

**5.3 29-31 SWINDON ROAD HUGHESDALE - EXTENSION OF TIME TO ALLOW DEVELOPMENT OF 10 DWELLINGS (APARTMENTS) CONTAINED IN TWO SEPARATE BUILDINGS**

(TPA/30034:DL:HM:)

Ward : Oakleigh

Responsible Director: Don Cameron

Reason for Council Consideration: Fourth extension of time

Cost of Development : Nil

Statutory Processing Date : No statutory processing date

***RECOMMENDATION***

*Pursuant to Section 69 of the Planning and Environment Act 1987 Council extend the commencement date of the permit to 13 November 2010 and the completion date of the permit to 13 November 2012.*

***BACKGROUND***

The land is situated on the north corner of Warrigal Road and Swindon Road, Hughesdale. The land is vacant but was previously used as a service station.

At its ordinary meeting of 24 June 2003, Council determined to refuse to grant a planning permit for two buildings comprising a total of ten dwellings on the grounds that it would be out of character, would cause adverse amenity impacts and would have an unsatisfactory car parking arrangement.

Subsequently, the matter was considered by the Victorian Civil and Administrative Tribunal who directed that a permit be issued. The permit was issued on 13 November 2003.

Condition 12 of the permit requires that, prior to the commencement of any works, a statement of environmental audit must be issued or an environmental auditor must state that the conditions of the land are suitable for the use.

In attempting to satisfy condition 12 the applicant has obtained Council consent to extend the commencement date of the permit on three previous occasions.

***PROPOSAL***

The applicant now wishes to extend the commencement date of the permit for a fourth time. The applicant requests that the commencement date be extended by a further two years to 13 November 2010. In support of the request the applicant advises that the survey needed to satisfy condition 12 has been in process for 4 ½ years and will take at least one year more.

***POLICY IMPLICATIONS***

Under Section 69(2) of the Planning and Environment Act 1987, Council may extend the time within which a use or development may be started or completed.

At its ordinary meeting of 3 June 2008, Council resolved as follows:

1. That, Part 7 of the Guidelines for Instrument of Delegation in respect of Extensions of Time for Planning permits be modified to state:-  
*“7. The Coordinator Statutory Planning may authorise the first, second and third, one year requests for an extension of time and shall refer any subsequent request to Council for determination.”*
2. That the “Guide to Extension of Time for Planning Permits” be adopted.

It is under this guideline that the current extension request is to be considered.

### ***CONSULTATION***

There is no statutory requirement for public notice to be given of a request to extend the commencement date of a permit.

### ***ASSESSMENT***

The following is a summary of the matters to be considered under Council’s “Guide to Extension of Time – Permits in Monash”:

- Whether the original time limit was reasonable;
- Whether any intervening circumstances have rendered in unreasonable that the owner/applicant should be held to the time originally fixed;
- Whether since the issue of the permit there have been any changes in planning policy or controls that would mitigate against approval of the extension;
- Whether the owner of the land is seeking to “warehouse” the permit;
- The total elapse of time between the issue of the permit and the date of the request to extend;
- Any other relevant matter.

In support of the application to extend the permit, the applicant has submitted documentation outlining the extent of the work undertaken. In particular, 19 wells have been sunk and 480 tonnes of soil have been removed from the site as part of the process. However, the site appears to have a problem with its underground water in that the underground flow has not been properly determined leading to non-consistent testing results.

At present, a submission has been prepared and is with the auditor for submission to the Environment Protection Authority.

Having regard to the work undertaken and that still remaining, it is considered that the tests set out in Council’s guide can be met.

A two year extension of the permit is considered warranted. It would also be appropriate to extend the completion date of the permit by two years.

***CONCLUSION***

The commencement date of the permit should be extended by two years to 13 November 2010 with the completion date extended to 13 November 2012.