

**APPLICATION FOR CONSIDERATION
PLANNING PERMIT
DELEGATE REPORT**



Application Details:

Application is for:	Buildings and works (10 silos).
Applicant's/Owner's Name:	Hygain Property Management Pty Ltd, PO Box 199, Officer Vic 3809 Greg Manley
Date Received:	21 March 2016
Statutory Days:	259
Application Number:	T160174
Planner:	Emily Cook
Land/Address:	Lot 1 TP602076, 20 Hickson Road, Officer
Zoning:	Urban Growth Zone - Schedule 4
Overlay/s:	Development Contribution Plan Overlay - Schedule 4 Partial - Land Subject to Inundation Overlay (not part of the proposed development is subject to the LSIO).
Zoological/ Botanical/ Cultural Sensitivity:	N/A
Under what clause(s) is a permit required?	Pursuant to Clause 2.7 of Schedule 4 to the Urban Growth Zone a planning permit is required to construct a building or construct or carry out works.
Restrictive covenants on the title?	There are no covenants or Section 173 Agreements registered on Lot 1 TP602076. However, Section 173 Agreement AD838446M is registered on an additional adjoining lot operating as part of Hygain. This agreement requires the land owner to construct Hicksons Road.
Current use and development:	Hygain - animal feed manufacturing business including associated site offices, warehouses and silos.

Proposal

For context only the plans assessed with this application can be found at INT1694175. However, these plans are incomplete and condition 1 plans will be a requirement of the permit.

The proposal is for buildings and works (silos).

The proposal includes the erection of ten (10) silos associated with an existing stockfeed production business operating within the site.

The silos are proposed to be located in a 'bank' with close proximity to each other. The 'bank' of silos is proposed to be located 8m from the northern property boundary and 6m from the eastern property boundary.

Each silo is proposed to have a maximum height of 22m. Council raised concerns about the proposed materials and colours of the silos. Colours and materials to match the existing structure within the site (exposed metal - silver) were agreed upon however this detail has not been shown on the submitted

plans. The below condition 1 requirement will ensure plans showing exposed metal – silver will be submitted prior to the commencement of the buildings and works (silos).

Access to the proposed silos is via the three (3) existing access points/crossovers within the southern boundary of the site via Hickson Road. On site discussions with the applicant have indicated that the silos are required to store additional materials associated with the existing 'stock feed production' (Hygain) business operating on the site.

Subject site & locality

An inspection of the site and the surrounding area has been undertaken.

The site is located on the northern side of Hickson Road.

A crossover is located within the southern property boundary. There is also an existing crossover located within the northern property boundary providing access through to the VicTrack owned Officer Train Station Carpark. This is an older crossover and access is no longer permitted via the car park.

The site currently contains the existing Hygain Stockfeed Production Business.

The topography of the land is flat.

The main characteristics of the surrounding area are:

- NORTH:** VicTrack owned land forming part of the Officer train station carpark, the Pakenham Railway Line, Council's Municipal Offices and undeveloped land forming part of the future Officer Town centre.
- EAST:** Undeveloped land forming part of the future Officer Town Centre, extension of Siding Avenue (not yet constructed), Gum Scrub Creek and the Aspect Residential Estate (contained within the Cardinia Road PSP area).
- SOUTH:** Hickson Road, undeveloped land forming part of the future Officer Town Centre, Bridge Road, the future Arcadia Neighbourhood 2 Estate.
- WEST:** Undeveloped land forming part of the future Officer Town Centre, Station Street, undeveloped future residential land.

Permit/Site History

The history of the site includes:

- Planning permit T110393 was issued for the development of land for a warehouse associated with stockfeed production and the reduction in the required carparking rate pursuant to Clause 52.06 on 22 June 2012.
- Planning permit T110393 was amended on 29 July 2014.
- Secondary consent to planning permit T110393 was granted on 9 September 2015.
- Planning permit T990172 was issued for the use and development of the land for the purpose of a wholesale plant nursery on 20 April 1999.
- Planning permit T960219 was issued for the use of land for a sawmill on 27 June 1996.

Planning Scheme Provisions

Zone

The land is subject to the Urban Growth Zone – Schedule 4.

Overlays

The land is subject to the following overlays:

- Clause 45.06 Development Contribution Plan Overlay – Schedule 4

- Clause 44.04 Land Subject to Inundation Overlay (The land is partly within the LSIO, however the proposed development is not located within the LSIO and therefore this overlay is not triggered).

State Planning Policy Framework (SPPF)

The relevant clauses of the SPPF are:

- 11.02-4 Sequencing of development
- 11.02-2 Planning for growth areas
- 15.01-1 Urban design

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- 21.06-1 Design and built form.
- 21.03-2 Urban growth area

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 65 Decision Guidelines
- Officer Precinct Structure Plan (September 2011)
- Officer Native Vegetation Precinct Plan (September 2011)
- Officer Development Contributions Plan and Conservation Management Plan (15 September 2011).

Planning Permit Triggers

The proposal for building and works (10 silos) requires a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 2.7 of Schedule 4 to the Urban Growth Zone a planning permit is required to construct a building or construct or carry out works.

Public Notification

Pursuant to Clause 37.07-13 of the Cardinia Planning Scheme the proposal is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the *Planning and Environment Act 1987*.

Clause 37.07-13 states that:

“An application under clause any provision of this scheme which is generally in accordance with the precinct structure plan applying to the land is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act., unless the schedule to this zone specifies otherwise”.

The application is considered to be generally in accordance with the Officer Precinct Structure Plan (PSP) which applies to the subject site (discussed below). Schedule 4 to this zone (which applies to the subject site) does not include any clauses which prevent this exemption. The proposal is therefore considered to meet the exception of Clause 37.07-13 and is not required to be advertised.

Referrals

External Referrals/Notices Required by the Planning Scheme:

Referrals/ Notice	Referral Authority	Brief summary of response
Section 55 Referrals	N/A	While part of the site is subject to the Land Subject to Inundation Overlay, no part of the development is proposed within this area. The application was therefore not referred to Melbourne Water.
Section 52 notices	N/A	

Internal Referrals

Internal Council Referral	Advice/ Response/ Conditions
Manager of Strategic Planning and Economic Development.	<p>The application was discussed with Council's Manager of Strategic Planning and Economic Development who accompanied me on a site inspection. We also undertook a site inspection of the Barastoc (stock feed) Production facility in Pakenham.</p> <p>From these discussions it was decided that the height of the silos was required to be reduced from the 25m (as originally sought under this application) to 22m. This change has been made.</p> <p>The proposed colours and materials were also discussed. The applicant proposed to alter the colour of the silos from raw-metal (silver) to white if desired by Council. After conducting the above site inspections it was decided that the original raw-metal colour is most appropriate and in keeping the existing structures and silos on the site.</p>
Engineering Department	<p>The application was referred to Council's Engineering department who required various standard conditions to be included on the permit relating to stormwater management.</p> <p>The required conditions included:</p> <p style="padding-left: 40px;">Rural Stormwater and, <i>All stormwater must be conveyed by means of drains to satisfactory points or areas of discharge approved by the Responsible Authority, so that it will have no detrimental affect on the environment or adjoining property owners.</i></p> <p style="padding-left: 40px;">Stormwater Overflows <i>Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.</i></p> <p>Both conditions have been included on the permit as per below. (Engineering's response can be found at INT1765).</p>

Assessment

The proposed buildings and works (10 silos) are consistent with the aims and objectives of the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement as well as zones and overlays which apply to the subject site.

Urban Growth Zone

The proposal has been assessed against the decision guidelines of Clause 37.07-14 including the SPPF, LPPF, MSS. There is no Growth Area Framework Plan which applies and the application has been

assessed against the relevant precinct structure plan, being the Officer Precinct Structure Plan, as below.

Clause 2.10 of Schedule 4 to the Urban Growth Zone states that a planning permit must not be granted to carry out works until an Urban Design Framework (generally in accordance with the Officer PSP) has been prepared to the satisfaction of the responsible authority. Council has prepared a draft version of this document and is satisfied that the proposal is in accordance with this draft (discussed below).

Officer Precinct Structure Plan

Section 4.3.3 of the Officer PSP outlines planning and design guidelines for Activity Centres in the precinct. The relevant objectives of this section which relate to the Transition Precinct are:

- *To protect future development / redevelopment opportunities for sites*
- *To encourage development of uses that are compatible to sensitive uses*
- *To plan for a transition to mixed use, including higher density residential in the longer term*

As above, the objectives of the Transition Precinct are to allow for the continuation of existing land uses until such time as they re-develop into mixed use/residential sites. The site currently has a valid planning permit which permits the continued use of the land for the purposes of stockfeed production. The applicant submits that the proposed silos will contribute to the operation of the existing business.

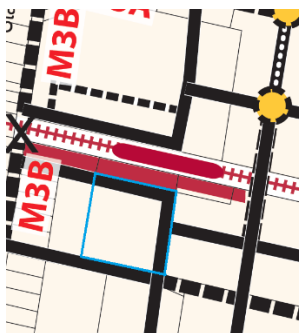
Given the extensive development of the site (7 existing warehouses and 34 silos) the proposal is not expected to pro-long the life of the operations on the site and are considered relatively minor in the context of the existing site. The silos are semi-permanent structures which can be relocated and are therefore not considered to inhibit the future re-development or transition of the site.

The planning and design guidelines that must be met for the transition precinct include:

- *Encourage conversion of existing industrial properties over time.*
- *Facilitate consolidation of existing activities on Lot 1 TP602076 [the subject site] through development of an additional warehouse.*
- *Strongly discourage further expansion of existing industrial premises.*

As discussed above, the proposal is not considered to prevent the future conversion and/or re-development of the site. Planning permit T110393 was issued for an additional warehouse on 22 June 2012. It is considered that given the current site conditions (7 existing warehouses and 34 silos) the proposal is minor and does not constitute a significant expansion of the current industrial operations.

Plan 15: Road Network of the Officer PSP shows two (2) access streets (shown black) within the subject site (shown blue) as below:



The proposed buildings and works (silos) are located on the land shown for the intersection of both these future roads. However, the warehouse approved under planning permit T110393 is also located in the south-western corner of the site over a significant portion of the land shown for the future north-south access street (as above). The proposed warehouse is a permanent structure while the silos are semi-permanent. The proposed buildings and works (silos) are therefore not considered to further limit future road construction/development.

Section 06: Development Staging and Requirements of the PSP requires the section of Hickson Road (east) abutting the subject site to be sealed along the length of the shared property boundary to the

nearest sealed road, as a condition of their development. This work was completed in accordance with Section 173 Agreement AD838446M which applies to an adjoining lot used as part of the Hygain facility. No additional upgrade works are therefore required as part of this development.

The proposed silos are to be constructed from exposed metal work in a silver colour. This detail is not currently shown on the submitted plans and will be required as a condition 1 requirement. The proposed colours and materials reflect existing silos located to the north of the existing buildings within the site. A site inspection indicated that the proposed materials 'dull' and 'fade' over time reducing their overall visual prominence and impact to the Pakenham Railway Line. The height of the silos has been reduced to a maximum height of 22m further reducing their visual impact. The subject site does not contain any existing landscaping and given the industrial operations of the site (Hygain stock feed production) landscaping works are not considered to be required as part of this application.

Officer Town Centre Urban Design Framework (Draft)

Council is currently preparing an Urban Design Framework for the Officer Town Centre as required by Clause 2.10 of Schedule 4 to the Urban Growth Zone. This document is currently in draft format (as of 20.02.2017). Relevant specific controls for the Transition 2 Precinct (which includes the subject site) include:

- *To protect future development or redevelopment opportunities for sites.*
- *To provide active interfaces with Officer Railway Station and the railway line.*
- *Further expansion of existing industrial premises must be strongly discouraged.*
- *Encourage conversion of existing industrial properties over time.*
- *Development should occur generally in accordance with the Transition Precinct masterplan (Figure 47).*

As discussed above the proposal is not expected to prevent the future re-development of this site in accordance with the Office PSP. The proposed buildings and works (silos) are not considered to be the ultimate development of the site. Therefore, provision for active interfaces to Officer Railway Station can be addresses as part of a future planning permit application. Figure 47 of the PSP outlines the ultimate master plan for the transition 2 precinct, while the proposal does not provide for the built form outcomes required: it is not expected inhibit future development of the site.

Officer Development Contribution Plan

Planning permit T110393 was issued for the development of land for a warehouse associated with stockfeed production and the reduction in the required carparking rate pursuant to Clause 52.06 of the Cardinia Planning Scheme on 22 June 2012 on the subject site (Lot 1 TP602076).

Condition fourteen (14) of this permit requires the permit holder to pay development contributions for the entirety of the subject site in accordance with the Officer DCP. The applicant appealed this condition at VCAT and an order was made on 15 June 2012 (VCAT Reference No. P3509/O11). In his decision Member Phillip Martin found at:

- *Having regard to the plain and ordinary meaning of the words 'prior to the commencement of any buildings and works' in Clause 4.5 of the ODCP, the requirements of that clause do apply to the approval of the proposed new warehouse.*
- *The whole of the review site needs to be factored into the actual calculation of the levy for the purposes of Condition 14.*
- *Hence the challenge to Condition 12 is rejected.*

The permit was subsequently issued with the following condition fourteen (14):

- *Prior to the commencement of any buildings or works pursuant to the permit, the owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987, whereby the owner will make a \$605,889.61 development contribution payments in relation to the land pursuant to the Officer Development Contributions Plan (September 2011), within a period of 12 months from the date of the Agreement. The Agreement must provide for the periodic adjustment of the \$605,889.61*

liability (as applicable) in accordance with Section 4.1 of this September 2011 ODCP document and for the provision of security to the responsible authority (such as a back guarantee). The Agreement must also be registered on the title of the land prior to the commencement of any buildings and works pursuant to the permit. The owner will be responsible for all costs associated with the preparation and registration of this Agreement, including the legal costs of the Responsible Authority.

A letter dated 2 June 2014 was sent to the permit holder informing them that the DCP rate had been adjusted in accordance with the Development Contribution and, stated:

- *'In this instance, we are prepared to waive the requirement to enter into a Section 173 Agreement, provided the contribution is paid at the current development contribution rate'.*

Council's Development Contribution Officer has confirmed that this payment has been made (see response at INT1711511). Development contributions are payable only once on any parcel of land. Contributions have been paid for the subject site therefore no additional contributions/permit conditions are required as part of this permit.

Land Subject to Inundation Overlay

While part of the site is subject to the Land Subject to Inundation Overlay, no part of the development is proposed within this area. The application was therefore not referred to Melbourne Water.

Conclusion

The proposed buildings and works (10 silos) are consistent with the purpose and objectives of the Urban Growth Zone – Schedule 4 and the Officer Precinct Structure Plan which apply to the subject property. The proposal is considered acceptable and as such should be accepted.

The proposal is not considered to prevent the future re-development of the subject site and is in accordance with the objectives for the Transition Precinct as identified in the Officer Precinct Structure Plan (September 2011).

Recommendation

That Council having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* in relation to Planning Application No. T160174 decides to Grant a Permit in respect of the land known and described as Lot 1 TP602076, 20 Hickson Road, Officer, for buildings and works generally in accordance with the endorsed plans, subject to the following conditions:

Conditions:

1. Before the *development* starts, 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 will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with *the plans submitted with the application* but modified to show:
 - a. Colours and materials for all proposed buildings and works (silos).
2. The development as shown on the endorsed plan/s must not be altered without the written consent of the Responsible Authority.
3. Once the development has commenced, it must be continued and completed to the satisfaction of the Responsible Authority.
4. The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building, including the roof, must be of a non-reflective nature.
5. The use and development must not detrimentally affect the amenity of the area, through the:
 - a. Transport of materials, goods or commodities to or from the land.

- b. Appearance of any building, works or materials.
 - c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
 - d. Presence of vermin.
6. Stormwater works must be provided on the subject land so as to prevent overflows onto adjacent properties.
 7. All stormwater must be conveyed by means of drains to satisfactory points or areas of discharge approved by the Responsible Authority, so that it will have no detrimental affect on the environment or adjoining property owners.
 8. Earthworks must be undertaken in a manner that minimises soil erosion. Exposed areas of soil must be stabilised to prevent soil erosion. The time for which soil remains exposed and unestablished must be minimised to the satisfaction of the Responsible Authority.

Expiry:

A permit for the development and use of land expires if—

- a) the development does not start within two (2) years after the issue of the permit; or
- b) the development is not completed within four (4) years after the issue of the permit; or

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the Responsible Authority for an extension of the periods referred to in this condition.

Planner Responsible:	Emily Cook	Principle Planner:	Angela Gleeson
Signature:		Signature:	
Date:	23 Feb. 17	Date:	22 Feb. 17