

Objection to Planning permit application PP-284-2022 at 16 Donax Road, Corio

Thank you for the opportunity to comment on the proposed planning permit application, number PP-284-2022 at 16 Donax Road, Corio.

I live at 10 Shoubra Drive in Highton.

I formally object to the abovementioned development application, as permitted in Section 57(1) of the *Planning and Environment Act 1987* on the basis and for the reasons stated in detail below.

In summary, I object to the application on the following grounds:

1. The application does not comply with the provisions of the Greater Geelong Planning Scheme¹ in that it
 - a. fails to appropriately accurately describe the site;
 - b. does not provide the minimum garden area required when a dwelling or residential building is constructed on a lot in General Residential Zone (GRZ4); and
 - c. fails to mitigate the risks associated with climate change and its impact on residents.

Responding to section 57(2) of the *Planning and Environment Act 1987*, this communication states the reasons for the objection before indicating how the objector would be affected by the grant of the permit.

1. The reasons for the objection:

1. **Non-compliance with Clauses 55.01-1 and 56.01-1**

The application does not comply with the formal requirements contained in **Clauses 55.01-1 and 56.01-1**.

Introduction

The Greater Geelong Planning Scheme includes the following purposes for **Clause 55**:

‘To implement the Municipal Planning Strategy and the Planning Policy Framework’; and

‘To encourage residential development that provides reasonable standards of amenity for existing and new residents’.

To this end, **Clause 55.01** requires applications to construct two or more dwellings on a lot to be accompanied by a neighbourhood and site description and a design response.

Clause 55-01-1 specifies that the required subdivision site and context description ‘must accurately describe’, in relation to the site, in particular and pertinent to this application,

Location of significant trees existing on the site and any significant trees removed from the site 12 months prior to the application being made, where known.

As for **Clause 56**, the Greater Geelong Planning Scheme includes the following purposes:

‘To implement the Municipal Planning Strategy and the Planning Policy Framework’;

‘To create liveable and sustainable neighbourhoods and urban places with character and identity’; and

¹ References to the Greater Geelong Planning Scheme as at 17 March 2022, the date of the application recorded in the Public Application.

‘To ensure residential subdivision design appropriately provides for liveable and sustainable communities’.

To this end, **Clause 56** requires applications to subdivide land to be accompanied by a site and context description and a design response.

Clause 56-01-1 specifies that the required subdivision site and context description ‘must accurately describe’, in relation to the site, in particular and pertinent to this application,

The natural features including trees and other significant vegetation, drainage lines, water courses, wetlands, ridgelines and hill tops.

The wording of **Clause 56.01** qualifies the other vegetation to be described as ‘significant’. However, it does not qualify the word trees. Therefore, the site description must include an accurate description of all the trees, regardless of size/age/significance, on the site.

Discussion

The application contains the following documents that pertain to vegetation **on** the site:

1. The Revised Plan Set includes a folio, Neighbourhood and Site Description Plan, that broadly marks the canopy trees.
2. Section 02 (Site and Surrounds) in the Planning Report Assessment describes the review site as follows: ‘The private open space of the property is spacious and bushy in character, with lawn cover, shrubs and canopy trees.’

Admittedly, **Clauses 55.01-1** and **56.01-1** allow for the use of photographs for site description. However, even when the Neighbourhood and Site Description Plan is discounted, the application is lacking in information and specificity. **Clause 55.01-1** requires a description of the ‘Location of significant trees existing on the site and any significant trees removed from the site 12 months prior to the application being made, where known.’ The site contains several medium to large, arguably significant, trees. Most of which are boundary trees. A vague statement that goes no further than stating that there are canopy trees on the site is inadequate.

Why is this cause for an objection?

The particular provisions contained in **Clauses 55 and 56** serve to facilitate the implementation of the Municipal Planning Strategy contained in **Clause 21** of the Planning Scheme as well as compliance oversight with the specific provisions of **Clauses 55 and 56**.

Clause 21.06-6 (Neighbourhood character) to ‘Retain existing vegetation wherever possible, particularly vegetation that contributes to the municipality’s tree canopy.’

Without a compliant site description, it is not possible to appropriately assess the trees to determine whether the application is consistent with the objectives and strategies of **Clause 21.06-6**. In particular, it is not possible to assess the application against the strategy to retain existing vegetation, particularly vegetation that contributes to the municipality’s tree canopy to ensure ‘liveable and sustainable neighbourhoods’.

Villawood Homes Pty Ltd v Greater Geelong CC [2020] VCAT 840 provides a convincing argument for the importance of Clause 21.06-6: VCAT declined a permit application for a staged subdivision for failing to properly and appropriately consider tree retention on the review site. The written decision makes it very clear that the application failed specifically because of the failure to appropriately respond to Clause 21.06-6. Member Deidun found that ‘it appears that there has been no real thought given to which trees are suitable to be retained on site’ [26]. He also indicated that he was not ‘persuaded that this development

has appropriately analysed which of the existing trees are suitable for retention, and how their retention can be incorporated into the design for the review site' [33].

This application (PP 284-2022), in particular, the sweeping statement on page 3 of the Planning Report Assessment, does not provide any evidence that the applicant considered the retention of any trees, in particular, trees that contribute to the municipality's tree canopy. In short, none of the trees on the site are appropriately described nor considered for retention.

The **objectives** of **Clause 55.03-8** include 'To encourage the retention of mature vegetation on the site'.

The **Decision Guidelines** determine that the responsible authority **must** inter alia consider the following before deciding on an application:

- The health of any trees to be removed.
- Whether a tree was removed to gain a development advantage.

The absence of an accurate description of, at the very least, the significant tree(s) on the site also means that the responsible authority cannot comply with the Planning Scheme provisions by considering the health of any trees to be removed or whether a tree was removed to gain a development advantage before deciding the application. Notably, although the applicant's proposal states that it would ensure sufficient open space is provided to allow for the planting of canopy trees, and the BESS Report relies on water efficient landscaping, no landscape application accompanies the application.

Conclusion

The permit should not be awarded as the application fails to describe trees properly and appropriately on the review site. Consequently, the site description does not meet the specific requirements set out in **Clauses 55.01-1 and 56.01-1**.

2. **Non-compliance with minimum garden area requirements:**

The application likely fails to meet the minimum garden area requirement of 35% set out in **Clause 32.08-4**.

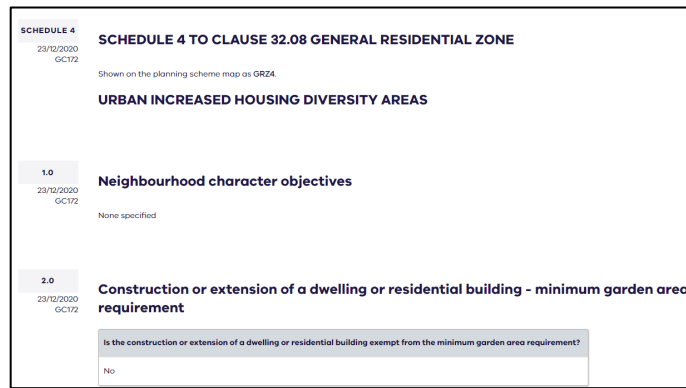
Introduction

Clause 32.08-4 (Construction or extension of a dwelling or residential building) sets out minimum garden area requirements in General Residential Zones. Sites bigger than 650 square metres require a minimum garden area of 35%.

Discussion

The applicant, in the Planning Report Assessment specifically refers to the location of the review site in an Increased Housing Diversity Area (General Residential Zone (GRZ4)) 'which is recognised as an equivalent strategic plan' to justify non-compliance with the minimum garden area requirement. The planning provisions the applicant refers to, Schedule 4 to Clause 32.08: URBAN INCREASED HOUSING DIVERSITY AREAS, came into effect on 23 December 2020 and regulates IHDA's across Geelong.

Clause 2.0 of the Schedule, at the time this application was submitted and currently, clearly states that construction or extension of dwellings or residential buildings are **NOT** exempt from the minimum garden area requirement:



A 1114.8sqm site, therefore, must have at least 35% garden area.

Neither the Planning Report Assessment nor the Revised Plan Set contain clear information on the garden area of the proposed development. Consequently, as with the lack of information regarding the trees on the site, the application fails to provide the information required to enable the planning officer or any resident who may be affected, to adequately and appropriately assess the application. Arguably, the lack of this information constitutes non-compliance with the notice requirements in Part 4 of the *Planning and Environment Act 1987*.

Conclusion

The application should be rejected for failure to comply with the minimum garden area requirements contained in **Clause 32.08-4**.

3. Mature vegetation retention and/or environmentally sustainable and climate responsive building and landscape design

The application proposes to remove all the vegetation on the site, including the existing canopy trees. By not retaining mature vegetation on the site, the application does not respond to the Planning Framework’s broad goal to deliver environmentally sustainable and climate responsive building and landscape design. Especially, it fails to mitigate the risks associated with climate change and its impact on residents.

With specific reference to **Clause 55**, the application fails to achieve the landscaping objective to encourage the retention of mature vegetation on the site contained in **Clause 55.03-8**. In doing so, the application fails to meet **Standard B13** to ‘Provide a safe, attractive and functional environment for residents.’

Furthermore, the application does not align with the strategy in **Clause 21.06-6 (Neighbourhood character)** to ‘Retain existing vegetation wherever possible, particularly vegetation that contributes to the municipality’s tree canopy.’

Introduction

State legislation, higher order planning provisions as well as specific planning provisions require planning application to ensure the safety, health and well-being of residents and visitors.

The *Planning and Environment Act 1987* (the Act) is the legislative basis of the planning system in Victoria. Pertinent to this application, section 4(1) which sets out the objectives of planning, includes ‘to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria’ (**section 4(1)(c)**); and ‘to balance the present and future interests of all Victorians’ (**section 4(1)(g)**).

Section 4(2) of the Act includes enabling ‘easy’ integration of land use and development planning with environmental, social, economic conservation and resource management

policies at State regional and municipal levels’ (**section 4(2)(c)**) and ‘to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land’ (**section 4(2)(d)**) as objectives of the planning framework established by the Act.

Furthermore, environmental sustainability is fundamental to the Geelong Planning Scheme. Not only is it a key element of the *Municipal Strategic Statement* (MSS) at **Clause 21**, but it is also elevated as an outcome in operational **Clause 71.02-3**.

Clause 71.01-1 explains the importance of the MSS contained in **Clause 21**. It provides an overview of important local planning issues in an introductory context, sets out the vision for future use and development in the municipality and establishes strategic directions about how the municipality is expected to change through the implementation of planning policy and the planning scheme.

Clause 21.01, the introduction to the MSS, includes planned sustainable development, specifically ‘Sustainable development that supports population growth and protects the natural environment.’

Clause 21.03 contains the **Municipal Planning Framework** which ‘sets out the overarching objectives, strategies and implementation mechanisms that will guide land use and development across the municipality.’ The Clause determines that the ‘Municipal Planning Framework should be reviewed by all persons considering the use and development of land in the City of Greater Geelong, regardless of where that land is located.’ The Municipal Planning Framework is structured around the four key land use themes identified in the State Planning Policy Framework (SPPF). Notably, the first key land use theme, Natural Environment, specifically includes Climate Change.

Several other provisions in the Greater Geelong Planning Scheme require inclusion of environmental and sustainability as well as resident and visitor safety, health and well-being considerations when assessing planning applications. The non-exhaustive list below provides some examples:

- Although the review site is not located within a growth zone, the reference to its proximity to Corio Shopping Centre merits drawing attention to **Clause 11.03-2S (Growth areas)** which includes a strategy to ‘Respond to climate change and increase environmental sustainability.’
- **Clause 13 (Environmental risks and Amenity)** requires planning to
 - ‘strengthen the resilience and safety of communities by adopting a best practice environmental management and risk management approach.’
 - ‘identify, prevent and minimise the risk of harm to the environment, human health, and amenity through...Effective controls to prevent or mitigate significant impacts.’
 - ‘prepare for and respond to the impacts of climate change.’
- The objective of **Clause 13.01-1S (Natural hazards and climate change)** is ‘minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning.’ Strategies include to
 - ‘Consider the risks associated with climate change in planning and management decision making processes.’
 - ‘Identify at risk areas using the best available data and climate change science.’
 - ‘Ensure planning controls allow for risk mitigation or risk adaptation strategies to be implemented.’

- 'Site and design development to minimise risk to life, property, the natural environment and community infrastructure from natural hazards.'²
- **Clause 15.01-1S (Urban design)** requires planning to 'create urban environments that are safe, healthy, functional and enjoyable...' and the strategies include requiring development to 'respond to its context in terms of character, cultural identity, natural features, surrounding landscape and **climate**.
- **Clause 15.01-2S (Building design)** includes a strategy to 'Encourage development to retain existing vegetation.'
- The objective of **Clause 15.01-3S (Subdivision design)** is to 'ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.'
- **Clause 15.02-1S (Energy and resource efficiency)** states its objective as encouraging 'land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.' Strategies include to
 - 'Improve the energy, water and waste performance of buildings and subdivisions through environmentally sustainable development.'
 - 'Reduce the urban heat island effect by greening urban areas, buildings, transport corridors and open spaces with vegetation.'
 - 'Encourage retention of existing vegetation and planting of new vegetation as part of development and subdivision proposals.'

Moreover, since July 2021, the decision guidelines contained in **Clause 65** require the consideration of the effect of the proposed development on the environment and on human health.

Particularly pertinent to this application,

- **Clause 55.03-8 (Landscaping objectives)** includes the objective to 'encourage the retention of mature vegetation on the site.' **Standard B13** requires landscape layout and design to 'Provide a safe, attractive and functional environment for residents.'

Discussion

The site has a well-established garden with a variety of mature vegetation, including several significant trees (excluding the public tree on the nature strip) which the applicant also identified as canopy trees. Most of the trees are boundary trees. The tree in the south-east corner of the site, in particular, is a magnificent tree, standing tall in the street.

However, the application proposes to remove all the trees, seemingly to gain a development advantage. Furthermore, as stated above, although providing no clear information about the garden area of the proposed development, the applicant makes an argument for non-compliance with the **Clause 32.08-4** minimum garden area requirements. The failure to meet the minimum garden area requirement exacerbates the removal of existing mature vegetation.

Canopy trees are the most cost effective and efficient mitigation tool in combatting and responding to the urban heat island effect. A development which removes existing perimeter trees to develop the site with limited garden area just cannot, in a timely matter, produce the tree canopy cover required to address the urban heat island effect adequately. Not to mention the implications of the removal of the boundary trees on the street side of the site in terms of the **Clause 15.01-1S** objective to 'create urban environments that are

² Events during the last few years leave no doubt that climate change is a natural hazard.

safe, healthy, functional and enjoyable and the Council's Planning Commitment to 'Design healthy, walkable neighbourhoods' reflected in **Clause 21.02** *City of Greater Geelong Sustainable Growth Framework*. The trees sit right on the site boundary and their removal will certainly leave the pathway, also used to walk to and from the schools in the area and Corio Shopping Village, shadeless.

In addition, despite arguing for exemption of the minimum garden area requirement and the removal of all the existing trees, the application does not contain any plans or provisions, such as green walls or green roofs,³ aimed at cooling of the urban environment to reduce heat absorption and re-radiation of hard surfaces. Notably, the SDA Report indicates a reliance on existing neighbouring buildings as potential shading screens rather than employing the existing mature trees on the site.

Why is this an issue?

The Victorian government and the Planning Scheme recognise the challenges of a warmer planet, urban heat and what is recognised as the Urban Heat Island Impact, where heat builds up in urban areas and creates dangerous health conditions when summer temperatures peak. State-based changes to the Planning Scheme during 2022 and the recent change from Department of Environment, Land, Water and Planning to Department of Energy, Environment and Climate Action underscore the State Government's concern with the challenges and risks that climate change poses and confirming the role of the VPP to ensure that the strategic direction in a planning scheme is dynamic and responsive to changing circumstances and community expectations.

Pertinent to this application, DEWLP/DEECA and the City of Greater Geelong recognises Urban heat and the UHI as posing serious health risks to residents, especially vulnerable residents such as children and the elderly.

Urban heat impact relevant to planning was summarised as follows in a 2013 AECOM and Monash University study commissioned by the City of Greater Geelong and Wyndham City Council (discussed below) on page 23:

Urban heat can cause or exacerbate health impacts such as heat stress, resulting in illness or death, and can also compound issues of social isolation by reducing comfort levels in outdoor areas and meeting places. It may also result in increased living costs associated with air conditioning and transport. Resulting flow on effects can include increased demand for medical care and emergency services, resulting in resource strains for local government, hospitals and emergency services.

An ANU study published in *The Lancet* in 2020 found that there were over 36,000 deaths associated with the heat between 2006 and 2017. This equates to about 2% of total deaths in Australia for this time period (Longdon et al 'Heat-related mortality: an urgent need to recognise and record' *The Lancet* 4.5, E171 May 2020, [https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196\(20\)30100-5/fulltext](https://www.thelancet.com/journals/lanplh/article/PIIS2542-5196(20)30100-5/fulltext)).

Longdon's study of heat-related mortalities in Australia was cited with approval by in DEWLP *Environmentally sustainable development of buildings and subdivisions A roadmap for Victoria's planning system* (2021) that also pointed out (page 26):

Higher, sustained temperatures also pose a direct health impact, especially when sustained overnight. Recent analysis of Australian mortality rates between 2006 - 2017 has identified that most deaths related to temperature

³ SDA Report Assessment, Page 6.

in Australia are caused by extreme heat, rather than extreme cold. During the 2009 heatwave in Victoria there was a 62% increase in the state's mortality rate. Recent analysis of Australian mortality rates between 2006 - 2017 has identified that most deaths related to temperature in Australia are caused by extreme heat, rather than extreme cold.

Deep concerns about heat are reflected in DEWLP *Environmentally sustainable development of buildings and subdivisions: A roadmap for Victoria's planning system* (2021), page 26:

By 2050, Victoria is projected to experience a potential doubling of the number of hot days, that is days with a maximum temperature greater than the thresholds of 35°C, 38°C and 40°C for locations across Victoria. Extreme heat and heatwave events alone cost the Victorian economy an estimated \$87 million dollars every year due to work absenteeism, critical infrastructure damage, and negative effects on regional economies and businesses (especially the construction, agriculture and industrial sectors). Higher, sustained temperatures also pose a direct health impact, especially when sustained overnight.

Conclusion

The application should be rejected for failure to mitigate the risks associated with climate change and its impact on residents. Specifically, for failing to

- 'Retain existing vegetation wherever possible, particularly vegetation that contributes to the municipality's tree canopy' as per **Clause 21.06-6**;
- Achieve the landscaping objective to encourage the retention of mature vegetation on the site contained in **Clause 55.03-8**; and
- Meet **Standard B13** to 'Provide a safe, attractive and functional environment for residents.'

2. How this objector would be affected by the granting of the permit:

The importance of a healthy tree canopy and urban forest for the liveability, prosperity, and long-term resilience of cities is widely recognised. Local planning decisions play an important role in managing and securing city tree canopies and urban forests to secure the future liveability and climate-resilience of a city.

Should this application succeed, it will have immediate and future impact. Not only will it contribute to declining tree cover in Geelong, but it would also set a precedent and impact future planning applications in the City. Consequently, the application and its outcome hold repercussion for the health and well-being of all current and future Geelong residents, including myself and my family.

Yours sincerely,



Jeanne Nel
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