment – Norvel Estate Residential Development*, Cardno, March 2023 (Traffic and Transport Assessment)
- *Norvel Estate, Ferntree Gully - Urban Context Report and Design Response*, Urbis, February 2023 (Urban Design Report)
- Documents relating to the planning permit, including the application form, certificates of title including section 173 agreements and *Urban Design Guidelines - Revision D* 30 May

2021 (Urban Design Guidelines), metropolitan planning levy, draft planning permit, subdivision master plan and Clause 56 assessment.

Further application material provided by Knox City Council (Council) to the Panel included:

- *Utility Services Infrastructure Report*, Cardno, 9 January 2021
- *Geotechnical Assessment*, Civil Test Pty Ltd, 11 March 2015 (Geotechnical Assessment)
- *Environmental Audit Report*, Australian Environmental Auditors, 20 April 2016 (Environmental Audit).

1.2 Background

(i) Chronology

Council and the Proponent provided details of the history of the site and Permit Application, which the Panel has summarised in Table 1.

Table 1 Site history and chronology of events

Timeline	Activity
Around 1955	Commencement of clay extraction from the Norvel Road Quarry for manufacture into bricks and other products
1980's	Rezoning of the quarry land from residential to extractive industry and: <ul style="list-style-type: none"> - progressive transfer of the quarry land to Council for use as landfill (never used for this purpose) - transfer of the northern portion of land adjacent to Blind Creek to Council in exchange for additional extraction approvals A section 173 agreement was placed on title to facilitate rehabilitation of the land and a land swap with Council
2006	Council resolved to prepare a planning scheme amendment to facilitate residential development of the site, subject to introducing a section 173 agreement to provide for a land exchange between Council and the previous site owner, Robertson Industries
Around 2009	Norvel quarry closure
2009	The 1980's section 173 agreement was removed and replaced with a new section 173 agreement (AG370823M) to facilitate a planning scheme amendment for residential development of the site. This included rezoning of the land to a residential zone, application of development plan and environmental audit overlays and urban design guidelines
2013 – 2015	Close and backfilling the quarry was undertaken in accordance with an Environmental Management Plan
April 2016	A certificate of environmental audit ¹ was issued for the site
April 2018	The Proponent lodged an application with Council to proceed with a combined Amendment and Permit Application under section 96A of the <i>Planning and Environment Act 1987</i> (PE Act)

¹ Council's Part A submission, Attachment B1

Timeline	Activity
25 October 2021	<p>Council resolved to enter into a new section 173 agreement (AV502900K) with the Proponent to:</p> <ul style="list-style-type: none"> - secure reserves for bushland, drainage, fire buffer and other purposes - ensure future development is in line with updated Urban Design Guidelines
22 November 2021	<p>Council resolved to, among other things:</p> <ul style="list-style-type: none"> - endorse the draft Amendment and planning permit - seek authorisation to prepare and exhibit the Amendment and planning permit - subject to receiving authorisation, to place the documentation on public exhibition, including supporting documents - authorise the Chief Executive Officer to make minor changes in response to any condition of authorisation - enter into a section 173 agreement with the Proponent to ensure provision of a minimum of eight social housing lots
4 April 2022	<p>Council received authorisation from the Minister for Planning (Minister) to prepare and exhibit the Amendment, subject to conditions</p>
11 April 2022	<p>The section 173 agreement (AV502820H) relating to social housing was registered on title</p> <p>The 2009 section 173 agreement (AG370823M) was removed from title and the new section 173 agreement (AV502900K) was registered on title</p>
25 May 2022	<p>Council received a revised authorisation letter which included a modification to condition 2</p>
14 June to 21 July 2023	<p>Amendment and Permit Application were exhibited</p>
29 August 2023	<p>The bushland reserve (1.698 hectares) was transferred to Council (see history of land transfers and swaps below)</p>
27 November 2023	<p>Council resolved to:</p> <ul style="list-style-type: none"> - receive and note the submissions - endorse the Council officer's response to submissions - request the Minister appoint an independent Panel to consider all submissions - refer the Amendment, Permit Application and draft planning permit and all submissions to the Panel - authorise the Chief Executive Officer to undertake minor changes to the Amendment, Permit Application and draft permit which do not change the purpose or intent of the proposal.

(ii) History of land swaps and transfers

Council explained in its Part B submission the history of the land transfers and swaps between Council and the Proponent secured by section 173 agreements. The land affected by the land swap agreements is shown in Figure 6. Council said:

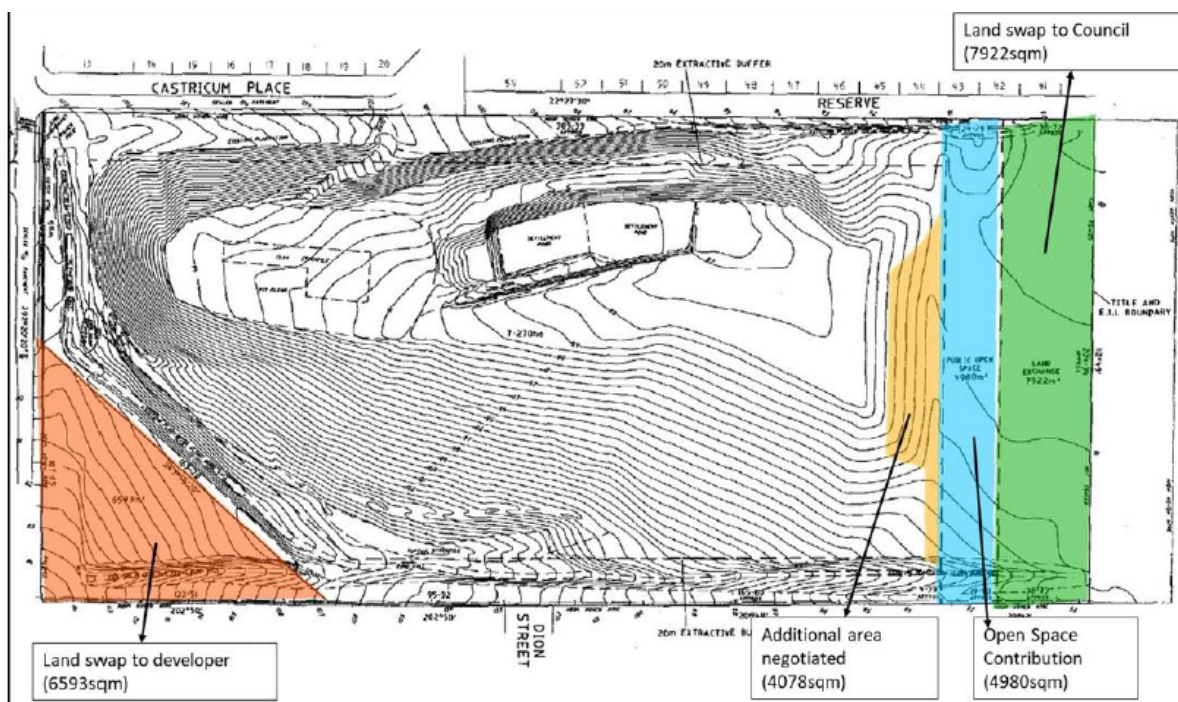
- A land swap undertaken in 2017, whereby a 6,593 square metre triangular lot (shown in orange on the map below) was provided to the landowner in exchange for 7,922 to Council (as identified in the 2009 Section 173 agreement) [shown in green on the map below].
- The transfer of 4,980 square metres of land in lieu of a public open space contribution (as identified in the 2009 Section 173 agreement) [shown in green on the map below].
- An additional 4,078 square metres of land negotiated as part of Amendment C184knox [shown in yellow on the map below].

This land comprises a total area of approximately 1.698 hectares (or 16,980 square metres) and is collectively defined as the ‘Bushland Reserve’ in the 2021 Section 173 agreement (Instrument AV502900K).

As identified in the Part A submission for this Amendment, that agreement required that the land be vested in or transferred to Council. All of this land has been transferred to Council and now forms 29R Norvel Road.

Council explained the current 2021 section 173 agreement acknowledged the transfer of land to Council would “comprise and be treated as the public open space contribution required by the Planning Scheme or under the Subdivision Act for subdivision of the balance of the land notwithstanding that the contribution is made prior to the making of the requirement”². Further the 2021 section 173 agreement requires the developer to set aside a reserve for drainage, fire buffer and other purposes.

Figure 6 Land swap areas (Second section 173 agreement)



Source: Council meeting agenda 25 October 2021 (Document 11.3)

1.3 Issues raised in submissions

Key issues raised in submissions related to:

- land contamination and stability

² Council Part B submission, pages 23-24

- Seecal Road Reserve land use zone
- biodiversity and native vegetation
- traffic and road networks
- drainage and stormwater
- housing density
- landscaping
- open space and play equipment provision
- amenity and interface issues, including fencing and noise
- sustainable development and urban heat island effect
- property values.

There were several supporting submissions, including one supporting the proposed social housing.

Supporting submissions were also received from four referral authorities including AusNet , South East Water, Country Fire Authority (CFA) and Melbourne Water. AusNet and Melbourne Water requested changes to the draft planning permit, as discussed in other chapters of this Report. South East Water explained it had previously provided advice on the draft planning permit, and detailed the recommendations that had been required.

The Proponent did not make a submission during exhibition of the proposal, however it sought a number of changes to permit conditions through the Hearing process.

1.4 Post exhibition changes

In response to submissions Council proposed to amend the:

- NRZ7 Schedule
- Explanatory Report
- draft planning permit.

Specific changes are addressed where relevant to issues throughout this Report.

The South East Water conditions were included in the exhibited draft planning permit.

Council explained the registered property address changed from 29Q Norvel Road, as exhibited, to 29 and 29R Norvel Road. This occurred as part of the subdivision and land transfer required by the section 173 agreement registered on the title of 29Q Norvel Road and actioned under section 35 of the Subdivision Act 1988. Council proposed to make minor changes to the Amendment documents and draft planning permit to reflect this change.³

The Panel accepts this and other minor administrative changes identified by Council, as shown in the Panel preferred version of the NRZ7 (see Appendix D) and planning permit (see Appendix E), unless otherwise recommended in this Report.

1.5 Procedural issues

The Hearing was scheduled for 12, 13 and 15 March 2024. The full time allocated to the Proponent's case was not required, including the reserve morning on 15 March 2024. All parties agreed to timetable adjustments and the Hearing concluded on 13 March 2024.

³ Council Part A submission, pages 6 and 7

As directed by the Panel, Council circulated to all parties its 'Day 1' versions of Amendment documentation and draft planning permit conditions before the Hearing (Document 11.1, Attachments A1 – A4).

On 13 March 2024 the Panel issued updated directions relating to comments on drafting of the Amendment and planning permit documents as follows:

1. Council must file its final preferred version of the Amendment documentation and draft 'without prejudice' permit conditions by **12 noon on Friday 15 March 2024**. The final preferred version must:
 - a) show changes proposed in response to evidence or submissions presented at the Hearing
 - b) be marked up against the Council 'Day 1' version
 - c) be in an editable format such as MS Word.
2. A party seeking to provide drafting comments on Council final preferred version of the Amendment/permit must file them **by 12 noon on Friday 22 March 2024**. Drafting comments must only relate to drafting issues, not broader issues

In response to the updated directions:

- Council submitted its preferred versions of the NRZ7, planning permit and explanatory table (Documents 17a-c)
- the Proponent submitted comments on Council's preferred version of the planning permit and explanatory table (Documents 18a-b).

1.6 The Panel's approach

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the proposal, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. It has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Part 1 – Introduction and context
 - Introduction
 - Planning context
- Part 2 – Knox Planning Scheme Amendment C184knox
 - Strategic justification
 - Land contamination and stability
 - Seecal Road Reserve proposed zone
 - Neighbourhood Residential Zone Schedule 7
- Part 3 – Planning Permit Application P/2020/6049
 - Biodiversity and native vegetation
 - Traffic and transport
 - Stormwater and flooding
 - Other issues
 - The planning permit.

1.7 Limitations

Some issues raised by submitters are outside of the scope of the Panel's remit and are not addressed in this Report. The issues related to property values and concerns about anti-social behaviour and security.

2 Planning context

2.1 Planning policies and provisions

Table 2 identifies relevant planning policies and provisions and Appendix C summarises key imperatives.

Table 2 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the PE Act
Planning Policy Framework	<ul style="list-style-type: none"> - Clauses 11 (Settlement), 11.01-1R (Settlement – Metropolitan Melbourne), 11.02-1S (Supply of urban land) - Clauses 12 (Environmental and landscape values), 12.01 (Biodiversity) - Clauses 13 (Environmental risks), 13.02-1S (Bushfire planning), 13.03-1S (Floodplain management), 13.04-1S (Potentially contaminated land) - Clauses 15 (Built environment and heritage), 15.01-3S (Subdivision design), 15.01-5S (Neighbourhood character) - Clauses 16 (Housing), 16.01-1S (Housing supply), 16.01-1R (Housing supply – Metropolitan Melbourne), 16.01-2S (Housing affordability) - Clauses 21.02 (Strategic Framework Plan), 21.03 (Biodiversity and native vegetation), 21.04 (Environmental Risks), 21.05 (Potentially contaminated land) 21.06 (Housing) - Clauses 22.01 (Title), 2202 (Title)
Other planning strategies and policies	<ul style="list-style-type: none"> - Plan Melbourne Direction 2.1, Policies 2.1.1 and 2.2.1 - Knox Housing Strategy 2015 - Knox Affordable Housing Action Plan 2015-2020
Planning provisions	<ul style="list-style-type: none"> - Clause 32.09 Neighbourhood Residential Zone (NRZ) - Clause 37.01 Special Use Zone Schedule 2 (Earth and Energy Resources Industry) – applies to the majority of the site - Clause 37.03 Urban Floodway Zone - Applies to a portion of the site north of 59R Rankin Road and 54 Agora Boulevard. No change is proposed to the Urban Floodway Zone - Clause 42.01 Environmental Significance Overlay Schedule 2 (Sites of Biological Significance) - Clause 44.05 Special Building Overlay – Applies to parts of 59R Rankin Road and 54 Agora Boulevard. No change is proposed to the Special Building Overlay - Clause 52.02 (Easements, restrictions and reserves) - Clause 52.06 (Car parking) - Clause 52.17 (Native vegetation) - Clause 53.01 (Public open space contribution) - Clause 56 (Residential subdivision)

Relevant references	
Ministerial directions	<ul style="list-style-type: none"> - Ministerial Direction 1 Potentially Contaminated Land (Ministerial Direction 1) - Ministerial Direction 7(5) Form and Content of Planning Schemes (Ministerial Direction on Form and Content) - Ministerial Direction 9 Metropolitan Planning Strategy - Ministerial Direction 11 Strategic Assessment of Amendments - Ministerial Direction 19 Amendments that may result in impacts on the environment, amenity and human health (Ministerial Direction 19)
Planning practice notes	<ul style="list-style-type: none"> - Planning Practice Note 46: Strategic Assessment Guidelines, September 2022 - Planning Practice Note 30: Potentially Contaminated Land (PPN30) - Planning Practice Note 91: Using the residential zones

2.2 Relevant strategic documents

(i) Knox Housing Strategy 2015

The *Knox Housing Strategy 2015* (Knox Housing Strategy) is a background document in the Planning Scheme and its directions are expressed in Clause 21.06 (Housing). It applies a scaled approach to housing provision and identifies the role of different areas in Knox. The approach seeks to balance the need to provide housing for population growth while recognising and protecting areas of environmental and landscape significance.

It identifies the site as Strategic Investigation Site 6 with the following future directions:

The site is suitable for residential use only, with development at a range of densities. The northern portion of the site is environmentally significant and is recognised as a site of biological significance, indicated by the application of the Environmental Significance Overlay (ESO2). Future planning of the site must have regard to the following:

- Protect the most significant vegetation at the northern end of the site.
- Incorporates a central park linked to the creek corridor.
- Keeping housing densities consistent with the surrounding area on the interfaces, with increased densities located internally, toward the centre of the site (facing public open space).
- Housing facing the creek or any creek corridor frontage road, creating opportunities for passive surveillance of public areas.

The land surrounding the site is identified as Knox Neighbourhood Area with detached houses and dual occupancy as preferred housing types.

(ii) Knox Social and Affordable Housing Strategy and Action Plan 2023-2027

The *Knox Social and Affordable Housing Strategy and Action Plan 2023-2027* outlines Council's response to increase the supply of social housing for low and very low income households. It notes that the area provides a below average number of social houses, at 2.3 per cent of all houses, compared with metropolitan Melbourne average of 2.6 per cent, and Australian average of 4.5 per cent.

The plan includes a target of five percent social housing as voluntary development contributions, including for Strategic Investigation Sites where rezoning is required.

(iii) Housing Statement

The State government released Victoria’s Housing Statement on 20 September 2023. As described in the Proponent’s submission, the Housing Statement seeks to *“introduce new policies and processes to boost housing supply and housing affordability across Victoria. The VHS aims to deliver 80,000 new homes each year across the state”*.

(iv) Other relevant strategic documents and plans

Council identified the following other relevant strategic documents and plans, which are discussed as relevant in other chapters of this Report:

- *Knox Urban Design Framework 2020*, City of Knox, 2003
- *Sites of Biological Significance in Knox – 2nd Edition*, Biosphere Pty Ltd, June 2010
- *Knox Open Space Plan 2012-2022*, May 2012
- *Knox City Council Play Space Plan 2013-2023*, Jeavons Landscape Architects, 2013
- *Knox Landscape Plan Guidelines*, Knox City Council, 2019 (Landscape Plan Guidelines)
- *Knox Bicycle Plan Review*, City of Knox, July 2008
- *Knox Green Streets Policy 2019*
- *Knox Liveable Streets Plan 2012-2022*.

2.3 Other Planning Scheme Amendments

Council provided details of other relevant Planning Scheme Amendments in its Part A submission as follows:

- it has sought authorisation for Knox Planning Scheme Amendment C197knox to introduce elevated Environmentally Sustainable Development requirements for new buildings
- it is progressing a planning scheme amendment to translate the local policy framework into the new planning policy framework.

PART 2 – KNOX PLANNING SCHEME AMENDMENT C184KNOX

3 Strategic justification

(i) Evidence and submissions

David Crowder, giving evidence for the Proponent, explained the planning context for the site. He said there was strong strategic support for the proposal. He was of the opinion it would:

enhance the existing urban area of Ferntree Gully and result in additional housing supply / choice (including social housing) in an area proximate to jobs, services and public transport.

Mr Crowder noted the Housing Statement recently released by the State government increased the focus on housing provision, with an aspirational target of 70 per cent of new housing to be in established areas, and design standards to achieve high quality developments. He said the:

- rezoning was strategically justified
- proposed controls would appropriately guide residential development
- proposal would result in 'net community benefit'.

Mr Crowder was satisfied bushfire risk and environmental risk had been adequately considered and addressed.

Mr Crowder considered the Amendment made proper use of the Victoria Planning Provisions. He said the Strategic Investigation Site was suitable for residential expansion and NRZ was the appropriate zone in the context of the surrounding residential area which is zoned NRZ. Further, the area proposed to be rezoned from SUZ2 to PCRZ was acceptable as:

- the land had been transferred to Council
- application of the PCRZ would ensure the site's biological values are protected
- it would provide an appropriate buffer is provided between the proposed residential subdivision and adjoining Blind Creek and area zoned Urban Floodway Zone.

Mr Crowder considered application of the PPRZ to the existing reserve along the western boundary of the site was appropriate as this land would be used for public open space and construction of a bicycle trail.

The Proponent submitted there is no doubt the Amendment is strategically justified. It said the proposal would result in greater housing diversity and growth in an appropriate location, and the:

- site is in a location where planning policy encourages intensification of residential land
- designated Strategic Investigation Site is a rehabilitated quarry that is now ready for development as a residential estate
- proposal *"will assist in delivering housing to benefit Victorian's for decades to come"*.

Council submitted the Amendment is broadly consistent with state, regional and local planning policy. It said the:

- site is a Strategic Investigation Site suitable for residential development, consistent with the Knox Housing Strategy and Clauses 21.02 (Vision) and 21.06 (Housing) of the Planning Scheme
- former quarry has been closed, filled and remediated, and the site is no longer suitable for extractive industries
- Amendment is required to facilitate redevelopment of the site and the proposal will provide for a diverse range of housing that will assist with accommodating population growth

- Amendment is informed by an Urban Design Assessment which considers character of the surrounding area and bushfire risk
- proposal protects areas of biological significance.

Submissions from referral authorities supported the Amendment (see Chapter 1.3). The CFA submitted it was satisfied the proposal responded to previous correspondence and it did not provide any additional comments.

Some submitters raised issues concerned with:

- whether views of the relevant fire authority had been sought
- higher density development and loss of bushland
- amenity and provision of community services.

(ii) Discussion

The Planning Scheme identifies the site as a Strategic Investigation Site – Residential and the land is ideally located for residential development. The Amendment will provide for additional housing and housing choice in an established well serviced residential area on a large, generally unconstrained site.

Subject to its recommendations, the Panel is satisfied the Amendment is justified and makes proper use of the Victoria Planning Provisions. The proposal will result in net community benefit with:

- provision of housing, including social housing, close to jobs, services and transport
- protection of a designated site of biological significance
- provision of open space and shared trails with connectivity to an existing open space /bushland corridor along Blind Creek.

The Proponent and Council have entered into section 173 agreements relating to transfer of bushland to Council, requiring urban design outcomes and securing eight lots for social housing.

No submitters raised issues with the selection of planning controls for the site. The drafting of the NRZ7 is discussed in Chapter 6.

The Panel accepts that the CFA, Mr Crowder, Council and the Proponent were all satisfied bushfire matters had been adequately considered and addressed. A Bushfire Development Report exhibited with the Amendment concluded the site was suitable for residential development in the context of planning policy and provisions and bushfire planning guidance.

The Panel has concluded in other chapters of this Report that the:

- rehabilitated quarry land is suitable for residential development (see Chapter 4)
- zoning of Seecal Road is appropriate (see Chapter 5).

The Panel has addressed issues relating to housing density, biodiversity and amenity in other chapters of this Report.

(iii) Conclusions

For the reasons set out in this report, the Panel concludes the proposal:

- Is supported by, and implements, the relevant sections of the Planning Policy Framework.
- Is consistent with the relevant Ministerial Directions and Practice Notes.
- Is well founded and strategically justified.

- Should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

4 Land contamination and stability

(i) The issues

The issues are whether the site:

- has been adequately remediated and is suitable for residential use
- is adequately stable following quarry closure and site rehabilitation.

(ii) Background

Planning policy and guidance

Clause 13.04-1S (Contaminated and potentially contaminated land) seeks to:

ensure that contaminated and potentially contaminated land is used and developed safely.

Clause 13.04-2S (Erosion and landslip) seeks to:

protect areas prone to erosion, landslip or other land degradation processes.

Clause 21.04-5 (Potentially contaminated land) seeks to avoid harm to human health and the environment from contaminated land. It includes a strategy to:

Require applicants to provide an environmental site assessment, from a suitably qualified professional, where there is potential for contamination or the land use history is unclear, to determine if an environmental audit is necessary.

Ministerial Direction 1 applies to potentially contaminated land and seeks to ensure the land is suitable for the use proposed under a planning scheme amendment. It includes a definition of potentially contaminated land and requirements that must be met in preparing a planning scheme amendment on potentially contaminated land.

Ministerial Direction 19 requires planning authorities seek written views of the Environment Protection Authority Victoria (EPA) in preparing a planning scheme amendment that *“could result in use or development of land that may result in significant impacts on the environment, amenity and human health due to pollution and waste”*.⁴ It requires the views of EPA are addressed in the explanatory report.

PPN30 identifies the recommended assessment mechanism for a planning proposal and provides planning guidance on:

- how to identify potentially contaminated land
- the appropriate level of assessment of contamination in different circumstances
- appropriate provisions in planning scheme amendments
- appropriate conditions on planning permits.

PPN30 recommends proceeding directly to an environmental audit where sensitive uses are proposed on land where the previous land use has high potential for contamination. PPN30 identifies ‘mining and extractive industries’ as having high potential for contamination.

Environmental Audit and Geotechnical Assessment

Council attached to its Part A submission copies of the Environmental Audit (Document 5 Attachment 3.1) and Geotechnical Assessment (Document 5 Attachment 3.2). Council explained

⁴ Council Part A submission, pages 6 and 7

the Environmental Audit concluded *“the condition of the site is neither detrimental nor potentially detrimental to any beneficial use of the site”*.

Council noted the Environmental Audit said:

- Quarrying operations ceased in the mid-2000s.
- The rehabilitation of the quarry largely involved the importation of fill (comprising siltstone material) from the Eastland Shopping Centre redevelopment, Knox Hospital and Mitcham grade separation into the clay pit. The imported fill was capped with overburden material from the site that had been used to form screening bunds.
- The fill imported onto the site was subject to periodic testing, in accordance with the Environmental Management Plan for rehabilitation.
- Testing of the overburden material on the site identified it was considered suitable for the proposed residential use and to be placed as a final cap over the former quarry area.
- Naturally occurring levels of arsenic, copper and fluoride were reported in the imported siltstone fill in excess of the ecological investigation levels (EILs) and levels of arsenic were reported in excess of the health investigation levels (HILs).
- The concentrations of arsenic were determined to be not leachable and of low bioavailability. These concentrations were not considered to preclude an urban residential use of the site.
- The concentrations of fluoride and copper were not considered to impact the urban residential use of the site.
- There were elevated groundwater concentrations of iron and manganese that were considered to be naturally occurring and an artefact of the regional geology. Any use of groundwater is unlikely to be realised at the site given low aquifer yield and location of the site within an urban residential area with a reticulated water supply.

A certificate of environmental audit was issued on 20 April 2016.

Council provided copies of correspondence with the EPA and advised the EPA was satisfied the land was suitable for *“any beneficial use”*. The EPA did not make a submission in response to exhibition of the proposal.

The Council report of 22 November 2021 explained the Geotechnical Assessment provided information on the property’s soil to determine suitability for construction. The site was determined to be “Class M” *“which as a general rule... can have generic foundations”*.

(iii) Evidence and submissions

Several submitters were concerned:

- the site may have contamination issues from its previous use as quarry
- about subsidence and houses moving and cracking due to the land not being stable/the clay pit sinking.

Mr Crowder was satisfied that remediation of the site had occurred and an environmental audit issued.

The Proponent submitted:

There should be no question regarding the suitability for residential use as following the cessation of the quarry use, the site was remediated and rehabilitated through filling and levelling works to original ground level and subject to an environmental audit. Geotechnical and compaction testing of the Subject Site was undertaken and certified by Civil Test Pty Ltd Soil Testing & Geotechnical Consultants in 2015. An environmental audit was undertaken by Australian Environmental Auditors Pty Ltd in April 2016, confirming that the Subject Site is

suitable for sensitive uses. A copy of the Geotechnical Report and Environmental Audit documentation is provided in Council's Part A Submissions.

In response to issues raised in submissions the Proponent said:

The stability of the land given that it is an infilled quarry site has been considered in the Geotechnical Reports submitted with this application. The land has been tested against Section 8 of AS3798 "*Guidelines on earthworks for commercial and residential developments*". It is standard practice that when earthworks are undertaken for this development, the land will be tested to ensure stability.

Council explained how the proposal had been considered and submitted it was:

- consistent with Ministerial Directions 1 and 19 and PPN30
- satisfied the land was suitable for residential use and development as it had been assessed as part of the Environmental Audit process and a certificate of environmental audit had been issued.

Council submitted:

An environmental audit has been undertaken by Australian Environmental Auditors for the land, in accordance with the requirements of section 53X of the (then) *Environment Protection Act 1970*.⁵

(iv) Discussion

The Panel accepts the submissions of Council and the Proponent that issues relating to potentially contaminated land had been adequately considered.

The findings of the Environmental Audit and certificate of environmental audit find the land suitable for sensitive use such as residential development. The environmental audit is consistent with guidance in PPN30, and the EPA has indicated it is satisfied with the assessment and the proposal as it relates to potential land contamination.

The Panel accepts Council's submissions that the land has been assessed as having Class M soils, as shown in the Geotechnical Assessment, which are generally suitable for residential development.

The Panel was not provided with any information or evidence that issues of land contamination or stability had not been adequately assessed.

(v) Conclusion

The Panel concludes the rehabilitated quarry land is adequately stable following quarry closure and site rehabilitation and is suitable for residential development.

⁵ Council Part A submission, paragraph 172

5 Seecal Road Reserve proposed zone

(i) The issue

The issue is whether all of the Seecal Road Reserve should be rezoned to PPRZ.

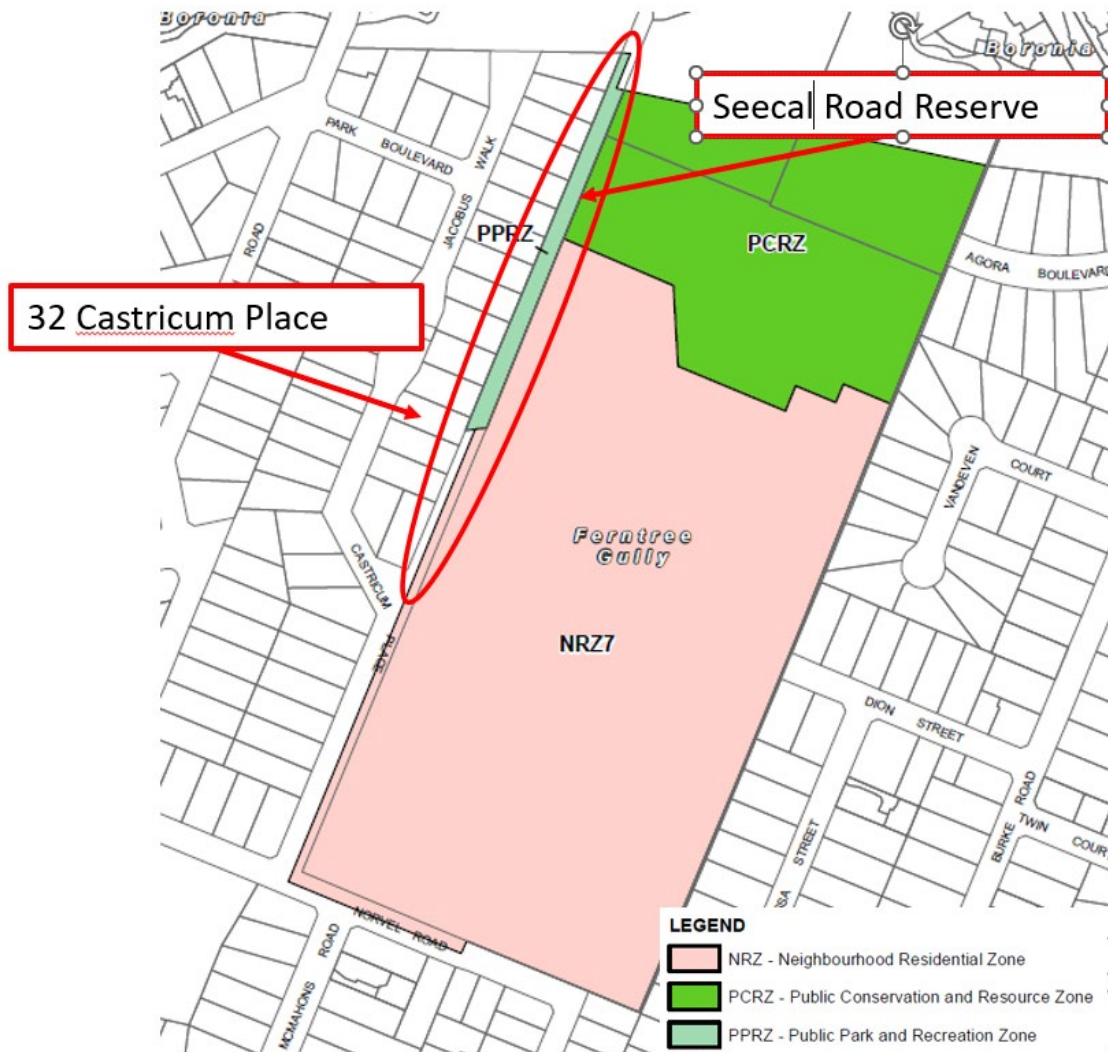
(ii) Background

Council explained:

The Amendment proposes to rezone part of the Seecal Road Reserve (approximately north of 32 Castricum Place) to the Public Park and Recreation Zone, while the remaining part of the land will be rezoned to the Neighbourhood Residential Zone – Schedule 7.

The Panel has prepared a figure showing the location of 32 Castricum Place and the approximately location of Seecal Road Reserve (Figure 7).

Figure 7 Seecal Road Reserve



(iii) Submissions

Friends of Blind Creek Billabong questioned why part of Seecal Road would remain in residential zoning and why all of Seecal Road Reserve would not be rezoned PPRZ. It said:

We understand that Seecal Road South is to remain a road reserve. We feel that this is inconsistent with proposed rezoning and urge that this issue be resolved as soon as possible.

Council's Part A submission

Seecal Road is a discontinued road reserve that runs along the western boundary of 59R Rankins Road, 29R Norvel Road and 29 Norvel Road, north of Castricum Place.

Council explained Seecal Road is a discontinued road reserve and was formally a public road. It said:

Whilst the road has been discontinued (and is not on Council's Road Register), its closure has not been finalised or completed.

Council's Property Management Team has confirmed that the remainder of the road is proposed to be closed. However, the timing for the finalisation of this process has not been confirmed.

Council submits it would be inappropriate to rezone the land to the Public Park and Recreation Zone while it remains a discontinued but not closed road.

Once the road closure has been completed, Council will propose to rezone the land to Public Park and Recreation Zone as part of a 'tidy up' / anomaly amendment.

(iv) Discussion

The Panel accepts Council's approach to finalising the road closure process for the Seecal Road Reserve before rezoning the land.

The Panel notes Mr Crowder did not raise concerns with the application of PPRZ as proposed (see Chapter 3) and it did not receive any further submissions or evidence that its future rezoning would impact delivery of the proposal. If the Amendment and development proceeds the timing of road closure and rezoning this will not affect the delivery of the proposed landscaped shared user path along the reserve connecting the subdivision to Castricum Place and the Blind Creek Trail.

Further, the rezoning of the southern part of the Seecal Road Reserve to PPRZ was not exhibited with the Amendment, and would be subject to a separate planning scheme amendment process.

(v) Conclusion

The Panel concludes the rezoning of the Seecal Road Reserve to part PPRZ and part NRZ7 as exhibited is appropriate.

6 Neighbourhood Residential Zone Schedule 7

(i) The issue

The issue is whether the form and content of the NRZ7 is appropriate.

(ii) Background

The Amendment proposes to exempt land zoned NRZ7 from local policy in Clause 22.07 (Development in residential areas and neighbourhood character). The Explanatory Report states:

It is proposed to rezone the site to the Neighbourhood Residential Zone (NRZ) and to develop the site in accordance with updated urban design guidelines registered under a S173 Agreement applying to the land.

...

By providing its own design guidelines, the amendment will be exempted from neighbourhood character provisions of Clause 22.07.

The Planning Report exhibited with the Amendment explains the current section 173 agreement allows for the urban design guidelines to be amended from time to time with consent of Council and the owner. The Panel notes the property titles, current section 173 agreements and Urban Design Guidelines - Revision D 30 May 2021 (Document 5, Attachment 2.8) were exhibited with the Amendment.

The exhibited NRZ7 Section 4.0 (Requirements of Clause 54 and 55) are shown in Table 3.

Table 3 NRZ7 Section 4.0 (Requirements of Clauses 54 and 55)

Standard		Requirement
Minimum street setback	A3 and B6	Context: The site is on a corner Minimum setback from a side street: Side walls of new development on a corner site should be setback the same distance as the setback of the front wall of any existing building on the abutting allotment facing the side street or 1.5 metres, whichever is the lesser.
Site coverage	A5 and B8	None specified.
Permeability	A6 and B9	None specified.
Landscaping	B13	Provision of a minimum of one canopy tree within the front setback per 5 metres of width of the site (excluding the width of one driveway). Each tree should be surrounded by 20 square metres permeable surface with a minimum radius of 3 metres. Up to 50 per cent of the permeable surface may be shared with another tree.

Standard	Requirement
Walls on boundaries A11 and B18	The height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1 metres of a side or rear boundary should not exceed an average of 3.6 metres with no part higher than 4.0 metres unless abutting a higher existing or simultaneously constructed wall.
Private open space A17	None specified.
B28	None specified.
Front fence height A20 and B32	Streets in a Road Zone Category 1: 2 metres Other streets: 1.2 metres

(iii) Evidence and submissions

Mr Crowder said the proposed NRZ7 complied with the Ministerial Direction on Form and Content. He was satisfied the:

- proposed objectives would not duplicate other objectives in the Planning Scheme
- proposal to vary the following ResCode standards would guide future development to ensure respectful character and amenity outcomes:
 - Street setback (A3/B6)
 - Landscaping (B13)
 - Walls on boundaries (A11/B18)
 - Front fence height (A20/B32).

Mr Crowder said:

In combination with the accompanying Urban Design Guidelines prepared by the proponent (and implemented by way of a Section 173 Agreement), the variations to ResCode proposed under the NRZ7 will ensure development of the site will occur in a manner that will achieve respectful setback, landscaping and fencing outcomes.

Council proposed post exhibition changes to the NRZ7. The Proponent relied on the evidence of Mr Crowder, who provided comment on Council's post exhibition changes.

The Panel has summarised the changes proposed by Council in its Day 1 version of the NRZ7 and Mr Crowder's comments and recommendations in Table 4.

Table 4 Mr Crowder's comments on Council's proposed post exhibition changes to NRZ7 and

Council post exhibition proposed change	Mr Crowder's comments
Clarification of wording to Standard B13	The proposed change to Standard B13 (Landscaping) relates to drafting/wording only and does not change the intent of the exhibited schedule.
Deletion of the variation to Standard A11 and B18 'Walls on boundaries'	The exhibited Standard A11 / B18 sought to vary ResCode controls to allow for walls on boundaries to not exceed an average of 3.6 metres in height and maximum height of 4 metres. Council proposes to delete this variation to default to the standard controls (3.2 metres average, 3.6 metres maximum).

Council post exhibition proposed change	Mr Crowder's comments
	The post exhibition change is acceptable given the compact nature of the proposed subdivision, and the sloping topography of the land.
Clarification of wording to reflect the Transport Zone in the variation to Standards A20 and B32 'Front fence height'	As the review site does not abut any roads in the Transport Zone 2 (TRZ) the variation relating to a front fence in a TR22 could be deleted. No concerns with the variation to "other streets".
Removal of the Sustainable Design Assessment application requirement, which is captured in Clause 22.04	The deletion this application requirement is appropriate as it duplicates local policy in Clause 22.04

In its final preferred version of NRZ7 (Documents 17a and 17c), Council:

- confirmed it no longer proposed to vary the ResCode standard relating to walls on boundaries (A11 and A18), stating:
 - The parent control within Clause 55 does not permit a schedule to vary the height of a wall on a boundary, as it states, "For a length of more than the distance specified in a schedule to the zone....".
 - The parent control does not provide flexibility seen in other controls such as Standard B13 which includes, "Development should meet any additional landscape requirements specifies in a schedule to the zone".
 - Planning Practice Note No. 91 explains that a variation must be drafted having regard to that part of the standard (e.g. value) that is able to be varied.
 - The practitioners guide relating to rules for writing a planning scheme provision states that a provision must not include a function that is not enabled by the relevant state standard provision.
 - Council reiterates it supports the intent of the variation. If it is achievable, Council supports the inclusion of a new condition on the planning permit (under Condition 28) to enable the variation and resolve the issue in relation to 'report and consent' under the Building Regulations.
- amended its position on the ResCode standard relating to front fence height (A20 and B32) to read:

Streets in a Road Zone Category 1: 2 metres

Other streets: 1.2 metres

A front fence within 3 metres of a street ~~in a Transport Zone 2~~ should not exceed ~~2 metres in height, or~~ 1.2 metres in ~~for all~~ other streets'.

No other submitters raised issues relating to the content or drafting of the NRZ7.

(iv) Discussion

The Panel agrees with Mr Crowder that the form and content of the NRZ7 is generally consistent with the Ministerial Direction on Form and Content, subject to its assessment and recommendations.

Objectives

Consistent with the Ministerial Direction on Form and Content the NRZ7 includes five Neighbourhood character objectives. While the Panel agrees with Mr Crowder the objectives do not repeat other objectives in the Planning Scheme, the Panel considers there may be some confusion with the first objective which says:

- To ensure that new development reflect the preferred neighbourhood character of the surrounding area.

The preferred neighbourhood character of the surrounding area is described in Clause 22.07 (Development in residential areas and neighbourhood character). As the Amendment proposes to exempt land in the NRZ7 from consideration of Clause 22.07, it is not clear how a decision maker would assess performance against this proposed objective.

Further, the Urban Design Report exhibited with the Amendment states:

At present the surrounding area is largely made up of low density detached dwellings, typically of single or double storeys often with generously sized yards.

However much has changed since the area was first developed as detached dwellings on single allotments. The Knox Municipal Strategic Statement outlines a demand for different types of housing as well as an undersupply of affordable housing. Housing composition in the surrounding area is changing and becoming more diverse, with many existing blocks that once contained a single home now being subdivided into two or more smaller allotments.

...

Compared to the older subdivisions in surrounding areas, this design offers a higher density of residential lots to cater to present-day challenges and buyer expectations, while maintaining the green character that is so valued in Knox. It includes a mix of different lot depths and sizes, including some that are appropriate for affordable housing. This caters to the needs of a variety of potential buyers and allows for a variety of different building types and enough space for leafy front yards.⁶

It is clear the preferred character for the site is different from the preferred neighbourhood character of the surrounding Knox Neighbourhood Area (as described in Clause 22.07). As explained in the Explanatory Report:

By providing its own design guidelines, the amendment will be exempted from neighbourhood character provisions of Clause 22.07

It is the Panel's view that the purpose and operation of the first objective is unclear and this should be deleted from the NRZ7. Assessment of any proposal will include consideration of the other objectives of NRZ7 which define elements of the character relating to housing typology, landscaping, front interface treatments and setbacks and permeable surfaces. This combined with the ResCode provisions and the Urban Design Guidelines required by the section 173 agreement provides comprehensive guidance on neighbourhood character.

Requirements of Clauses 54 and 55

The Panel's preferred version of the NRZ7 at Appendix C includes its recommended wording of variations to the requirements of Clauses 54 and 55.

Standard B13 (Landscaping)

The post exhibition change to drafting of Standard 13 (Landscaping) proposed by Council and supported by the Proponent and Mr Crowder is appropriate. The proposed change improves clarity of wording and the intent is consistent with the exhibited standard.

Standards A11 and B18 (Walls on boundaries)

The parent Clauses 54 and 55 provide for a schedule to vary the length of a wall on or within 200 millimetres of a side or rear boundary of a lot or a carport constructed on or within one metre of a

⁶ Urban Design Report, page 30

side or rear boundary of a lot. The provision does not allow for the wall height be varied in the schedule to the zone.

The exhibited provision sought to alter the height of a new wall on boundary, which cannot be required through the schedule to the zone. The Panel supports Council’s proposed post exhibition change to not vary this provision and state “*None specified*”.

The Panel discusses the option of a walls on boundaries condition in Chapter 10.8.

Standards A20 and B32 (Front fence height)

The Panel observes:

- Clause 22.07 includes a design guideline for the surrounding Knox Neighbourhood Area to “*provide no, low or transparent front fencing*”
- the Urban Design Guidelines includes an objective and guideline as follows:
 - Objective - To maximise informal surveillance to the street and public spaces
 - Guidelines
 - Avoid the use of fences along front property boundaries
 - Full property side boundaries abutting a street or public space, front yards should ideally have no fencing, or otherwise use fencing types that are of a low height and or are visually permeable.

The parent Clauses 54 and 55 include standards A20 and B32 as follows:

A front fence within 3 metres of a street should not exceed:

- The maximum height specified in a schedule to the zone, or
- If no maximum height is specified in a schedule to the zone, the maximum height specified in Table A2.

Street context	Maximum front fence height
Streets in a Transport Zone 2	2 metres
Other streets	1.5 metres

The proposed height of front fences was not in dispute, nor was the fact that the site did not have interfaces with land in a Transport Zone 2.

It is not necessary to specify a height for front fences in a Transport Zone 2 as this is not relevant.

The parent clause already identifies the requirement relates to a front fence within 3 metres of a street. The schedule only needs to state the height the front fence should not exceed, in this case 1.2 metres. The Panel supports this on the basis the height was exhibited and supported by Council, the Proponent and its expert.

Application requirements

It is appropriate to delete the application requirement relating to a Sustainable Design Assessment as this duplicates local policy in Clause 22.04 (Environmentally Sustainable Development), as agreed by Council, the Proponent and Mr Crowder.

The Panel turned its mind to whether, in the context of drafting guidance, it is appropriate to include the proposed application requirement which states:

- For developments of five or more dwellings and for residential buildings, a report which demonstrates how the proposal will be accessible to people with limited mobility.

The *Practitioner's Guide to Victorian Planning Schemes* provides guidance on drafting a schedule. It states a schedule should be technically accurate, easy to interpret and easy to apply, with a clear understanding of the objective being sought. Further it says the local content in a schedule should help to implement a planning objective and should be strategically justified. Regarding application requirements it says:

These requirements should be proportionate to the planning risks associated with an activity and derive from the objectives, standards or decision guidelines relevant to the discretion being exercised.

The purposes of the Neighbourhood Residential Zone Clause 32.09 include:

- To recognise areas of predominantly single and double storey residential development.
- To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The parent Clause 32.09 states under neighbourhood character objectives that:

A schedule to this zone must contain the neighbourhood, heritage, environment or landscape character objectives to be achieved for the area.

There is no clear nexus between the objectives, standards or decision guidelines of the NRZ7 with the proposed application requirement. From a drafting perspective it is not appropriate to include the application requirement as exhibited. The application requirement relating to accessibility should be deleted from the NRZ7.

The Panel notes:

- While consideration of accessibility may be derived from local policy, specifically policy relating to accessible design (Clause 22.07-7) and housing for aged persons (Clause 22.07-9), this does not apply to land affected by the Amendment, which exempts the NRZ7 land from Clause 22.07.
- Clause 55, relating to two more dwellings on a lot and residential buildings, includes an objective and standard relating to accessibility (Clause 55.05-1). The objective is *"To encourage the consideration of the needs of people with limited mobility in the design of developments"*.

If Council wishes to apply additional planning provisions to the site relating to accessibility this should be progressed through a separate planning scheme amendment process.

(v) Conclusion and recommendations

The Panel concludes that subject to its recommendations the form and content of the NRZ7 is appropriate.

The Panel recommends:

Amend Schedule 7 to Clause 32.09 Neighbourhood Residential Zone, as shown in Appendix D, to:

- a) **Delete the objective which relates to preferred neighbourhood character of the surrounding area.**
- b) **Amend the wording of standards B13 and A20/B32.**
- c) **Replace the variation to standards A11 and B18 (Walls on boundaries) with “None specified”.**
- d) **Delete the application requirements relating to a Sustainable Design Assessment and accessibility and replace with “None specified”.**

PART 3 - PLANNING PERMIT APPLICATION P/2020/6049

7 Biodiversity and native vegetation

7.1 Background

The proposal

The proposal includes extending and protecting the bushland reserve along Blind Creek Corridor by transferring bushland land from the site to Council for conservation purposes.

The draft planning permit included, among other things:

- removal of the minimum area of native vegetation necessary to provide for development, provision of infrastructure and bushfire defendable space
- development of a maintenance track and cycling/walking trail connecting Agora Boulevard with the Blind Creek trail
- native vegetation offsets to compensate for removal of 0.391 hectares of native vegetation
- a Site and Environmental Management Plan to manage construction activities, including to avoid and minimise impacts to biodiversity.

Planning Scheme

State planning policy seeks to:

- protect and enhance Victoria's biodiversity
- ensure there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.

Local planning policy seeks to:

- retain and enhance native vegetation in Knox, in extent and ecological condition.
- protect and enhance the natural values of Sites of Biological Significance
- maintain the diversity and genetic integrity of indigenous flora and fauna within Knox to prevent species from becoming locally extinct.

Planning policy requires consideration of:

- Policy guidelines:
 - State biodiversity information maintained by the Department of Energy, Environment and Climate Action
- Policy documents, including:
 - Applicable biodiversity strategies, including *Protecting Victoria's Environment – Biodiversity 2037* (DELWP⁷, 2017)
 - *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP, 2017) (Native Vegetation Guidelines)
 - *Assessor's Handbook – applications to remove, destroy or lop native vegetation* (DELWP, 2017).

The ESO2 applies to land in Knox with the most significant areas of remnant and revegetated native vegetation. Specifically, it applies to sites of biological significance identified in *Sites of Biological Significance in Knox – 2nd Edition* (SBS Study).

⁷ Department of Environment, Land, Water and Planning (predecessor to DEECA)

The ESO2 seeks to ensure development is compatible with identified environmental values and applies to part of the site – see Figure 5.

The Panel has summarised the statement of environmental significance and environmental objective of ESO2 in

Table 5.

Table 5 ESO2 summary of statement of environmental significance and environmental objective

ESO2 statement of environmental significance	ESO2 environmental objective
<ul style="list-style-type: none"> - The protection and appropriate management of sites of biological significance is important for maintaining biodiversity in Knox and for Victoria, and for liveability and health and wellbeing of the community. - The indigenous vegetation along the waterways form important riparian and wildlife corridors, providing protection to waterways and water quality. - Significant attributes include: <ul style="list-style-type: none"> - some of the best examples of natural environments in Knox - remnant vegetation that belongs to Ecological Vegetation Classes (EVCs) that are regional endangered or vulnerable - plant species that are threatened in Knox or more widely - native fauna that are uncommon, rare or threatened in the Melbourne or wider area - habitat, streams, wetlands and riparian vegetation - large old indigenous trees. - Providing a buffer, management access or inhibiting the ingress of nutrients, soil and pest plant and animals. 	<ul style="list-style-type: none"> - To protect sites of biological significance from, for example, removal of indigenous vegetation that would be detrimental to its condition and viability, environmental weeds, fragmentation and loss of habitat and changes that would have a detrimental impact. - To reduce the threat of local extinction of flora or fauna species in Knox. - To enhance the condition and viability of biodiversity. - To maintain connectivity. - To achieve a net increase in the extent of habitat and improve its ecological condition. - To ensure buildings and works are compatible with the long term protection and management of sites of biological significance. - To ensure offsets are located as close as practicable to the area impacted by vegetation loss, with a preference for them to be located in Knox. - To provide adequate bushfire protection measures that minimise adverse environmental effects.

The purposes of Clause 52.17 (Native vegetation) are to:

- ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation, by applying the Native Vegetation Guidelines
- manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

An application must comply with the requirements of the Native Vegetation Guidelines, and the Responsible Authority must consider the decision guidelines Native Vegetation Guidelines, as appropriate.

Sites of Biological Significance – 2nd Edition

Relevant to the proposal is Site 34: Blind Creek Billabong and Quarry (Site 34) is identified as being of State significance (see Figures 7 and 8) in the SBS Study.

Figure 8 Study area and ESO2



Source: Excerpt of Figure 1 from Biodiversity Assessment, page 24

Figure 9 Site 34 – Blind Creek Billabong and Quarry - Sites of Biological Significance



Source: Sites of Biological Significance Vol. 2, excerpt of image at page 179

The main purposes of the SBS Study are:

- To gain a broad overview of native vegetation and wildlife in Knox, including the biological significance, threats and opportunities for improvements.
- To identify, carefully assess and document all sites in Knox that are so important to native flora and fauna that they warrant special recognition and protection.
- To recommend ways of looking after, enhancing and monitoring Knox’s natural vegetation and other habitat, including through amendments to the Knox Planning Scheme.

The SBS Study includes a detailed assessment of:

- indigenous flora and fauna species, plant communities and habitat sites
- threats to Sites of Biological Significance
- options to manage, enhance and monitor these assets, including through the Planning Scheme.

The SBS Study identified there is less than five per cent of native vegetation or areas with indigenous tree cover remaining in Knox, and less than one per cent with good or excellent biodiversity.

The SBS Study says Site 34 is separate from the adjoining Site 33 along Blind Creek “*only because its vegetation stands out for its breadth, ecological condition, abundance of uncommon species and separate management regime*”. The SBS Study says that Site 34:

- Contains vegetation belonging to four regionally Endangered vegetation types (Wetland, Swampy, Riparian Woodland, Swampy Woodland and Valley Heathy Forest), some of which is in good ecological condition.
- The Swampy Woodland is particularly rich in plant species.
- Six plant species recorded from the site are Critically Endangered in Knox, and another eleven are either Endangered or Vulnerable in Knox.
- The bird fauna is rich for metropolitan Melbourne, and a statewide-vulnerable Grey Goshawk was observed.

Biodiversity Assessment

The exhibited Biodiversity Assessment (December 2020) was prepared to:

- assess and map the ecological constraints within the study area and the location, extent and quality of native vegetation
- support an application to remove native vegetation under Clause 52.17 of the Planning Scheme.

The Biodiversity Assessment included:

- a review of previous assessments for the study area
- an assessment of current ecological values of the study area
- an evaluation of likely impacts to ecological values as a result of potential vegetation loss
- an evaluation of the extent and quality of native vegetation in accordance with the Native Vegetation Guidelines
- recommendations to minimise or mitigate impacts, in the context of legislation and policies.

The report described limitations and qualifications of the assessment’s findings. These related to the accuracy of data used in the desktop assessment, limitations of the time or season the assessment was undertaken and the likelihood that further survey effort would yield additional records. It noted that despite these limitations the results were adequate for the purposes of the report.

The Biodiversity Assessment described the native vegetation of the study area, stating:

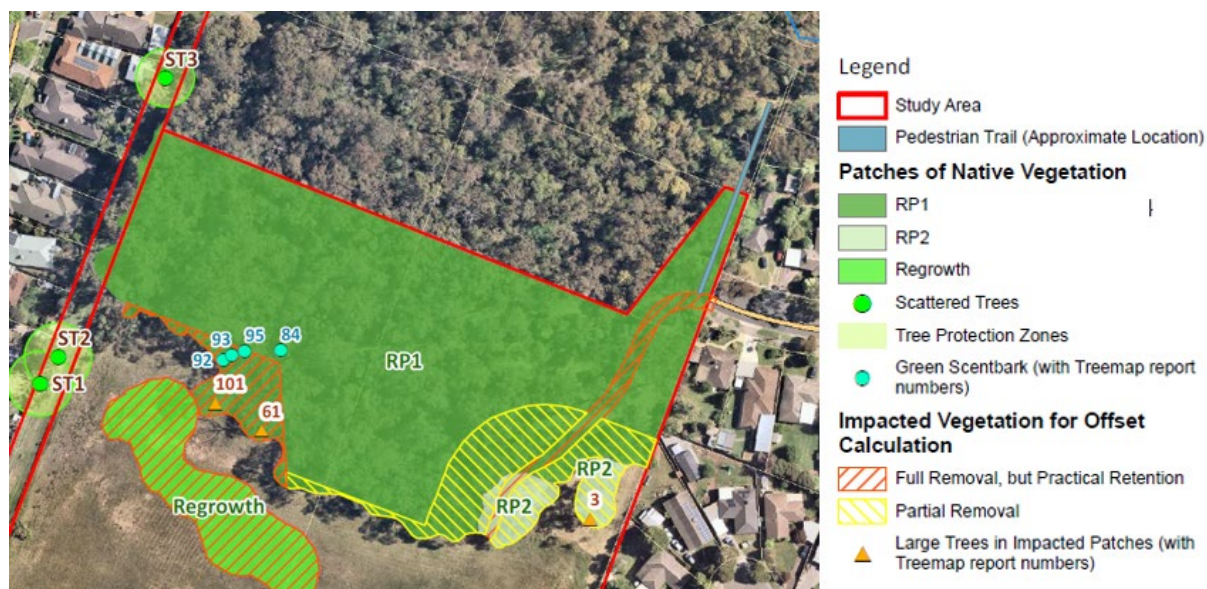
- the northern portion of the study area supports relatively high quality remnant vegetation, with a range of overstorey Eucalyptus species
- weeds are dominant in some locations
- ten fauna species were recorded in the study area including a range of common native and introduced birds and reptile species

- while 18 threatened flora and fauna species had been previously recorded within three kilometres of the study area within the last 30 years, only one was recorded during the current assessment, namely Green Scentbark which is 'rare' on the *Advisory List of Rare and Threatened Plants in Victoria* (Department of Environment and Primary Industries, 2014).

The Biodiversity Assessment included a plan showing the patches of remnant vegetation and impacted vegetation (see Figure 10 showing the 2023 version with pedestrian trail included). The Biodiversity Assessment concluded:

Only a relatively small proportion of RP1 [Remnant Patch 1] and RP2 [Remnant Patch 2], within the study area, will require vegetation removal for the proposed development. Three scattered indigenous trees were also recorded in an area that may support a trail to connect the development to Blind Creek and a sewer, but these trees are unlikely to require removal through sensitive design of these elements.

Figure 10 Impacted native vegetation



Source: Excerpt of Figure 2 from Biodiversity Assessment (2023), page 25

The 2023 Biodiversity Assessment avoidance and minimisation statement says:

- the development plan has undergone a number of iterations to avoid and minimise native vegetation, and retain highest quality native vegetation
- the master plan includes buffers between lots and retained vegetation for fire and habitat protection
- the vegetation (including trees) that may be impacted by changes to hydrology in the north west of the site and creation of the maintenance track and bushfire defendable space are considered lost for the purposes of calculating offsets but in practical terms will not be entirely removed or impacted
- no native vegetation removal or offsets are required for the proposed pedestrian link as impacts to vegetation are restricted to exotic understorey and the trail will be made from pervious materials at existing grade.

The Biodiversity Assessment made recommendations including:

- minimising the amount of native vegetation removal
- preparing a Land Management Plan that includes managing the ecological values of the study area

- preparing a Construction Management Plan with consideration of ecological values
- offset requirements as shown in Table 6.

Table 6 Native vegetation offset requirements in the Biodiversity Assessment

Location Risk	Location 2
Risk Based Pathway	Intermediate
Total Extent Removed	0.083ha
<ul style="list-style-type: none"> • Remnant Patches • Scattered Trees 	<ul style="list-style-type: none"> • 0.391ha • Nil
General Offset Requirements	0.126 General Habitat Units Two Large Trees
Specific Offset Requirements	Nil
Minimum Strategic Biodiversity Score	0.202
Offset Location	Port Phillip and Western Port CMA or within the Knox City Council municipality

Lorimer Report

Council provided the *Norvel Estate Plant Regeneration*, Dr Lorimer, October 2021 (Lorimer Report) attached to its Part B submission. The Lorimer Report was referred to in several submissions.

Council explained it had engaged Dr Lorimer, with the consent of the landowner, to undertake a limited ecological assessment of the site. This was in response to community feedback that potentially significant vegetation was present on the site in the former locations of the clay pit and earthen bunds following rehabilitation of the land.

The report identified some locally critically endangered, endangered, and vulnerable species, and noted Dr Lorimer did not conclude whether the species originated from the overburden used to cap the site (likely) or from imported fill (less likely). Among other things, Dr Lorimer made recommendations relating to the rescue of 12 species for replanting on along Blind Creek.

7.2 Bushland boardwalk/pathway and educational signage

(i) Draft planning permit

The exhibited draft planning permit included conditions for design and funding for a bushland boardwalk but did not specify the location or design details. Post exhibition Council sought to include new conditions relating to a bushland boardwalk/pathway and educational signage including location, design requirements, a financial contribution to Council and native vegetation offsets required to compensate for any additional native vegetation removal required.

The exhibited draft planning permit included conditions for:

- engineering construction plans which show:
 - Detail bushland boardwalk location and construction design including the location of existing vegetation.
- the owner/developer to pay Council a financial contribution towards construction of the bushland boardwalk.

Council proposed new post exhibition conditions as follows (Panel emphasis):

- 9) Prior to the issue of a Statement of Compliance for Stage 1, concurrently with the submission of plans for endorsement under Condition 1, a plan must be prepared to the satisfaction of the Responsible Authority and be generally in accordance with the **landscape masterplan drawings 01 and 02 prepared by Urbis dated 17/02/21** (Job No. ND1757)

showing the location of the bushland boardwalk/pathway and associated educational signage, and the following details:

- a. The boardwalk/pathway to be a minimum 1.2 metres wide.
 - b. Compliance with Australian Standards AS 1428 Design for access and mobility (series) and AS2156.2 Infrastructure design (or as amended) unless otherwise approved by the Responsible Authority.
 - c. Impact on existing vegetation minimised.
 - d. A schedule of construction materials including swatch samples.
 - e. Hardwood timber replaced with another material.
 - f. Dimensions.
- 10) Once the plan required by Condition 9 has been approved, the owner of the land shall submit to the Responsible Authority for its approval the cost of constructing the bushland boardwalk/pathway and associated educational signage in accordance with the approved plan for the approval of the Responsible Authority.
- 11) Prior to the issue of a Statement of Compliance for Stage 1, the amount for the construction of the boardwalk/pathway and associated educational signage must be paid.

The Proponent proposed an additional final day new condition as follows:

Concurrently with the submission of a plan pursuant to condition 9, an updated biodiversity assessment generally in accordance with the assessment prepared by Ecolink dated September 2023 must be submitted to the Responsible Authority for its approval which shall include an assessment of any additional native vegetation (if any) required to be removed to accommodate the boardwalk/pathway and any consequent revision to the offset requirement as set out in condition 15 (if any).

(ii) The issues

The issues are whether the:

- biodiversity impacts of the bushland boardwalk/pathway have been adequately considered
- relevant permit conditions are appropriate.

(iii) Submissions

Council proposed changes to the exhibited draft planning permit conditions to:

- separate requirements for the bushland boardwalk and stormwater contributions
- include new requirements for the provision of and contributions towards a bushland boardwalk and educational signage.

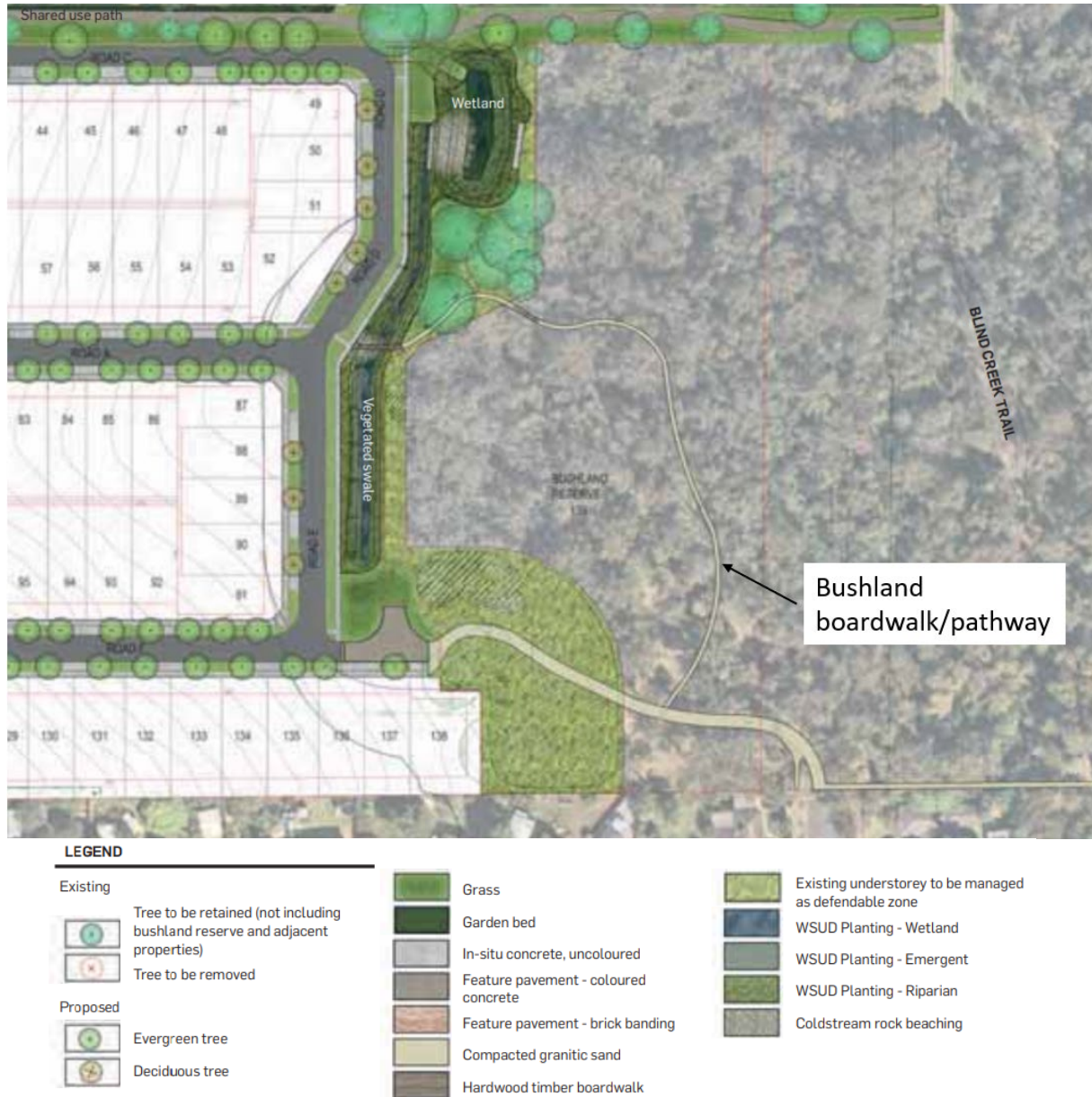
It provided an explanation for the proposed new conditions, submitting:

- it intended to provide for some flexibility on the design specifications for the boardwalk/pathway, to enable a contribution to be determined
- the plan referred to in the condition was tabled at the Council meeting on 22 November 2021 (see Figure 11)
- importantly the indicative location of the boardwalk/pathway had previously been contemplated but was removed prior to exhibition as it was not captured in the Cultural Heritage Management Plan (CHMP)
- the intent of the condition is to capture the design and location of both the boardwalk/pathway and signage.

The Proponent generally agreed with Council's conditions, however in commenting on the final day version of the planning permit it proposed a new condition to update the Biodiversity

Assessment to assess additional native vegetation for removal (if any) to accommodate the bushland boardwalk/pathway and to assess native vegetation offsets.

Figure 11 Boardwalk/pathway - Landscape Masterplan drawings 01 and 02 (17/02/21)



URBIS LANDSCAPE MASTER PLAN
NORVEL ESTATE

Source: Council report 22 November 2021, excerpt with Panel notations

(iv) Discussion

The Panel has a number of concerns with the proposed new conditions relating to the bushland boardwalk/pathway, including:

- the proposed boardwalk/pathway was not included in the documents exhibited with the proposal, including the exhibited Landscape Master Plan (dated 2 March 2023)
- impacts were not assessed through the CHMP
- impacts were not assessed in the Biodiversity Assessment.

Council and the Proponent have sought to introduce the proposal through amended permit conditions, and the Proponent has sought to ensure the Biodiversity Assessment is updated to assess any native vegetation impacts.

The Panel does not support introducing the bushland boardwalk/pathway at this stage of the process. While the exhibited draft planning permit made reference to bushland boardwalk as a concept subject to detailed design and intends to secure funds for its delivery, the impacts have not been assessed and potential submitters have not had an opportunity to consider the proposal. If Council and the Proponent wish to pursue the proposal it will need to progress through a separate process that takes into consideration all of the relevant assessment requirements.

While the Panel can see merit in installing educational signage on the bushland reserve, this should also be progressed through the separate process.

Further issues relating to the CHMP are discussed in Chapter 10.8(ii).

(v) Conclusions and recommendation

The Panel concludes:

- Biodiversity impacts of the bushland boardwalk/pathway have not been adequately considered.
- The exhibited and amended new permit conditions relating to the bushland boardwalk/pathway are not appropriate.

The Panel recommends:

Amend the draft planning permit as shown in Appendix E, to:

- a) **Remove conditions relating to the proposed bushland boardwalk/pathway.**

7.3 Biodiversity assessment

(i) The issues

The issues are whether the Biodiversity Assessment:

- is adequately current and acceptable for assessing the proposal
- adequately takes into account threatened and endangered species
- is inconsistent with the Lorimer Report, and if so, whether that is of concern.

(ii) Evidence and submissions

Submissions

Some submitters, including the Friends of Blind Creek Billabong, submitted the Biodiversity Assessment was not adequate. Submitters raised concerns the Biodiversity Assessment:

- was out of date and is not based on current data
- was not consistent with Dr Lorimer's observations and report from 2021
- did not include many native plants and animals that have been observed, including frogs, marsupials and owls
- did not adequately take into account threatened and endangered species.

The Friends of Blind Creek Billabong submitted its members had observed flora and fauna species not identified in the Biodiversity Assessment.

Knox Environment Society submitted the bushland area is extremely important in the City of Knox and it contained significant vegetation with regional endangered vegetation. Specifically *“the Swampy Woodland is particularly rich in plant species. Six plant species recorded from the site are Critically Endangered in Knox, and another eleven are either Endangered or Vulnerable in Knox”*.

One submitter said the Biodiversity Assessment incorrectly assessed the likelihood of the presence of the Powerful Owl. While the assessment stated the Likelihood of Presence is ‘Low’ and the last sighting was in 2000, the submitter had made two verified observations in 2021. The submitter said:

- these had been recorded and verified on the Naturalist platform and incorporated into the Atlas of Living Australia database
- it is likely the owls are using the habitat on the northern side of the development site.

Evidence

Dr Cooney, giving biodiversity evidence for the Proponent, provided an updated copy of the Biodiversity Assessment (September 2023) as an attachment to his expert witness statement. Dr Cooney explained:

- the initial assessment was undertaken in February 2017
- since then Ecolink Consulting (authors of the Biodiversity Assessment, including Dr Cooney) had worked with the Proponent to minimise impacts to ecological values as required by legislation and policy
- the Assessment had been updated five times in response to changes to the proposal and questions from regulators
- the final Assessment had made no new findings or changes to the offset requirements.

The updated Biodiversity Assessment (September 2023) included an additional vegetation assessment prepared in June 2020 (2020 vegetation assessment) relating to the implications of the proposed bushfire defendable space area. The additional vegetation assessment was not a flora survey but focused on relative quality of the understorey and midstorey vegetation and concluded:

- it is not possible to entirely avoid native vegetation and deliver the proposed development
- the stormwater treatment is in a practical location given it is a low lying area, the size of the billabong required and that it is located within the defendable space for nearby lots
- the areas proposed as defendable space would not have a significant impact on biodiversity values of the study area because they are currently slashed and regularly managed or dominated by exotic species.

The 2020 vegetation assessment said:

We consider that the current development plan reaches a balance between the practical avoidance, minimisation requirements and offsetting, as per the [Native Vegetation Guidelines] ... Further removal of native vegetation may be difficult to support if Ecolink Consulting was asked to demonstrate this three-step approach to regulators, or at a Panel.

Dr Cooney reviewed the 2021 Lorimer Report and said he did not dispute the findings but noted the identified regrowth was included in the Biodiversity Assessment in 2017 when it was approximately one year old and which at that time was dominated by exotic grass species with relatively few native species.

In response to issues raised in submissions, Dr Cooney said the Biodiversity Assessment:

- assessed only the southern part of the remnant bushland
- is not a complete inventory of all species in the landscape, and this is not required for an adequate assessment of the likely impacts on ecological values
- it is unlikely any species recorded in the SBS Study would be directly impacted
- noted a limitation that further field survey would likely yield more species with frogs specifically mentioned as likely to be present.

Regarding threatened species, he noted Green Scentbark is the only threatened species observed in the study area, and the proposal will not impact more than 0.005 percent of habitat for any threatened flora species modelled by the Department of Environment, Energy and Climate Action (DEECA).

In response to concerns about impacts on Powerful Owl habitat, Dr Cooney said:

- Powerful Owls inhabit a range of woodland forest types in large territories that provide suitable breeding hollows and appropriate prey
- they nest in large hollows in trees, like those that may be found north of the study area along Blind Creek
- it is likely a pair of Powerful Owl includes the study area within its home range territory, however no suitable hollow bearing trees were identified in the assessment and none will be impacted by the proposal, and connectivity remains unchanged.

In response to a question from the Panel, Dr Cooney was not concerned with the timeframe that has passed since completion of the Biodiversity Assessment, noting an updated assessment was likely to result in reduced offset requirements due to change in condition of the vegetation.

Proponent

The Proponent clarified during the Hearing that the updated 2023 Biodiversity Assessment included the pedestrian track connecting Agora Boulevard with the creek trail. The Proponent advised it was happy to proceed with the assessment as it is, noting any reassessment of the remnant areas is likely to result in a lower habitat hectare score.

The Proponent proposed a new planning permit condition to require an update to the biodiversity assessment to assess the impacts of the proposed bushland boardwalk/pathway (see Chapter 7.2).

Council

Council submitted:

- biodiversity values in the municipality are best achieved by the protection of the recognised sites of biological significance
- the Planning Scheme places a strong emphasis on the need to protect biodiversity and habitat.

While not disputing the fauna sightings of submitters, Council said it did not share the concerns of submitters about the accuracy of the Biodiversity Assessment. It considered the consultants had reviewed appropriate records and undertaken site observations consistent with proper practice. It said:

The sightings of the Powerful Owl and frog species are noted to have occurred in proximity to, but not on, land affected by the Amendment.

Further, the bushland reserve will continue to provide habitat for the species identified by submitters and within the Sites of Biological Significance.

In response to submissions that the Biodiversity Assessment did not identify species identified in the Lorimer Report, Council said:

- both assessments identify areas of regrowth
- it is to be expected that differences in species identified given the field assessments were undertaken at different times (2017 and 2021) and the nature of the regrowth.

Council said the majority of the regrowth identified was outside of the protected ESO2 area, and no permit is required to remove regrowth under Clause 52.17. It said:

In this respect, the proactive and facilitative approach to seed preservation exceeds the requirements expected by the planning scheme. This intervention, undertaken with the support of the proponent, will deliver improved biodiversity outcomes.

(iii) Discussion

Is the Biodiversity Assessment adequately current and acceptable for assessing the proposal?

In considering whether the Biodiversity Assessment is adequate or needs to be updated the Panel has turned its mind to:

- any change to the condition of biodiversity in the study area
- whether the assessment meets the requirements of the Planning Scheme.

Change to the condition of biodiversity

The Panel acknowledges the concerns of submitters that the Biodiversity Assessment was not adequately current and did not accurately reflect the extent of flora and fauna present on the site.

The condition of the native vegetation proposed to be removed is likely to have changed since the 2017 assessment. According to Dr Cooney, an updated assessment would likely result in reduced offset requirements under Clause 52.17, meaning the vegetation extent and/or condition is likely to have declined.

It is also likely there will be more mature regrowth, which may need to be considered under ESO2. Issues related to regrowth and ESO2 are discussed further below.

There are no strict guidelines about when a biodiversity assessment must be prepared under the Intermediate Assessment Pathway (relevant to this proposal). Planning guidance includes some reference to timeframes, including:

- Applications must include recent photographs, within the last two to three years.
- All applications require details of any other native vegetation approved to be removed, or removed without approvals, on the same property during the five years before the application was lodged.
- An assessment under the Detailed Assessment Pathway must be completed within three or five years (depending on the type of vegetation).⁸

By way of comparison and context, the second edition of the SBS Study, currently a background document in the Planning Scheme, was prepared in 2010 to account for six years of change since the first edition in 2004, noting:

⁸ For the Detailed Assessment Pathway a site assessment report must be completed within the last three years for grassy, heathland, shrubland ecosystems including grassy woodlands, and five years for forest ecosystems. If the assessment is older than this an accredited native vegetation assessor must verify the condition of the native vegetation or complete a new assessment.

There have been substantial changes in Knox's native vegetation and fauna, as well as in the Victorian Department of Sustainability & Environment's assessment of the significance of many species of indigenous flora and fauna.

While a more recent Biodiversity Assessment would better reflect current planning guidance and changes to biodiversity values of the site, in this instance the Panel is satisfied the Biodiversity Assessment is acceptable for assessing the extent and condition of native vegetation proposed for removal and associated offsets. This is because:

- the Biodiversity Assessment (as exhibited and as updated in 2023) more accurately reflects the condition of the asset at the time the quarry closed and the time that planning commenced for the proposal
- the original assessment more accurately reflects the impact on native vegetation
- an updated assessment is likely to result in a reduced offset requirement.

A reduced offset resulting from decline in the extent and/or condition of the native vegetation would result in a perverse outcome; a poor biodiversity outcome and contrary to the intent of the control.

The Panel agrees with Council and the Proponent that the Biodiversity Assessment is adequately current for assessing native vegetation offset requirements.

Planning Scheme requirements

It is important to consider whether the Biodiversity Assessment contains the information required to assess the proposal against Planning Scheme provisions. This includes the offset requirements under Clause 52.17 and the ESO2 (Sites of Biological Significance) requirements.

The Panel has assessed these separately.

Firstly, the Panel has considered whether the Biodiversity Assessment adequately satisfies the application requirements 52.17 (Native vegetation).

The Biodiversity Assessment applies the Native Vegetation Guidelines' three step approach to avoid, minimise, and offset removal of native vegetation. It satisfies the following application requirements detailed in the Native Vegetation Guidelines:

- the assessment pathway was determined and documented
- the native vegetation to be removed was described, including extent, strategic biodiversity value score, condition score
- maps showing the location and context of the native vegetation and the property
- the offset requirement was determined
- an avoid and minimise statement was provided, including a description of efforts to avoid the removal of native vegetation and minimise impacts on biodiversity and how the proposal protects the most important native vegetation
- a statement describing the need to create defensible space was provided
- a native vegetation removal report was provided.

However, the Biodiversity Assessment does not satisfy all of the information requirements for Clause 52.17, such as:

- it refers to some outdated documents, such as Advisory Lists from 2014
- it does not include recent, dated photographs of the vegetation to be removed

- while it contains a native vegetation removal report that details the calculated offset, it does not provide evidence that the required offset has been identified and can be secured.

With regard to outdated documents, the Panel does not expect there to be any major implications for the assessment. This is in the context of guidance on the DEECA website⁹ which explains the new Flora and Fauna Guarantee Act Threatened List which replaces the Advisory Lists came into effect on 1 June 2020 and:

There are likely to be only minor implications for regulation...

The Guidelines for the removal, destruction or lopping of native vegetation are incorporated into all planning schemes in Victoria and refer to the Advisory Lists. These will continue to apply for the purposes of regulating native vegetation clearing in Victoria during a transition period.

The Panel is satisfied these information requirements for Clause 52.17 can be addressed through planning permit conditions, including:

- Council's proposed amended permit condition for the Proponent to provide an offset in accordance with the 2023 Biodiversity Assessment and the Native Vegetation Guidelines. This is an acceptable approach to ensure the offset is assessed in accordance with current planning guidance.
- Recent, dated photographs of the vegetation can be included in a Land Management Plan prepared for the bushland reserve. The Panel recommends this as a new condition, as discussed below.
- Evidence of the secured offset is required as a condition which states:
Prior to the removal of any native vegetation and the issue of a Statement of Compliance, evidence that the required offset for the project has been secured must be provided to the satisfaction of the Responsible Authority.

On this basis the Panel is satisfied that combined, the permit conditions and the Biodiversity Assessment, adequately respond to the requirements of Clause 52.17. The specific native vegetation removal and offset proposed is discussed in further detail in Chapter 7.4.

Secondly, the Panel considered the Biodiversity Assessment against the requirements of ESO2.

The Biodiversity Assessment satisfies the following application requirements of ESO2:

- a site plan showing the location of affected and surrounding remnant vegetation, trees and watercourses
- an assessment of threatened species and communities in the context of State and Federal legislation and biodiversity information
- an explanation of how native vegetation loss has been avoided, minimised and proposed offsets
- bushfire protection measures, specifically defensible space.

The Biodiversity Assessment does not:

- include details of the population size of any indigenous plant species that are vulnerable, endangered or critically endangered in Knox
- assess impacts of the proposal on environmental values over a ten year period.

⁹ <https://www.environment.vic.gov.au/conserving-threatened-species/threatened-list>

While the Biodiversity Assessment says the response to ESO2 is addressed in the recommendations, it does not provide an explicit response to the ESO2. The recommendations include minimising native vegetation removal and retaining the bushland and reserve areas, and preparation of:

- a Land Management Plan that includes managing the ecological values of the study area
- a Construction Environmental Management Plan that includes the following management actions prior, during and post construction:
 - Appropriately fence and manage retained native vegetation;
 - Soil containment, sediment and erosion measures;
 - Weed management prescriptions, targeting noxious weeds.

While it would have been helpful if the Biodiversity Assessment provided a detailed response to ESO2, the Panel is satisfied the ESO2 requirements can be addressed through new and amended planning permit conditions as discussed below.

A new condition should be added to prepare a Land Management Plan, as recommended by the Biodiversity Assessment to improve and manage ecological values of the bushland reserve for the next ten years. This plan should be:

- informed by survey work undertaken at an appropriate time of year, including an assessment of indigenous plant species that are vulnerable, endangered or critically endangered in Knox
- respond to State and local policy to protect and enhance Victoria's biodiversity
- respond to the environmental objective and decision guidelines in ESO2.

Further survey work is particularly important to understand the biodiversity asset in the context of the ESO2 which includes:

- a statement of environmental significance which seeks to:
 - reduce the threat of local extinction to flora and fauna species in Knox
 - achieve a net increase in the extent of habitat and improve its ecological condition in the sites of biological significance, recognising the key role that those sites play in conserving Knox's natural environment and associated community benefit.
- permit triggers that require assessment of regrowth that is more than three years old - at the time of the survey in 2017 the regrowth was only approximately one year old, so will now be approximately eight years old
- decision guidelines which state:

The results of any survey/assessment of the biological values (flora or fauna), taking into consideration when the survey/assessment was undertaken, seasonal conditions and whether it was undertaken by a suitably qualified person.

The condition relating to the Site and Environmental Management Plan includes soil and erosion management measures, however it does not include other elements recommended in the Biodiversity Assessment. The condition should be amended to address:

- appropriate fencing and managing retained native vegetation
- weed management prescriptions, targeting noxious weeds.

ESO2 includes an environmental objective to ensure offsets are located as close as practicable to the area impacted by vegetation loss, with a preference for them to be located in Knox. The offset condition should be amended to state:

The general offset must:

- ...

- Be located [in Knox municipal district, if available, or](#) within the Port Phillip and Westernport Catchment Management Authority boundary ~~or Knox municipal district~~
- ...

The Panel is satisfied that with the amended and new conditions the requirements of ESO2 can be met.

Threatened and endangered species

Combined the Planning Scheme provisions require assessment of locally threatened and endangered species and communities as well as State and National. The ESO2 says a significant attribute of the area is “*plant species that are threatened in Knox or more widely*”, and includes:

- an environmental objective to reduce the threat of local extinction to flora or fauna species in Knox
- decision guidelines requiring consideration of extant indigenous vegetation, flora and fauna survey results and the conservation requirements of threatened species or communities.

The Panel accepts Dr Cooney’s evidence that:

- the Biodiversity Assessment contains an appropriate assessment of State and Nationally listed threatened species
- only one State listed threatened species was identified in the study area, namely four Green Scentbark (*Eucalyptus fulgens*) trees
- it is likely the Powerful Owl home range territory includes the study area, however there are no suitable hollow bearing trees on the site and habitat connectivity for the species remains unchanged.

The Biodiversity Assessment does not specifically address impacts on local species. In contrast, the Lorimer Report includes a list of plant species identified in the SBS Study as significant in Knox, and records if these have been found. For example, the SBS Study identifies Broad-leaf Rush (*Juncus planifolius*) as a locally endangered species, the Lorimer Report recorded 6 plants and the Biodiversity Assessment did not identify or record this species.

The Panel understands the Lorimer Report focused on regrowth and did not map the locations of identified species, however the findings are indicative that locally significant plants are likely to be present and identified if further field survey is undertaken.

While Dr Cooney advised it was unlikely any species recorded in the SBS Study would be directly impacted, it is not possible to know this in the absence of an updated flora survey undertaken at an appropriate time of year.

The Panel recommended condition for a Land Management Plan includes consideration of locally threatened and significant species.

Lorimer Report

The Lorimer Report was prepared in 2021 for a distinct purpose and represents a more recent assessment of the regrowth across the site. While areas of regrowth were identified in the Biodiversity Assessment, it is not surprising that four years later the Lorimer Report identified a greater range of species.

The Panel agrees with Dr Cooney and Council that the Lorimer Report and associated seed collection and plant translocation program is likely to result in a positive contribution to local

biodiversity. In the context of ESO2 which seeks to improve ecological condition of sites of biological significance, the opportunity for seed collection and plant translocation should be considered in the Land Management Plan recommended by the Panel.

(iv) Conclusions and recommendations

The Panel concludes, subject to its recommendations:

- The Biodiversity Assessment, in combination with recommended new and amended conditions, is adequately current and acceptable for assessing the proposal.
- The Biodiversity Assessment adequately takes into account State and Federal threatened and endangered species, and the recommended Land Management Plan should involve further survey and assessment of species important to Knox.
- The Lorimer Report was prepared for a distinct purpose and does not conflict with the Biodiversity Assessment, however its findings indicate that updated survey work is likely to identify additional plant species.

The Panel recommends:

Amend the draft planning permit as shown in Appendix E, to:

- a) **Add a new condition requiring a Land Management Plan for the bushland reserve.**
- b) **Amend the condition relating to the Site and Environmental Management Plan.**
- c) **Amend the condition relating to where the native vegetation offset should be provided.**

7.4 Native vegetation and offsets

(i) The issues

The issues are whether the:

- extent and location of proposed native vegetation removal is appropriate
- proposed offsets are appropriate.

(ii) Evidence and submissions

Submissions

Several submitters said all of the native vegetation should be retained and not encroached by any part of the development.

Several submitters including Friends of Blind Creek Billabong and Knox Environment Society said the:

- new path from Agora Boulevard to Blind Creek should be removed from the plan as it unnecessarily impacts native vegetation, and there is alternative access on the Castricum/Seecal Road Reserve
- proposed stormwater treatment area/wetland/drainage reserve should be relocated onto the development area to avoid impacting native vegetation.

Several submitters raised concerns with specific lots (Lots 136, 137 and 138) and requested these be removed from the plan to have less of an impact on native vegetation. Concerns included the need to provide a defensible space area to manage bushfire risk to these properties. Submitters were mostly concerned with development of Lot 138 stating:

- development of the lot is inconsistent with the Explanatory Statement which says the proposal ensures remnant vegetation is unaffected by the proposal
- will have a negative impact on wildlife.

One submitter sought to have the whole site retained as a nature reserve for wildlife.

One submitter queried the exact number of trees proposed for removal, and submitted retention of mature trees should be prioritised over planting new deciduous trees.

Friends of Blind Creek Billabong requested *“the reserve where the understorey has to be removed is marked so that the Friends of Blind Creek can participate in the removal of undergrowth without harming threatened plants. We are concerned that contractors will just scalp the area as has been done in other developments”*.

Knox Environment Society was concerned the proposal did not adequately value regrowth of indigenous species on the site.

Evidence

Dr Cooney gave evidence the proposal minimises impacts to the highest ecological values identified in the study area, specifically the native vegetation contiguous with Blind Creek and covered by the ESO2. He said:

On the basis of this development plan, the Biodiversity Assessment proposed protection measures for retained ecological values within the study area and calculated offsets for the residual impacts to those values. This approach is consistent with Clause 12.01-1S (Protection of biodiversity), Clause 12.01-2S (Native vegetation management) and the ESO2 that is applicable to the northern part of the study area.

Dr Cooney said the location of the drainage reserve and unformed potential maintenance track had been refined to minimise impacts on ecological values and were appropriately sited. He explained the area of the proposed maintenance track contained native overstorey but was dominated by an exotic understorey and *“a path could be established with relatively minor negative impacts to the ecological values of this area”*.

In response to a question from the Panel, Dr Cooney advised the tree protection zone (TPZ) is based on the Australian Standard and is conservative.

Mr Crowder noted the draft planning permit included conditions to ensure any removal of native vegetation complied with guidelines.

Mr Crowder gave evidence he was satisfied the Arborist Report had assessed the proposed building envelope of Lot 138 resulted in less than 10 per cent encroachment into the TPZ of proximate trees and in his capacity as a town planner this was an acceptable outcome.

Proponent

The Proponent relied on the evidence of Dr Cooney. It said the evidence confirmed the locations of the infrastructure will not result in unacceptable impacts on the ecological values of the area. It said:

The location of Lots 136-138 have been considered in conjunction with the Biodiversity Report and designed to sit outside the RP1 and RP2 patches of native vegetation identified within Figure 2 of the Report. Lot 138 has also been specifically considered within the Bushfire Development Plan with fire management controls recommended to protect this property. These controls are reflected in the draft Planning Permit. It is noted that the CFA have also reviewed the lot layout and have raised no objection subject to conditions on permit to address bushfire concerns (draft Conditions 42-49).

In response to the Council's final preferred position on the permit, the Proponent suggested an amendment to the native vegetation offset condition to cross reference the updated Biodiversity Assessment.

Council

Council submitted:

The biodiversity assessment identifies that approximately 1.129 hectares of native vegetation will be directly impacted by clearing for the proposed development. However, 0.738 hectares of the vegetation (identified in the report as 'regrowth' and 'Remnant Patch 3') is exempt from planning permission and offsets for removal, because it is classified as regeneration less than ten years old.

The remaining 0.391 hectares of native vegetation in areas identified as 'Remnant Patch 1' and 'Remnant Patch 2' are proposed to be removed. Offsets for the removal of the vegetation have been calculated in accordance with the requirements of Clause 52.17 and include a general offset amount of 0.126 general habitat units and 2 large trees.

Council was satisfied the proposal provided an appropriate outcome for biodiversity and native vegetation, explaining it:

- protects the most biologically significant party of the land to Council that will allow for continued and proactive conservation of a site of State-level significance
- limits the extent of native vegetation removal, consistent with policy at Clause 12.01-25
- includes offsetting native vegetation removal in accordance with the requirements of Clause 52.17
- satisfactorily addresses the environmental objectives and decision guidelines of ESO2.

Council supported Dr Cooney's evidence that the proposal appropriately responds to the relevant direction in the Planning Scheme.

Council clarified three existing street trees were proposed for removal, two deciduous and one native tree, none of which were in the ESO2 area or affected by Clause 52.17.

Council proposed:

- four new permit conditions related to management of the TPZ
- an amendment to the exhibited permit condition relating to offsetting native vegetation to refer to the Biodiversity Assessment and Native Vegetation Guidelines.

(iii) Discussion

The Panel is generally satisfied the development plan design has been prepared with an intent to balance development potential and biodiversity values. This includes avoiding important areas of biodiversity and minimising native vegetation loss by:

- protecting the bushland area and ensuring its ongoing ownership and management by Council
- locating the majority of residential lots and infrastructure in areas with no or minimal native vegetation and outside of the ESO2 area
- establishing a buffer between the bushland and urban environment
- on the north west of the site, positioning drainage infrastructure in proximity of the existing billabong and in lower quality bushland, with bushfire buffer and habitat benefits
- on the north east of the site, aligning bushfire defendable space requirements with vegetation quality

- locating the proposed maintenance track and pedestrian link to Blind Creek to have minimal impact to native vegetation.

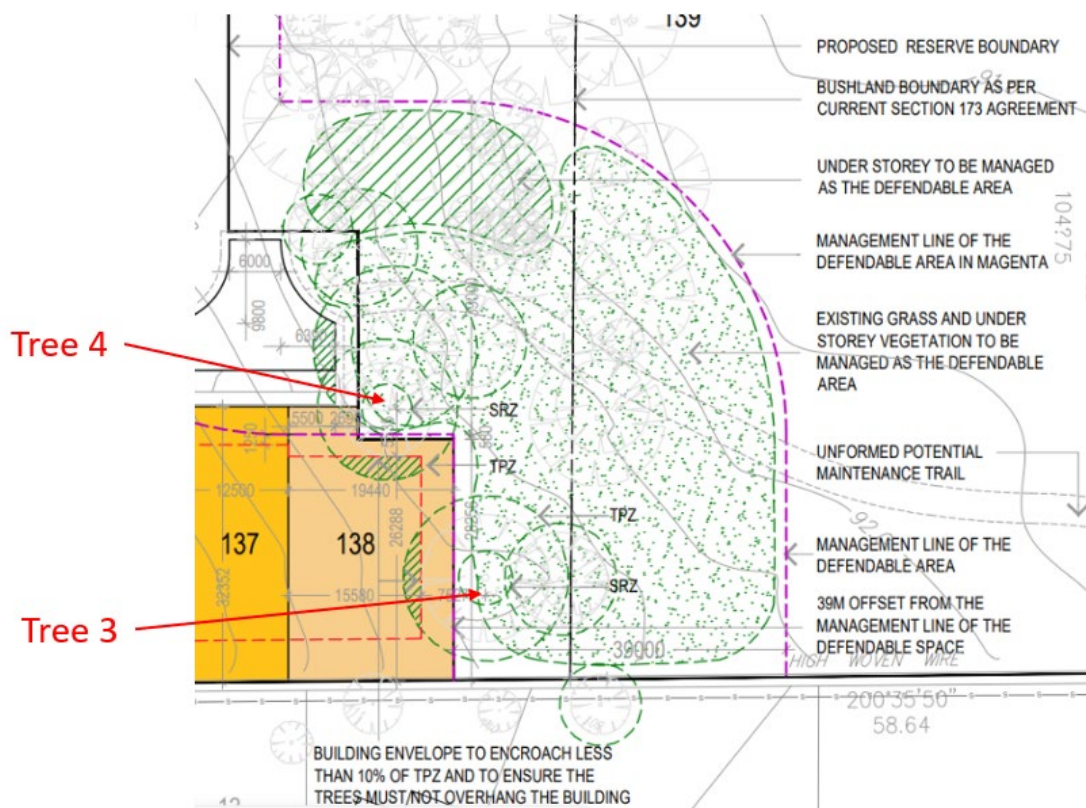
The Panel accepts Dr Cooney’s evidence that the assessment of offset calculations is conservative noting it includes native vegetation and trees that will be retained, but that may be affected by the proposal such as changes to hydrology around the drainage infrastructure.

The Panel accepts the proposed defendable areas are appropriate as proposed, with regard to impacts on native vegetation. The 2020 vegetation assessment said the areas proposed for defendable space in the north east of the site are suitable as they are of lower quality native vegetation and management requirements would have minimal impact on the ecological values of the patch, given the composition and condition of mid and understorey plants, and current management. The CFA was satisfied with the proposal from a bushfire perspective.

No trees are proposed to be removed to accommodate Lots 136, 137 and 138. According to the Arborist Report:

- the building envelope of Lot 138 is within the TPZ for two existing trees (Trees 3 and 4) (see Figure 12)
- Trees 3 and 4 are suitable to be retained and should be retained
- the encroachment from the building footprint for each tree is less than 10 per cent of the TPZ, which is minor and acceptable.

Figure 12 Subdivision Master Plan (exhibited) – Lot 138 and TPZ



Source: Document 2.11, excerpt with Panel notations

With regard to the Arborist Report and evidence of Dr Cooney, the Panel accepts the location and building envelope of Lot 138 affects less than 10 per cent of the TPZ for Trees 3 and 4.

Importantly the planning permit contains conditions:

- for all works in the TPZ to be undertaken under the supervision of a qualified Arborist and to the satisfaction of the Responsible Authority
- that no building or works, other than fencing, are allowed in the TPZ of any tree
- an Arborist report will be required for any tree encroaching into Lot 138
- tree protection fencing must be installed before any works commence on Lot 138.

The Panel supports including reference to the Landscape Plan Guidelines in the planning permit, which contains guidance on the establishment and management of TPZs (see Chapter 10.2).

The Panel supports the changes to the offset permit condition proposed by Council and the Proponent. The Panel notes the draft planning permit appropriately includes a condition requiring evidence that the required offset has been secured prior to removal of any native vegetation.

The Panel supports Council's proposed new conditions relating to management of the TPZ, and the changes to the offset condition.

In relation to other issues raised in submissions:

- The matter of involvement of the Friends of Blind Creek Billabong in plant salvage is a matter for Council.
- The Panel agrees with the Friends of Blind Creek Billabong that the following statement in the Explanatory Report should be amended to more accurately reflect the impact on native vegetation:
 - It maintains a pleasant environment and protect the ecological significance of the Blind Creek Corridor by ensuring the remnant bushland is unaffected by the proposal and retained as a reserve with the part already in Council's ownership recognised for conservation.

(iv) Conclusions and recommendations

The Panel concludes:

- The extent and location of native vegetation proposed for removal is generally appropriate.
- The proposed offsets are appropriate, subject to the Panel's recommendations.

The Panel recommends:

Amend the draft planning permit as shown in Appendix E, to:

- Add new conditions relating to management of Tree Protection Zones.**
- Amend the native vegetation offset condition to refer to the Biodiversity Assessment and Native Vegetation Guidelines.**

The Panel informally recommends amending the Explanatory Report to accurately reflect the impact on native vegetation.

7.5 Bushland reserve

(i) The issues

The issues are whether:

- public access to the bushland reserve should be restricted with fencing
- the proposed maintenance track and pathways from Agora Boulevard are appropriate.

(ii) Evidence and submissions

Several submitters sought further protection for the bushland reserve, including requesting the area be fenced to prevent public access. Submitters said this would deter inappropriate access such as from motorbikes and mountain bikes, and existing fencing is one of the reasons the bushland reserve is in good condition. One submitter said the bushland reserve should not be changed in anyway, including no rezoning, modifications or changes. Several submitters supported the trail proposed on the west side along the Seecal Road Reserve as it would not encroach onto the conservation reserve.

One submitter was concerned about opening access from Agora Boulevard into the bushland area, considering:

- there would be large number of people and pets moving through the area including dogs off leash
- people using this area would have a negative impact on the quiet neighbourhood.

The submitter was of the understanding there was no direct connection to Blind Creek from this new trail.

Some submitters objected to the proposed maintenance trail, submitting maintenance access could be achieved in other ways such as walking with mobile equipment.

Some submitters, including Friends of Blind Creek Billabong, said the proposed wetland and vegetated swale were not an adequate buffer between the development and the bushland reserve.

Dr Cooney gave evidence the proposed maintenance trail and drainage reserve were positioned to minimise impacts to ecological values.

In response to a question from the Panel, Dr Cooney said he agreed with Council that fencing the bushland reserve would not be a good option as it may disenfranchise people from the park.

The Proponent said:

- The 'unformed potential maintenance trail' will not encourage unnecessary traffic through the site as the fence is to remain at Agora Boulevard and within the subject site, there is no crossover proposed to access this track. Rather it is for access for Council vehicles for example to maintain the defensible space within the bushland.
- Requests to fence the bushland are at the discretion of Council. It is our position that opening the bushland will create a space for the community to access and enjoy however as the bushland is to be vested to Council, they may decide that fencing the area is the preferred outcome.

Council said while many submissions seeking to protect the bushland reserve were on the basis of biodiversity protection, there were specific design and access issues that required consideration. It said the:

- eastern path is proposed to be a shared trail for maintenance and access
- proposed pathway to Agora Boulevard would provide good connection and permeability to the Blind Creek Trail.

Council did not support restricting access to the reserve through fencing, noting it generally does not restrict public access to the bushland reserves it manages. It did not consider fencing would lead to improved conservation outcomes and access is likely to be a positive deterrent to activities that may harm the bushland or create safety concern for users. Council advised it was open to the

Panel making a recommendation on whether a *“low impact and permeable fence may be appropriate, without impeding access to and through the bushland reserve”*.

(iii) Discussion

Potential fencing of the bushland reserve is a management decision for Council. Council has advised it does not generally restrict public access, however if use or access to the reserve is doing harm to biodiversity values or creating other amenity concerns for residents, Council may assess its options to ensure appropriate management of the bushland reserve.

The Panel accepts the proposed maintenance track and pedestrian trail connecting Agora Boulevard and the Blink Creek trail will result in minimal native vegetation loss (see Chapter 7.4) and accepts the benefits of access for maintenance and public engagement and informal recreation within the conservation area.

(iv) Conclusions

The Panel concludes:

- It is for Council to decide whether fencing is required to manage access to the bushland reserve.
- The proposed maintenance track and pathway from Agora Boulevard to the Blind Creek trail are appropriate.

8 Traffic and transport

8.1 Traffic Assessment, access and road network

(i) The issues

The issues are whether:

- traffic impact has been adequately assessed
- impact on local roads leading to the arterial road network is acceptable
- amenity impacts of additional traffic are acceptable
- the location of access points into the Estate are appropriate
- conditions relating to internal road network treatments are appropriate.

(ii) Evidence and submissions

Some submitters were concerned the traffic assessment was flawed as it doesn't address:

- a more realistic increase in traffic volumes generated by the development on local roads leading to the arterial road network, particularly to the north-west of the site
- the overlap of 'work' and 'education' peak traffic volumes.

Submitters raised issues including:

- Traffic volumes and congestion:
 - traffic generated by the development will exacerbate existing traffic congestion on local roads
 - the number of houses proposed will result in a traffic impact on local streets which are narrow and already congested with residents parking on the street
 - a redesign of Rankin Road and McMahons Road was needed to cope with the extra traffic generated by the development
 - Norvel Road is not of adequate width from McMahons Road to Road H/60 Norvel Road to cater for increased traffic movements
- Amenity and safety:
 - a significant increase in traffic volumes will have a negative impact on amenity, including noise, and safety of local roads
 - the new road adjacent to 60 Norvel Road will result in increased traffic and noise
- Access and entry points:
 - several entry points were requested for traffic into the development to reduce noise, traffic congestion and accidents
 - Dion Road should not be the main access road - more access points should be provided or Agora Boulevard should be the main access.

Mr Young gave evidence for the Proponent. Mr Young endorsed the findings of the Traffic and Transport Assessment and explained he had commissioned a traffic count to support his evidence. He said:

- The development will generate up to 124 vehicle movements during the AM and PM peak hours and 1,242 vehicle movements per day
- The surrounding road network is highly permeable, with multiple options to access the external arterial road network.

- The external local road network is designed to readily cater for the additional traffic generated by the proposal, with the post development traffic volumes being well within their environmental design capacities as per Clause 56.06-6 of the Knox Planning Scheme.
- The development will have a negligible impact on the surrounding external road network, with increases in traffic corresponding to approximately one additional movement per traffic signal cycle. This is a low level of traffic in traffic engineering terms.
- From a traffic engineering perspective, there is no need for additional access from Castricum Place.
- There are no traffic engineering reasons why the rezoning and permit application should not proceed, subject to conditions.

Responding to questions of cross examination, Mr Young explaining the model and assessment had appropriately included a variety of data for trip types including for work, education and recreation.

Mr Young generally agreed with proposed permit conditions, but recommended the proposed permit condition specifying mid-block speed humps for Roads A and H should be reworded to remove specific reference to speed humps and to instead refer to the more general term of traffic calming devices. He said:

- Road A warrants a form of traffic calming due its length exceeding 240 metres as set out in Clause 56 of the Planning Scheme
- Road H is only approximately 200 metres long and does not require any form of traffic calming
- There are a number of ways to calm traffic, and it is recommended to amend the condition to remove the explicit reference to speed humps and to instead refer to the more general term of traffic calming devices.

Mr Crowder deferred to traffic experts but noted:

- The subdivision will utilise an access from Norvel Road (south) and provide a connection/extension of Dion Street to the existing subdivision to the east.
- The proposed subdivision will not adversely impact operation of the existing road network.
- All roads within the proposed subdivision will be designed and constructed as Access Streets (7.3 m) or Access Place (5.5 m). The internal roads can be designed so as to ensure safe traffic movements.
- Sealed footpaths are able to be accommodated within the proposed subdivision, on one (Access Place) or both sides (Access Streets) of the proposed road networks.
- Only three allotments to the north-east corner of the site (Lots 136, 137 and 138) will obtain access via a short Access Lane which is considered acceptable given the low anticipated traffic movements of approximately 30 vehicle movements per day.

The Proponent submitted the proposal will result in acceptable traffic impacts, and additional traffic will be distributed on local roads to the arterial road network, particularly to the north-west of the site.

Council considered the proposal was appropriate from a traffic and transport perspective, noting:

- the Amendment was supported by a Traffic and Transport Assessment that showed the surrounding road network and proposed internal roads are capable of accommodating the expected traffic volumes generated by the subdivision
- it supported Mr Young's view that the proposal is sound from a transport engineering perspective.

Council and the Proponent agreed with Mr Young's proposed change to the permit condition relating to traffic calming devices, submitting the condition should be amended as follows:

Proposed traffic calming treatment mid-block ~~devices and speed humps, including speed humps~~ in the detailed design for Road A ~~and H~~.

(iii) Discussion

The Panel is satisfied the Traffic and Transport Assessment adequately assesses existing and anticipated traffic volumes, including work and education related traffic volumes, and the proposed road network has been designed with consideration of relevant traffic design standards.

The Amendment was supported by a Traffic and Transport Assessment which was reviewed by Council's Traffic and Transport Team, confirming that the internal and local road network can accommodate the expected daily traffic volumes generated by the development. Mr Young supported the methodology used for the Traffic and Transport Assessment and independently verified the traffic count data.

The Panel is satisfied the proposal:

- is consistent with local planning policy Clause 18.02-4S (Roads) as it facilitates an efficient and safe road network and makes the best of existing infrastructure
- meets the neighbourhood street network objectives at Clauses 56.06-4 and 56.06-7 as it provides for direct, safe and easy movement to and through the subdivision.

The development will result in increased traffic on local roads, however the increase together with existing traffic is well within the environmental design capacities of these local roads. The surrounding road network is highly permeable with good access to and from the arterial road network. Any traffic related amenity impacts are consistent with amenity expectations of a residential neighbourhood.

Additional access to the site is not required from a traffic engineering perspective. The proposed access and road network is appropriate because it distributes traffic efficiently and safely to the existing road network. Using Agora Boulevard as an alternative access to Dion Road would unnecessarily impact the bushland area.

The proposed amendment to the permit condition relating to traffic calming devices suggested by Mr Young is supported.

(iv) Conclusions and recommendation

The Panel concludes:

- The traffic impact assessment is appropriate.
- The traffic generated is within the design and functional limits of local roads.
- Traffic related amenity impacts are acceptable.
- The access points to the site are appropriate.
- Subject to its recommendations, the conditions relating to the internal road network are appropriate.

The Panel recommends:

Amend the draft planning permit as shown in Appendix E, to:

- Amend the condition relating to traffic calming treatments along Road A**

8.2 McMahons Road/Norvel Road intersection

(i) The issue

The issue is whether the T-intersection at the corner of McMahons Road and Norvel Road is appropriate.

(ii) Evidence and submissions

Submitters were concerned:

- the current intersection provided poor visibility which creates a hazardous situation for north-bound traffic in McMahons Road turning right into Norvel Road
- oncoming vehicles from the east-bound direction on Norvel Road have limited visibility of vehicles approaching from McMahons Road
- a roundabout is needed to improve visibility, improve traffic flow and provide greater safety.

The Proponent relied on the evidence of Mr Young who said:

- vehicles can observe a sufficiently safe gap to turn right at the intersection and no modifications are necessary
- the intersection design in its current form provides for safe vehicle movements and does not require an alternative treatment, such as a roundabout control
- the proposed addition of a mountable splitter island will improve operation of the intersection to the benefit of both existing and future road users

Council submitted:

- a mountable splitter island at the McMahons/Norvel intersection is an acceptable solution to address concerns regarding safety and traffic flows
- analysis of the CrashStats database shows that there have been no casualty accidents at the intersection within the past 5 years
- a roundabout at the intersection may have potential to further regulate traffic movement and improve safety but would require significant modification to the intersection and the potential acquisition of part of nearby properties, noting Mr Young's expert evidence is that a roundabout is not required at this intersection
- a roundabout is likely to require some acquisition of adjoining properties.

(iii) Discussion and conclusion

The proposed road layout for the development retains a T-intersection at the intersection of McMahons Road and Norvel Road.

A roundabout is not required from a traffic engineering perspective. The proposed introduction of a mountable splitter island to improve the approach to the intersection is appropriate. The appropriateness of the T-intersection was adequately addressed in the expert evidence. Consistent with the Austroads Guide to Road Design the intersection provides adequate sight distances for safe vehicle movements.

The planning permit appropriately contains a condition for detailed construction plans to include a fully mountable splitter island at the intersection of McMahons Road and Norvel Road, to the satisfaction of the Responsible Authority.

The Panel concludes the T-intersection as proposed at the corner of McMahons Road and Norvel Road is appropriate and safety will be enhanced with the introduction of the mountable splitter island.

8.3 Rankin Road/Norvel Road/Johnson Drive

(i) The issue

The issue is whether the safety impacts on Rankin/Norvel Road due to a double sharp bend at the end of Johnson Drive have been adequately considered.

(ii) Evidence and submissions

One submitter requested the double sharp bend in Rankin/Norvel Road at the end of Johnson Drive be redesigned. The submitter considered it a dangerous part of the road due to Rankin Road being a “rat-run” between Boronia Road and the Burwood Highway.

Mr Young gave evidence:

The level of traffic using the local roads will remain within their environmental capacity. Further there is extensive [local area traffic measures] LATM measures along the full length of Rankin Road / Norvel Road / McMahons Road to discourage it being used as a rat run.

Both Council and the Proponent submitted the local road network has adequate capacity to cater for the additional traffic generated by the development.

(iii) Discussion and conclusion

The Rankin Road/Norvel Road bends at the end of Johnson Drive are some distance from the development and are not proposed to change because of the proposal. Council and the Proponent agreed the local road network has adequate capacity to cater for the additional traffic generated by the development. Increased traffic from the development is well within the design capacity of Rankin Road/Norvel Roads. Any safety issue with the bends at the end of Johnson Drive is a matter for the Council as the responsible road authority.

The Panel concludes the safety impacts on Rankin and Norvel Roads have been adequately considered.

8.4 Parking and emergency vehicle access

(i) The issue

The issue is whether the proposal has adequately provided for parking and emergency vehicle access.

(ii) Evidence and submissions

Some submitters were concerned that:

- allowing on-street parking on both sides of the roads in the development could impede access by emergency vehicles
- provision should be made for adequate parking within the allotments so that on-street parking is reduced

- existing streets will become clogged due to the traffic generated from the development and parking on each side of existing roads would make it difficult for emergency vehicle access.

The CFA did not object to the proposal and said its comments had been incorporated into the exhibited material.

Mr Young said:

- it will be unnecessary to install on-street parking restrictions as there will be parking within lots in the development and a further 139 on-street parking spaces within the internal roads which will be more than sufficient for any on-street parking demand
- it is not necessary to restrict parking to one side of the street as the roads meet the CFA guidelines that roads with parking on both sides be at least 7.3 metres.

Mr Young considered that provision for parking within the development would be adequate even if residents use their garages for purposes other than for parking vehicles.

The Proponent submitted:

On-street car parking has been provided within the development. This is in line with the current car parking demands expected from a development of this size and has been reviewed and agreed by Council's Traffic Engineers. Car parking can also be provided for within each lot. Council will have the option to review the number of car parking spaces provided as part of any proposed development¹⁰.

Council submitted that while the Traffic and Transport Assessment estimated 150 on-street car parking spaces would be available, the subdivision master plan included a total of 139 on-street car parking spaces. Council accepts, based on the evidence of Mr Young, that 139 spaces is achievable. It notes future dwellings will be required to comply with relevant car parking requirements in the Planning Scheme and Building Regulations.

Council was satisfied the proposal adequately provided for safe access for emergency vehicles.

(iii) Discussion and conclusion

The Panel is satisfied the provision for car parking on lots together with on-street parking appropriately allows for emergency vehicle access.

The roads are designed with a road width to meet the CFA guidelines for emergency vehicle access with allowance for on-street parking on both sides of the roads. There were no objections from the CFA or other emergency service organisations to the proposal.

The draft planning permit appropriately requires detailed engineering construction plans to show car parking and emergency access requirements including:

- Swept path diagrams for junctions, bends, and hammerhead turning areas to ensure suitable access for all vehicles, including emergency vehicles, to turn and remain free of encroachment or obstructions, including on-street car parking.
- An on-street parking plan which meets CFA requirements, parking restrictions limiting on-street parking to only one side on the narrower 'Access Place' type roads with preference of the 'no parking' to be located on the residential side.

¹⁰ Proponent submission, Document 12a

The Panel concludes the proposal has adequately provided for parking and emergency vehicle access.

8.5 Public transport

(i) The issue

The issue is whether the area is adequately serviced by public transport to cater for the proposed development.

(ii) Evidence and submissions

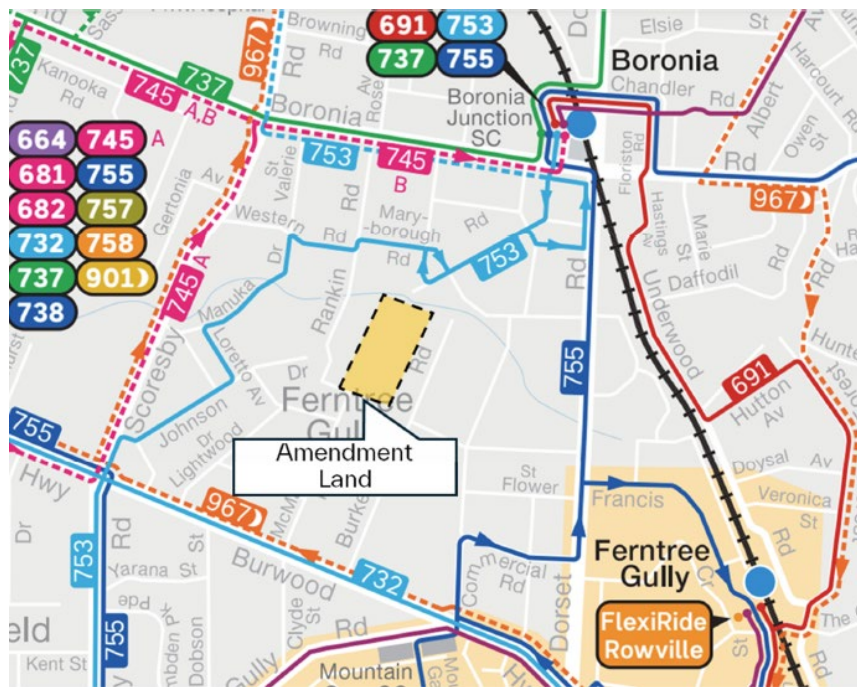
One submitter said there are no buses coming into the area because the streets are too narrow and the nearest public transport is about 1.5 kilometres or more away.

Mr Young’s gave evidence:

- there are a number of bus routes within a 10-15 minute walk from the subject land
- the small size of the proposed subdivision and the design of the internal access roads as a no-through route means that the site cannot reasonably be expected to allow future public transport network improvements.

Mr Young provided an area plan showing public transport routes operating nearby (see Figure 13).

Figure 13 Public Transport (Bus) Routes nearby



Service	Route	Route Description	Nearest Stop	Distance
Bus	753	Glen Waverley - Bayswater	Johnson Dr/ Loretto Ave	800m / 10 minutes
	732	Box Hill Station – Upper Ferntree Gully	McMahons Rd/ Burwood Hwy	900m / 12 minutes
	755	Bayswater – Knox City	Dobson Park/ Dorset Rd3	1.8km / 25 minutes

The Council submitted:

- Bus Route 753 (Glen Waverley to Bayswater) is approximately 600 metres to the north the subject land and provides connections to Boronia and Bayswater Railway Stations.
- Boronia and Ferntree Gully Railway Stations are 2 kilometres and 3 kilometres respectively from the site.

(iii) Discussion and conclusion

The Panel accepts Mr Young's evidence that the site cannot reasonably be expected to allow for future public transport network improvements due to the relatively small size of the subdivision and the design of the internal access roads as a no-through route.

There are a number of bus routes within a 10-15 minute walk from the subject land to satisfy the public transport network objective in Clause 56.06-3 that most dwellings are a short and safe walk to a public transport stop.

The Panel concludes that the area is adequately served by public transport.

9 Stormwater and flooding

9.1 Background

Stormwater Management Plan

The Stormwater Management Plan exhibited with the proposal addressed:

- mitigation of post development flooding downstream
- water quality of stormwater runoff.

The Stormwater Management Plan detailed flood impact and mitigation assessments and noted the final flood mitigation assessment was approved by Council.

The Stormwater Management Plan included water quality objectives for the site based on *Urban Stormwater: Best Practice Environmental Management Guidelines*, CSIRO¹¹ 1999 (Urban Stormwater: BPEM) and Council's Stormwater Management Strategy 2010 (see Figure 14).

Figure 14 Stormwater Management Plan water quality objectives

Pollutant	Target Reduction
Total Suspended Solids (TSS)	80%
Total Nitrogen (TN)	45%
Total Phosphorus (TP)	45%
Gross Pollutants (GP)	70%

The plan includes a concept design which aims to achieve best practice water quality objectives in the context of site constraints and Council's preferences, including for a low maintenance treatment system. The design includes three gross pollutant traps, a raingarden and ephemeral wetland.

Stormwater quality modelling showed the treatment measures will meet Gross Pollutants, Total Suspended Solids and Total Phosphorous water quality objectives, but will not meet the water quality objectives set out for Total Nitrogen.

The plan concluded that flooding would decrease on all neighbouring residential properties as a result of the development.

Draft planning permit

Melbourne Water provided advice on the proposal in 2020 and its conditions were included in the exhibited draft planning permit.

The exhibited draft planning permit contains the following:

- under the heading 'Engineering Plans Required', detailed engineering plans are required generally in accordance with the Stormwater Management Plan

- Melbourne Water conditions:

Melbourne Water Certification

- 35) Prior to Certification of any stage of this subdivision, Melbourne Water requires that the applicant submit a detailed Drainage and Stormwater Management Strategy for approval, which demonstrates how stormwater runoff from the subdivision will achieve flood protection standards and State Environment Protection Policy (Waters

¹¹ CSIRO – Commonwealth Scientific and Industrial Research Organisation

of Victoria) objectives for environmental management of stormwater. The strategy should also include information regarding the future ownership and maintenance requirements of any proposed assets.

- 36) Unless otherwise agreed in writing by the relevant drainage authority, the subdivision must retard stormwater back to pre-development levels before entering the downstream drainage system/waterway and/or retard stormwater back to the sufficient capacity of the downstream drainage system.
- 37) Stormwater runoff from the subdivision must achieve State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater as set out in the 'Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999'.

Melbourne Water – stormwater connection

- 38) Prior to the commencement of works, a separate application direct to Melbourne Water must be made for approval of any new or modified stormwater connection to Melbourne Water's drains or watercourses, works near or over a Melbourne Water asset and/or waterway crossing.

Melbourne Water - Statement of Compliance

- 39) Prior to the issue of a Statement of Compliance, engineering plans of the subdivision (in electronic format) must be forwarded to Melbourne Water.
- condition relating to a financial contribution for stormwater management:
 - 7) Prior to Statement of Compliance for Stage 1, the owner/developer must pay to the Council a financial contribution towards stormwater management and construction of the bushland boardwalk to the satisfaction of the Responsible Authority.

9.2 Stormwater management and quality

(i) The issues

The issues are whether the:

- proposed management of stormwater is appropriate
- stormwater quality will be acceptable
- conditions relating to stormwater are appropriate.

(ii) Evidence and submissions

Melbourne Water submitted the site will not be flooded by flow from Blind Creek for a one per cent Annual Exceedance Probability event and Blind Creek can provide for flood conveyance and storage for stormwater from the development. It submitted alternative wording of the permit conditions relating to:

- the Drainage and Stormwater Management Strategy, and for this condition to be "*prior to the commencement of works*" rather than "*prior to certification of any stage of subdivision*"
- stormwater connection to Melbourne Water's drains or watercourses.

The Proponent relied on the evidence of Mr Glasson of Stantec, who advised his evidence was primarily based on the Stormwater Management Plan prepared by Cardno, now Stantec.

Mr Glasson explained:

- There is a Stormwater Management Strategy approved by Melbourne Water and Council that assesses:
 - mitigation of post development flooding downstream of the site
 - water quality treatment of stormwater runoff from the development.

- The approved Stormwater Management Strategy satisfies Melbourne Water’s conditions 39 and 43 in the exhibited draft planning permit for submission of a detailed Drainage and Stormwater Management Strategy.
- Detailed civil engineering design of the subdivision will model the surface and design the proposed mitigation works to confirm there will be no adverse flooding impacts downstream of the development.
- Council wished to maintain the hydrology of the billabong post development, and Council required stormwater discharges from the development be directed towards the billabong as dispersed overland flows.
- Providing water quality treatment as proposed with an end of line facility is typically more effective than using smaller measures dispersed through the development.
- The Urban Stormwater: BPEM targets for reduction in gross pollutants, suspended solids and phosphorous will be met but there is a shortfall in the reduction of nitrogen.
- A permit condition specifies a one-off payment to the Council to address the shortfall in reduction of nitrogen.

In response to questions from the Panel, Mr Glasson explained the nitrogen levels do not meet the Urban Stormwater: BPEM target due to the catchment area specified for the development. If the catchment is expanded to include the Council owned Blind Creek billabong the nitrogen levels are likely meet the Urban Stormwater: BPEM target. He said it was for Council to decide how the condition relating to the payment would be worded and how the funds would be used.

Mr Glasson was generally satisfied with Council’s Day 1 version of permit conditions. He commented that two of the notes in the draft planning permit proposed by Melbourne Water were redundant as:

- The first item regarding the over estimation of pre-developed flows has been addressed in the approved Stormwater Management Plan and is redundant.
- The third item requiring submission of an updated strategy addressing the above requirements has also been addressed and is redundant.

Council submitted the exhibited draft planning permit contained conditions requiring:

- the preparation of detailed engineering plans to give effect to the Stormwater Management Plan’s mitigation measures
- stormwater to be retarded on site to pre-development levels
- submission of a detailed Drainage and Stormwater Management Strategy to the satisfaction of Melbourne Water.

Council advised its requirements had been incorporated into the Stormwater Management Plan, and Melbourne Water “*accepted the proposed drainage and stormwater treatments, subject to resubmission after further detailed design*”.¹²

Council accepted the alternative wording of the permit condition proposed by Melbourne Water relating to the Drainage and Stormwater Management Strategy, but did not accept the suggested changes to the permit condition relating to stormwater connections.

Council and the Proponent generally agreed on proposed changes to the draft planning permit relating to the financial contribution for stormwater management as follows:

¹² Council Part B submission, page 29

Prior to [the issue of a Statement of Compliance for Stage 1](#), the owner/~~developer~~ of the land must pay to the [Responsible Authority Council](#) a financial contribution towards [the stormwater management which shall be to the satisfaction of the Responsible Authority](#) ~~and construction of the bushland boardwalk to the satisfaction of the Responsible Authority.~~

[The contribution required to be paid in accordance with Condition 7 is the difference between the cost of a typical stormwater management treatment solution which meets BPEM targets and the cost of the approved stormwater management treatments as approved by the Responsible Authority. The owner of the land shall submit the cost to the Responsible Authority for its approval.](#)

(iii) Discussion

There is some inconsistency in the name of stormwater reports. The Panel has used Stormwater Management Plan (May 2021) to refer to the report exhibited with the Amendment, and for consistency with Melbourne Water's it has referred to the Drainage and Stormwater Management Strategy in the relevant permit conditions. Council may wish to confirm the names of documents referred to in the draft planning permit with Melbourne Water.

The Stormwater Management Plan has been approved by the Council and Melbourne Water and satisfactorily addresses the stormwater impacts and mitigation measures resulting from the proposed development.

The permit condition requiring a payment to the Council for not meeting the nitrogen levels required under the Urban Stormwater: BPEM, although unusual, is considered appropriate given that Council land is to be used to meet the nitrogen targets under the BPEM.

The size of the subdivision and the external catchment means that the Council is the drainage authority responsible for internal drainage and stormwater management. The Council is satisfied that the drainage and stormwater management meets its requirements. In the event that stormwater is to be directed to Melbourne Water's drainage system a permit condition requires the consent of Melbourne Water and meeting Melbourne Water's requirements.

The Panel has reviewed the draft permit conditions and:

- accepts the amended wording of the condition relating to the Drainage and Stormwater Management Strategy as proposed by Melbourne Water and accepted by Council
- prefers the exhibited wording of the condition relating to stormwater connections as it achieves the intent of the Melbourne Water proposed condition and more clearly states the requirements
- accepts the proposed changes to the condition relating to financial contribution for stormwater management proposed by Council.

The last dot point in the notes in the draft planning permit relating to Melbourne Water's requirements is unnecessary in the context of the permit conditions, and has been removed by the Panel in its preferred version of the planning permit.

(iv) Conclusions and recommendation

The Panel concludes:

- The proposed stormwater management is appropriate.
- Subject to its recommendations, the planning permit conditions are acceptable.

The Panel recommends:

Amend the draft planning permit as shown in Appendix E, to:

- a) Delete the last dot point under the Melbourne Water notes.

9.3 Existing flooding

(i) The issue

The issue is whether the impacts on existing flooding to the north west of the site for properties along Jacobus Walk, and in the vicinity of Dion Street are acceptable.

(ii) Evidence and submissions

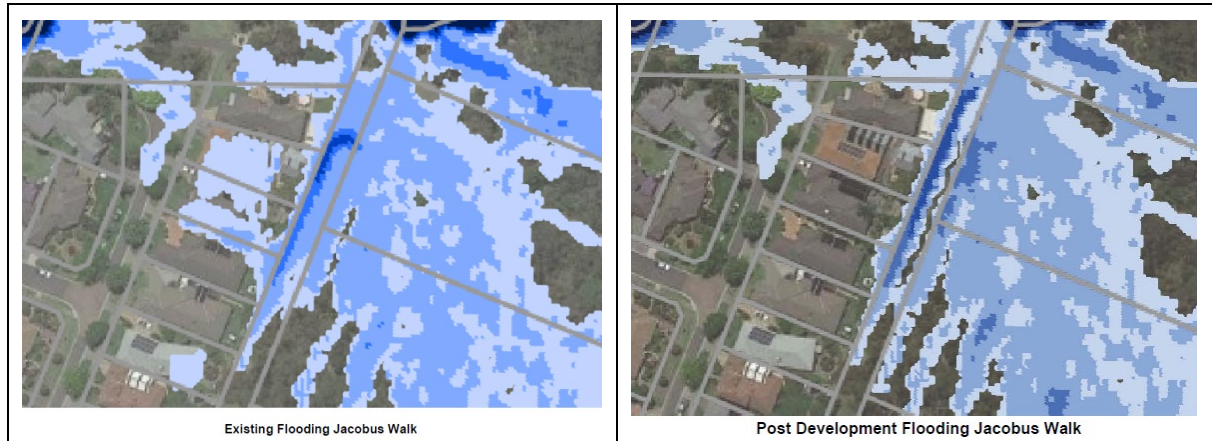
East side of Jacobus Walk

One submitter said:

Drainage works along the north-south reserve/bike path on the west side of the development site will be required, as there have been long-standing issues concerning water run-off entering the rear of properties on the east side of Jacobus Walk. This needs a more substantial response than has been the case to date, as the addition of a bike path will not improve runoff unless effective drainage is incorporated in the modifications to the reserve.

Mr Glasson relied on the Cardno flood modelling to show the flooding affecting the Jacobus Walk properties. A submitter said the flooding extends further south from that shown in the modelling. Mr Glasson said the development of the site in accordance with the Stormwater Management Plan will alleviate any existing flooding on properties adjacent to the site, as shown in the pre and post development flood depth maps (see Figure 15 below).

Figure 15 Flood levels – Jacobus Walk



Council was satisfied that the development will improve flood impacts along the Seecal Road Reserve and properties to Jacobus Walk, noting that permit conditions require approval of further detailed design of the proposed drainage and stormwater treatments. It submitted that the Stormwater Management Plan recommends that this flooding can be reduced by:

- raising part of the shared user path by more than 300 millimetres
- upgrading an existing swale along the rear boundary of some properties to Jacobus Walk
- introduction of a culvert under part of the footpath
- introduction of a bund to the localised high point, adjacent to the proposed wetland.

Dion Street

One submitter was concerned about flooding risk to the property at 13 Dion Street and proposed Lot 127, stating the Development Master Plan does not show infrastructure to this area which is prone to flooding.

Mr Glasson explained the development is downhill from 13 Dion Street however the existing swale and ridgeline along the site's western boundary may cause some flooding. He said the potential for flooding of 13 Dion Street will be reduced following development. Specifically:

As part of the development of the site the new lots along the western boundary of the site will be graded to fall to the west to the new internal road and underground drainage system. The existing swale and ridge line along the sites western boundary will be removed.

As a result any overland flows from the upstream properties in Nerissa Street to the west will no longer be captured and concentrated and directed along the sites western boundary towards 13 Dion Street. Post development these flows will discharge overland as sheet flows into the development, in accordance with standard practice in subdivisional development.

The Proponent relied on the evidence of Mr Glasson.

Council supported Mr Glasson's opinion that the development will remove the berm to facilitate the continuation of Dion Street into Road G and Road F in the subdivision resulting in a continuous flow path for stormwater to the north along Road F through the bushland reserve to Blind Creek.

(iii) Discussion and conclusion

The Panel is satisfied that the Council and Melbourne Water have approved a Stormwater Management Plan that will reduce flooding on adjacent properties along Jacobus Walk and at 13 Dion Street if the drainage works and mitigation measures are in accordance with the Stormwater Management Plan. The permit conditions appropriately require detailed designs of the drainage works proposed in the Stormwater Management Plan be approved.

The Panel is satisfied that stormwater from the site can be managed to meet the requirements of Standard C5 in Clause 56.07-4 of the Planning Scheme.

The Panel concludes the proposal will improve outcomes related to existing flooding to the north west of the site, for properties along Jacobus Walk, and in the vicinity of Dion Street.

10 Other issues

10.1 Housing density

(i) The issue

The issue is whether proposed housing density is appropriate.

(ii) Evidence and submissions

Some submitters were concerned the proposal included too many dwellings, raising issues related to:

- housing density/intensity and associated impacts related to traffic, open space provision and views
- the impact of specific Lots (Lots 136, 137 and 138) on biodiversity and loss of bushland
- concern that large two storey homes would be built with little garden space.

One submitter said the development should have fewer dwellings and more amenities, such as open space and recreational areas, and commercial land use on the site.

Some submitters supported the proposal on the basis it would provide for more housing, including affordable housing, which was needed in Victoria.

In addition to the evidence of Mr Crowder in relation to strategic justification of the proposal and the need for increased housing supply (see Chapter 3), he explained:

- lots sizes in the surrounding residential area are typically more than 700 square metres, and a unit development includes lot sizes between 400 – 450 square metres
- the proposed lot sizes range from 325 to 474 square metres abutting existing external streets, and from 404 to 581 square metres abutting the eastern boundary.

He was satisfied the lot sizes provided an appropriate response with consideration of abutting residential properties and road interfaces. He said the proposed building envelopes, Urban Design Guidelines and proposed permit conditions would ensure future appropriate built form outcomes.

The Proponent and Council supported the evidence of Mr Crowder.

The Proponent submitted that planning policy encourages intensification of residential land. It referred to the description of Strategic investigation area, Site 6, in the Housing Strategy which says:

- the site is suitable for housing development at a range of densities
- housing densities should be consistent with the surrounding area on the interfaces “*with increased densities located internally, toward the centre of the site (facing public open space)*”.

The Proponent submitted:

- while the density of the site is proposed to be greater than the surrounding area, this should be encouraged on the site strategically positioned to accommodate growth
- lot sizes generally allow dwellings to meet standard ResCode requirements
- ResCode standards relating to site permeability and site coverage have not been altered and a minimum garden area for lots under 400 square metres of 25 per cent is set by the planning permit.

In response to the submission regarding loss of views, the Proponent said the submitter did not identify the scenic views that would be threatened by the development. Given the low scale of proposed housing (maximum two storeys) the development will not be readily seen, will not impact views and will not impact important qualities of the surrounding neighbourhood.

(iii) Discussion

The Panel has:

- concluded the proposed residential zone is appropriate (see Chapter 3)
- addressed issues relating to traffic, biodiversity, open space and stormwater in other chapters of this Report.

The area is not identified in the Planning Scheme as having significant views, and there are no planning controls that apply to the site requiring protection of views. The Panel is satisfied there will not be an unreasonable impact on views due to development of the site as proposed.

The Knox Housing Strategy says the site is suitable for residential use only, and at a range of densities. While the Knox Housing Strategy indicates higher density housing should be located internally and facing public open space, this document was prepared in 2015: In the context of the release of the Victoria's Housing Statement in 2023, there is greater awareness of the urgency to provide more housing in well suited locations. The Panel is satisfied with the distribution of higher density housing as proposed in the draft subdivision master plan (see Figure 3), noting:

- design broadly responds to site values and constraints
- larger lots are generally located along the eastern boundary with direct interface to existing residential lot
- while no central area of open space is proposed, there are good linkages across the development to surrounding and abutting open space
- the Panel has concluded the public open space provision is appropriate (see Chapter 10.6).

The proposal facilitates delivery of housing at a higher density than the surrounding neighbourhood, however this is consistent with the policy settings and strategic expectations for the site.

Of note, the proposal includes gifting of eight affordable houses to a social housing provider, which will contribute to Council's *Social and Affordable Housing Strategy and Action Plan 2023-2027* aspiration of five per cent affordable housing.

(iv) Conclusion

The Panel concludes the proposed housing density is appropriate, subject to its recommendations on specific issues discussed in this Report.

10.2 Landscaping Plan and planting

(i) The issue

The issue is whether the Landscaping Plan and plant selection are appropriate.

(ii) Submissions

Several submitters, including Friends of Blind Creek Billabong, said street trees should be native and indigenous to the area to support wildlife. They said this would also avoid maintenance issues such as build up leaf litter or blocked drains as can occur with deciduous trees. One submitter said the planting guide was misguided.

One submitter advised the large tree immediately south west of the Road C/Road D corner between the proposed bike path and the fence line along the back of Jacobus Walk properties no longer existed. The submitter requested more planting along the fenceline/proposed bike path.

Some submitters commented on species selection and location, including:

- more tall native trees, ideally Yellow Box, should be planted to strengthen the habitat corridor along the proposed bike path and to connect Norvel Reserve to the existing habitat in the north
- there are many native trees that would be more appropriate
- the proposed Red Box is not tall enough to support diverse wildlife between areas of habitat
- *Pandorea pandorana* (Wonga Wonga Vine) on the planting list was not appropriate as it can become a weed.

The Proponent submitted that if native trees are preferred through the development it was happy to accept a condition requiring this. Regarding the tree that is no longer near Road C/Road D corner, the Proponent said the Arborist Report notes it no longer exists (Tree 145). It said:

Should Council require additional tree planting along the shared path, this can be sought via a condition of permit. We note that this tree sat next to another large canopy tree and its loss will not result in a large gap along this interface. Furthermore, whilst this application removes 3 trees, 173 new trees are proposed, significantly increasing the canopy cover within this area. The landscape plan provides for rows of canopy trees that will run north-south and east-west through the site, particularly the corridor along Castricum Place and the shared path. This will assist with connecting Norvel Reserve to the habitat corridor of Blind Creek.

In response to submitters seeking more indigenous planting through the site, Council said it supported provision of more native species and the draft planning permit included conditions to replace the Norwegian Sunset plantings with *Eucalyptus melliodora* (Yellow Box).

Council submitted changes to the Landscaping Plan condition to:

- include Knox's Landscape Plan Guidelines, as a standard document referred to in planning permits
- include a requirement to ensure detailed landscaping plans are consistent with the Arborist Report, noting the Landscape Plan exhibited with proposal contains incorrect information regarding some trees (for example tree 145 has been removed)
- require alternative plant species.

The Proponent did not object to these proposed changes.

(iii) Discussion

The changes to the Landscaping Plan conditions proposed by Council are appropriate. This includes:

- Requiring the plan be generally in accordance with the Landscape Plan Guidelines and 2023 Arborist Report. Consistency with the Arborist Report will address the issue of Tree 145 no longer existing.

- Amending the plant species to ensure they are suitable for the site. The changes include replacement of deciduous trees with appropriate native trees, such as Yellow Box as suggested by submitters. The Panel notes *Pandorea pandorana* is identified in the Landscape Plan Guidelines as an indigenous creeper and is suitable for use on the site.

The Landscape Report appropriately shows native/indigenous street trees running north-south connecting the existing bushland area along Blind Creek to areas of open space, including Norvel Reserve to the south.

In response to submissions Council proposed to change some of the proposed plant species.

(iv) Conclusion and recommendation

The Panel concludes it is appropriate to amend the Landscaping Plan condition as proposed by Council.

The Panel recommends:

Amend the draft planning permit as shown in Appendix E, to:

- a) Amend the condition relating to the Landscaping Plan and tree species.**

10.3 Eastern fencing

(i) The issue

The issue is whether conditions relating to the eastern boundary fence are appropriate.

(ii) Evidence and submissions

Some submitters requested a solid, possibly colourbond, fence to maximum height be installed at the interface of the site and existing properties to the east. Submitters asked for the fence to be constructed prior to development, for the developer to cover the cost of the new fence, and for clear communication with affected property owners.

Mr Crowder was satisfied with Council's proposed post exhibition changes relating to the boundary fence.

The Proponent said:

This application is not for development and at present, mesh fencing is not proposed between existing and new dwellings. If Colourbond fencing is sought, this can be required by Council at the development application stage or added as a condition on permit.

Council proposed post exhibition changes to:

- require a new condition in permit condition 6 for the Landscaping Plan to show:
 - A minimum 1.8 metre high paling or steel fence [or similar] along the eastern boundary where the proposed residential lots adjoin existing residential lots.
- Amend and add permit conditions as follows:
 - Prior to the issue of a Statement of Compliance, any fencing along the common boundary between a lot and a reserve or walkway [or existing lot](#) as shown on the subdivision and detailed endorsed plan must be designed and erected to the satisfaction of the Responsible Authority.
 - All costs associated with the provision of the fencing are to be borne by the owner/developer under this permit.

The Proponent did not object to the new and amended conditions.

(iii) Discussion and conclusion

The changes to the planning permit proposed by Council are appropriate, including:

- requiring a minimum 1.8 metre high solid fence along the eastern boundary, to be designed and erected before the issue of Statement of Compliance
- for the owner/developer to cover the costs.

This fence will be on the shared boundary with existing properties to the east.

The Panel concludes that post exhibition conditions proposed by Council relating to the eastern boundary fence are appropriate.

10.4 Construction amenity impacts

(i) The issue

The issue is whether impacts during construction are acceptable.

(ii) Submissions

Some submitters were concerned about construction hours, noise and traffic management.

The Proponent said the Site and Environmental Management Plan endorsed by Council will need to be adhered to, to ensure no unreasonable amenity impacts.

Council submitted the *Environment Protection Act 2017* and associated regulations, including the General Environmental Duty, applies to residential construction and sets out management of construction sites including hours of operation and noise emissions. The draft planning permit also requires a Site and Environmental Management Plan to manage impacts of construction.

(iii) Discussion and conclusion

The draft planning permit includes a condition for a Site and Environmental Management Plan to address and manage construction activities to the satisfaction and approved by the Responsible Authority, which includes requirements relating to traffic management and amenity. The Panel is satisfied that construction amenity impacts are appropriately addressed.

The Panel concludes that impacts during construction will be appropriately managed through *Environment Protection Act 2017* obligations and the Site and Environmental Management Plan.

10.5 Sustainable development and urban heat island effect

(i) The issue

The issue is whether the proposal has adequately addressed sustainable development.

(ii) Submissions

Some submitters were concerned about climate impacts and urban heat island effect, and one submitter requested a full environmental study considering these matters.

The Proponent submitted the proposal had been carefully designed to minimise impacts of natural hazards and adapt to impacts of climate change. It said:

- the proposal includes a large area of bushland and significant tree planting (removal of three trees and planting of 173 trees)
- the impact of urban heat island effect is not required to be assessed at this stage of the process and may be assessed when undertaking development applications when Sustainable Design Assessments or Sustainability Management Plans may be required.

Council submitted the City of Knox generally has low to moderate vulnerability to heat, with some limited areas experiencing very high heat vulnerability. The provision of open space and tree canopy can significantly reduce heat island effect. Council regularly monitors the impact of residential development on tree canopy loss. The Planning Scheme provides a strong focus on increasing canopy tree planting. The proposed street tree planting will be a net improvement in canopy tree cover.

(iii) Discussion and conclusion

The proposal includes the planting of a significant number of street trees and protection of bushland that will be beneficial for managing urban heat island effect. Natural hazards such as potential flooding and bushfire have been assessed and have informed the subdivision design.

Clause 22.04 (Environmentally sustainable development) requires that an application for development (as specified) in Knox must be accompanied by a sustainability assessment.

The Panel concludes the proposal has adequately addressed sustainable development at this stage of the process.

10.6 Open space and playground provision

(i) The issues

The issues are whether the:

- proposed open space provision is acceptable
- provision of a playground is required.

(ii) Submissions

Several submitters raised issues relating to open space including:

- requests for addition open space
- requests for play equipment and other facilities
- whether the bushland reserve was appropriate as an open space contribution.

Council submitted it was satisfied the bushland reserve constituted an appropriate open space contribution and no further open space is required. Council said:

- its position was supported by the Knox Play Space Plan 2013-2023
- it was satisfied there is sufficient playground equipment within proximity to the subdivision
- a substantial open space contribution is proposed as part of the proposal, consistent with the Knox Open Space Plan.

Council explained the history of land swaps and land transfer that have been negotiated by section 173 agreements. It advised that the 2021 section 173 agreement included a clause stating:

The transfer or vesting of the Bushland Reserve to or in Council in accordance with the terms of this Agreement by the Owner will comprise and be treated as the public open space

contribution required by the Planning Scheme or under the Subdivision Act for the subdivision of the balance of the Land notwithstanding that the contribution is made prior to the making of the requirement.

Further:

134. In addition, the 2021 section 173 agreement requires the developer to set aside a reserve of approximately 0.3676 hectares for drainage, fire buffer and other purposes. This is shown on the subdivision master plan as the wetland and associated vegetated swale.
135. Accounting for the land transferred to the developer by Council as part of the land swap, a net total of 1.406 hectares of land has been transferred to Council or set aside as a reserve, which is approximately 15.2 per cent of the land.
136. This significantly exceeds the 8.5 per cent minimum requirement set out in the schedule to Clause 53.01.

The Proponent said it was Council’s preference to take ownership of the bushland reserve, and providing this to Council satisfied the requirements of the Planning Scheme.

The Proponent and Council both supported deleting the public open space condition from the planning permit.

(iii) Discussion

The Urban Design Report exhibited with the proposal confirmed the site has excellent access to existing playgrounds and open space (see Figure 16).

Figure 16 Open space and playground provision



Source: Urban Context Report

The Panel is satisfied the land swap arrangement with Council provides an adequate open space contribution, and the area is well serviced by open space and playground facilities.

It is appropriate to delete the permit condition requiring a public open space contribution.

(iv) Conclusion and recommendation

The Panel concludes the open space provision is acceptable and the area is well serviced with playgrounds.

The Panel recommends:

Amend the draft planning permit as shown in Appendix E, to:

- a) Delete the condition and permit note requiring a public open space contribution.**

10.7 AusNet substation reserve

(i) The issue

The issue is whether the draft planning permit adequately responds to the AusNet issue of substation location.

(ii) Submissions

AusNet submitted it required a 5.2 metre x 8 metre kiosk substation reserve, noting the position needs to be near Lots 17 and 18.

The Proponent said consultation had been undertaken with AusNet and the required substation could be provided within Lot 17 and can be incorporated in an updated Master Plan as a condition of permit.

Council submitted:

- the location of the substation is shown on Lot 33
- relevant permit conditions allow for a substation to be located in accordance with AusNet requirements, while providing flexibility about the location.

Council proposed changes to the draft planning permit to:

- add a condition under 'Amended Plans' to meet the "*Requirements of Ausnet as per Condition 41*"
- remove a duplicated condition under the 'AusNet Services Conditions' heading.

(iii) Discussion

The exhibited draft planning permit included 'AusNet Services Conditions' which include provision for easements satisfactory to AusNet for power lines and any other easements required to service the lots. The conditions also require land be set aside on the plan of subdivision for the use of AusNet for electricity substations.

The Panel supports Council's proposed:

- addition of the condition under 'Amended Plans' to meet AusNet requirements
- deletion of the duplicated condition.

Further, to ensure the land set aside for the electricity substation meetings AusNet's requirement, the Panel prefers the following wording of the service condition:

Set aside on the plan of subdivision Reserves for the use of ~~AUSNET ELECTRICITY SERVICES PTY LTD~~ for electric substations, to the satisfaction of AUSNET ELECTRICITY SERVICES PTY LTD.

(iv) Conclusion and recommendations

Subject to its recommendations, the Panel concludes the draft planning permit conditions adequately responds to the AusNet issue of substation location.

The Panel recommends:

Amend the draft planning permit as shown in Appendix E, to:

- a) Add a condition under ‘Amended Plans’ to meet AusNet requirements**
- b) Under ‘AusNet Services Conditions’:**
 - delete the duplicated condition
 - amend the condition related to setting aside land for electricity substations.

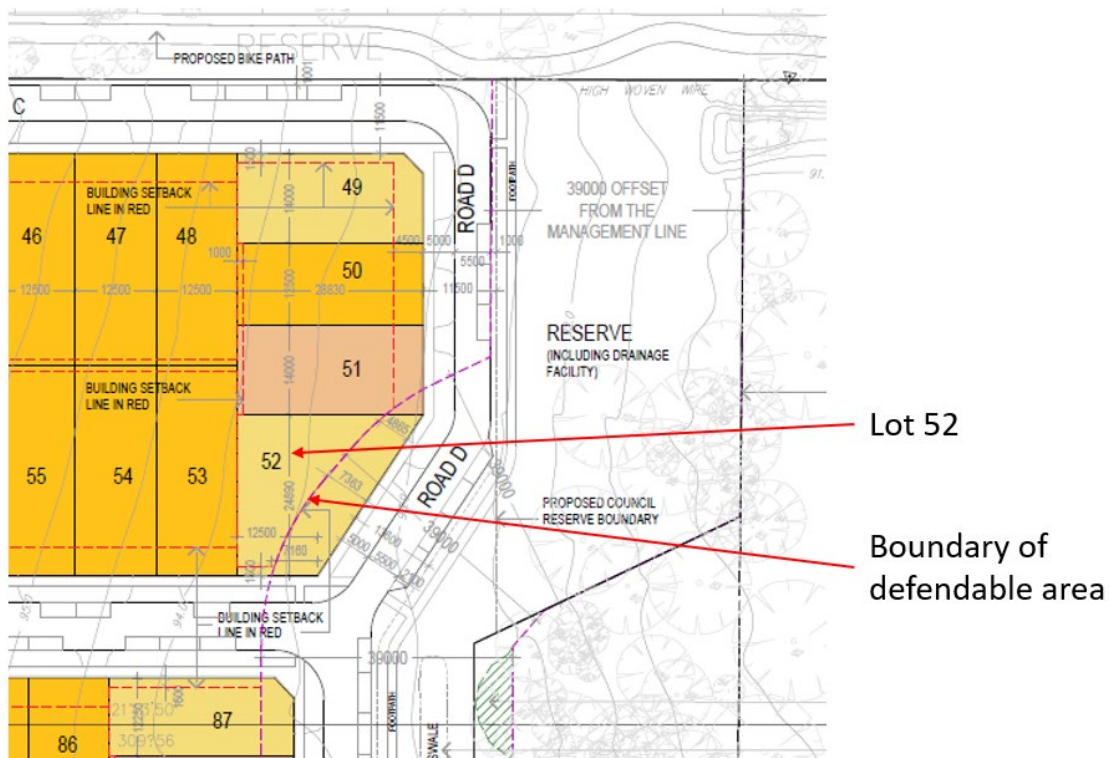
10.8 Proponent’s proposed changes

The Proponent suggested a number of additional changes to Council’s Day 1 version of the planning permit.

(i) Lot 52 build envelope, rear setback and landscaping - exhibited conditions 1)a)i), 20)d) and 20)k)

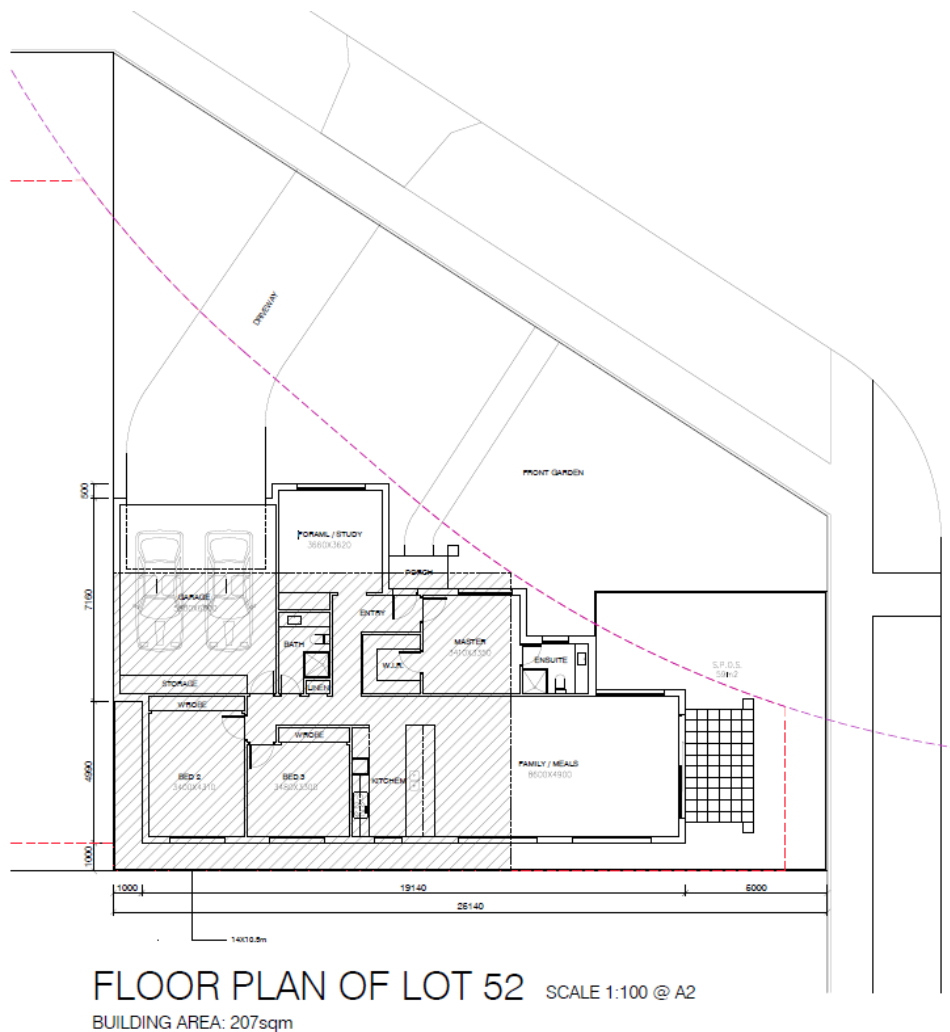
Figure 17 shows the location and context of Lot 52, including the boundary of defendable area for bushfire management purposes. Figure 18 shows an indicative floor plan for Lot 52 submitted by the Proponent.

Figure 17 Lot 52 location and context



Source: Excerpt from the Subdivision Master Plan, with Panel notations

Figure 18 Lot 52 – indicative floor plan



Source: Proponent submission (document 10b)

Building envelope and rear setback

Lot 52 is proposed to be a 514 square metre lot. The exhibited permit specified a 10 metre by 15 metre building envelope that is setback 3 metres from the western boundary, and if this could not be achieved then Lots 51 and 52 should be consolidated, realigned or the size of Lot 52 increased.

The Proponent submitted that the condition should just specify a 150 square metre envelope rather than specific dimensions, and should not include the requirement for a three metre setback.

The Proponent relied on the evidence of Mr Crowder who said a minimum 150 square metre building envelope will satisfy the intent of Clause 56, will be able to accommodate a three bedroom dwelling and provide suitable secluded private open space and sufficient land for landscaping within the frontage. He supported deletion of the three metre western setback.

Council and the Proponent agreed to the following changes to condition 1)a)i):

- A building envelope on lot 52 with a minimum size of 10 metres by 15 metres, unless otherwise agreed to by the Responsible Authority. The building envelope must also demonstrate compliance with the relevant setback requirements of Condition 27 that is setback 3 metres from the western boundary. If this cannot be achieved, then lots 51 and 52 may have to consolidated, realigned or the size of lot 52 increased;

Council and the Proponent did not agree on the three metre western setback.

The Panel supports the drafting of conditions:

- 1)a)i) as agreed by Council and the Proponent
- 20)d) to include an exemption to Lot 52 requiring the three metre western setback.

Lot 52 can adequately accommodate a dwelling, provide sufficient secluded public open space and, given its location across the road from the bushland reserve, it will have a well landscaped outlook.

Landscaping

The Proponent sought an exemption from the landscaping requirement for the rear/western setback for Lot 52. It suggested the lot can provide a large feature shrub at the front or side and recommended a stand-alone condition to require management of defensible space.

Consistent with its recommendation to remove the three metre western setback, the Panel supports providing an exemption from this condition for Lot 52. The Panel agrees with the Proponent that flexibility in the design response is required for this lot. It also supports the Proponent's suggestion to include a stand-alone defensible space condition.

The Panel accepts the other Council proposed changes to the condition to modify the permeable surface area and radius and to include reference to the Landscape Plan Guidelines.

Conclusions and recommendation

The Panel concludes that, subject to its recommendations for Lot 52:

- The building envelope and rear setback conditions are appropriate
- Landscaping conditions are appropriate.

The Panel recommends:

Amend the draft planning permit as shown in Appendix E, to:

- a) Amend the building envelope, rear setback and landscaping conditions for Lot 52.**

(ii) Cultural Heritage Management Plan - exhibited condition 19

The draft planning permit included:

Cultural Heritage Management Plan Conditions

- 18) Works must be conducted in accordance with the requirements of the approved Cultural Heritage Management Plan (approved CHMP No. 18338).
- 19) Except with the prior written consent of the Responsible Authority, the Cultural Heritage Management Plan must not be modified.

The Proponent submitted condition 19 should be deleted as Council does not have power to approve a modified CHMP.

Council submitted it understood the Proponent's position and that it could not approve the modified CHMP and recommended deleting the condition. It said:

Council's intent was to allow a secondary consent mechanism under the permit should the CHMP need to be amended if required as a result of the construction of the boardwalk/pathway, as there will be a suite of endorsed plans and documents.

Council is open to feedback on this matter as upon further review, the "Responsible Authority" could be interpreted as the Registered Aboriginal Party.

As discussed above in Chapter 7.2, the Panel considers it is not appropriate to include the boardwalk/pathway in the current permit approval. If the Proponent wishes to pursue this, it will need to progress a separate planning approval process that includes the required cultural heritage and native vegetation assessment.

The Panel notes the pedestrian trail connecting Agora Boulevard with the Blind Creek trail was included in the 2023 Biodiversity Assessment following exhibition but may not have been captured in the CHMP.

Conclusion and recommendation

The Panel concludes that exhibited condition relating to modification of the CHMP should be deleted.

The Panel recommends:

Amend the draft planning permit as shown in Appendix E, to:

a) Delete the condition relating to modification of the CHMP.

(iii) Lots 33 – 40 front setbacks and landscaping - exhibited condition 20)a)ii and 20)j)

Front setbacks

The Proponent submitted the front setback condition for Lots 33 – 40 should not prohibit encroachment, and the encroachment should be no more than 1.0 metre instead of 0.5 metres, as follows:

Front walls of a building must be setback a minimum of:

...

ii. 4 metres from a street frontage for lots on the northern side of “Road B” shown as Lots 33 to 40 on the attached plan. ~~No encroachment within the front setbacks are allowed for these lots.~~

...

Any encroachment into the front street setback of point (i.), (ii.) and (iv.) above must be limited to the following structure provided it encroaches no more than ~~0.5~~ 1.0 metres into the specified setback distances unless any other or greater encroachment does not preclude the planting of a canopy tree as required under Condition 27o:

The Proponent sought greater flexibility for the future design response, saying that Council’s proposed condition unreasonably goes beyond ResCode requirements. Further, these lots will need to meet Liveable Housing Standards and/or the relevant housing agency’s requirements.

Mr Crowder gave evidence that a 1.0 metre encroachment was acceptable and would provide articulation and visual interest while not unreasonably limiting landscaping. He explained he had been advised there would be sufficient area to accommodate 12 square metres of permeable surface with a minimum radius of 1.5 metres surrounding each tree.

Council submitted there should be a four metre setback from Road B for Lots 33 to 40 with no encroachment. It said it was trying to balance the provision of social and affordable housing with requirements to achieve landscaping on the land, and the lots already had a reduced setback. It said to achieve a deeper porch, parts of a dwelling could be slightly recessed, which may also improve built form outcomes. Council said it had not imposed a similar condition on any issued planning permit.

The Panel accepts the Proponent’s proposed condition. The proposal includes street tree landscaping across the front of these dwellings, and critically, to meet the housing needs of the

community innovation in built form is required and allowance for encroachment of up to 1.0 metre into the 4 metres setback should be provided.

Landscaping

Council proposed the following Day 1 changes to exhibited condition 20(jj):

Each lots must be provided with a minimum of one (1) small canopy tree *in accordance with Knox's Landscape Plan Guidelines (or as amended)* with a mature height of 5-8 metres, *and be located* within the front setback. Each tree should be surrounded by 20 square metres permeable surface with a minimum radius of 3.2 metres. This requirement does not apply to lots 52, 87-91 inclusive, 137, and 138 subject to bushfire management.

The Proponent proposed to amend the condition to include an exemption for Lots 33-40, and to add a new condition stating:

For lots 33-44, the Responsible Authority may approve a lesser area of permeable surface and lesser radius that would otherwise be required under Condition 27o).

Council did not support the Proponent's proposed change, stating that with consideration of the minimum setback requirements it supported the reduction in minimum radius from 3 metres to 2 metres but further reduction for Lots 33 – 40 is not supported.

Consistent with the Panel's recommendation relating to front setbacks, the Panel accepts the Proponent's position. The permit also includes a condition for lots less than 400 square metres to provide a minimum 25 per cent garden area. The reduced front setback with encroachment allowed will provide some flexibility in how built form and landscaping are approached.

The Panel supports inclusion of the Landscape Plan Guidelines, and notes that small trees with a radius of 3 metres are included in the plant lists. The Panel recommends a modification to the wording of the Proponent's new condition, to ensure a small canopy tree is provided for Lots 33-40 despite the exemption, and with a permeable surface area and radius to the satisfaction of the Responsible Authority.

Conclusions and recommendation

The Panel concludes that, subject to its recommendations for Lots 33 – 40:

- Front setback conditions should be amended as proposed by the Proponent.
- Landscaping conditions should be amended.

The Panel recommends:

Amend the draft planning permit as shown in Appendix E, to:

- a) **Amend the front setback condition for Lots 33-40.**
- b) **Amend the landscaping condition requiring a canopy tree in the front setback to exempt Lots 33-40.**
- c) **Add a new condition requiring appropriate canopy tree planting for Lots 33-40.**

(iv) Section 173 agreement – exhibited condition 20)

Council and the Proponent agreed on the intent behind a walls on boundary requirement, as exhibited in the NRZ7. As the requirement cannot be included in the NRZ7 (see Chapter 6), the Proponent proposed a new condition to form part of the section 173 agreement, as follows:

The height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1 metres of a side or rear boundary should not exceed an average of 3.6 metres with no part higher than 4.0 metres unless abutting a higher existing or simultaneously constructed wall.

The Panel supports the inclusion of this new condition.

The Proponent proposed to amend the condition relating to the section 173 agreement as follows:

The section 173 agreement will end 10 years after the completion of the development of the last lot that is permitted to be developed under the planning permit.

This matter was not aired during the Panel Hearing, and considers it is a matter for Council to determine if the condition is appropriate. The Panel has not included this in its preferred version of the planning permit in Appendix E.

The Panel recommends:

Amend the draft planning permit as shown in Appendix E, to:

- a) Add a new walls on boundary requirement as part of the section 173 agreement.**

11 The planning permit

11.1 Drafting and minor changes

The Panel has used the exhibited version of the planning permit as the base for its recommendations (see Appendix E). Some condition numbers in the Panel preferred version of the planning permit differ from those exhibited to accommodate changes to the number of conditions. Changes to condition numbers are not shown in tracked changes.

Council's final day version of the planning permit included a number of minor drafting changes to improve clarity or correct errors that were accepted by the Proponent and were not challenged by any party during the Hearing process. The Panel has accepted these changes which include:

- minor corrections
- consistency with style, expression and punctuation
- removal of duplicated text
- removal of the number of residential lots from the description of what the permit allows
- minor changes to ensure the design reflects other requirements.

The Panel has also reviewed the draft planning permit with regard to *Writing Planning Permits* (Department of Transport and Planning, May 2023) and makes some drafting suggestions.

Consistent with the guiding principle to use plain English, these changes include:

- replacing 'prior to' with 'before'
- replacing 'shall' with 'must'
- removing unnecessary punctuation.

Council may wish to review the draft planning permit with consistency with the guidance in *Writing Planning Permits*.

11.2 Relevant considerations

Clause 71.02-3 of the Planning Scheme requires a responsible authority considering a permit application to take an integrated approach, and to balance competing objectives in favour of net community benefit and sustainable development.

Clause 65 of the Planning Scheme states:

Because a permit can be granted does not imply that a permit should or will be granted. The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

Clause 65.01 requires the Responsible Authority to consider, as appropriate:

- the Planning Policy Framework
- the purpose of the zone, overlay or other provision
- the orderly planning of the area
- the effect on the amenity of the area
- factors likely to cause or contribute to land degradation
- the extent and character of native vegetation, the likelihood of its destruction, and whether it can be protected, planted or allowed to regenerate
- the degree of flooding hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

The issues and impacts required to be considered in the decision guidelines have been discussed at length in the issue-specific chapters of this Report. In essence the Panel considers, subject to its recommendations:

- the proposal will achieve net community benefit and sustainable development
- the proposal is consistent with planning policy, represents orderly planning and facilitates much needed housing in a location designated as a strategic investigation site for this use
- the proposal complies with relevant zone and overlay provisions
- there will be no unreasonable amenity effect on the area for the existing and future residents
- the proposal will protect and enhance an important site of biological significance, and provides substantial landscaping opportunities
- flooding will be appropriately managed.

On balance, the Panel considers that a permit should be granted.

(i) Conclusion and recommendation

The Panel concludes Planning Permit should be issued for the proposal.

The Panel recommends:

Issue planning permit P/2020/6049 subject to the permit conditions contained in Appendix E.

Appendix A Submitters to the Amendment

No	Submitter
1	Warren Saunders
2	Jim Good
3	Knox Environment Society
4	Ross Meyer
5	Graham Hooker
6	Mui Kim Ang
7	AusNet
8	Geoff Spilane
9	James Bothroyd
10	Julie Dalen
11	Michael Rizk
12	South East Water
13	Women's Property Initiatives
14	Christine Harwood
15	Rosemary Selton
16	Rowan Jennion
17	Friends of Blind Creek Billabong
18	George Irving
19	Andrew Wilson
20	Maryanne Wilson
21	Diana Van Vuren
22	Christopher and Tanya Scott
23	Michelle DeLacy
24	Leonora and Stuart Minican
25	Melanie Rowland
26	Marianna and Michael Gysberts
27	Jennifer Rowe and others (group submission)
28	Fay and David Allan Rimmer
29	June and Richard Wibberley
30	Country Fire Authority
31	Melbourne Water

Appendix B Document list

No	Date	Description	Presented by
1	20 Dec 2023	Directions Hearing notification letter	Planning Panels Victoria (PPV)
2024			
2	25 Jan	Panel Directions and Hearing Timetable	PPV
3	1 Feb	Confirmation of experts	Norvel Estate Pty Ltd (Proponent)
4	5 Feb	Hearing Timetable (version 2)	PPV
5	26 Feb	<p>Council Part A Submission and attachments:</p> <p>Attachment A1 Chronology of the Amendment</p> <p>Attachment A2 Exhibited Amendment Material:</p> <ul style="list-style-type: none"> - Att 2.0 Indexed list of Exhibited Materials - Att 2.1 Explanatory Report - Att 2.2 Instruction sheet - Att 2.3 Clause 22.07 - Att 2.4 Schedule 7 to the Neighbourhood Residential Zone - Att 2.5 Clause 22.07 – amendments in track changes - Att 2.6 Zoning Map 02ZN - Att 2.7 Application for Planning Permit Form - Att 2.8 Certificates of Title - Att 2.9 Metropolitan Planning levy - Att 2.10 Draft Planning Permit No. P/2020/6049 - Att 2.11 Subdivision Master Plan - Att 2.12 Affordable Housing Strategy - Att 2.13 Arborist Report - Att 2.14 Biodiversity Report - Att 2.15 Bushfire Report - Att 2.16 Clause 56 Assessment - Att 2.17 Cultural Heritage Management Plan - Att 2.18 Landscape Report - Att 2.19 Social Impact Assessment - Att 2.20 Stormwater Management Plan - Att 2.21 Town Planning Report - Att 2.22 Traffic Report - Att 2.23 Urban Context Report <p>Attachment A3 Further application material not exhibited:</p> <ul style="list-style-type: none"> - Att 3.1 Utility Service Infrastructure Report - Att 3.2 Geotechnical Assessment <p>Attachment B Quarry Environmental Audit (response to Direction 5(c)):</p> <ul style="list-style-type: none"> - Att B1a Environmental Audit Report Part A - Att B1b Environmental Audit Report Part B – Appendices - Att B1c Environmental Audit Report Executive Summary 	Knox City Council (Council)

- Att B2a Environmental Protection Authority
Correspondence 16 March 2021
- Att B2b Environmental Protection Authority
Correspondence 10 March 2020

Attachment C Relevant Local Policies:

- Att C1 Clause 21.01 – Municipal Profile
- Att C2 Clause 21.02 – Vision
- Att C3 Clause 21.03 – Environmental and Landscape Values
- Att C4 Clause 21.04 – Environmental Risks
- Att C5 Clause 21.05 – Built environment and Heritage
- Att C6 Clause 21.06 – Housing
- Att C7 Clause 21.08 – Community Development
- Att C8 – Clause 21.09 – Transport and Infrastructure

Attachment D Relevant Strategic Documents and Plans:

- Att D1a Knox Housing Strategy 2015
- Att D1b Knox Residential Design Guidelines
- Att D2 Knox Social and Affordable Housing Strategy and Action Plan
- Att D3 Knox Urban Design Framework 2020
- Att D4a Sites of Biological Significant in Knox – Volume 1
- Att D4b Sites of Biological Significance in Knox – Volume 2
- Att D5 Knox Open Space Plan
- Att D6 Knox Play Space Plan
- Att D7 Knox Landscape Plan Guidelines
- Att D8 Knox Bicycle Plan Review
- Att D9 Knox Green Street Policy
- Att D10 Knox Liveable Streets Plan

Attachment E Responses from Referral authorities:

- Att E1 Melbourne Water
- Att E2a CFA email April 2020
- Att E2b CFA conditions 6 August 2021
- Att E2c CFA advise re condition 4 23 August 2021
- Att E2d CFA email 23 August 2021
- Att E3 South East Water
- Att E4 Multinet Gas response
- Att E5a Department of Transport
- Att E5b Department of Transport
- Att E5c Department of Transport

6	28 Feb	Expert statement - Dr Stuart Cooney of Ecolink Consulting in relation to biodiversity	Proponent
7	28 Feb	Expert statement - Nick Glasson of Stantec in relation to drainage	Proponent
8	28 Feb	Expert statement - Brett Young of Ratio Consultants in relation to traffic	Proponent
9	28 Feb	Expert statement - David Crowder of Ratio Consultants in relation to planning	Proponent
10	4 Feb	Context and Background Submission, enclosing:	Proponent

		a) Master Landscape Plan by Urbis b) Indicative Floor Plan for Lot 52	
11	7 March	Part B submission, enclosing: 1. Attachment A, Day 1 Documents: - Att A1 Clause 22.07 Day 1 - Att A2 Clause 32.09s7 Day 1 - Att A3 Drafting Planning Permit Day 1 - Att A4 Explanatory Report Day 1 2. Attachment B - Norvel Estate Plant Regeneration – Dr Graeme Lorimer, October 2021 3. Attachment C - Extract of Ordinary Council Meeting Agenda 25 October 2021 4. Attachment D - Flood Depths	Council
12	8 March	Main submission, enclosing: a) Urbis Submission response	Proponent
13	13 March	Draft Planning Permit Day 1	Proponent
14	13 March	Council final position on proposed amendments to conditions	Council
15	13 March	Panel further directions	PPV
16	15 March	Council's response to further directions, enclosing: a) Council's final version of NRZ7 b) Council's final position on draft permit c) Council explanatory table on its final position d) Melbourne Water response 1 March 2020	Council
17	22 March	Proponent's track changes on: a) Council's final preferred position on draft permit b) Council explanatory table on its final preferred position	Proponent

Appendix C Planning context

C:1 Planning policy framework

Victorian planning objectives

The Explanatory Report explained the Amendment will assist in implementing State policy objectives set out in (a)(b)(c)(d)(f) and (fa) in section 4(1) of the PE Act by:

- facilitating a fair, economic, sustainable, and orderly subdivision of the land to allow the residential use and development of an underutilised land strategically located within an established residential suburb.
- maintaining a pleasant environment and protect the ecological significance of the Blind Creek Corridor by ensuring the remnant bushland is unaffected by the proposal and retained as a reserve with the part already in Council's ownership recognised for conservation.
- providing and delivering affordable housing in Victoria.

Planning policy provisions

Table 7 includes the objectives of relevant State and Local planning policy provisions.

Table 7 State and Local Planning Policy Framework

Clause	Key relevant objective
State Planning Policy	
Clause 11.01-1S (Settlement)	To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.
Clause 11.02.1S (Supply of Urban Land)	To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.
Clause 12.01-1S (Protection of Biodiversity)	To protect and enhance Victoria's biodiversity.
Clause 12.01-2S (Native vegetation management)	To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation.
Clause 12.05-2S Landscapes	To protect and enhance significant landscapes and open spaces that contribute to character, identity and sustainable environments.
Clause 13.01-1S Natural hazards and climate change	To minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning.
Clause 13.02 Bushfire	To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.
Clause 13.04-1S Contaminated and potentially contaminated land	To ensure that contaminated and potentially contaminated land is used and developed safely.

Clause	Key relevant objective
Clause 15.01-1S Urban Design	To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.
Clause 15.01-1R Urban Design – Metropolitan Melbourne	To create a distinctive and liveable city with quality design and amenity.
Clause 15.01-3S Subdivision Design	To ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.
Clause 15.01-4S Healthy neighbourhoods	To achieve neighbourhoods that foster healthy and active living and community wellbeing.
Clause 15.01-5S Neighbourhood Character	To recognise, support and protect neighbourhood character, cultural identity, and sense of place.
Clause 16.01-1S Housing Supply	To facilitate well-located, integrated and diverse housing that meets community needs.
Clause 16.01-2S Housing affordability	To deliver more affordable housing closer to jobs, transport and services.
Clause 18.01-1S Land Use and Transport Integration	To facilitate access to social, cultural and economic opportunities by effectively integrating land use and transport.
Clause 18.01-2S Transport System	To facilitate the efficient, coordinated and reliable movement of people and goods by developing an integrated and efficient transport system.
Clause 19.03-2S Infrastructure design and provision	To provide timely, efficient and cost-effective development infrastructure that meets the needs of the community.
Clause 19.03-3S Integrated Water Management	To sustainably manage water supply and demand, water resources, wastewater, drainage and stormwater through an integrated water management approach.
Municipal Statement	Strategic
Clause 21.01 Municipal Profile	<p>Clause 21.01-1 Snapshot of Knox, includes: With an increase in population and demographic diversity, the City of Knox will continue to play an important role in housing provision and diversity.</p> <p>Clause 21.01-2 Key issues and influences:</p> <ul style="list-style-type: none"> - Environment and landscape values - Environmental risk - Built environment and heritage - Housing - Transport and infrastructure

Clause	Key relevant objective
Clause 21.02 Vision	<p>Clause 21.02-1 Strategic Framework Plan</p> <ul style="list-style-type: none"> - Identifies Strategic Investigation Sites as opportunities to potentially accommodate a range of future housing, retail and employment uses.
Clause 21.03 Environmental and landscape values	<p>Clause 21.03-1 A treed city</p> <ul style="list-style-type: none"> - To protect and strengthen treed character and landscape value across all areas in Knox <p>Clause 21.03-2 Biodiversity and native vegetation</p> <ul style="list-style-type: none"> - To retain and enhance native vegetation in Knox, in extent and ecological condition. - To protect and enhance the natural values of Sites of Biological Significance. - To maintain the diversity and genetic integrity of indigenous flora and fauna within Knox to prevent species from becoming locally extinct.
Clause 21.04 Environmental Risks	<p>Clause 21.04-1 Bushfire</p> <p>To ensure that new development responds to bushfire risk to life and property.</p> <p>Limit development in areas at high risk from bushfire where there is also significant vegetation of high biological and/or landscape value and where planned bushfire protection measures may be incompatible with the natural environment, landscape and biodiversity values.</p> <p>Clause 21.04-4 Climate change resilience</p> <p>To create an urban environment that is resilient to the impacts of climate change, in particular the urban heat island effect, heatwaves, droughts and storm events.</p> <p>Clause 21.04-5 Potentially contaminated land</p> <p>To avoid harm to human health and the environment from contaminated land.</p>
Clause 21.05 Built Environment and Heritage	<p>Clause 21.05-1 Local character, identity and sense of place</p> <p>To create vibrant local areas with a strong character, identity and sense of place.</p> <p>Clause 21.05-2 Urban design</p> <p>To create high quality, well-designed places that respect and strengthen the local context and landscape qualities of Knox.</p> <p>To create places that are accessible and adaptable to changing community needs.</p> <p>Clause 21.05-4 Design for safety</p> <p>To create places that increase personal safety and perceptions of safety, and reduce opportunities for crime and antisocial behaviours.</p> <p>To require all new development to make a positive contribution to fire safety in Knox.</p>

Clause	Key relevant objective
Clause 21.06 Housing	<p data-bbox="513 293 1182 322">Clause 21.06-1 Scaled approach to residential development</p> <p data-bbox="513 338 1098 367">This clause describes Strategic Investigation Sites as:</p> <ul data-bbox="513 383 1305 562" style="list-style-type: none"> - sites generally not currently used for residential purposes, such as quarries, schools and golf courses - sites where the land use is likely to change in a short to mid-term timeframe, and could be suitable for future residential development (either entirely or in part), including a component of social housing. <p data-bbox="513 577 1362 674">Strategic guidance for these sites is provided in the <i>Knox Housing Strategy 2015</i> and the <i>Knox Affordable Housing Action Plan 2015-2020</i> and the <i>Knox Land for Business Directions Plan (2018)</i>, applied by Clause 21.07.</p> <p data-bbox="513 689 1353 824">Where sites have already been subject to investigation processes and have been rezoned to facilitate future residential development, additional strategic guidance may also be found in the relevant zone and overlay schedules which apply to the land.</p> <p data-bbox="513 840 639 869">Objectives:</p> <ul data-bbox="513 884 1369 1108" style="list-style-type: none"> - To support a scaled approach to residential development in accordance with the <i>Knox Housing Strategy 2015</i>. - To support a diversity of housing choices (styles, types, forms and sizes) to cater for the Knox community's current and future needs, in appropriate locations. - To provide residential development that allows people to 'age-in-place'. <p data-bbox="513 1124 922 1153">Clause 21.06-3 Design and character</p> <p data-bbox="513 1169 1369 1339">Describes Knox Neighbourhood Areas as representing the majority of Knox's residential areas and have a sense of spaciousness within the public and private realm. These areas will continue to be low scale neighbourhoods, characterised by detached dwellings with large backyards which contribute to the area's green and leafy character.</p> <p data-bbox="513 1355 639 1384">Objectives:</p> <ul data-bbox="513 1400 1353 1538" style="list-style-type: none"> - To support high quality housing design that responds to the City's 'green and leafy' character, local character and creates a strong sense of place. - To protect and enhance the landscape and environmental values of natural areas of significance within the municipality.

Clause	Key relevant objective
21.09 Transport and infrastructure	<p>Clause 21.09-1 Integrated and sustainable transport</p> <ul style="list-style-type: none"> - To provide for the transport needs of existing and future populations in an integrated and sustainable manner. - To encourage development that contributes towards an active, safe and accessible transport network. <p>Clause 21.09-2 Providing and maintaining infrastructure</p> <ul style="list-style-type: none"> - To ensure that infrastructure is able to accommodate existing and new development and contributes positively to urban amenity <p>Clause 21.09-3 Integrated water management</p> <ul style="list-style-type: none"> - To support the efficient and sustainable use of water by requiring development to adopt an integrated approach to water management and infrastructure provision. - To minimise the risk to people, property and the environment as a result of flooding. - To protect the ecological health of waterways and wetlands from the impact of development.
Local policy	

Clause 22.07 Development in Residential Areas and Neighbourhood Character	<ul style="list-style-type: none"> - To facilitate development that is responsive to the unifying 'green and leafy' character of Knox. - To facilitate development that is responsive to the desired future character of the area. - To support sustainable urban growth by directing housing to preferred locations. - To support a range of housing types and forms to meet the needs of the existing and future community. - To support more intensive development in areas where there is access to frequent and reliable public transport services, shopping, employment and community facilities. - To support smaller dwellings (one and two bedrooms) in appropriate locations (Local Living and Activity Areas). - To recognise that the environment significance of the Dandenong Foothills and Sites of Biological Significance (Bush Suburban areas) outweighs the need for urban consolidation within these areas. - To facilitate the design and scale of new development makes a positive contribution to the area's built form. <p>This clause describes the 'Knox Neighbourhood' area including:</p> <ul style="list-style-type: none"> - preferred future character - preferred dwelling typologies - design objectives and guidelines
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Plan Melbourne

Plan Melbourne 2017-2050 sets out strategic directions to guide Melbourne's development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches

8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved.

Table 8 Relevant parts of Plan Melbourne

Outcome	Directions	Policies
Outcome 2: Melbourne provides housing choice in locations close to jobs and services	Direction 2.1: Manage the supply of new housing in the right locations to meet population growth and create a sustainable city	<p>Policy 2.1.1: Maintain a permanent urban growth boundary around Melbourne to create a more consolidated, sustainable city</p> <p>Policy 2.2.1: Facilitate well-designed, high density residential developments that support a vibrant public realm in Melbourne’s central city</p>

C:2 Planning Scheme provisions

Zone and overlay provisions

A common zone and overlay purpose is to implement the Municipal Planning Strategy and the Planning Policy Framework.

Table 9 includes the relevant zone and overlay provisions.

Table 9 Planning zones and overlays

Clause	Key relevant provisions
Special Use Zone Schedule 2 (Earth and Energy Resources Industry)	<p>Purposes</p> <p>SUZ: To recognise or provide for the use and development of land for specific purposes as identified in a schedule to this zone.</p> <p>SUZ2: To recognise or provide for the use and development of land for earth and energy resources industry.</p> <p>To encourage interim use of the land compatible with the use and development of nearby land.</p> <p>To encourage land management practice and rehabilitation that minimises adverse impact on the use and development of nearby land.</p>

Clause	Key relevant provisions
Neighbourhood Residential Zone	<p>Purposes</p> <p>To implement the Municipal Planning Strategy and the Planning Policy Framework.</p> <p>To recognise areas of predominantly single and double storey residential development.</p> <p>To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.</p> <p>To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.</p>
Environmental Significance Overlay Schedule 2 (Sites of Biological Significance)	<p>Purposes</p> <p>ESO:</p> <ul style="list-style-type: none"> - To identify areas where the development of land may be affected by environmental constraints. - To ensure that development is compatible with identified environmental values. <p>ESO2, Environmental Objective:</p> <ul style="list-style-type: none"> - To protect sites of biological significance... - To reduce the threat of local extinction to flora or fauna species in Knox. - To enhance the condition and viability of habitats, ecological communities, flora and fauna, genetic diversity and aquatic systems of sites, including both biological and physical components. - To maintain connectivity between sites of biological significance and indigenous vegetation. - To recognise the role that sites of biological significance play in contributing to Knox's liveability and the health and wellbeing of the community. - To achieve a net increase in the extent of habitat and improve its ecological condition in the sites of biological significance, recognising the key role that those sites play in conserving Knox's natural environment and associated community benefits. - To ensure buildings, works or subdivisions are compatible with the long term protection and enhancement of biological significance. - To ensure offsets are located as close as practicable to the local catchment and plant/animal population areas impacted by vegetation loss. Preference is to be given to any reasonable option to locate offsets within Knox. - To provide for adequate bushfire protection measures that minimise adverse environmental impacts. - To provide appropriate fencing (temporary or permanent) to protect retained vegetation or aquatic environments from movements of machinery, vehicles or heavy foot traffic.

Particular provisions

Table 10 includes the relevant particular provisions.

Table 10 Relevant particular provisions

Clause	Relevant purposes
Clause 52.06 (Car parking)	<p>To ensure that car parking is provided in accordance with the Municipal Planning Strategy and Planning Policy Framework.</p> <p>To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.</p> <p>To support sustainable transport alternatives to the motor car.</p> <p>To promote the efficient use of car parking spaces through the consolidation of car parking facilities.</p> <p>To ensure that car parking does not adversely affect the amenity of the locality.</p> <p>To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.</p>
Clause 52.17 (Native vegetation)	<p>To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the <i>Guidelines for the removal, destruction or lopping of native vegetation</i> (Department of Environment, Land, Water and Planning, 2017) (Native Vegetation Guidelines):</p> <ol style="list-style-type: none"> 1. Avoid the removal, destruction or lopping of native vegetation. 2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided. 3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation. <p>To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.</p>
Clause 53.01 (Public open space contribution)	<p>A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the <i>Subdivision Act 1988</i>.</p>

Clause	Relevant purposes
Clause 56 (residential subdivision)	<p>To implement the Municipal Planning Strategy and the Planning Policy Framework.</p> <p>To create liveable and sustainable neighbourhoods and urban places with character and identity.</p> <p>To achieve residential subdivision outcomes that appropriately respond to the site and its context for:</p> <ul style="list-style-type: none"> - Metropolitan Melbourne growth areas - Infill sites within established residential areas - Regional cities and towns <p>To ensure residential subdivision design appropriately provides for:</p> <ul style="list-style-type: none"> - Policy implementation - Liveable and sustainable communities - Residential lot design - Urban landscape - Access and mobility management - Integrated water management - Site management - Utilities

C:3 Ministerial Directions, Planning Practice Notes and guides

Ministerial Directions

The Explanatory Report discusses how the Amendment meets the relevant requirements of Ministerial Direction 11 (Strategic Assessment of Amendments) and *Planning Practice Note 46: Strategic Assessment Guidelines*, August 2018 (PPN46). That discussion is not repeated here.

i) Ministerial Direction on the Form and Content of Planning Schemes, under Section 7(5) of the Planning and Environment Act 1987

This Direction sets out the layout and mandatory information that must be included in a planning scheme and also applies to amendments to planning schemes.

ii) Ministerial Direction 1: Potentially Contaminated Land

This Direction requires the responsible authority to ensure that potentially contaminated land is suitable for a use which is proposed to be allowed under an amendment to a planning scheme and which could be significant adversely affected by contamination.

iii) Ministerial Direction 9: Metropolitan Planning Strategy

This Direction requires the responsible authority to ensure that planning scheme amendments have regard to the Metropolitan Planning Strategy by setting out necessary requirements.

iv) Ministerial Direction 11: Strategic Assessment of Amendments

This Direction requires the responsible authority to ensure a comprehensive strategic evaluation of a planning scheme amendment and the outcomes it produces.

v) Ministerial Direction 19: Amendments that may result in impacts of the environment, amenity and human health

Direction 19 recognises the preventative value of EPA’s early involvement in strategic land use planning and requires planning authorities to seek the views of the EPA in the preparation of planning scheme reviews and amendments that could result in use of development of land that may result in significant impacts on the environment, amenity and human health due to pollution and waste.

Planning Practice Notes

i) Planning Practice Note 46: Strategic Assessment Guidelines, September 2022

Provides a consistent framework for preparing and evaluating a proposed planning scheme amendment.

ii) Planning Practice Note 30: Potentially Contaminated Land

Provides guidance for planners and applicants on:

- how to identify potentially contaminated land
- the appropriate level of assessment of contamination in different circumstances
- appropriate provisions in planning scheme amendments
- appropriate conditions on planning permits.

iii) Planning Practice Note 91: Using the residential zones

Provides information and guidance about how to use:

- the residential zones to implement strategic work for housing and neighbourhood character
- use local policies and overlays to complement the residential zones
- make use of key features in the residential zones.

Practitioner’s Guide

A Practitioner’s Guide to Victorian Planning Schemes Version 1.5, April 2022 (Practitioner’s Guide) sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy
- a provision is necessary and proportional to the intended outcome and applies the Victorian Planning Provisions (VPP) in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.

Appendix D Panel preferred version of the NRZ7

[Tracked Added](#)

~~Tracked Deleted~~

SCHEDULE 7 TO CLAUSE 32.09 NEIGHBOURHOOD RESIDENTIAL ZONE

Shown on the planning scheme map as **NRZ7**.

NORVEL ESTATE

1.0 Neighbourhood character objectives

- ~~• To ensure that new development reflect the preferred neighbourhood character of the surrounding area~~
- To support a diversity of housing stock typology consisting of detached dwellings, villa units and townhouses.
- To ensure a green and leafy identity through visual dominance of landscaping along street alignment.
- To provide vegetated front setbacks with no front fencing or the use of low, visually permeable front boundary treatments which enhance the spaciousness and strong avenue planting of the streetscapes.
- To maximise the opportunities to create high quality landscaping through minimal paving and the use of permeable ground surfaces.

2.0 Minimum subdivision area

None specified.

3.0 Permit requirement for the construction or extension of one dwelling or a fence associated with a dwelling on a lot

VPP table label	
Permit requirement for the construction or extension of one dwelling on a lot	None specified.
Permit requirement to construct or extend a front fence within 3 metres of a street associated with a dwelling on a lot	None specified.

4.0 Requirements of Clause 54 and 55

	Standard	Requirement
Minimum street setback	A3 and B6	Context: The site is on a corner Minimum setback from a side street: Side walls of new development on a corner site should be setback the same distance as the setback of the front wall of any existing building on the abutting allotment facing the side street or 1.5 metres, whichever is the lesser.
Site coverage	A5 and B8	None specified.
Permeability	A6 and B9	None specified.

Landscaping	B13	<p>Provision of a minimum of one canopy tree within the front setback per 5 metres of width of the site (excluding the width of one driveway).</p> <p><u>A dwelling should have at least one canopy tree within the front setback for every 5 metres of the width of the street frontage (excluding the width of the driveway).</u></p> <p>Each tree should be surrounded by 20 square metres permeable surface with a minimum radius of 23 metres. Up to 50 per cent of the permeable surface may be shared with another tree.</p>
Side and rear setbacks	A10 and B17	None specified.
Walls on boundaries	A11 and B18	<p>The height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1 metres of a side or rear boundary should not exceed an average of 3.6 metres with no part higher than 4.0 metres unless abutting a higher existing or simultaneously constructed wall.</p> <p><u>None specified.</u></p>
Private open space	A17	None specified.
	B28	None specified.
Front fence height	A20 and B32	<p>Streets in a Road Zone Category 1: 2 metres</p> <p>Other streets: 1.2 metres</p>

5.0 Maximum building height requirement for a dwelling or residential building

None specified.

6.0 Application requirements

~~The following application requirements apply to an application for a permit under Clause 32.09, in addition to those specified in Clause 32.09 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority.~~

- ~~• For developments of five or more dwellings and for residential buildings, a report which demonstrates how the proposal will be accessible to people with limited mobility.~~
- ~~• For developments of three or more dwellings and for residential buildings, an application must be accompanied by a Sustainable Design Assessment.~~

None specified.

7.0 Decision guidelines

The following decision guidelines apply to an application for a permit under Clause 32.09, in addition to those specified in Clause 32.09 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:

- Whether the layout and appearance of areas set aside for car parking storage, including garages and carports are sensitively designed and sited to not dominate the streetscape by including the following features:
 - Locate carports and garages behind the line of the dwellings or in the rear yard
- How vehicle crossovers are located and minimised in number to prevent traffic disruption, and preserve nature strips and street trees.
- Whether the built form and development complements the landscape setting by including the following features:

- Minimises hard paving throughout the site by limiting driveway widths and lengths, providing landscaping on both sides of driveways, and restricting the extent of paving within open space areas.
- Maximises planting opportunities adjacent to the street by reducing the impact of hard paving and building encroachment within the front setback.
- Whether the development accommodates landscaping opportunities within front setbacks for the planting of small and medium indigenous canopy trees.

Appendix E Panel preferred version of the planning permit

[Tracked Added](#)

~~Tracked Deleted~~

ADDRESS OF THE LAND:

29Q and 29R Norvel Road, FERNTREE GULLY VIC 3156
(Lots 1 & ~~RES12~~ on ~~PS915838NTP963860L & Lot 1 on TP297137X~~)

THE PERMIT ALLOWS:

Staged subdivision (~~including 138 residential lots~~), development of pathways, removal of native vegetation, and associated works

in accordance with the endorsed Plan(s)

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Amended Plans

1. [Before any stage of the plan of subdivision is certified](#) ~~Prior to certification of any stage of the plan of subdivision~~ and [before the commencement of](#) any buildings and works [start](#) including removal of vegetation, amended plans must be submitted 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 generally in accordance with the submitted plans but modified to show:
 - a) Amended subdivision layout plan, consistent with the relevant requirements of ~~C~~conditions 5, 6, and ~~2618~~ of this permit, which includes the following changes:
 - i. A building envelope on Lot 52 with a [minimum](#) size of 10 metres by 15 metres, [unless otherwise agreed to by the Responsible Authority. The building envelope must also demonstrate compliance with the relevant setback requirements of Condition 26](#) ~~that is setback 3 metres from the western boundary. If this cannot be achieved, then lots 51 and 52 may have to consolidated, realigned or the size of lot 52 increased.~~
 - ii. Removal of on-street car parking bays affecting vehicle movements at intersections of Road E/F, A/E, B/A, Norvel Road and Road H, and the bend of Dion Street-Road G/F and Road B/C;
 - iii. The bend at Dion Street-Road G/F must have an outer radius rather than a sharp 90-degree angle;
 - iv. Crossovers to Lots 1, 31, and 32 to [demonstrate compliance with Condition 66](#) ~~be relocated as much as practical to be clear of the intersection;~~
 - v. Building setbacks consistent with the requirements of condition ~~2618~~;

- vi. Showing garden area calculation and demonstrating that minimum garden area can be achieved for lots less than 400sqm~~7.2~~.
 - vii. Pram ramp footpath connection for pedestrian access across Norvel Road at the new intersection with Road H and the footpath on the eastern side of Road H to connect with the crossover of 60 Norvel Road~~7.2~~.
 - viii. Pram ramp footpath connection across Norvel Road at either side McMahons Road intersection on the eastern side and the western side~~7.2~~.
 - ix. The nature strip verge for Road H increased to 2.4 metres on both sides~~7.2~~.
 - x. A crossover from Road C and Castricum Place to enable emergency vehicle to enter the removable bollard emergency access from these roads~~7.2~~.
 - xi. The location of Tree 132 corrected.
 - xii. [Requirements from AusNet as per Condition 40.](#)
 - xiii. Requirements from the CFA as per Condition ~~47~~**8**.
- b) A subdivision staging plan.
 - c) A plan showing vegetation removal.

Layout not altered

- 2. The subdivision, ~~buildings and~~ works, and extent of native vegetation removal, as shown on the endorsed plans, must not be altered except with the prior written consent of the Responsible Authority.
- 3. Unless otherwise agreed to by the Responsible Authority, works associated with the approved subdivision must only commence when all detailed plans associated with the particular stage are approved by the Responsible Authority and once commenced, these works must be undertaken and completed in accordance with the endorsed detailed plans to the satisfaction of the Responsible Authority prior to the issue of a Statement of Compliance.

Sequencing of staging

- 4. The subdivision must proceed in the order of stages as shown on the endorsed plan unless otherwise agreed in writing by the Responsible Authority.

Engineering Plans Required

- 5. ~~Prior to the certification of a plan of subdivision~~ [Before the plan of subdivision is certified](#), detailed engineering construction plans prepared by a qualified Civil Engineering Consultant must be submitted for all works and approved by the Responsible Authority for each stage of the subdivision. [Once approved, these plans become the endorsed plans of this permit.](#) Construction plans must be clearly dimensioned and detail all roads, pathways, drainage works (including WSUD - Water-Sensitive Urban Design) and computations (to AHD – Australian Height Datum). Three copies and digital formal (AutoCAD and .pdf) must be provided. The detailed plans must be generally in accordance with the endorsed plan, including the ~~S~~stormwater ~~M~~management ~~P~~lan (Cardno V161919 dated 25 May 2021), and show:
 - a) Any changes required under Condition 1.

- b) Tree protection zone for all trees being retained with annotation that services works within tree protection zone must be thrust bored.
- c) CFA requirements at Condition 48~~42~~, ~~53~~47, and ~~54~~48.

Drainage

- d) Details of stormwater management, including provision for all stormwater to be directed to the legal point of discharge for each lot as per Knox City Council's Civil Works and Stormwater Drainage Guidelines for subdivisions~~;~~
- e) Functional design of the sedimentation basin, retarding basin, wetlands and any other WSUD system in the subdivision~~;~~
- f) Stormwater directed into the Melbourne Water's drainage system must do so only with the consent of Melbourne Water and must meet their requirements~~;~~
- g) Water Sensitive Urban Design treatments.
- h) Maintenance regime for the stormwater treatment system that include activity description, frequency and ongoing maintenance, management responsibility and a checklist for handover to Council~~;~~
- i) A design and construction schedule of the stormwater treatment/detention system.
- j) All Council pipelines must be designed for 10% Annual Exceedance Probability (AEP) event.
- k) The minimum pipe diameter for the drainage system must be 300mm.

Road and footpath

- l) Details including surface and underground drainage, intersections, pavement and footpath/shared path details, street lighting, fire hydrants, vehicle crossovers, line marking, street signage, concrete kerbs and channels and outfall drainage~~;~~
- m) Swept path diagrams for junctions, bends, and hammerhead turning areas to ensure suitable access for all vehicles, including emergency vehicles, to turn and remain free of encroachment or obstructions, including on-street car parking~~;~~
- n) The location and design depth and composition of pavement, including raised traffic islands and speed control devices~~;~~
- o) Proposed traffic calming ~~treatment mid-block devices and speed humps, including speed humps~~ in the detailed design for Road A ~~and H~~~~;~~
- p) Right angle bends require a painted centre line and raised reflective markers to separate traffic travelling in opposite directions including give-way signage and surface treatment design to accentuate priority traffic along Road E/F and A/E at the junction of the north-east access cul-de-sac and Road D and support pedestrian movement across Road D~~;~~
- q) A minimum 8 metres is required for kerb returns at bends. The kerb between the North-East access lane and Road E must be altered to show an 8 metre radius~~;~~
- r) The location of all services and cables to be underground and the annotation that all services works within Tree Protection Zone must be thrust bored~~;~~
- s) The location of all "no parking" and "Street name" and various traffic signage. No parking must be provided on the residential side of Road C and D. Street signage, such as

“No Through Road” along Norvel Road must be relocated to the satisfaction of the Responsible Authority;

- t) A fully mountable splitter island must be constructed at the intersection of McMahons Road and Norvel Road to the satisfaction of the Responsible Authority;
- u) If construction is done in stage, turnaround provision for waste collection vehicles must be provided where roads are not yet completed;
- v) Cross sections for roads and access lanes to be provided; ~~and~~.

On-street car parking plan

- w) Details of on-street car parking including CFA requirements at Condition ~~4942~~;
- x) Parking restrictions limiting on-street parking to only one side on the narrower Access Place type roads with preference of the no parking to be located on the residential side; ~~and~~;
- y) Waste bin collection points to be designated for each lots to show planned access for garbage collection.

Bicycle path, ~~and~~ trail, ~~and~~ bushland track

- ~~z) Detail bushland boardwalk location and construction design including the location of existing vegetation;~~
- z) Detail of construction of bike path, and maintenance trail to Agora Blvd, including that paths and trails located within tree protection zone must be constructed above grade;
- aa) Removable bollard at either end of the trail to Agora Boulevard to limit vehicle access to maintenance and emergency vehicles only.

Street Lighting

- bb) Details of Street Lighting type and location, provided to the satisfaction of the relevant authority and in accordance with AS1158. This must include a lighting to all intersections, bends in the road and at the end of roads.
- cc) Street lighting to be incorporated at both end of the Pedestrian Link between Road A and H.
- dd) Lighting along the bushland reserve frontage (Road E, Road D, and the end of Road F) to consider measures that avoid any light spilling to the bushland reserve.

~~To the satisfaction of the Responsible Authority. Once approved, these plans become the endorsed plans of this permit.~~

Landscape ~~ing~~ Plan ~~Required~~

- 6. ~~Before~~ ~~Prior to the~~ certification of a plan of subdivision for any stage, a detailed landscape ~~ing~~ plan prepared by a suitably qualified landscape architect ~~or a suitably qualified landscape designer~~ must be ~~submitted to and~~ approved ~~by the Responsible Authority~~ for all reserves, including road reserves and public spaces, relevant to that stage ~~by Responsible Authority~~. Once approved, the plan will be endorsed and then form part of the Planning Permit. A digital format (.pdf) must be provided generally in accordance ~~with the City of Knox Landscape Plan Guidelines~~, the Landscape Report Revision I 02/03/2023

prepared by Urbis [and the Arboricultural Report Revision April 2023 prepared by Treemap Arboriculture](#) and modified to show:

- a) Any changes required under Condition 1.
- b) Streetscape and reserve designs detailing location of water sensitive urban design features, garden beds, location of street furniture, the position of street lighting, fire hydrants, side entry and service pits, pathways within reserves, electricity substations and planting of vegetation.
The species and planting size of trees must be selected to the satisfaction of the Responsible Authority.
- c) The planting species are to be modified as:
 - i. Tilia cordata to be changed to Nyssa Sylvatica 'Forum';
 - ii. ~~Nyssa sylvatica is a more adaptable species to a warming climate;~~
 - iii. Acer platanoides 'Norwegian Sunset' to be changed to [Eucalyptus melliodora 'Yellow Box'](#). ~~Acer truncatum x A. platanoides 'Warrenred' Pacific Sunset. Norwegian sunset cultivar is not available anymore.~~
 - iv. The Eucalyptus melliodora planting area have the following understorey species additions to add to diversity/beauty:
 - a. Allocasuarina littoralis, Acacia pravissima, Kunzea ericoides, Leptospermum petersonii, Bursaria spinose;
 - v. Northern end planting (area that abuts bushland reserve) to be changed to ~~the native tree species~~, Angophora hispida (Dwarf Apple);
 - vi. Angophora hispida to be planted on the northern side of Road E and Road D, spaced at 12 metre centres to incorporate the 5 metre canopy separation when they reach maturity.
- d) Delineation of the bushfire defendable space area and proposed planting schedule and location within the defendable space area modified to accord with bushfire management requirements as per condition [5144](#).
- e) No street tree for lots 137 and 138 to meet bushfire defendable space requirement.
- f) The street trees on the south side of Road E and along Lot 52 moved to the north side of Road E and D to meet bushfire defendable space requirement.
- g) The opportunity for a second canopy tree to be located at the northern end of Road H to help frame the dead end to the road.
- h) A planting schedule of all proposed trees, shrubs and ground covers including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant, to be planted within the nature strip and reserves.
- i) Details of the surface finishes of roads, pathways, tracks, and bike path.
- j) Annotation that all services works within Tree Protection Zone must be thrust bored and bike path within tree protection zone must be constructed above grade.
- k) Details and location of all services including above and below ground lines, cables, hydrants and pipes (including as cross-section) with annotation that all services to be located at a minimum depth of 600mm within road reserves;
- l) The location of Tree 132 corrected; ~~and~~.
- m) Trees to be retained and their respective tree protection zones (reserves only).

- n) A minimum 1.8 metre high paling or steel fence (or similar) along the eastern boundary where the proposed residential lots adjoin existing residential lots.

~~To the satisfaction of the Responsible Authority. Once approved, these plans become the endorsed plans of this permit.~~

General

7. ~~Prior to~~ Before a Statement of Compliance is issued for Stage 1 ~~the issue of a Statement of Compliance for Stage 1,~~ the owner/~~developer~~ of the land must pay to the Responsible Authority Council a financial contribution towards stormwater management which must be to the satisfaction of the Responsible Authority ~~and construction of the bushland boardwalk to the satisfaction of the Responsible Authority.~~
8. The contribution required to be paid in accordance with Condition 7 is the difference between the cost of a typical stormwater management treatment solution which meets *Urban Stormwater: Best Practice Environmental Management Guidelines, CSIRO 1999* targets and the cost of the approved stormwater management treatments as approved by the Responsible Authority. The owner of the land must submit the cost to the Responsible Authority for its approval.
- ~~To determine the financial contribution amount, the owner/developer must provide the Responsible Authority with a cost estimate for the design and construction of stormwater management treatments and the bushland boardwalk including any associated sign.~~
9. ~~Prior to the issue of~~ Before a Statement of Compliance is issued for each stage, the following works must be completed or bonded in accordance with approved plans to the satisfaction of the Responsible Authority:
- ~~stormwater drainage;~~
 - ~~roads and lighting;~~
 - ~~traffic devices;~~
 - ~~car parking and access ways must be drained, sealed and line marked;~~
 - ~~footpaths, bike path, trails, and pram crossings;~~ ~~and~~
 - ~~landscaping.~~
10. ~~Prior to any works commencing~~ Before the works start within Council Bushland reserve and Seecal reserve, Council's Biodiversity Officer must be contacted to arrange an inspection of the works area.

Native Vegetation

11. Before work starts, a Land Management Plan for the bushland reserve must be approved and endorsed by the Responsible Authority. The Land Management Plan must:
- be prepared to the satisfaction of the Responsible Authority
 - include protection and management measures to improve the ecological condition of retained native vegetation
 - respond to State and local policy to protect and enhance Victoria's biodiversity.
 - respond to the environmental objective and decision guidelines in Environmental Significance Overlay Schedule 2.

- c) be informed by survey work undertaken at appropriate time of year, including an assessment of indigenous plant species that are vulnerable, endangered or critically endangered in Knox.
- d) identify and include opportunities for seed collection and translocation of plants impacted by the proposal.
12. Before the works start, the permit holder must advise all persons undertaking the vegetation removal and works on site of all relevant conditions of this permit.
13. In order to offset the removal of 0.391 hectares of native vegetation approved as part of this permit, the applicant must provide a native vegetation offset ~~that meets the following requirements and is~~ in accordance with the Biodiversity Assessment prepared by Ecolink Consulting dated September 2023 and the Guidelines for the removal, destruction or lopping of native vegetation. ~~Permitted clearing of native vegetation – Biodiversity assessment guidelines and the Native vegetation gain scoring manual:~~
- The general offset must:
- ~~e~~Contribute offset amount of 0.126 general habitat units,
 - ~~b~~Be located in Knox municipal district, if available, or within the Port Phillip and Westernport Catchment Management Authority boundary ~~or Knox municipal district;~~
 - ~~h~~Have a strategic biodiversity score of at least 0.202.
14. ~~Prior to~~Before the removal of any native vegetation and the issue of a Statement of Compliance, evidence that the required offset for the project has been secured must be provided to the satisfaction of the Responsible Authority.

Tree Protection ~~Conditions~~

15. ~~Prior to~~Before any buildings and works, subdivision works, and vegetation removal commencing, all trees and vegetation to be retained and the bushland reserve must be fenced off with barrier fencing to create a protection zone. The tree protection zone must be a minimum radius of 12x the diameter of the trunk, measured at a height of 1.4 metres from the ground as identified in the Australian Standard for the protection of trees (AS 4970-2009). ~~The fence is to be maintained and clearly marked throughout the construction period and removed at the completion of all works.~~
16. All works, including excavation and fill, within the tree protection zone areas of the trees to be retained, within and adjacent to the site including reserves, must be undertaken under the supervision of a qualified Arborist to ensure that there is no unreasonable damage to the root system of trees to be retained and/or protected, to the satisfaction of the Responsible Authority.
17. The tree protection fence is to be chain link or wire mesh, comprise either wooden or steel posts set into the ground or on concrete pads, and be a minimum height of 1.8 metres.
18. Signage is to be affixed to the fence advising that the area is a tree protection zone and a no-go development area.
19. The tree protection fence and signage is to be maintained throughout the construction period and removed at the completion of all works.

20. No temporary removal of the tree protection fence, or encroachment into the protection zone is permitted without the written consent of the responsible authority.
21. Trees are to be watered thoroughly prior to construction works commencing and throughout the period of construction works to the satisfaction of the Responsible Authority.
22. No materials, vehicle, equipment, waste, soil or other goods must be stored or placed within the tree protection zone.
23. ~~Prior to~~ Before any works start commencing on site, the Responsible Authority must be contacted to inspect the Tree Protection fencing.
24. Entry and exit pits for underground services must not be constructed within the tree protection zone of native tree.

Cultural Heritage Management Plan ~~Conditions~~

25. Works must be conducted in accordance with the requirements of the approved Cultural Heritage Management Plan (approved CHMP No. 18338).
- ~~26. Except with the prior written consent of the Responsible Authority, the Cultural Heritage Management Plan must not be modified.~~

Section 173 Agreement

26. ~~Prior to the issue of~~ Before a Statement of Compliance is issued, the owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 Agreement of the Planning and Environment Act 1987 and provide evidence to the Responsible Authority that the agreement has been registered on the certificate of title for the land. The agreement will stipulate ~~the following~~ building design requirements that apply to the development of future dwellings on the land unless otherwise approved by the Responsible Authority, as follows:-

Front Setbacks

- a) Front walls of a building must be setback a minimum of:
 - i. 5.5 metres from a street frontage for lots facing Castricum Place
 - ii. 4 metres from a street frontage for lots on the northern side of "Road B" shown as Lots 33 to 40 on the attached plan. ~~No encroachment within the front setbacks are allowed for these lots.~~
 - iii. The distance set as defensible space for the lots affected by bushfire defensible space as shown on the endorsed plans and as a restriction on the plan of subdivision. No encroachment within the defensible space is ~~are~~ allowed for these lots.
 - iv. 4.5 metres from a street frontage for all other lots.
- b) Any encroachment into the front street setback of point (i.), (ii.) and (iv.) above must be limited to the following structure provided it encroaches no more than ~~0.5~~ 1.0 metres into the specified setback distances:
 - i. porches, pergolas and verandahs that are less than 3.6 metres in height;

- ii. decks, terraces, landings, stairways, ramps, eaves, window hoodings, sunblinds, fascias, gutters, masonry chimneys, flues, pipes, and domestic services normal to a dwelling.

Front Setbacks for garages or carports

- c) Front walls of a car parking structure (such as garages and carport) must be setback a minimum of:
 - i. 0.5 metres from the front wall of the building for lots facing Castricum Place.
 - ii. 5.4 metres from a street frontage and at least 0.5 metres behind the front wall of the building for all other lots.

Side Setbacks

- d) Side walls of a building on a corner lot must be setback a minimum of 1.5m from a side street frontage. No encroachment within the side street setback is allowed.

Rear Setbacks

- e) Rear walls of a building must be setback a minimum of 3 metres from the rear boundary for all lots except for:
 - i. Lots 33-40 inclusive.
 - ii. [Lot 52](#)
 - iii. Lots 113-138 inclusive.
- f) Rear walls of a building for lots 113-138 inclusive must be setback a minimum of 5 metres from the rear boundary.
- g) Any encroachment into the rear setback of point d) and e) above must be limited to the following structure provided it does not encroach within the minimum radius of the large feature shrubs required under point f):
 - i. porches, pergolas and verandahs that are less than 3.6 metres in height;
 - ii. terraces, patios, decks, landings that are less than 800mm in height, stairways, ramps, eaves, fascia or gutter, water tanks, and domestic services normal to a dwelling;
 - iii. outbuildings that does not exceed a gross floor area of 10 square metres.

Lot 138

- h) The dwelling on Lot 138 should be single storey. However, if a double storey building is proposed, the upper level must meet the following requirements:
 - i. setback by at least 3 metres behind the ground floor north and west wall façade to ensure a recessive second storey element.
 - ii. The upper level setback means the recess above the ground floor wall calculated as the shortest horizontal distance from the top of the ground floor wall. It does not include projection such as balconies. Any balconies located within this setback must be clear to the sky.
- i) The wall of a building must be setback a minimum of 3.8 metres from the northern boundary and 2 metres from the part of the western boundary that does not constitute part of a street frontage.

- j) Regardless of point ~~(#-h)~~ above, no building and works, other than fencing, are allowed in the tree protection zone of any tree. An arboricultural report will be required to determine the tree protection zone of any tree encroaching onto Lot 138 and tree protection fencing must be installed prior to any works commencing on this lot.
- k) The western boundary fence with the bushland reserve must be no more than 1.2 metres in height.
- l) The northern boundary fence with the bushland reserve must be no more than 1.2 metres in height for the first 12 metres from the western boundary.

Front Boundary

- m) Front fences are not allowed on a road frontage or within 3 metres of a road frontage (excludes side boundaries).
- n) No structures are allowed within 200 millimetres of a footpath in the road reserve.

One Crossover per Lot

- o) Only one (1) crossover per lot is allowed. The crossover must not exceed a width of 3 metres but may be merged with that of an adjoining lot provided that it results in no more than one (1) crossover per lot.

Landscaping

- p) Each lots (apart from for lots 33 – 44) must be provided with a minimum of one (1) small canopy tree in accordance with Knox’s Landscape Plan Guidelines (as amended) with a mature height of 5-8 metres, and be located within the front setback. Each tree should be surrounded by 20 square metres permeable surface with a minimum radius of ~~3~~2 metres. This requirement does not apply to lots 52, 87-91 inclusive, 137, and 138 subject to bushfire management.
- q) Each of lots 33-44 must be provided with a minimum of one (1) small canopy tree in accordance with Knox’s Landscape Plan Guidelines (as amended) with a lesser area of permeable surface and lesser radius than would otherwise be required under Condition 26p), to the satisfaction of the Responsible Authority.
- r) Each lots must be provided with a minimum one (1) large feature shrubs in accordance with Knox’s Landscape Plan Guidelines (as amended) with a mature height of 4-5 metres within the rear setback of each lot. Each large feature shrubs should be surrounded by ~~15~~12 square metres permeable surface with minimum radius of ~~2~~1.5 metres. This requirement does not apply to Lots 52 and 138.
- s) The planted canopy trees and large feature shrubs must be maintained to the satisfaction of the Responsible Authority and must not be removed.

Lots less than 400 square metres in area

- t) A minimum garden area of 25 percent must be set aside in accordance with the Knox Planning Scheme.

~~Bushfire Management – Lots 52, 87 to 91, 137 to 138~~

- ~~u) The development and management of defendable space on lots 52, 87 to 91 inclusive, and 137-138 must be in accordance with the endorsed Bushfire Management Plan. All costs associated with the preparation and registration of the agreement must be borne by the owner of the land.~~

Walls on boundary

- u) The height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1 metres of a side or rear boundary should not exceed an average of 3.6 metres with no part higher than 4.0 metres unless abutting a higher existing or simultaneously constructed wall.

~~All costs associated with the preparation and registration of the agreement must be borne by the owner of the land.~~ The owner of the land must pay all of the Responsible Authority's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

Defendable Space

27. The defendable space on lots 52, 87 to 91 inclusive, and 136-138 must at all times be undertaken in accordance with the endorsed Bushfire Management Plan and the plan of subdivision must include a restriction to this effect.

Telecommunications

28. The owner of the land must enter into an agreement with:
- A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; ~~and,~~
 - A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
29. Before ~~the issue of~~ a Statement of Compliance for any stage of the subdivision is issued under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
- A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; ~~and,~~
 - A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Road naming

30. ~~Prior to the~~ Before the certification of any stage, proposed naming for all new roads must be submitted to and approved by the Responsible Authority with the approved names to be then applied on the Plan of Subdivision for certification.

Names must be in accordance with the Naming rules for places in Victoria [2022] to the satisfaction of the Responsible Authority. Road G must be named as continuation of Dion Street.

Public Open Space

~~31. A contribution to the Council for public open space must be required pursuant to Section 18A of the Subdivision Act 1988 and Clause 52.01 of the Knox Planning Scheme.~~

Site and Environmental Management Plan

31. ~~Prior to~~Before the commencement of any ~~any~~ works start for a relevant stage on the subject land, a Site and Environmental Management Plan to the satisfaction of the Responsible Authority must be submitted and approved by the Responsible Authority. The Site and Environmental Management Plan will be endorsed and form part of the permit. The Site and Environmental Management Plan must address and document as appropriate, the construction activities proposed on the land under the following heading:

- a) Occupational health and safety and site induction, environmental controls, traffic management, amenity and safety of the public as well as site security, and cultural protection measures applicable to the site during construction.

The Site and Environmental Management Plan must include:

- b) Environmental Management:
 - i. Soil erosion and sediment control provisions to protect existing local stormwater infrastructure, Blind Creek and the bushland from erosion product and sediment transport by minimising erosion of lands during work~~;~~
 - ii. Measures to prevent construction fill encroaching on or being placed within the bushland~~;~~
 - iii. Measures to protect and manage retained native vegetation, including fencing where appropriate.
 - iv. Protection measures to ensure that disturbance to native flora and fauna habitat is avoided in the first instance, ~~and~~ and minimised where avoidance is not possible.
 - v. Measures to avoid the introduction or spreading of pest and plant animals, including measures to target noxious weeds. ~~with appropriate contingencies incorporated to prevent the potential for the introduction of exotic flora and fauna species is abated;~~
 - vi. Specific measures for any works related to the bushland reserve or Seecal Reserve must be included and must include the notification of Council's Biodiversity Officer prior to any works commencing~~;~~
 - vii. Hydraulics and hydrology provisions to manage water quality and quantity, and protect the habitat value of Blind Creek (measures used should include the installation of a perimeter fence to protect the waterway prior to the commencement of works)~~;~~
 - viii. Tree protection in accordance with Conditions ~~13~~15 to ~~17~~24.
 - ix. Any recommendations of any approved Cultural Heritage Management Plan (if applicable)~~;~~
 - x. The plan must ensure that contractor working on the site are inducted to this Site and Environmental Management Plan prior to conduct any works around or within the bushland reserve.

c) Site Management

- i. Identifying access and egress opportunities for emergency vehicles, workers, and early residents of approved stage in case of emergency;
 - ii. Relevant Country Fire Authority requirements ~~as per conditions 33 and 36;~~
 - iii. All machinery wash-down area, personnel rest areas and parking;
 - iv. Waste management measures during construction;
 - v. Measures to reduce the impact of noise, dust and other emissions created during the construction process including measures to prevent dirt being tracked onto surrounding roads by vehicles;
 - vi. If requested by the Responsible Authority at any stage, a contamination assessment for a site with suspected contamination must be provided for the relevant stage to the satisfaction of the Responsible Authority;
 - vii. Traffic Management identifying the access and egress access point(s) for construction vehicles and detailing the measures to ensure amenity of the adjoining areas is not impacted by the movement of vehicles (cars, trucks and construction machinery) associated with construction activities on the site.
32. The endorsed Site and Environmental Management Plan must be implemented and maintained throughout the construction to the satisfaction of the Responsible Authority and all works must be carried out in accordance with the measures set out in the approved Site and Environmental Management Plan unless otherwise agreed in writing by the Responsible Authority.
33. ~~Prior to~~ Before the ~~commencement of any~~ works start on site, an inspection by Council's Environmental Officer must be carried out to determine compliance with the Site and Environmental Management Plan.

South East Water Conditions (reference: 35707694)

South East Water – Water and Sewer

34. The owner of the subject land must enter into an agreement with South East Water for the provision of drinking water supply and fulfil all requirements to its satisfaction.
35. The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.
36. All lots on the Pplan of Ssubdivision must be provided with separate connections to South East Water drinking water supply and sewerage systems.

South East Water – Certification

37. ~~Prior to~~ Before certification, the Pplan of Ssubdivision must be referred to South East Water, in accordance with Section 8 of the Subdivision Act 1988.
38. The certified Pplan of Ssubdivision ~~will need to~~ must show sewerage supply easements over all existing and/or proposed South East Water sewer mains located within the land, to be in favour of South East Water Corporation pursuant to Section 12(1) of the Subdivision Act.

AusNet Services Conditions

39. The ~~P~~plan of Ssubdivision submitted for certification must be referred to AUSNET ELECTRICITY SERVICES PTY LTD in accordance with Section 8 of the Subdivision Act 1988.
40. The applicant must:
- a) Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for supply of electricity to each lot on the endorsed plan.
 - b) Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for the rearrangement of the existing electricity supply system.
 - c) Enter into an agreement with AUSNET ELECTRICITY SERVICES PTY LTD for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by AUSNET ELECTRICITY SERVICES PTY LTD.
 - d) Provide easements satisfactory to AUSNET ELECTRICITY SERVICES PTY LTD for the purpose of "Power Line" in the favour of "AUSNET ELECTRICITY SERVICES PTY LTD" pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing AUSNET ELECTRICITY SERVICES PTY LTD electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
 - e) Obtain for the use of AUSNET ELECTRICITY SERVICES PTY LTD any other easement required to service the lots.
 - f) Adjust the position of any existing AUSNET ELECTRICITY SERVICES PTY LTD easement to accord with the position of the electricity line(s) as determined by survey.
 - ~~g) Adjust the position of any existing AUSNET ELECTRICITY SERVICES PTY LTD easement to accord with the position of the electricity line(s) as determined by survey.~~
 - g) Set aside on the plan of subdivision Reserves for the use of ~~AUSNET ELECTRICITY SERVICES PTY LTD for~~ electric substations to the satisfaction of AUSNET ELECTRICITY SERVICES PTY LTD.
 - h) Provide survey plans for any electric substations required by AUSNET ELECTRICITY SERVICES PTY LTD and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. AUSNET ELECTRICITY SERVICES PTY LTD requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
 - i) Provide to AUSNET ELECTRICITY SERVICES PTY LTD a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.
 - j) Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by AUSNET ELECTRICITY SERVICES PTY LTD. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998.
 - k) Ensure that all necessary auditing is completed to the satisfaction of AUSNET ELECTRICITY SERVICES PTY LTD to allow the new network assets to be safely connected to the distribution network.

Melbourne Water Conditions (reference: MWA-1164280)

Melbourne Water Certification

~~41. Prior to Certification of any stage of this subdivision, Melbourne Water requires that the applicant submit a detailed Drainage and Stormwater Management Strategy for approval, which demonstrates how stormwater runoff from the subdivision will achieve flood protection standards and State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater. The strategy should also include information regarding the future ownership and maintenance requirements of any proposed assets.~~

41. Unless otherwise agreed in writing by the relevant drainage authority, the subdivision must retard stormwater back to pre-development levels before entering the downstream drainage system/waterway and/or retard stormwater back to the sufficient capacity of the downstream drainage system.
42. Stormwater runoff from the subdivision must achieve State Environment Protection Policy (Waters of Victoria) objectives for environmental management of stormwater as set out in the 'Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999'.

Melbourne Water – stormwater connection

43. ~~Prior to the commencement of~~ Before the works start, a separate application direct to Melbourne Water must be made for approval of any new or modified stormwater connection to Melbourne Water's drains or watercourses, works near or over a Melbourne Water asset and/or waterway crossing.

Melbourne Water – Drainage and Stormwater Management Strategy

44. Before the works start, a detailed Drainage and Stormwater Management Strategy to the satisfaction of Melbourne Water is to be submitted and approved by Melbourne Water. The strategy is to demonstrate how stormwater runoff from the subdivision will achieve flood protection standards and State Environment Protection Policy (Waters of Victoria) objectives for the environmental management of stormwater. The strategy must consider flows from external catchment areas when determining how the development will achieve flood protection standards. The strategy also include information regarding future ownership and maintenance requirements of any proposed stormwater assets.

Melbourne Water - Statement of Compliance

45. ~~Prior to the issue of~~ Before a Statement of Compliance is issued, engineering plans of the subdivision (in electronic format) must be forwarded to Melbourne Water.

Multinet Condition

46. A Statement of Compliance must be obtained from Multinet Gas prior the plan of subdivision being released from the Titles Office.

CFA Conditions (reference: 13000-68738-107873)

CFA – Amended plans

47. ~~Prior to~~ Before ~~the certification of~~ any stage of the plan of subdivision is certified, amended plans must be submitted and show:
- a) All roads are designed to ensure the road width is constructed as specified in Table C1 of Clause 56.06-8 of the Knox Planning Scheme for an Access Lane and clear of encroachments, such as on-street parking.
 - b) Plans that show the design and location of on-street parking to ensure that the parking bays do not encroach onto the road and hinder the movement of emergency vehicles.
 - c) Plans that demonstrate the turning bays can accommodate emergency vehicles to manoeuvre in accordance with the requirements set out in CFA's Requirements for Water Supplies and Access for Subdivisions, 2006.
 - d) The provision of removable bollards between Road H and Road F for the purposes of access for emergency vehicles.

CFA – Fire management plan

48. A Fire Management Plan must be submitted and approved by the Responsible Authority prior to development starting that identifies how the bushfire risk will be managed during each Stage of the subdivision and what stage the various bushfire protection measures will be relied upon for the application.
49. Before ~~the certification of~~ the plan of subdivision is certified, a Bushfire Management Plan must be submitted to and endorsed by the Responsible Authority. The plan must show the following information, unless otherwise agreed in writing by the CFA and the Responsible Authority:
- a) The design and layout of the subdivision, including lot layout, road design and access points, both pedestrian and vehicular.
 - b) The location of nearby hazards within 150m of the subdivision boundary.
 - c) The location of any bushfire hazards that will be retained or created on the land within the subdivision.
 - d) The location of any areas of vegetation within the subdivision not located on private land that will be managed to a low threat condition, including the reserves.
 - e) The setback distance of any development from the bushfire hazard for defendable space purposes where vegetation will be managed.
 - f) Notations of vegetation management standards and when vegetation management will occur i.e. annually, quarterly, during the fire danger period.
 - g) Vegetation must be managed within any area of defendable space to the following standard:
 - i. Grass must be short cropped and maintained during the declared fire danger period.
 - ii. All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
 - iii. Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.

- iv. Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
 - v. Shrubs must not be located under the canopy of trees.
 - vi. Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
 - vii. Trees must not overhang or touch any elements of the building.
 - viii. The canopy of trees must be separated by at least 5 metres.
 - ix. There must be a clearance of at least 2 metres between the lowest tree branches and ground level.
- h) Details of any other bushfire protection measures that are to be adopted at the site.
 - i) Nominate that any building on a new lot will be required to be designed and constructed to a minimum standard of Bushfire Attack Level (BAL) 12.5.

CFA – Building envelope

50. Any lot that contains defensible space must include a building envelope that ensures development will not be allowed within the area of defensible space.

CFA – Construction and site management plan

51. Before ~~commencement of the~~ works start, a Bushfire Site Management Plan that addresses bushfire risk during, and where necessary, after construction must be submitted and approved by the responsible authority. The plan must specify, at minimum:
- a) The staging of development and the likely bushfire risks from surrounding hazards at each stage;
 - b) An area of land between the development edge and bushfire hazard consistent with the separation distances specified in AS3959-2018, where bushfire risk is managed to enable the development, on completion, to achieve a BAL-12.5 construction standard in accordance with AS3959-2018;
 - c) The land management measures to be undertaken by the developer to reduce the risk from fire within any surrounding rural or undeveloped landscape to protect residents and property from the threat of grassfire and bushfire; ~~and~~.
 - d) Provision of adequate access and egress for Stage One subdivisions to minimise grass and bushfire risks to new residents prior to the full completion of the subdivision.

CFA - Hydrants

52. ~~Prior to the issue of~~ Before a Statement of Compliance is issued under the Subdivision Act 1988 the following requirements must be met to the satisfaction of the CFA:
- a) Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
 - b) The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Note –CFA’s requirements for identification of hydrants are specified in ‘Identification of Street Hydrants for Firefighting Purposes’ available under publications on the CFA web site (www.cfa.vic.gov.au)

CFA - Roads

53. Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
- a) The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.
 - b) Curves must have a minimum inner radius of 10 metres.
 - c) Have a minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.
 - d) Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.

CFA – Maintenance of defensible space

54. Before the Statement of Compliance is issued under the Subdivision Act 1988, the defensible space on every lot in the subdivision must be implemented and maintained as specified on the endorsed Bushfire Management Plan, unless otherwise agreed in writing by the CFA and the Responsible Authority.

Drainage/Construction ~~Conditions~~

55. All stormwater drainage runoff from the site must be properly collected and discharged in a complete and effective system of drains within the subdivision and connected to the legal point of discharge as directed by the Responsible Authority. It must not cause a nuisance to abutting properties. The internal drains of the proposed lots are to be independent of the internal drains of other lots.
56. ~~Prior to~~ Before the ~~issue of a~~ Statement of Compliance is issued, any damage caused to the existing drainage system during the installation of the new property inlet must be repaired or replaced to the satisfaction of the Responsible Authority.

Payments and Maintenance Bonds

57. ~~Prior to~~ Before a ~~the issue of a~~ Statement of Compliance is issued, the owner/developer must pay to the Council a payment for supervision of works being 2.5% of the value of all works shown on the Engineering and Landscape Plans and a payment for checking of Engineering and Landscape Plans being 0.75% of all works shown on the engineering plan.
58. ~~Prior to~~ Before the ~~issue of a~~ Statement of Compliance is issued, the owner/developer must lodge with Council:
- a) A refundable maintenance bond being 5% of the value of all works shown on the engineering plan; ~~and~~.

- b) A refundable outstanding works bond being the value of all works to be completed plus 50%.

The Developer is responsible for the maintenance of the completed construction works and such works must be kept in good condition for a period of three months.

(A priced Bill of Quantities must be supplied to Council to validate the value of works as shown on the plan. This is used to determine the amount of the engineering fees and maintenance bond and provides a record of the value of Councils assets).

Bond Return

59. ~~Prior to~~Before the ~~issue of a~~ Statement of Compliance is issued or the return of maintenance bonds in respect to the subdivision works – whichever is the later, the owner or developer must submit to Council the following information (whichever are applicable) in an electronic format agreed by the Knox City Council:
- Subdivision plans showing title boundaries, road reserves, municipal reserves and easements etc.
 - As constructed engineering plans in electronic format relating to roads, drains and other infrastructure constructed in conjunction with the subdivision.
 - Areas where fill exceeding 150 millimetres has been placed.

Incomplete works Bond return

60. ~~Prior to~~Before the return of the incomplete works bond, Council will inspect the works and determine if these works have been constructed in accordance with the approved design and specifications to the satisfaction of the Responsible Authority. Should these works be satisfactory, the incomplete bond will be returned and a practical completion certificate will be issued by the Responsible Authority.

Asset Protection

61. ~~Prior to~~Before the ~~issue of a~~ Statement of Compliance is issued for any stage of the development, the developer must be responsible for the reinstatement and repair of any damage, and costs of all alterations to the Knox City Council and any other Public Authority assets deemed necessary and required by such Authorities for the development/subdivision. Re-instatement or modification of assets as directed by the Responsible Authority will be required or compensation to the value of Council's loss must be paid.

Fencing of reserves

62. ~~Prior to~~Before the ~~issue of a~~ Statement of Compliance is issued, any fencing along the common boundary between a lot and a reserve or walkway or existing lot as shown on the subdivision and detailed endorsed plan must be designed and erected to the satisfaction of the Responsible Authority.

Fencing between lot 138 and the bushland reserve must be in accordance with the requirement of Condition ~~2618(f)~~.

63. All costs associated with the provision of the fencing are to be borne by the owner/developer under this permit.

Final Compliance Inspection

64. ~~Prior to~~Before the ~~issue of a~~ Statement of Compliance is issued a final inspection by Council's Surveillance Officer must be carried out to verify the completion of works in accordance with the Engineering Plans, to Council's standards and satisfaction.
65. ~~Prior to~~Before the ~~issue of a~~ Statement of Compliance is issued a final inspection by Council's Enforcement Officer must be carried out to verify the completion of landscaping in accordance with the Landscape Plans, to Council's standards and satisfaction.

Vehicle crossing

66. ~~Prior to~~Before the ~~issue of a~~ Statement of Compliance is issued, vehicle crossings must be constructed to service all lots and any vehicle crossing no longer required must be returned to nature strip to the satisfaction of the Responsible Authority. All crossovers must be 10 metres clear of an intersection, 3 metres clear of all street trees and 1 metres clear of all other assets in the road reserve.

Public Space trees

67. Nursery stock must be inspected and approved by a suitably qualified arborist or horticulturalist before planting and a report from this suitably qualified arborist or horticulturalist declaring that the nursery stock complies with the relevant Australian Standard, must be provided to the satisfaction of the Responsible Authority.
68. Following the planting of trees within the road reserves and open space reserves, an inspection must be arranged with representatives of the applicant, the landscape contractor appointed by the applicant and Knox City Council Parks Services and Landscape Officer who when satisfied will issue a Certificate of Practical Completion.
69. Trees and landscaping works within the road reserves, open space reserves and all landscaping within the development must be maintained at no cost to Knox City Council for a period of two years following the date of issue of the Certificate of Practical Completion. At the end of this period and following another inspection, Council will determine if the landscaping is satisfactory. Should the landscaping be satisfactory, the landscape bond will be returned if applicable, a Final Completion will be issued and at this point the maintenance responsibility will be assumed by Knox City Council.
70. The two-year maintenance of the trees must include formative pruning 12 months after planting to the satisfaction of the Responsible Authority.
71. ~~Prior to~~Before the ~~issue of a~~ Statement of Compliance is issued, for the final stage, the Developer must pay to the Council a street tree maintenance bond fee of \$350.00 per tree within the final stage.
72. Protection of Council's street trees must be in accordance with the Australian Standard for the protection of trees (AS 4970-2009) to the satisfaction of the Responsible Authority.

Street Lighting

73. ~~Prior to~~Before the ~~issue of a~~ Statement of Compliance is issued, street lighting must be provided to the satisfaction of the relevant authority and in accordance with AS 1158 and the endorsed plans. Non Standard street lighting will be accepted provided it is to the satisfaction of the Responsible Authority.

Permit expiry

74. The permit will expire if any of the following circumstances applies:

- a) The plan of subdivision for the first stage of the subdivision is not certified under the Subdivision Act 1988 within two (2) years of the date of this permit.
- b) The plan of subdivision for the subsequent stage is not certified under the Subdivision Act 1988 within two (2) years of certification of the previous stage.
- c) The registration of the plan of subdivision for each stage is not completed within five (5) years of the date of Certification under the Subdivision Act 1988 of that stage.
- d) The ~~buildings and~~ works, including removal of vegetation, ~~component~~ has not commenced within seven (7) years of the date of issue of the permit.
- e) The ~~buildings and~~ works, including removal of vegetation, ~~component~~ has not been completed within nine (9) years of the date of issue of the permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or in accordance with Section 69 of the Planning and Environment Act 1987.

NOTATIONS:

Melbourne Water Notes (Stormwater Management Plan)

- Assessment of the ~~S~~stormwater ~~M~~management ~~Plan~~strategy indicates that pre-developed flows have been overestimated as the storage of the current site has not been accounted for. Approximately 3.5-4 ha of water of the existing site will be held in storage due to the large depressions on the site, hence pre-developed 1% AEP flows have been overestimated. The ~~S~~stormwater ~~Management Plan~~strategy will need to account for the current storage on the site, update the pre-developed 1% AEP flow and update the detention volume required.
- Due to the size of the subdivision and the external catchment area, internal drainage and stormwater requirements will be to the satisfaction of Council as the relevant local drainage authority. It is advised to council that consideration be given to the following:
 - Flows from the external catchment should be conveyed through the new subdivision.
 - Properties finished floor levels should be set 300mm above the applicable 1% AEP flood level associated with any overland flow through the subdivision.
 - Safe access for the subdivided properties should be provided in accordance with the relevant standards in the *DELWP Guidelines for Development in Flood Affected Areas* (considering the roads running south-north will be used for 1% AEP flow conveyance).
- ~~In order to receive further review/approval of the stormwater management strategy, please submit an updated strategy addressing the above requirements via the Melbourne Water website.~~

Knox City Council Notes

- All utility services (drainage, sewer) are to be verified onsite by the applicant/developer prior to the commencement of any works.
- No buildings are permitted to be constructed over Council easements.
- A road opening permit from Council is required for any works within the road reserve, including the nature strip.
- Vehicle crossing must be constructed in accordance with Council's standard drawings, specifications and vehicle crossing policy.

- This permit does not discharge an occupier from any liability relating to the construction, maintenance or the repair of a dividing fence, pursuant to the provisions of the Fences Act 1968 (as amended).
- ~~A contribution to the Council for public open space must be required pursuant to Section 18A of the Subdivision Act 1988 and Clause 53.01 of the Knox Planning Scheme.~~