

05/05/2011  
C62

## SCHEDULE 2 TO THE SPECIAL USE ZONE

Shown on the planning scheme map as **SUZ2**

### ENVIRONMENTAL LIVING - BEND OF ISLANDS

#### Purpose

- To provide for residential use of the land consistent with the need for protection of the native bushland environment.
- To maintain and enhance the positive environmental qualities of the landscape, native flora, native fauna and to protect and thus prevent damage to natural systems.
- To limit the site coverage of the development or use, (including kitchen gardens) to a single envelope so that the landscape and environmental qualities of the area are maintained and enhanced.
- To prevent threats to flora and fauna and to the amenity of the zone which might be caused by domestic pets, feral animals or by the grazing of livestock.
- To ensure that the density, design, appearance and impact of the use or development reflects the native bushland qualities of the area.
- To conserve the quality of soil resources, water, watercourse capacity, so as not to prejudice the natural eco-system.
- To maintain acceptable air quality and noise levels in the zone.
- To maintain the high landscape quality in the zone.
- To restrict and limit the removal of natural vegetation, fallen logs and dead trees.
- To prevent subdivision and/or development of land which is flood prone or is subject to subsidence or landslip.

1.0  
19/01/2006  
VC37

#### Table of uses

##### Section 1 - Permit not required

USE	CONDITION
Apiculture	Must meet the requirements of the Apiary Code of Practice, May 1997
Home occupation	Must meet the requirements of Clause 52.11
Mineral exploration	
Mining	Must meet the requirements of Clause 52.08-2
Minor utility installation	
Natural systems	
Search for stone	Must not be costeaning or bulk sampling.

**Section 2 - Permit required**

<b>USE</b>	<b>CONDITION</b>
<b>Dwelling</b>	Must result in no more than one dwelling on the lot Must meet the requirements of 2.0 below
<b>Mining</b>	If the Section 1 condition is not met
<b>Road</b>	
<b>Search for stone</b>	If the Section 1 condition is not met.
<b>Utility Installation (other than minor utility installation)</b>	

**Section 3 - Prohibited**

<b>USE</b>
<b>Agriculture (other than Apiculture)</b>
<b>Home Occupation if the Section 1 condition is not met</b>
<b>Any use in Section 2 where the condition is not met</b>
<b>Any use not in Section 1 or 2</b>

**2.0**  
19/01/2006  
VC37

**Use of land**

Tenement Control: a tenement for the purpose of this Clause consists of all lots (must be more than one lot) abutting and held in the same ownership at 4 April 1987.

A lot may be used for one dwelling provided one of the following conditions is met:

- The lot has a minimum area of 4 hectares;
- The lot is not part of a tenement as defined in this Clause;
- The lot was created after 4 April 1987 by a consolidation of all lots comprising a tenement as defined in this Clause.

The keeping of domestic pets or livestock by residents and or/visitors, is prohibited. For the purpose of this Clause, domestic pets include dogs, cats, goats, horses, donkeys and dingoes.

The Responsible Authority maintains a Register of Non-Conforming Animal Uses in the Special Use Zone (SUZ2). The Responsible Authority shall have regard to this document when administering the scheme.

**3.0**  
19/01/2006  
VC37

**Subdivision**

A permit is required to subdivide land.

Each lot must be at least 40 hectares.

A permit may be granted to create smaller lots if either of the following apply:

- The lot is required for public use by the Crown, a public authority or a municipal council.
- Provided that the purpose of the subdivision is to re-align the boundary between two lots, where:
  - no additional lots are created,
  - the re-alignment does not increase the number of dwellings beyond that able to be permitted prior to the subdivision; and,
  - the size and configuration of new lots created does not detract from the potential for the land to be used consistent with the objectives of the zone.

At least 40 percent of the total area of any lot created must contain land which:

- Has a slope of less than 25 percent; and,
- Is not land liable to flooding; and,
- Is not subject to subsidence or landslip.

The consideration of the size, shape and layout of proposed lots shall include:

- The terrain characteristics of the land including slope, watercourses, soil types and vegetation.
- The physical and landscape characteristics and use of adjacent land.
- The long term conservation of any sites of botanical, zoological, historical or archaeological significance which affect the land.

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18/05/2006  
C25(Part 1)

#### **Buildings and Works**

A permit is required to:-

- Construct a building or construct or carry out works.
- Undertake earthworks including dam construction, land forming, laser grading, levee banks, lanes, tracks, aqueducts, surface and sub-surface drains and associated structures.

#### **Fences**

Fencing, including property boundary fencing is prohibited except for the protection of regenerating bush, protection of kitchen gardens, statutory safety requirements and boundary fencing as specified below. Solid or substantially solid fencing styles (eg brick or paling fences) will generally not be permitted. These restrictions are intended to facilitate fauna movement and minimise the visual impact of fencing.

Existing boundary fencing enclosing land used for grazing purposes can be replaced with a permit. Additional internal fencing on land presently used for grazing purposes may be erected with a permit.

For the purposes of this clause no permit is required for bush regeneration or kitchen garden fencing provided it is:

- Of post and wire-see through type;  
and in the case of bush regeneration fencing it is:
  - Less than 1.0 metres high and
  - Does not enclose more than 50% of the site or 1000m<sup>2</sup> (whichever is the lesser).

## **Clearing**

Not more than 25 percent or 2000 square metres (whichever is the lesser area) of an allotment shall be cleared for the purpose of house, outbuildings, kitchen garden, access and any other development, save that the Responsible Authority may consent to a greater area being cleared where site conditions or length of access ways would make such a restriction impractical or unnecessarily restrictive.

The above uses shall be grouped and arranged as close as possible into a defined site development envelope, having regard to the natural landscape of the site, to the satisfaction of the Responsible Authority.

## **Setbacks**

All buildings must be setback 20 metres from the frontage of a lot and from all side boundaries.

The Responsible Authority may permit a reduction in a boundary setback where it is satisfied that the reduction is necessary and will not cause adverse effects of the amenity of the neighbourhood having regard to:

- the size, shape and topography of the allotment
- the extent of any existing or proposed screen planting
- the visibility of the proposed development
- the design of the proposed development

No building shall be erected closer than 30 metres to the adjacent bank of a watercourse. Where the building utilises an on site effluent disposal method, the disposal area shall also be located more than 30 metres from the watercourse.

## **Design, Siting & Height Control**

All development shall be designed and constructed to blend in to the natural environment and have minimal visual impact with respect to building siting and form, roof slope materials and colours.

The external fabric, including the roofing of all buildings shall be in subdued tones (unpainted galvanised iron, zincalume or similar materials are inappropriate) to blend in with the environment and preserve the aesthetic amenity of the area to the satisfaction of the Responsible Authority.

All buildings should be designed and constructed in a manner which has regard to the following matters:

- Considering the use of split level design on sloping sites and other measures such as bedding in of buildings
- Selecting materials and colours which are non reflective and which reduce the visual impact of the development
- Minimising the height and prominence of the development
- The need to retain existing trees and screen planting.

No building may be constructed to a height of greater than 5 metres without the consent of the Responsible Authority.

## **Slope**

Where it is proposed to construct a building on any defined development envelope which contains a slope of 20 percent or greater, the Responsible Authority shall refuse the proposed development unless the applicant has demonstrated to the satisfaction of the Responsible Authority that:

- A suitable development envelope is unable to be identified on a lot which contains land with a slope of less than 20 percent.
- The need for earthworks is minimised and any necessary earthworks are undertaken in accordance with advice from the Department of Natural Resources and the Environment.
- Removal of natural vegetation is minimised.
- It avoids prominent ridge lines.
- The location and design of access roads or drives cause minimum impact and are generally in accordance with advice from the Department of Natural Resources and the Environment.
- Planting of trees indigenous to the area will be undertaken to screen the building as appropriate.

## **Effluent Disposal**

Consideration shall be had for appropriate effluent disposal areas on a site at the planning stage of a dwelling proposal (or other proposal which contains facilities) or subdivision proposal (as appropriate).

No sullage or sewerage wastes or polluted drainage should be discharged beyond the boundaries of the land from which it emanates, or into any watercourse or easement drain.

## **Access**

No development shall be constructed on any land unless proper and safe vehicular access to and within the land is provided.

## **Wildfire**

The Responsible Authority shall, in making a determination with respect to an application to develop land, place such conditions on any permit as are reasonably necessary, in order to reduce the risk of wildfire and to minimise the risk of loss of life and damage to property in the event of a fire.

Such conditions may include, amongst other conditions:

- a requirement that a prescribed minimum quantity of static water supply be available on the site for fire fighting purposes.
- a requirement that prescribed fire fighting equipment be kept on the site at all times including fire hoses, fire extinguishers and petrol or diesel powered pumps.
- a requirement that any fire fighting equipment stored on site be maintained in good working order and that it be kept accessible and ready to use.
- a requirement or requirements relating to the use of the building materials, the height, design and location of buildings, the storage of goods or materials and the establishment of maintenance of fire clearance areas.

Applicants are advised that the Responsible Authority gives very serious consideration to the siting of dwellings in High Fire Risk areas and places particular emphasis on ensuring that fire protection measures such as those contained within the Ministry for Planning Design and Guidelines “Bushfire Protection and Rural Houses” are incorporated into all house designs.

## **Dams**

In considering an application for a dam, the following needs to be considered:

- Dams should be designed and constructed in such a manner that dam failure is minimised.
- Dams should only be constructed by people familiar with the appropriate dam construction and soil conservation techniques.
- Dam sizes should relate to the suitability of the site and to the use intended.
- Tree removal should be minimal and the retention and use of top soil should be undertaken.
- Appropriate revegetation should be undertaken.
- To prevent the construction of dams in environmental sensitive areas, such as bush gullies.
- The need for additional water supply on the subject site and whether alternative options to dams are more appropriate.

The Responsible Authority shall consent to the construction of a dam only when it is demonstrated that:

- The location of the proposed dam is appropriate to the terrain characteristics of the land.
- The capacity of the proposed dam is appropriate to the catchment area of the site
- Spillways are designed to cater for a 1 in 5 year storm level.
- The capacity of the proposed dam is adequate to meet the needs for the dam.
- The need to remove trees is minimised.
- Soil types on the site are suitable for water retention and if not suitable, adequate mechanical or chemical means will be employed.
- Top soil stripped from the site will be spread on any exposed batters and exposed soils will be revegetated with perennial grasses and appropriate indigenous vegetation as soon as possible after construction.
- The contractor or the applicant has consulted with the Department of Natural Resources and Environment (Land Protection Service) and is familiar with recommended dam construction techniques.

Prior to making a determination with respect to an application for a permit for a dam, the Responsible Authority shall refer that application to the Department of Natural Resources and Environment and to the relevant Drainage Authority and the Responsible Authority shall have regard to their comments.

The Responsible Authority requires a landscape plan to be submitted with an application for approval to construct a dam. This plan shall indicate the revegetation works proposed (including any mulch) and shall be to the satisfaction of the Responsible Authority.

Applicants are required to submit, with the application, a plan showing location of dam on the allotment, contours and finished levels, extent of vegetation clearing works proposed, dimensions and capacity.

**5.0**05/05/2011  
C62**Vegetation Control****Areas Where Vegetation Removal is Prohibited**

The removal, lopping or destroying of native vegetation is prohibited on land which:

- Is within 30 metres of a watercourse; and/or,
- Has a slope in excess of 20 percent except as provided for in Section 4.0 *Slope*

This does not apply:

- To enable compliance with a requirement/notice in writing by a public authority or municipal council acting under any Act. This does not apply to the control of vegetation under electricity and communication lines by the appropriate supply company unless the control is in accordance with a written work plan agreed with the Responsible Authority and local community. Such a work plan shall be developed considering the zoological and botanical significance of the zone.
- To remove any native vegetation within the road reserve which, in the opinion of the Responsible Authority or Public Authority concerned with the maintenance of the road, constitutes a safety hazard to pedestrian and vehicular traffic.
- To carry out of any stream improvement, drainage or water supply works by a public authority, where such authority has consulted with the Responsible Authority on the proposed works and has approval in writing of the Responsible Authority.
- If the vegetation presents an immediate risk of personal injury or damage to property.
- If the removal, destruction or lopping of vegetation is necessary for emergency access or emergency works (including fire fighting measures) by, or directed by, a public authority or municipal council.
- To remove, destroy or lop any vegetation if the vegetation is identified as a pest plant in the Shire of Nillumbik Environmental Weed List 2009 as incorporated in this Scheme.
- If the vegetation is *Kunzea ericoides* (Burgan) and is being removed for fire prevention purposes.

**Permit Requirements for Removal of Vegetation**

A permit is required to remove, destroy or lop native vegetation where otherwise not prohibited above. A permit is not required in instances specified in the exemptions listed above.

**Permit Requirements for Removal of Fallen or Dead Timber**

A permit is required to remove or destroy fallen vegetation and dead trees where otherwise not prohibited above. This does not apply:

- For the reduction of fire hazard near buildings where such removal is limited to timber of less than 100 mm diameter.
- For the purpose of access and building site clearance within the development envelope of the site.
- In instances specified in the exemptions listed above.

**Planting of Vegetation**

No vegetation, except vegetation indigenous to the area, is permitted to be planted.

This does not apply in kitchen garden areas. For the purpose of this clause, a kitchen garden means a garden area, adjoining or close to a house, for vegetables, flowers and fruit for the household. The area of the kitchen garden should not exceed 150 square metres and should not extend along access ways or boundaries. Plants on the Shire of Nillumbik Environmental Weed List 2009 as incorporated in this Scheme shall not be planted.

### **Decision Guidelines**

In assessing an application and in determining conditions which may be included in a permit, the Responsible Authority may seek the advice of the Department of Natural Resources & Environment and the Responsible Authority shall be satisfied that the applicant has demonstrated that:

- The landscape characteristics of the locality area are not adversely affected.
- The plans accompanying the application adequately identify the area of native vegetation to be cleared and consideration is given to specifying requirements for replanting and protecting native vegetation.
- There is a demonstrated need for the removal of native vegetation associated with an approved development.
- The removal of native vegetation does not jeopardise the integrity and long term conservation of the zone which is of botanical and zoological significance.
- Consideration is given to the value of the native vegetation in terms of its physical condition, rarity and variety
- Consideration is given to the likely effect of the removal of native vegetation on the fauna of the area and its value as a refuge or habitat for wildlife.
- Consideration is given to the future use of the land and whether its appropriate to include conditions requiring planting, replanting or other treatment of any part of the land
- Consideration is given to the existing and future amenity of adjoining land and of the native environment of the neighbourhood.

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19/01/2006  
VC37

### **Advertising Signs**

Advertising sign requirements are at Clause 52.05. This zone is in Category 4.