

# YR-2020/104 - Conditions and Notes

**Application:** YR-2020/104  
**Address of the Land:** 5 Seymour Street (Lot 1 TP884286), Seville  
**Proposal:** Staged six (6) lot subdivision, construction of four (4) dwellings, associated fencing and vegetation removal

1. Before the development starts, including removal of any vegetation, and certification of plan of subdivision, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority.

When approved, the plans will be endorsed and form part of the permit. The plans must be drawn to scale with dimensions and a digital copy must be provided. The plans must be generally in accordance with the development and subdivision plans (*Prepared by Design 20 dated Dec/19 and Millar Milligan dated 13/02/2023*); and Vegetation plan (*Prepared Millar Milligan reference number 26538NVP*) submitted with the application but amended to show the following:

- (a) All relevant plans to detail carparking space shown between Stage 2 Lot 2 and Lot 1 to be labelled as 'visitor' carparking space and commonly used, with internal subdivision boundary lines configured for the area to be within common property;
- (b) A Landscape Plan in accordance with Condition 5;
- (c) Evidence of Vegetation Offsets in accordance with Condition 19;
- (d) On all relevant plans, a notation stating "*Tree 165 to be retained and boundary fencing to avoid any impact on Tree 165 in accordance with Condition 24*";
- (e) Any changes required to be in accordance with Melbourne Water Conditions 46 to 50 (inclusive).

All of the above must be to the satisfaction of the Responsible Authority

2. The development including vegetation removal as shown on the endorsed plans must not be altered or modified (unless the Yarra Ranges Planning Scheme specifies a permit is not required) without the prior written consent of the responsible authority.
3. The subdivision layout must not be altered or modified (unless the Yarra Ranges Planning Scheme specifies a permit is not required) without the prior written consent of the responsible authority.

## SECTION 173 AGREEMENT

4. Prior to Statement of Compliance sought for either Stage of Subdivision, an agreement under Section 173 of the *Planning and Environment Act 1987* must be entered into between the owner of the site and the responsible authority to state:
  - (a) The approved Development on the subject land is in accordance with the endorsed plans and conditions for Planning Permit YR-2020/104 unless further written consent is obtained from the responsible authority.

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- (b) Stage 1 - Lot 2 (Green Wedge Zoned) Land cannot be used for accommodation.

This agreement is to be prepared at the owner's expense and will be recorded on the folio of the register relating to the site. The owners agree to pay on demand all costs and expenses of, and incidental to, the execution and recording of this Agreement.

## DEVELOPMENT CONDITIONS

- 5. Before the development starts, an amended Landscape Plan to the satisfaction of the responsible authority and prepared by a suitably qualified person must be submitted to and approved by the responsible authority. When approved, the Landscape Plan will be endorsed and will then form part of the permit. The plan must be drawn to scale, fully dimensioned and a digital copy must be provided. The plan must include:
  - (a) Changes in accordance with Condition 1 of this permit;
  - (b) 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. All species selected must be to the satisfaction of the responsible authority.
  - (c) Landscaping and planting within all open areas of the site including:
    - i. A minimum of two (2) medium sized canopy trees capable of a mature height of minimum 6.0 metres within each secluded private open space of the dwellings, with a planting size at least 2.0 metres high at the time of planting.
    - ii. A minimum of two (2) medium sized canopy trees capable of a mature height of minimum 6.0 metres within Howard Street frontage, with a planting size at least 2.0 metres high at the time of planting.
    - iii. All new trees must be chosen from the Yarra Ranges Council's Vegetation Community No. 38.
    - iv. Landscaping and planting on both sides of common driveway and around the internal driveway.
  - (d) Landscaped areas must be planted with shrub and groundcover species capable of achieving a minimum density of at least 85 per cent coverage 12 months after planting in accordance with Council's Landscaping Guidelines.
  - (e) The use of sustainable practices and if irrigation is to be provided it must not use potable water.
  - (f) 1200mm organic mulch diameter around any retained or proposed trees in lawn areas.
  - (g) The provision of notes regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.

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- (h) The location of any tree protection zones and protection measures including for street trees accurately drawn to scale, labelled and notations referring to any endorsed Tree Management and Protection Plan, or Arboricultural Report.

All of the above must be to the satisfaction of the Responsible Authority.

6. The landscape planting specified in the endorsed Landscape Plan must be completed prior to occupation of the permitted development, or if not occupied, within three months of completion of the permitted development. With written consent of the Responsible Authority replanting may be deferred to the first planting season (May to September) following the completion of the permitted buildings and/or works.

The planting must be maintained or replaced as necessary to the satisfaction of the responsible authority.

## AMENITY CONDITIONS

7. Prior to occupation of the permitted development, the development must provide external lighting capable of illuminating access to each garage, car parking space and pedestrian walkway and thereafter be maintained, all to the satisfaction of the responsible authority.
8. Any air-conditioning unit must be positioned so that no noise disturbance is caused to occupiers of adjoining properties. Any roof top unit must be provided with a sight screen, to the satisfaction of the responsible authority.
9. Prior to occupation of the permitted development, or by such later date as approved in writing by the responsible authority, all pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the responsible authority.

## ARBORIST CONDITIONS

10. This permit authorises the removal of Trees 81, 82, 85, 87, 119, 123, 133, 178 and 179 as shown on the endorsed Arborist Report by The English Gardener, dated 13/03/2023. All other trees must be retained to the satisfaction of the Responsible Authority unless otherwise permitted to be removed under the Planning Scheme.
11. The existing street trees, other than Tree 178 and 179, must not be removed unless Council Arborist has provided separate consent via request through our website <https://www.yarraranges.vic.gov.au/Environment/Trees-and-vegetation/Request-a-street-tree>
12. The provisions, recommendations and requirements of the endorsed Tree Protection Management Plan must be implemented and complied with to the satisfaction of the Responsible authority.

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13. The provisions, recommendations and requirements of the endorsed Arborist Construction Impact Assessment Report by The English Gardener, dated 13/03/2023 must be implemented and complied with to the satisfaction of the Responsible authority.
14. Before the development starts, approved by this permit, temporary fencing must be erected around any tree shown for retention on the endorsed plans to define a Tree Protection Zone (TPZ) to the satisfaction of the Responsible Authority and must:
  - a. Exclude access and construction activity within the TPZs assessed in the Arborist Report by The English Gardener, dated 13/03/2023. If trees have not been assessed, the TPZ is a circle with a radius equal to 12x the trunk diameter measured at 1.4 m above ground level, and
  - b. Have a minimum height of 1.8 metres and comply with Australian Standard AS 4687 for temporary fencing and hoardings, and
  - c. Not extend beyond the site boundaries except into roadside reserve and/or nature strip areas. Fencing within roadside reserves and/or nature strip areas must not prevent the use of a road or footpath, and
  - d. Remain in place until all buildings and/or works are completed, unless with the prior written consent of the Responsible Authority.

Temporary fencing can be modified to accommodate encroachment into the TPZ of tree(s) as per the endorsed plans. Fencing must be modified in line with the footprint of the approved works only.

15. On the day that any vegetation is removed, all trees to be removed must be inspected by an appropriately qualified zoologist prior to the removal, to determine the presence or otherwise of any native fauna living or nesting in the tree/s. If any native animals are living or nesting in the tree/s they must be caught and relocated to the satisfaction of the responsible authority.
16. All underground service pipes including storm water and sewerage must be diverted around any Tree Protection Zones of trees to be retained, or bored underneath with a minimum cover of 800mm to top of conduit from natural surface level. If the trees have not been assessed the TPZ is calculated by 12x the trunk diameter measured at 1.4m above ground level.
17. Stage 1 - Lot 2, permitted crossover, within the Tree Protection Zone (TPZ) of trees 170 and 177 must be constructed above the existing grade using permeable materials to the satisfaction of the Responsible Authority. There must be no excavation within the TPZ, except for scraping the surface up to 30mm deep to remove surface organics and/or debris.

## ENVIRONMENT CONDITIONS

18. To offset the removal of 0.063 hectares of native vegetation as shown in the approved Native Vegetation Removal Report (*Report ID: GEN\_2023\_265*), the permit holder must secure a native vegetation offset, in accordance with the

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Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) as specified below:

A general offset of 0.016 general habitat units:

- located within the Port Phillip and Westernport Catchment Management Authority boundary or Yarra Ranges Council municipal district
- with a minimum strategic biodiversity value score of at least 0.528
- No Large trees

19. Before any native vegetation is removed, evidence that the required offset has been secured must be provided to the satisfaction of the responsible authority. This evidence is one or both of the following:

- (a) credit extract(s) allocated to the permit from the Native Vegetation Credit Register, AND/OR;
- (b) An established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site.

A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit

## SUBDIVISION CONDITIONS

20. The Plan of Subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.
21. Prior to Statement of Compliance Stage 2, all common facilities such as mailboxes and common meters (gas and electricity meters) must be located within the common property to the satisfaction of the responsible authority.
22. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
23. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
24. Prior to Statement of Compliance Stage 1, southern title boundary fence of Stage 1 - Lot 2 must be installed in the correct surveyed location and be of matching characteristic to existing and removed south boundary fence, with the new fence alignment to weave around Tree 165 shown on endorsed plans by 3.25 metres setback from the trunk.

## PUBLIC OPEN SPACE CONTRIBUTION

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25. Prior to Statement of Compliance Stage 2, a cash payment equivalent to 5% of the site value of all the land in the subdivision must be paid to the responsible authority in lieu of providing land for Public Open Space in accordance with the Schedule to clause 53.01 of the Yarra Ranges Planning Scheme and the provisions of the *Subdivision Act 1988*.

## TELECOMMUNICATION CONDITIONS

26. Prior to Statement of Compliance Stage 2, the owner of the land must enter into an agreement with:
- (a) 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
  - (b) 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.
27. Prior to Statement of Compliance Stage 2, the owner of the land must provide written confirmation from:
- (a) 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
  - (b) 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

## ENGINEERING TRAFFIC CONDITIONS

28. Prior to the occupation of the permitted development or prior to Statement of Compliance Stage 2 the Howard Street extension and turn around must be constructed and drained with a sealed surface at least 3.5 metres wide to the satisfaction of the Responsible Authority.
29. Prior to the occupation of the permitted development or prior to Statement of Compliance Stage 2, the common parking areas and vehicular access ways shown on the endorsed plan must be fully constructed, sealed, drained and delineated to the satisfaction of the Responsible Authority.
30. Prior to the occupation of the permitted development a concrete vehicle crossing must be constructed in Howard Street to serve the development to the satisfaction of the Responsible Authority.

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31. Prior to the approval of engineering construction plans, a maintenance bond to the value of \$5000 or 5% of all Council works, whichever is greater, as required by this permit, must be paid to the Responsible Authority.
32. Prior to the occupation of the permitted development or prior to Statement of Compliance Stage 2, the construction of all internal/external civil works, including car parking, vehicular access ways and drainage is to be inspected and approved by a suitably experienced civil engineer or person. This person must supply written certification that the works have been constructed in accordance with the approved plans, to the satisfaction of the Responsible Authority.
33. All vehicles must enter and exit the site in a forward direction.

### **ENGINEERING DRAINAGE CONDITIONS**

34. Prior to the occupation of the permitted development or prior to Statement of Compliance Stage 2, piped drainage must be constructed to drain all impervious areas incorporating Water Sensitive Urban Design features, to the satisfaction of the Responsible Authority.
35. Prior to the occupation of the permitted development or prior to Statement of Compliance Stage 2, piped Council outfall drainage must be constructed to the satisfaction of the Responsible Authority.
36. Prior to the commencement of any works as required by this permit or prior to Statement of Compliance Stage 2, Development Stormwater Drainage Engineering Plans and Computations must be submitted to, and approved by, the Responsible Authority. Development Stormwater Drainage Engineering Plans and Computations must be in line with all the requirements of the approved point of discharge certificate.  
<https://www.yarraranges.vic.gov.au/Development/Roads-drains/Applications-and-permits/Submit-stormwater-drainage-and-computations>
37. Prior to the approval of engineering construction plans (whether that be subdivision or development), an inspection/surveillance fee to the value of \$500 or 2.5% of the estimated cost of all Council works required by this permit, whichever is greater must be paid to the Responsible Authority.
38. Prior to Statement of Compliance Stage 2, piped drainage must be constructed to drain all impervious areas incorporating Water Sensitive Urban Design features, to the satisfaction of the Responsible Authority.
39. Prior to Statement of Compliance Stage 2, the construction of all civil works within the site, including detention system must be fully completed and subsequently inspected and approved by a suitably experienced Civil Engineer at the arrangement and expense of the owner/developer. This person must supply written certification that the works have been constructed in accordance with this permit and to relevant standards to the satisfaction of the Responsible Authority.

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40. Prior to Certification of Plan of Subdivision Stage 2, a drainage easement must be shown on the plan to the satisfaction of the Responsible Authority
41. Prior to Statement of Compliance Stage 2, piped Council drainage must be constructed to drain all lots to the satisfaction of the Responsible Authority.
42. Prior to Statement of Compliance Stage 2, a stormwater detention system must be constructed to control all surface runoff from the subdivision to ensure the maximum discharge from the property does not exceed the existing discharge, to the satisfaction of the Responsible Authority.
43. Prior to Statement of Compliance Stage 2, the owner/developer must demonstrate to the satisfaction of the Responsible Authority that stormwater runoff exiting the site has been designed and constructed to meet the current best practice performance objectives for stormwater quality, as contained in the Urban Stormwater - Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999) as follows:
  - 80% retention of the typical annual load of suspended solids;
  - 70% reduction of the typical annual load of gross pollutants;
  - 45% retention of the typical annual load of total phosphorous; and
  - 45% retention of the typical annual load of total nitrogen.
44. Prior to an Off Maintenance inspection and subsequent return of the maintenance bond, "As Constructed" plans of all Council works together with a CCTV footage and report in accordance with the Water Services Association of Australia (WSA) 05-2008 2.2 Code of Practice, of the full length of all Council piped drainage, must be submitted to, and approved by, the Responsible Authority.
45. Council works as required by this permit must be maintained in good condition and repair by the developer for a period of twelve (12) months from the date of practical completion to the satisfaction of the Responsible Authority.

## MELBOURNE WATER CONDITIONS

46. Prior to the commencement of development (including works), a driveway plan to the satisfaction of the Melbourne Water must be submitted to and approved by the responsible authority. The amended plans must be generally in accordance with the plans drawn by Millar and Merrigan (Driveway Plan 26538P2 Version 3), but modified to show:
  - (a) The top of bank of Wild Wattle Creek; and
  - (b) The proposed driveway to Stage 1, Lot 2 is located at least 20 metres from the top of bank of Wild Wattle Creek.
47. Prior to the certification of the plan of subdivision, an amended plan of subdivision to Melbourne Water's satisfaction must be submitted to and approved by the responsible authority. The amended plan must be generally in accordance with



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the plan drawn by Millar and Merrigan dated 21 September 2022, but modified to show:

- (a) A drainage easement, in favour of Melbourne Water, within Stage 1, Lot 2 of the plan. The easement must be located over Wild Cattle Creek, and extend at least 20 metres either side of the Wild Cattle Creek top of bank, or to the property boundary of Stage 1, Lot 2 (whichever is closer).

48. Unless with the prior written consent of Melbourne Water, buildings, works and services are not permitted within 20 metres of the top of bank of Wild Wattle Creek.
49. Unless with the prior written consent of Melbourne Water, earthworks (cut and/or fill) is not permitted within 40 metres of the top of bank of Wild Wattle Creek
50. Prior to the commencement of works or certification of the plan of subdivision (whichever comes first), a separate application direct to Melbourne Water must be made for any new or modified storm water connection to Melbourne Water's drains or watercourses. Evidence must be provided demonstrating that Council considers that it is not feasible to connect to the local drainage system.

## **COUNTRY FIRE AUTHORITY CONDITIONS**

51. Prior to certification under the Subdivision Act 1988, an amended Bushfire Management Plan must be submitted to and endorsed by the Responsible Authority. Once endorsed the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority. The plan must be generally in accordance with Keystone Alliance, Reference BMP2829/2, Dated 16-March-2023 but modified to replace the conditions for Defendable space with:

### (a) Defendable space

On Lots 1-4, Defendable space for a distance of 16 metres around the proposed dwelling (or to the property boundary, whichever is the lesser distance) must be provided where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:

- Grass must be short cropped and maintained during the declared fire danger period.
- All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
- Plants greater than 10 centimetres in height must not be placed within 3m of a

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window or glass feature of the building.

- Shrubs must not be located under the canopy of trees.
- Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
- Trees must not overhang or touch any elements of the building.
- The canopy of trees must be separated by at least 5 metres.
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

52. Before the statement of compliance is issued under the *Subdivision Act 1988*, the vehicle access arrangements shown on the Bushfire Management Plan to all lots must be implemented to the satisfaction of the Responsible Authority

53. Before the statement of compliance is issued under the *Subdivision Act 1988*, the following requirements must be met to the satisfaction of CFA:

(a) Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all dwellings must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries and other obstacles.

(b) The hydrants must be identified with marker posts or vertical surface markers, white road triangles and blue road reflectors (as applicable). Note – CFA's requirements for the identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' (available under publications on the CFA website [www.cfa.vic.gov.au](http://www.cfa.vic.gov.au)).

## AUSNET CONDITIONS

54. The plan of subdivision submitted for certification must be referred to AusNet Electricity Services Pty Ltd in accordance with Section 8 of the *Subdivision Act 1988*.

55. The applicant must –

- Enter into an agreement with AusNet Electricity Services Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision. A payment to cover the cost of such work will be required.
- Provide electricity easements internal and external to the subdivision in favour of AusNet Electricity Services Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by AusNet Electricity Services Pty Ltd. The provision of reserves for electricity substations may also be required.

## YARRA VALLEY WATER CONDITIONS

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56. The owner of the subject land must enter into an agreement with Yarra Valley Water for the provision of water services.
57. The owner of the land must enter into an agreement with Yarra Valley Water for the provision of sewerage services.

## **COMDAIN CONDITION**

58. A Statement of Compliance be obtained from Multinet Gas prior the plan of subdivision being released from the Titles Office

## **PERMIT EXPIRY CONDITION**

59. This permit will expire if one of the following circumstances applies:
  - (a) The development is not started within two years of the date of this permit;
  - (b) The development is not completed within four years of the date of this permit;
  - (c) The Stage 1 subdivision is not certified within two years of the date of this permit;
  - (d) The Stage 2 subdivision is not certified within two years of the date of this permit;
  - (e) The subdivision is not registered at the Land Registry Office within five years from the date of certification.

## **Development**

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months of expiry of permit of the commencement date.

An extension of time to complete the development or a stage of the development may be requested if:

- The request for an extension of time is made within 12 months after the permit expires; and
- The development or stage started lawfully before the permit expired.

## **Subdivision**

Where the subdivision is to be developed in stages, the time specified to start the first stage is two years from the date of this permit. The time specified to start any subsequent stage is up to five years from the date of certification of the previous stage and the time specified to complete each stage is five years from the date of certification.

The responsible authority may extend the commencement periods referred to if a request is made in writing before the permit expires or within six months after the expiry date.

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## NOTES:

- Any tree located on Council land, including the road reserve, which is to be removed requires separate Council consent from Council's Arborist prior to removal. Please direct any request for street tree removal via Council's website on the online request form <https://au.openforms.com/Form/69682f54-13bb-4e84-8bdc-b85d38035c90>
- The granting of this permit does not obviate the necessity for compliance with the requirements of any other authority, under this or any other Act, Regulation or Local Law.
- Building works approved under this planning permit must not be commenced until a building permit has also been obtained under the *Building Act 1993* and the *Building Regulations 2018*.
- The starting of a subdivision is regarded by section 68(3A) of the *Planning and Environment Act 1987* as the certification of a plan under section 6 of the *Subdivision Act 1988*. Completion is regarded as registration of the subdivision
- Before the plan of subdivision is certified, the applicant must supply common property street names to Council for assessment and approval to the satisfaction of the responsible authority.
- For further information with regard to the Telecommunications Conditions above, please refer to Advisory Note 49 – Telecommunications Services & Facilities in Subdivisions available from the Victorian State Government.
- This planning permit does not provide authorisation to enter or start works over the property of Council; such authorisations must be independently sought from Council.
- The owner's corporation is responsible for communicating all waste management requirements to the respective occupants and will charge owners for the costs involved with waste collection.
- The management of Stormwater is to be in accordance with the Approved Point of Stormwater Discharge. Please apply for Approved Point of Stormwater Discharge through Council's webpage.  
<https://www.yarraranges.vic.gov.au/Property/Roads-drains-footpaths/Stormwater-drainage>
- All internal stormwater drainage is to be managed in accordance with the Little Stringybark Creek Catchment project letter from the Department of Resource Management and Geography, the University of Melbourne.
- CFA does NOT consent to the Certification of the Plan of Subdivision under Section 9 of the Subdivision Act 1988. CFA does want the Plan of Subdivision for this planning permit application referred under Section 8 of the Subdivision Act 1988. CFA does NOT consent to the Statement of Compliance for Subdivision

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- Prior to the commencement of any works affecting or involving Shire roads or drains, Asset Protection and/or Road Reserve/Easement Works permit(s) are required. An application for a permit can be obtained at the Shire of Yarra Ranges Community Links.