

Application Referral Environmental Development Planner - Response

From:	Rowan Moore Environmental Development Planner 22 May 2018
Recommendation:	Proposal is acceptable subject to conditions.
Date Completed:	
Address:	6 BROUGHTON AVENUE, MOUNT NELSON 8 BROUGHTON AVENUE, MOUNT NELSON
Proposal:	Multiple Dwellings
Application No:	PLN-18-178
Assessment Officer:	Michaela Nolan,

Referral Officer comments:

Codes Applicable:

Code	Applicable	Exempt	Permitted	Discretionary
E1.0 Bushfire-Prone Areas	Yes	No	Yes	
E3.0 Landslide	No			
E9.0 Attenuation	No			
E10.0 Biodiversity	Yes	No	No	Yes - E10.8.1 P1
E11.0 Waterway & Coastal	No			
E15.0 Inundation Prone Areas	No			
E16.0 Coastal Erosion	No			
E18.0 Wind & Solar Energy	No			
E20.0 Acid Sulfate Soils	No			

Assessment:

Approval is sought to combine two lots known as 6 and 8 Broughton Avenue and construct three dwellings on the new 2074m² lot.

The lots were recently created under subdivision permit PLN-16-00407. Part 5 Agreement E72102 applies to the land as a result of that subdivision approval. The Part 5 Agreement requires compliance with a bushfire hazard management plan and tree retention plan, and prohibits certain building features that pose a risk of bird collisions.

Bushfire Prone-Areas Code

The Bushfire Code applies because subdivision is proposed within a bushfire-prone area. A bushfire report and bushfire hazard management plan were submitted with the application. The

relevant standards are under section E1.6.

The application complies with acceptable solution E1.6.1 A1(b) (hazard management areas) because the certified BHMP shows the building areas would have HMAs with the dimensions required to achieve BAL-19.

The application complies with acceptable solution E1.6.2 A1(b) (access) because the certified BHMP demonstrates that private access will comply with Table E2.

The application complies with acceptable solution E1.6.2 A1(c) (water supply) because the certified BHMP demonstrates that water supply will comply with Table E4.

The Part 5 Agreement will need to be amended to remove the requirements of the existing BHMP for the new lot.

Biodiversity Code

The majority of the existing vegetation on the site has been approved for removal under the bushfire plan for the previous subdivision. That approval however, did require the retention of a number of the most significant habitat trees on the site. The trees on these two lots are shown relative to the proposed building footprints in Figure 1 below.

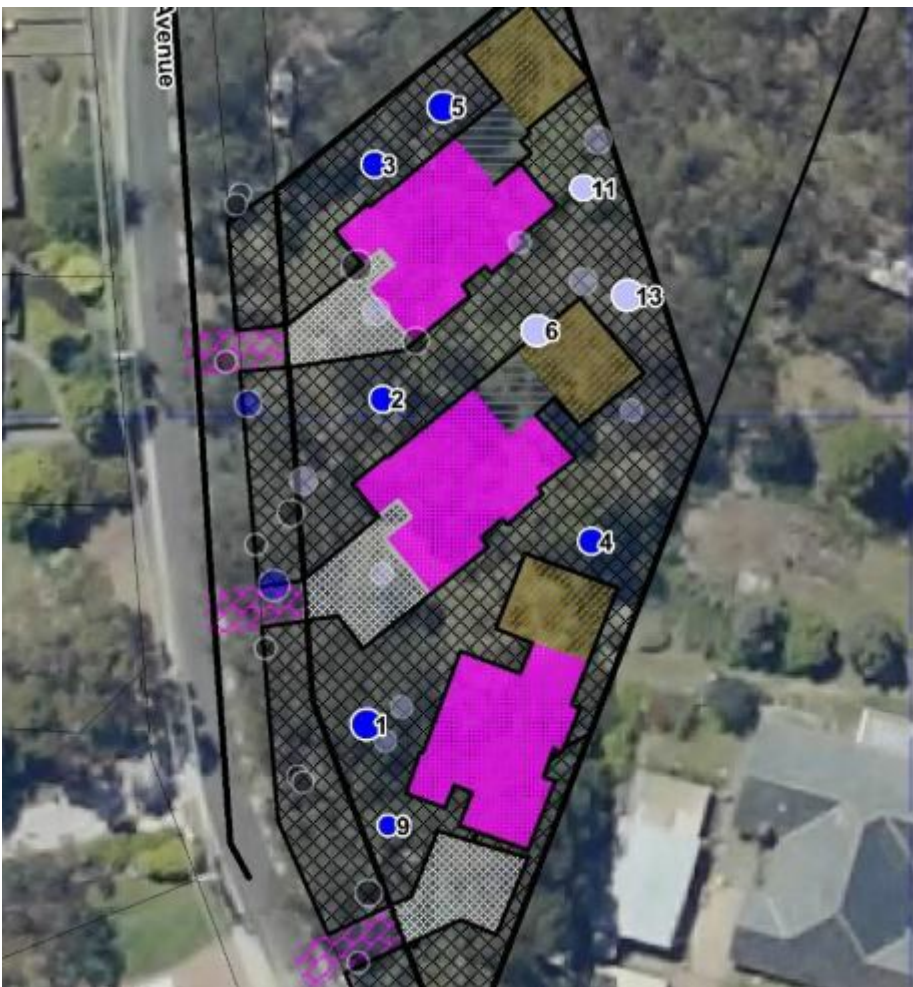


Figure 1: Trees on the site required to be retained under Tree Retention Plan (numbered dots)

Three of the trees required to be retained under the tree retention plan (2, 3 and 5) are located close to proposed Unit 1 or its driveway (refer to Figure 1 below). An additional tree on the TRP (tree 6) is located close to the building footprint of Unit 2. These were identified as being of moderate priority biodiversity significance under Table E.10.1 of the Code.

A statement from an ecological consultant, supported by an arborist's assessment, was submitted with the application discussing potential impacts upon these trees as a result of root damage. With regard to tree 6, the statement indicates that the incorrect tree has been shown on the plan and that the moderate biodiversity value tree from the original assessment will not be impacted by the current proposal. With regard to trees 2, 3 and 5 (labelled as trees 4, 1 and 2 on the site plan and arborist's report), the statement indicates that these trees will not be unduly affected by the proposed development, based on the arborist's assessment and subject to the arborist's recommendations being implemented.

The arborist's report states the following with regard to the two trees to the north of proposed Unit 1:

It appears that the current proposal places the northern most dwelling within proximity to tree 1 and 2. Given that there has already been significant soil disruption and compaction, I recommend that works go no closer than 4.5m from the edge of the trunk of tree 1, and 5m from tree 2. To provide adequate water and oxygen for both these trees, I would also recommend that the wall closest to the trunks is built on a post footing, opposed to a traditional strip footing.

If the building cannot be offset these distances, I suggest that an absolute minimum of 3m is achieved from each tree. If this occurs, subsurface irrigation and mulch should be placed in the tree protection zones and beneath the dwelling. The irrigation should be utilised during development and extended dry periods. The subsurface system should be installed according to manufacturer's recommendations¹.

To avoid further compaction, I would install fencing around these trees for the duration of the works so that machinery does not enter the tree protection zone. This area should also be free from any works associated with the development including: the storage of fill, dumping of contaminants, or any changes to the existing soil level.

The submitted plans show a minimum offset of 3.0m from Unit 1. Subsurface irrigation and mulching will therefore be required as well as post footings for the northern wall of Unit 1 to protect these trees.

With regard to tree number 2 on the tree retention plan (labelled tree 4 on the site plan and in the arborist's report), the arborist's report states the following:

Tree 4 may be impacted through the development of the driveway. It appears that there will need to be some fill placed so the cross over will be at a suitable grade to meet the driveway. To limit the impact on this tree I suggest that no fill is placed within 4.5m of this tree and if the existing soil level is to become carpark, the medium covering this is a permeable surface which will allow water and oxygen to reach the roots.

No fill over tree protection zone for this tree is evident in the submitted drawings and the area of driveway is shown as being as permeable surface.

As the application proposes both development and subdivision, the standards in both section E10.7.1 'Buildings and Works' and in section E10.8.1 'Subdivision' must be satisfied.

With regard to E10.7.1, given that removal of the majority of the vegetation on the site has been approved under the original subdivision approval, and subject to implementation of the

arborist's recommendations, the application is considered compliant with acceptable solution A1(c) which states the following:

(c) the development is other than for a single dwelling on an existing lot within the Low Density Residential Zone, Rural Living Zone or Environmental Living Zone and:

- (i) clearance and conversion or disturbance is confined to Low Priority Biodiversity Values;*
- (ii) the area of clearance and conversion is no more than 1,000 m²;*
- (iii) the area of disturbance is no more than 1,000 m²;*

Conditions are recommended to ensure the arborist's recommendations are implemented.

With regard to E10.8.1, the proposal does not comply with the acceptable solution. Given that only 'low priority biodiversity values' will be affected (subject to the above conditions), the relevant part of the performance criterion is P1(a) which states the following:

Clearance and conversion or disturbance must satisfy the following:

(a) if low priority biodiversity values:

- (i) development is designed and located to minimise impacts, having regard to constraints such as topography or land hazard and the particular requirements of the development;*
- (ii) impacts resulting from bushfire hazard management measures are minimised as far as reasonably practicable through siting and fire-resistant design of habitable buildings...*

There would be little additional impact upon the low priority vegetation on the site from the proposed three dwellings as opposed to development of the two existing lots within the two building envelopes specified in the existing BHMP. The application is therefore considered consistent with the performance criterion.

Part 5 Agreement

Bushfire Hazard Management Plan

The proposal will not comply with the Agreement BHMP so the Agreement should be amended to remove the BHMP's application to these lots if the development is approved and is the permit implemented.

Tree Retention Plan

The TRP will need to be amended to correct the mistake in the identification of one of the significant trees.

Bird-Strike Mitigation

The Part 5 Agreement specifies the following:

ensure that no buildings are constructed on the Land which contain:

- (ii) corner windows;
- (iii) transparent glass balustrades;
- (iv) external glazing with a visible light reflectivity greater than 15% if that glazed area exceeds 2 metres squared and/or more than three metres in height, unless that glazed area is an openable window fitted with mesh screens; and
- (v) unobstructed sight lines through the building between external glazing elements which exceed 2m² and/or 3 metres in height;

unless the consent in writing of the Planning Authority is first obtained.

The plans appear consistent with these requirements although some glazed areas on the northern/north-eastern elevations will need to use glazing of no more than 15% reflectivity.

Recommended Conditions:

An approved Construction Tree Protection Plan must be implemented.

A Construction Tree Protection Plan must be submitted and approved, prior to the commencement of works or the granting of building consent (whichever occurs first). The Construction Tree Protection Plan must:

- 1. be prepared by a suitably qualified person;**
- 2. be generally in accordance with the recommendations in the letter from Alister Hodgman dated 24 January 2018;**
- 3. show the tree protection zones (TPZs) where works are to be excluded for the trees specified for retention in the Tree Retention Plan included in Part 5 Agreement E72102, except that the incorrectly identified tree noted in the letter from North Barker dated 30 January 2018 should be corrected;**
- 4. specify fencing requirements for the tree protection zones to delineate areas where works are to be excluded**
- 5. show the location and extent of earthworks, underground services building footprints and any other works or development are to be carried out;**
- 6. show the area where no filling is to occur and permeable surfacing must be used under tree 4 shown on Site Plan 01;**
- 7. show the area where subsurface irrigation is to be installed and where mulch is to be applied under trees 1 and 2 shown on Site Plan 01;**
- 8. include details of the subsurface irrigation and mulching requirements for trees 1 and 2 shown on Site Plan 01; and**
- 9. specify the irrigation regime to be implemented during construction works.**

All work required by this condition must be undertaken in accordance with the approved Construction Tree Protection Plan.

Advice: Once the Construction Tree Protection Plan has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Where building approval is also required, it is recommended that documentation for condition endorsement be submitted well before submitting documentation for building approval. Failure to address condition endorsement requirements prior to submitting for building approval may result in unexpected delays.

Reason for condition

To ensure the development does not result in unnecessary or unacceptable loss of priority biodiversity values

The Tree Retention Plan referred to in Part 5 Agreement E72102 must be amended.

An amended Tree Retention Plan must be submitted and approved prior to the granting of building consent. The amended Tree Retention Plan must:

- 1. correct the location of the significant tree referred to in the letter from North Barker dated 30 January 2018; and**
- 2. provide details of ongoing subsurface irrigation and mulching requirements for trees 1 and 2 shown on Site Plan 01 (and marked as trees 3 and 5 in the Tree Retention Plan) as recommended in the letter from Alister Hodgman dated 24 January 2018.**

Advice: Once the Tree Retention Plan has been approved the Council will issue a condition endorsement (see general advice on how to obtain condition endorsement).

Where building approval is also required, it is recommended that documentation for condition endorsement be submitted well before submitting documentation for building approval. Failure to address condition endorsement requirements prior to submitting for building approval may result in unexpected delays.

Reason for condition

To ensure the development does not result in unnecessary or unacceptable loss of priority biodiversity values

Part 5 Agreement E72102 must be amended prior to the issue of the Certificate of Title for the new lot.

The Agreement must be amended as follows:

- 1. the Tree Retention Plan attached to the existing Agreement must be replaced with the amended Tree Retention Plan; and**
- 2. the Agreement must require the owners of the new lot to implement the requirements of the Bushfire Report and Bushfire Hazard Management Plan dated 26 April 2018 rather than the requirements of the Bushfire Report and Bushfire Hazard Management Plan dated 24 August 2016 upon substantial commencement of the development approved by this permit.**

Advice: Once the Tree Retention Plan has been approved the Council will issue a condition

endorsement (see general advice on how to obtain condition endorsement).

Where building approval is also required, it is recommended that documentation for condition endorsement be submitted well before submitting documentation for building approval. Failure to address condition endorsement requirements prior to submitting for building approval may result in unexpected delays.

Reason for condition

To ensure the development does not result in unnecessary or unacceptable loss of priority biodiversity values

Recommended Advice:

N/A