

27/05/2019
C141mith**SCHEDULE 3 TO CLAUSE 43.03 INCORPORATED PLAN OVERLAY**

Shown on the planning scheme map as IPO3.

DONNYBROOK-WOODSTOCK PRECINCT STRUCTURE PLAN – BIODIVERSITY CONSERVATION STRATEGY AREAS**1.0**03/11/2017
GC28**Requirement before a permit is granted**

None specified.

2.003/11/2017
GC28**Permits not generally in accordance with incorporated plans**

A permit granted must be generally in accordance with the incorporated plans as they apply to the land unless otherwise agreed in writing by the Secretary to the Department of Environment, Land Water and Planning and the responsible authority is satisfied that the development will not prejudice the orderly planning of the area having regard to the objectives of the *Donnybrook-Woodstock Precinct Structure Plan, October 2017*.

3.003/11/2017
GC28**Conditions and requirements for permits**

The following conditions and/or requirements apply to permits:

Requirements

All applications for use and/or development of land shown as conservation areas for Melbourne's growth corridors (Category 1 under the *Biodiversity Conservation Strategy*) must be accompanied by the following information, as appropriate, to the satisfaction of the responsible authority:

- A description of the use or development, including:
 - A plan showing the project footprint and any associated site facilities or works.
 - A description of the project.
 - A description of any operational and maintenance requirements.
 - Commencement and completion dates, including any project staging.
- A description of the design measures, construction techniques and environmental controls proposed to be implemented to avoid, minimise and manage the impacts of the construction or operation of the use or development on the biodiversity and other environmental values of the land, including any proposals for revegetation and soil stabilisation.
- An explanation of why the use or development is necessary and whether alternative options to the development that do not require removal of native vegetation or habitat or cultural heritage values have been considered.
- A description of the consistency of the use or development with the Conservation Area Concept Plans contained in the *Donnybrook-Woodstock Precinct Structure Plan, October 2017* and any management plan for the conservation of the land applying under an agreement under section 69 of the Conservation Forests and Lands Act 1987 or approved by a public land manager having responsibility for the care or management of the land.
- A description of the impacts of the use or development on:
 - Native vegetation, including the amount and quality proposed to be removed.
 - Flora and fauna listed under the *Flora and Fauna Guarantee Act 1988* and matters of national environmental significance listed under the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*, including the amount and quality of ecological communities and habitat and number of individuals of species proposed to be removed.
 - Other environmental values of the land, including soil, wetlands and waterways.

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- A flora and fauna survey conducted by a suitably qualified and experienced person. If in the opinion of the Secretary to the Department of Environment, Land Water and Planning a survey is not required for the assessment of an application, the responsible authority may waive the requirement.

Conditions

Any permit for subdivision must contain the following conditions:

Kangaroo Management Plan

Before the certification of the plan of subdivision, a Kangaroo Management Plan must be approved by the Secretary to the Department of Environment, Land, Water and Planning. Once approved the plan will be endorsed by the responsible authority and form part of the permit.

The endorsed Kangaroo Management Plan must be implemented to the satisfaction of the responsible authority

Environmental Management Plans

A planning permit for subdivision or buildings or works on land shown as a conservation area in the incorporated *Donnybrook-Woodstock Precinct Structure Plan, October 2017* must include the following condition:

- Prior to certification of the plan of subdivision or the commencement of buildings or works an Environmental Management Plan for the relevant works must be approved to the satisfaction of the Department of Environment, Land, Water and Planning and Responsible Authority, unless otherwise agreed by the Department of Environment, Land, Water and Planning and Responsible Authority.

Protection of conservation areas and native vegetation during construction

A permit granted to subdivide land where construction or works are required to carry out the subdivision, or a permit granted to construct a building or carry out works, on land including or abutting a conservation area or patch of native vegetation or scattered tree identified for retention in the incorporated *Donnybrook-Woodstock Precinct Structure Plan, October 2017* must ensure that:

- Prior to the commencement of works in or around a conservation area, scattered native tree or patch of native vegetation, the developer of the land must erect a protective fence that is:
 - Highly visible;
 - At least two metres in height;
 - Sturdy and strong enough to withstand knocks from construction vehicles;
 - Kept in place for the whole period of construction; and
 - Located the following minimum distance from the element to be protected:

Element	Minimum distance from element
Conservation area	2 metres from the edge of the area
Scattered tree	The distance as shown in the incorporated precinct structure plan (Section 4.6)
Patch of native vegetation	2 metres from the edge of the patch

- Construction stockpiles, fill, machinery, excavation and works or other activities associated with the buildings or works must:
 - Be located not less than 15 metres from a waterway

- Be located outside the required protective fence;
- Be constructed and designed to ensure that the conservation area, scattered tree or patches of native vegetation are protected from adverse impacts during construction; and
- Not be undertaken if the qualified ecologist or arborist who is familiar with the requirements of the incorporated precinct structure plan is of the opinion that the various activities presents a risk to any vegetation within a conservation area.

Land Management Cooperative Agreement

A permit to subdivide land shown in a Conservation Area Concept Plan (CACP) in the incorporated *Donnybrook-Woodstock Precinct Structure Plan, October 2017* (the incorporated PSP) as including a conservation area must ensure that, the owner of the land:

- Enters into a *Land Management Cooperative Agreement (LMCA)* with the Secretary to the Department of Environment, Land, Water and Planning (DELWP) under section 69 of the *Conservation, Forests and Lands Act 1987*, which:
 - Must provide for the conservation and management of that part of the land shown as a conservation area in the incorporated PSP (a conservation area); and
 - May include any matter that such an agreement may contain under the *Conservation, Forests and Lands Act 1987*.
 - Makes application to the Registrar of Titles to register the agreement on the title to the land.
 - Pays the reasonable costs of the Secretary to the DELWP in the preparation, execution and registration of the agreement.

The requirement for a LMCA in this condition does not apply to land or any lot or part of a lot within a conservation area that:

- Is identified in the incorporated PSP as public open space and is vested, or will be vested, in the council as a reserve for the purposes of public open space; or
- Is identified in the incorporated PSP as a drainage reserve and is vested, or will be vested, in Melbourne Water Corporation or the council as a drainage reserve; or
- Is within a Conservation Area identified in the incorporated PSP for nature conservation and is vested, or is subject of an agreement with the Secretary to the DELWP to be vested, in the Secretary to the DELWP for conservation purposes; or
- Is the subject of an agreement with the Secretary to the DELWP to transfer or gift that land to:
 - The Secretary to the DELWP;
 - The Minister administering the Conservation, Forests and Lands Act, 1987; or
 - Another statutory authority.
- to the satisfaction of the Secretary to the DELWP.

The LMCA must be entered into:

- In relation to land containing Nature Conservation or Open Space conservation area, prior to the commencement of works for; or
- In relation to land containing Growling Grass Frog conservation area, before the issue of a statement of compliance for the last stage of the subdivision.

4.0

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Decision guidelines

Before deciding on an application to remove, destroy or lop vegetation the responsible authority must consider as appropriate:

- Any endorsed program report applying to the land under Part 10 of the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth).
- The *Donnybrook-Woodstock Precinct Structure Plan, October 2017*.

5.0

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Preparation of the incorporated plan

None specified.

Note: Operation of Commonwealth Environmental Laws. On 5 September 2013 an approval under the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) was issued by the Commonwealth Minister for Environment, Heritage and Water. The approval applies to all actions associated with urban development in growth corridors in the expanded Melbourne 2010 Urban Growth Boundary as described in page 4 in the Biodiversity Strategy for Melbourne's Growth Corridors (Department of Environment and Primary Industries, 2013). The Commonwealth approval has effect until 31 December 2060. The approval is subject to conditions specified at Annexure 1 of the approval. Provided the conditions of the EPBC Act approval are satisfied individual assessment and approval under the EPBC is not required.