

THE SUBJECT LAND AND THE SURROUNDING AREA

The application, as has been stated above, is for the construction of detached houses on 33 existing cluster lots. The cluster subdivision has been developed by Woodleigh Heights as a timeshare resort in the late 1970's and early 1980's. The estate is situated in a rural area approximately 3 kilometres from Kyneton township.

The situation of the land is shown on the locality plan tendered herewith and marked Appendix 'B'.

There are a total of 134 allotments on the cluster plan of which, to date, 44 have dwellings constructed on them, together with an existing recreation centre consisting of squash courts, indoor pool and games room. The timeshare resort is therefore about one-third developed. The surrounding land in the area is rural and mainly used for grazing purposes with some rural residential development on allotments ranging in size from 2.4 hectares and upwards.

THE PLANNING CONTROL

At the time of the application the land was the subject of the IDO which was in effect a blanket type Interim Development Order. The Kyneton Planning Scheme, which was declared on the 16th February 1988 pursuant to the Planning and Environment Act, substantially incorporates the provisions of the IDO. Under the IDO all subdivision and development requires the grant of a planning permit. The only control on allotment size is in that part of the IDO which is within the catchment area of the Coliban water supply system operated by the Rural Water Commission. Otherwise, there is no minimum allotment size under the IDO or Planning Scheme.

The Council has adopted a policy or guidelines regulating the size of subdivisional allotments in different areas under its planning control. That policy as applied to the subject land provides for a minimum allotment size of 3 acres (with reticulated water) and 6 acres (without reticulated water).

The allotments the subject of the application vary in size, but on average have an area of approximately 2/3rds of an acre.

Details of the planning permits issued in respect of the subject land are set out in the Schedule hereto.

In summary, however, the position is that in 1976 the land was subdivided into 17 allotments ranging in size from 2.43 ha. to 3.81 ha. (i.e. average of 7 acre lots).

Subsequently, there was an application for the cluster subdivision of the land into 45 allotments (of 2 acres each) having an overall lot density of 1 allotment per 3 acres.

One of the conditions of that development required water to be provided by a large on-site dam and internal reticulation.

The next stage was an application for a cluster re-development dividing the existing cluster lots into 3, making a total of 134 lots with an average lot size of 2/3rds of an acre. That application was in the context of the land being developed for holiday/recreational homes plus common recreational facilities. The Council treated it as an overall development of a tourist/holiday development, and on that basis did not apply its policy which prescribed minimum allotment sizes.