

PLAN OF SUBDIVISION

EDITION 1

STAGE

PS914770C

LOCATION OF LAND

PARISH: WARRANDYTE

TOWNSHIP: ----SECTION: A

CROWN ALLOTMENT: 6 (PART)

CROWN PORTION: ----

TITLE REFERENCE: Vol. 12402

PLANNING AND ENVIRONMENT ACT 1987 COUNCIL NAME: MANNINGHAM CHYCADUNCIL

ADVERTISED PLANS

Planning Application Number: PLN22/0462
Date: 06 April 2023
Sheet 1 of 2

This document is made available for the sole purpose of enabling its consideration and review, as part of a planning process under the Planning and Environment Act 1987.

The document must not be used for any purpose which may breach any Copyright.

NOTATIONS

LAST PLAN REFERENCE: Lot 2 on PS839586M

POSTAL ADDRESS: 7 SECOND STREET
(at time of subdivision) WARRANDYTE 3113

MGA2020 CO-ORDINATES: E: 341820 ZONE: 55 (of approx centre of land in plan) N: 5821220 GDA 2020

VESTING OF ROADS AND/OR RESERVES

COUNCIL/BODY/PERSON

NIL NIL

NOTATIONS

DEPTH LIMITATION 15.24m BELOW THE SURFACE

SURVEY:

This plan is based on survey.

IDENTIFIER

STAGING

This is not a staged subdivision.

Planning Permit No.XX/XXXX

This survey has been connected to Warrandyte Permanent marks 326, 137 & 136

In Proclaimed Survey Area: No

EASEMENT INFORMATION

LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)

Easements and Rights Implied by Section 12(2) of the Subdivision Act 1988 apply to the Whole of the Land on this Plan.

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1 E-1	DRAINAGE DRAINAGE	2.01 2.01	LP 17019 PS839586M	LOTS ON LP17019 MANNINGHAM CITY COUNCIL
E-2	CARRIAGEWAY	SEE PLAN	THIS PLAN	LOT 1 ON THIS PLAN
				PRELIMINARY

PETER RICHARDS SURVEYING

Unit 45, 7 DALTON ROAD, THOMASTOWN 3074 Tel: 9432 6944 Fax: 9434 4052

POSTAL ADDRESS: P.O. Box 237 WATSONIA 3087

subdivisions@prsurveying.com.au

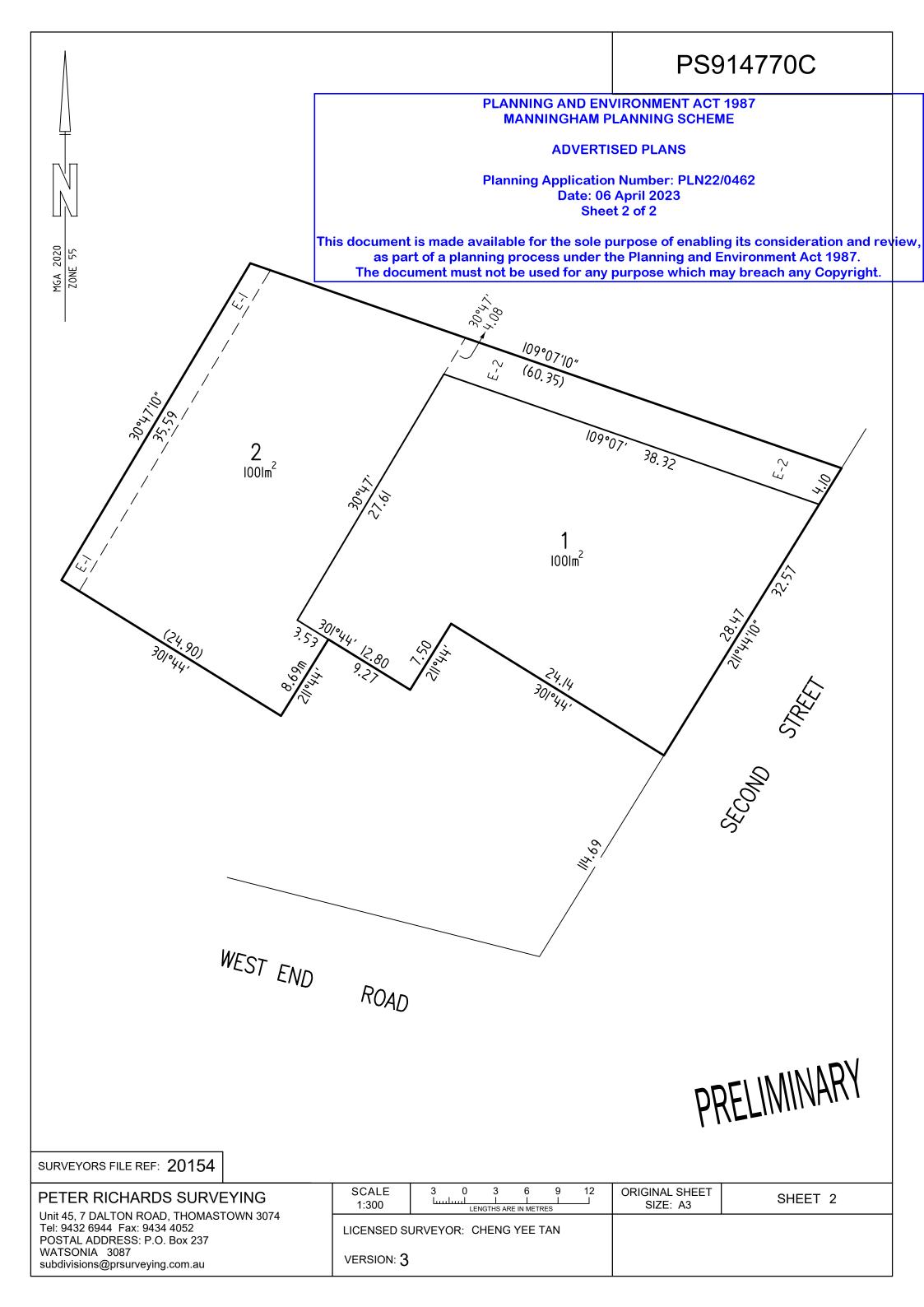
SURVEYORS FILE REF: 20154

LICENSED SURVEYOR: CHENG YEE TAN

VERSION: 3

ORIGINAL SHEET SIZE: A3

SHEET 1 OF 2 SHEETS



5. LEGISLATIVE REQUIREMENTS

5.1 PLANNING AND ENVIRONMENT ACT 1987 (THE ACT)

The Act is the relevant legislation governing planning in Victoria. The Act identifies subordinate legislation in the form of Planning Schemes to guide future land use anddevelopment.

Section 60 of the Act, requires the Responsible Authority to consider the following beforedeciding on an application:

- The relevant planning scheme;
- The objectives of planning in Victoria;
- All objections and other submissions which it has received;
- · Any decision and comments of a referral authority which it has received; and
- Any significant effects which the responsible authority considers the use or developmentmay have on the
 environment or which the responsible authority considers the environment may have on the use or
 development.

Section 61(4) of the Act makes specific reference to covenants. Under Section 61(4) of the Act the Responsible Authority must not issue a planning permit that would result in a breach of a registered restrictive covenant.

5.2 MANNINGHAM PLANNING SCHEME

Clauses of the Manningham Planning Scheme the Responsible Authority must consider:

- Planning Policy Framework
- Clause 32.09 Neighbourhood Residential Zone
- Clause 42.01 Environmental Significance Overlay, Schedule 5
- Clause 43.02 Design and Development Overlay, Schedule 3
- Clause 44.06 Bushfire Management Overlay
- Clause 52.02 Easements, Restrictions and Reserves
- Clause 52.12 Bushfire Protection Exemptions
- Clause 56 Residential Subdivisions
- Clause 65 Decision Guidelines

5.2.1 PLANNING POLICY FRAMEWORK

The relevant sections of the state planning policy framework are as follows:

<u>Clause 11 (Settlement)</u> identifies that Planning is to recognise the need for, and as far as practicable contribute towards:

- Health, wellbeing and safety.
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability.
- A high standard of environmental sustainability, urban design and amenity.
- Climate change adaptation and mitigation.
- Prevention of land, water, air and noise pollution.
- Protecting, conserving and improving biodiversity, waterways and other natural resources.
- Accessibility.
- Land use and transport integration.
- Waste minimisation and resource recovery.

Planning is to prevent environmental, human health and amenity problems created by siting incompatible land uses close together.

Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services.

<u>Clause 11.01-1L-01 Settlement – Manningham</u> identifies the site and its immediate surrounds as being within a "Residential area with environmental or landscape value", with the relevant strategy seeking to "retain the bushland character of the Warrandyte township".

Clause 12.01-1L Biodiversity in the Bushfire Management Overlay - Manningham includes the objective:

 To preserve the environmental, vegetation and landscape significance of land in the Bushfire Management Overlay.

Strategies include:

- Encourage development that meets higher construction standards or utilises alternative treatments to address bushfire risk in preference to vegetation removal.
- Support buildings and works that are located and designed to avoid the removal of vegetation, required for bushfire management.
- Locate dwellings, buildings and works to avoid the removal of vegetation.
- Avoid subdivision that may result in the construction of new dwellings where there may be a detrimental
 impact on vegetation and the recognised environmental or landscape significance of the land and
 surrounds as a result of clearing required for fire protection.

<u>Clause 13.02-1S Bushfire planning</u> seeks to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

<u>Clause 15.01-3S Subdivision design</u> seeks to ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods. Relevant strategies include:

In the development of new residential areas and in the redevelopment of existing areas, subdivision should be designed to create liveable and sustainable communities by:

- Creating compact neighbourhoods that have walkable distances between activities.
- Providing a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.
- Protecting and enhancing habitat for native flora and fauna, and providing opportunities for people to experience nature in urban areas.

<u>Clause 15.01-3L-01 Subdivision design – Manningham</u> includes the following strategies:

- Discourage subdivision where it will result in the loss of productive rural land.
- Ensure subdivision in areas affected by the Bushfire Management Overlay will not have a detrimental impact on vegetation and the environmental or landscape significance of the land.
- Support subdivision design that achieves energy efficient outcomes and adopts environmentally sensitive layout, environmentally sustainable lot orientation and integrated water management.
- Design subdivision layouts that:
 - o Respond to neighbouring uses and buildings.
 - Complement the topography of the area.
 - Preserve native vegetation.
 - o Connect to pedestrian and bicycle links to maximise permeability.
 - Provide for the safety and security of residents and properties by considering wildfire, flooding, landslip and steep slopes.
- Locate building and effluent envelopes to protect vegetation, view lines and minimise the extent of earthworks.
- Support the consolidation of lots to increase design options.

- Design subdivision to provide a link to public facilities such as public transport, shops, schools and parks.
- Avoid enclosing public spaces that adjoin private property.
- Facilitate the provision of underground services and mains water connection.
- Facilitate a designated effluent disposal envelope on each lot where there is no reticulated sewerage.

<u>Clause 15.01-3L-02 - Battle Axe Blocks policy</u> includes the objective to avoid creating battle blocks, unless they are functional, safe and an attractive design.

Strategies to achieve this are to:

- Design access ways that are clearly visible, provide safe access, provide for waste collection where appropriate, and retain existing vegetation and landscaping.
- Locate services and conduits together in a common trench to provide landscaping opportunities along the driveway shaft.

The policy guidelines suggest considering the following as relevant:

- Providing the following shafts minimum widths unless site dimensions or characteristics warrant a variation:
- 6 metres for the Neighbourhood Residential Zone.
- Combining driveways where there are two or more access ways adjoining battle axe shafts.
- Avoiding fencing along common boundaries between abutting driveways.
- Designing accessways to be capable of accommodating a waste collection vehicle where there are multiple lots serviced by one driveway.
- Providing common property or carriageway easements over common service areas.
- A Section 173 agreement to secure common access to carriageways and the sharing and maintenance of facilities and landscaping.

<u>Clause 15.01-5-01L Landscaping – Manningham</u> includes a strategy to retain native vegetation where possible or, incorporate new native vegetation into landscaping.

<u>Clause 15.01-5L-02 Neighbourhood character – Manningham</u> includes the municipal-wide objective to achieve residential development that is well-designed, site-responsive and respectful of existing or preferred neighbourhood character and the surrounding environment.

Municipal-wide strategies include:

- Design residential development to avoid detrimental impacts to the area's character and amenity.
- Support building height, design, articulation, stepping of heights and materials that enable the dwelling to integrate with the surrounding area.
- Design development on steeply sloping sites minimise earthworks and building bulk through stepped heights and other architectural techniques.
- Design development using colours and materials that respond to preferred neighbourhood character and the natural environment.
- Retain older tree species with landscape or heritage values.
- Provide replacement canopy trees that complement the character of the area.
- Locate buildings and works away from ridgelines and exposed slopes, incorporate screening treatments.
- Support the use of non-obtrusive materials and colours to minimise the visual impact of development.

Specific to Warrandyte (among other areas) it seeks:

• To facilitate minimal change, and enhance the existing bushland character, particularly the presence of large native trees, of the Warrandyte Township...

Strategies include:

• Discourage residential development that does not respect the environmentally significant landscape

character of the area.

- Integrate development with the surrounding area through:
 - Generous side setbacks, to ensure spacing between dwellings when viewed from the street.
 - Generous front and rear setbacks.
 - Building height, design and materials that complement the existing built form.
- Encourage a low residential density to retain the existing native vegetation.
- Enhance the existing pattern of vegetation and landscape qualities.
- Design buildings to have regard to the natural landscape and topographic features of the site.
- Minimise the height of floor levels above natural ground level on sites with a slope.
- Create a sense of openness and reinforce the environmental character through an absence of front fences.

5.2.2 **ZONE**

Clause 32.01 Neighbourhood Residential Zone

The zone has the purpose to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- 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,

A permit is required to subdivide land under clause 32.09-3 and an application must meet the specified objective in Clause 56 and should meets the specified standards in Clause 56.

The decision guidelines require consideration of:

- The pattern of subdivision and its effect on the spacing of buildings.
- For subdivision of land for residential development, the objectives and standards of Clause 56.

5.2.3 OVERLAYS

Clause 32.02 Design and Development Overlay

The purpose is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas which are affected by specific requirements relating to the design and built form of new development.

Schedule 3 applies to the Warrandyte Environmental Residential Area

A permit is required to subdivide land and construct a building or construct or carry out works as stated in a schedule.

The design objectives are:

- To maintain and enhance the special bushland and low-density character of the Warrandyte township.
- To ensure that development responds to the area's environmental characteristics, including topography, soils and vegetation, and is sympathetic to the existing built form and style.
- To maintain the vegetation dominated vistas and bushland character.

- To protect and enhance the pattern of vegetation, landscape quality and ecosystems.
- To ensure that development recognises the existing infrastructure capacities and does not generate demand for extensive upgrades of infrastructure, including the standard of roads and drainage.
- To maintain consistency, where present, of current front setbacks.
- To ensure that development does not protrude above the prevailing height of the tree canopy.
- To retain the predominance of single detached housing and discourage other forms of development.
- To minimise earthworks.
- To ensure that land retains areas of pervious surfaces and a low site coverage to enable the retention and establishment of vegetation, particularly that which is indigenous to the area.
- To reinforce the open streetscape character by having no, or low fencing allowing the continuity of landscape and views to front gardens.

Clause 3 states each lot must not be developed with more than one dwelling. A permit cannot be granted to vary this requirement.

Clause 3 also states that a permit is not required to construct a dwelling or to construct or carry out works associated with the construction of a dwelling, provided the listed requirements are met.

For a dwelling:

- The dwelling is set back equal to or further from the frontage than any part of a dwelling on an adjoining lot with frontage to the same road.
- The dwelling is set back at least 1.8 metres from the side or rear boundary if the dwelling is not higher than 3.6 metres or at least 1.8 metres plus 100 millimetres for every 300 millimetres or part that the building exceeds 3.6 metres.
- The dwelling has an overall height of no greater than 8 metres above the natural surface level of the ground directly below that part.
- The site coverage of the dwelling does not exceed 25 percent when combined with the area of any
 existing buildings on the land.
- At least 50 percent of the site is a garden, lawn or other pervious open space. It must not contain a building, domestic swimming pool or spa and associated mechanical and safety equipment, pavement or other impervious surface.
- The external colour scheme and materials of the dwelling are non-reflective and are in muted tones.

For works:

- The works (excluding the actual cavity of a domestic swimming pool or spa) do not exceed 1 metre in height or depth above or below natural ground level.
- The import or export of excavated material to or from the land does not exceed 50 cubic metres.
- The area of the works does not exceed 100 square metres.
- No works are carried out over an easement.

For <u>subdivision</u> it requires that unless the averaging option is applied, each lot must be at least 1,000 square metres.

A permit may be granted to create lots of less than 1,000 square metres provided the listed requirements are met.

The decision guidelines under the overlay requires consideration as to whether subdivision will result in development which is not in keeping with the character and appearance of adjacent buildings, the streetscape or the area.

Clause 42.01 Environmental Significance Overlay

The purpose is:

• To implement the Municipal Planning Strategy and the Planning Policy Framework.

- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

Schedule 5 applies to Environmentally Significant Urban Areas

The statement of environmental significance is:

The properties covered by this schedule comprise those Core and Buffer Conservation Areas that are located within Residential zones. These sites have been identified as either 'Core Habitat' (known as 'Biosites' or 'Core Conservation Areas') or 'Buffer Habitat' (known as Buffer Conservation Areas), in the background document *Manningham City Council Sites of (Biological) Significance Review* (2004). Core Conservation Areas are the least disturbed and usually best quality areas of remnant indigenous vegetation and support the majority of Manningham's biodiversity. Buffer Conservation Areas generally have higher levels of disturbance, but still provide important habitat for native flora and fauna and support and enhance the function of the Core Conservation Areas.

This vegetation, whilst somewhat isolated from other bushland areas, provides important flora and fauna habitat and comprises threatened Ecological Vegetation Classes.

The vegetation is a valuable biodiversity asset, providing ecosystem services and landscape amenity and is worthy of protection. All Victorian native vegetation, even individual trees has environmental and landscape value, such as provision of habitat and retention of a distinct visual character, often softening the visual impact of development.

Protection of Victorian native vegetation needs to be managed with the competing objectives of development in urban areas. Built form should seek to be subordinate to the landscape and avoid and minimise the loss of native vegetation.

The objectives to be achieved are:

- To protect and conserve Core and Buffer Conservation Areas.
- To maintain and enhance the natural landscape character of environmental urban areas.
- To minimise the extent of earthworks within the canopy dripline of trees.
- To achieve an improvement in the extent and quality of Victorian native vegetation, consistent with the goal of Net Gain as set out in the background document Victoria 's Native Vegetation Management A Framework for Action (Department of Natural Resources and Environment, 2002) by:
 - Avoiding the removal of Victorian native vegetation.
 - Minimising the removal of Victorian native vegetation, if the removal of the Victorian native vegetation cannot be avoided, through appropriate planning and design.
 - Appropriately offsetting the loss of Victorian native vegetation.
- To protect and conserve habitat corridors and ecological stepping-stones.
- To conserve and where possible enhance habitat for flora and fauna species recognised as threatened at the municipal, regional, state or federal level.
- To ensure that development responds to the area's environmental and landscape characteristics, including topography and waterways.
- To minimise the visual impacts of development on the Yarra River, its banks and nearby parkland.
- To maintain the treed character of residential areas.

Clause 44.06 Bushfire Management Overlay

The purpose is:

• To implement the Municipal Planning Strategy and the Planning Policy Framework.

- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
- To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

A permit is required to subdivide land.

Clause 44.06-7 of the BMO exempts an application (relevant to bushfire considerations) from the usual third-party notice and appeal rights under sections 52(1)(a), (b) and (d) and section 82(1) of the Act.

5.2.4 PARTICULAR AND GENERAL PROVISIONS

Clause 52.02 - Easements, restrictions and reserves

The purpose is to enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered.

A permit is required before a person proceeds:

• Under Section 23 of the *Subdivision Act 1988* to create, vary or remove an easement or restriction or vary or remove a condition in the nature of an easement in a Crown grant.

Clause 52.12 - Bushfire Protection Exemptions

The purpose is:

- To facilitate the removal of vegetation in specified circumstances to support the protection of human life and property from bushfire.
- To facilitate the construction and protection of community fire refuges and private bushfire shelters.

Clause 52.12-1 and 52.12-2 provides exemptions to create defendable space around buildings used for accommodation and along fence lines. The scheme requirements to remove vegetation do no apply to the removal, destruction or lopping of any vegetation that is:

- Within 10 metres of an existing building used for accommodation if all of the following requirements constructed before 10 September 2009
- Along a fence that must have been constructed before 10 September 2009. The clearing alongside both
 sides of the fence when combined must not exceed 4 metres in width, except where land has already
 been cleared 4 metres or more along one side of the fence, then up to 1 metre can be cleared along the
 other side of the fence.

Clause 56 - Residential Subdivision

The purpose is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To create liveable and sustainable neighbourhoods and urban places with character and identity.
- To achieve residential subdivision outcomes that appropriately respond to the site and its context for:
 - Metropolitan Melbourne growth areas.
 - · Infill sites within established residential areas.
 - · Regional cities and towns.
- To ensure residential subdivision design appropriately provides for:
 - Policy implementation.
 - Liveable and sustainable communities.
 - Residential lot design.
 - Urban landscape.
 - · Access and mobility management.
 - · Integrated water management.

- Site management.
- Utilities.

Clause 65.02 - Decision Guidelines - Approval of an Application to Subdivide Land

Regard must be given to the Decision Guidelines which sets various matters for consideration. Before deciding on an application to subdivide land, the responsible authority must also consider, as appropriate:

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further Lots.
- The effect of development on the use or development of other land, which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each new lot.
- The movement of vehicles throughout the subdivision and the ease of access to all lots.
- The provision of off-street parking.
- The provision and location of common property.
- The functions of any body corporate.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.
- The impact the development will have on the current and future development and operation of the transport system.