

Form 5

**NOTICE OF
DECISION TO
GRANT A
PERMIT**

Application No: P21/3521
Planning Scheme: Mornington Peninsula
Responsible Authority: Mornington Peninsula Shire

ADDRESS OF THE LAND:

**273 CANADIAN BAY ROAD MOUNT ELIZA
LOT 2 PS 646835 VOL 11457 FOL 685**

WHAT WILL THE PERMIT ALLOW?

PLANNING SCHEME CLAUSE	MATTER FOR WHICH THE PERMIT HAS BEEN GRANTED
Clause 32.08-3 (GRZ1)	Subdivide land
Clause 42.02-2 (VPO1)	Remove, destroy or lop any vegetation
Clause 43.02-3 (DDO18)	Subdivide land
Clause 52.17-1	Remove, destroy or lop native vegetation

WHAT WILL THE CONDITIONS OF THE PERMIT BE?

Condition 1 to 47 inclusive

Amended plans

1. Prior to the endorsement of any plans and before the works commence, 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. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a) Plan of subdivision to show the following:

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BRIAR THOMAS - SENIOR PLANNER

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- i. Common property to the north-west of Lot 1 and Lot 2 increased to a minimum width of 17 metres.
- ii. Lot 1 Building Envelope to have a minimum setback of 9 metres from the common property.
- iii. Lot 2 Building Envelope to have a minimum setback of 9 metres from the common property along the north-west boundary.
- iv. All Lot Building Envelopes to have a minimum 5 metre setback from common property, except where otherwise stated in this condition.
- v. A 10 metre wide easement measured from the eastern property boundary in accordance with condition 34.
- vi. Appropriate 2m wide drainage easements, in favour of the relevant Lots.
- vii. A restriction under the Subdivision Act 1988 that prevents discharge from Lots 1-4 once developed, exceeding the expected discharge from the pre-developed condition based on a 0.5 Exceedances per Year storm event for rainfall events up to and including a 1% Annual Exceedance Probability storm event without the further written consent of the Mornington Peninsula Shire.
- viii. A restriction under the Subdivision Act 1988 that prevents discharge from Lots 5-8 once developed, exceeding the expected discharge from the pre-developed condition based on a 0.5 Exceedances per Year storm event for rainfall events up to and including a 10% Annual Exceedance Probability storm event without the further written consent of the Mornington Peninsula Shire.

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- ix. A restriction under the Subdivision Act 1988 that prevents discharge from Common Property No. 1 once developed, exceeding the expected discharge from the pre-developed condition based on a 0.5 Exceedances per Year storm event for rainfall events up to and including a 1% Annual Exceedance Probability storm event without the further written consent of the Mornington Peninsula Shire.
- x. Building envelopes shown for Lots 5-8 on the plan of subdivision to the satisfaction of Responsible Authority.
- b) Driveway to the north-west of Lot 1 and Lot 2 to be setback a minimum of 10 metres from the north-west boundary, with the exception of:
 - i. CFA Passing bay(s).
 - ii. The change in direction.
 - iii. CFA Requirements detailed in condition 44.
- c) Driveway parallel to the north-west boundary reduced to a minimum width no less than 3.5 metres, with the exception of:
 - i. A passing area at the entrance at least 6.1 metres wide and 7 metres long.
 - ii. CFA Passing bay(s).
 - iii. The change in direction.
 - iv. CFA Requirements detailed in condition 44.
- d) Driveway to be setback a minimum of 2 metres from approved Lot boundaries.
- e) Driveway to comply with requirements of condition 44.

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- f) A minimum 6.1-metre-wide reinforced concrete or asphalt surfaced vehicle crossing at the property boundary.
- g) Asphalt or reinforced concrete surface for common property driveway.
- h) Common property named in accordance with *Australia/New Zealand Standards for Rural and Urban addressing and Naming rules for places in Victoria, Statutory requirements for naming roads, features and localities – 2016*.
- i) A tree removal and retention plan for only the common property area and Restoration Zone. It must show:
 - i. The boundaries of approved common property.
 - ii. The Restoration Zone.
 - iii. The width / setbacks of the Restoration Zone from the title boundary.
 - iv. Trees for removal and retention in the common property, where removal only occurs to facilitate driveway construction and installation of applicable services.
 - v. Trees for removal in the Restoration Zone in accordance with the recommendations of approved *Restoration Plan, Revegetation & Weed Management*, by Grant Harris, Revision G dated 05/01/2023 (or as updated).
 - vi. Trees for removal in the common property to enable access to the Restoration Zone.
 - vii. The retention of trees 199, 200, 890, 896 188, 195, 201, 307, 308, 310, 323, 324, 213, 313, 314, 416, 417, 615.
 - viii. A 'no excavation zone' around the trees listed in this condition.

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- ix. Annotation that with the written consent of the Responsible Authority the trees listed in this condition for retention can be replaced with new planting in the event of dead, diseased or damaged vegetation.
- x. Tree Protection Zones for retained vegetation.
- j) An amended landscape plan which takes into account any changes identified in condition 1 above, and includes:
 - i. Screening planting to the north-west of the driveway adjacent to Lots 1 and 2.
 - ii. Canopy tree planting in common property.

Vegetation referred to in this condition should be indigenous to the local Ecological Vegetation Class (Grassy Woodland).

- k) A Tree Management and Protection Plan (TMPP) prepared by a Level V (AQF) Arborist in accordance with Australian Standard AS 4970-2009 Protection of trees on development sites; for all retained trees on the subject site or adjoining land whose Tree Protection Zones (TPZ) fall within the proposed development footprint (including any associated buildings and works). The report must include an Arboricultural Impact Assessment (AIA) and Tree Protection Plan (TPP) – (drawing, specification and certification procedure) and demonstrate how the retained trees will be protected during all stages of development.
- l) A Waste Management Plan in accordance with condition 22.

Layout not altered

- 2. The subdivision as shown on the endorsed plan must not be altered or modified without the consent in writing of the Responsible Authority.

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Vegetation removal

3. The extent of clearing of vegetation as shown on the endorsed plans must not be altered or modified without the consent of the Responsible Authority.
4. All disturbed surfaces on the land must be revegetated and stabilised to the satisfaction of the Responsible Authority.

Landscaping

5. Prior to Statement of Compliance (or other time agreed to in writing by the Responsible Authority) the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
6. The landscaping referred works shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced as soon as practicable.

Retention of logs as ground habitat

7. Fallen indigenous logs on the site and dead indigenous trees to be removed, must be moved to areas near the creek, along the driveway, or placed in other practical locations and retained as ground habitat to the greatest extent practicable.

Ecological Restoration, Revegetation and Weed Management

8. The approved ecological Restoration Plan must be fully implemented and complied with within the prescribed time zone stages for a period of 10 years from the commencement of implementation.

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9. The site owner must be responsible for the implementation of the Restoration Plan until a body corporate is established. When a body corporate (or similar) is established, the body corporate (or similar) must have responsibility for the implementation of the restoration plan in communal areas. The restoration plan must form part of the body corporate's property maintenance schedule.

Tree protection

10. Prior to the commencement of any demolition, excavation or works; and during all stages of development, the Tree Protection Zones (TPZ), Tree Protection Fencing, Recommendations and Tree Protection Measures identified in the approved Tree Management and Protection Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
11. The owner and occupier of the site must ensure that, prior to the commencement of any demolition or works, all contractors and tradespersons operating on the site are advised of the status of trees to be retained and are advised of any obligations in relation to the protection of those trees.
12. No trenching or soil excavation is to occur within the Tree Protection Zones of retained trees unless shown on the endorsed plans without the prior written consent of the Responsible Authority.

DEECA

13. Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.

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14. The total area of native vegetation proposed to be removed totals 0.565 hectares, comprised of:

- a) 3 large scattered trees
- b) 16 small scattered trees

15. To offset the permitted clearing in accordance with *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017), the permit holder must secure general offset of 0.102 general habitat units:

- a) located within the Port Phillip and Westernport Catchment Management Authority boundary or Mornington Peninsula Shire Council municipal area
- b) with a minimum strategic biodiversity score of at least 0.162

The offset(s) secured must also protect 3 large trees.

16. Before any native vegetation is removed and before the issue of the Statement of Compliance, evidence that the offset required by this permit has been secured must be provided to the satisfaction of the responsible authority. This evidence must be one or both of the following:

- a) an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site, and/or
- b) credit extract(s) allocated to the permit from the Native Vegetation Credit Register.

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17. A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning Approvals at the Department of Energy, Environment and Climate Action Port Phillip regional office.
18. Where the offset includes a first party offset(s), the permit holder must provide an annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.
19. Within 6 months of the conclusion of the permitted clearing of native vegetation under this permit, the offset requirements can be reconciled with the written agreement of the responsible authority and the Department of Energy, Environment and Climate Action.
20. A suitably qualified wildlife handler or zoologist is to be present when felling trees/removing native vegetation, to ensure affected wildlife is not harmed. If displaced wildlife that cannot be relocated on site to an appropriate location away from the construction footprint, or injured wildlife is captured, please contact DEECA on 136 186 for further advice.
21. Within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and/or development, the following is prohibited:
 - a) Any vehicle or pedestrian access, trenching or soil excavation, and
 - b) Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products, and

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- c) Entry or exit pits for underground services, and
- d) Any other actions or activities that may result in adverse impacts to retained native vegetation.

Engineering

22. Prior to the endorsement of plans, a Waste Management Plan is required to be submitted to and approved by the Responsible Authority. The waste management plan is to detail the following:

- a) The Owner or Owners Corporation arranging for private collection of waste, recyclables and green waste bins from within the property including: -
 - i. Location of bin collection areas.
 - ii. Swept paths and turning movements of vehicle to be used for the collection of bins from the designated bin collection areas. Reversing movements of the collection vehicle must only occur within the development site.
 - iii. Names of contractors able to provide the required service.

OR

- b) Council collection waste, recyclables and green waste bins from within the property including: -
 - i. Location of bin collection areas.
 - ii. Swept paths and turning movements of 9.6m long vehicle to be used for the collection of bins from the designated bin collection areas. Reversing movements of the collection vehicle must only occur within the development site.

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This plan must be submitted to and be to the satisfaction of the Responsible Authority and when approved the plan will become the endorsed waste management plan under this permit.

23. Prior to the issue of a Statement of Compliance, works must be completed in accordance with engineering plans and specifications submitted and approved by the Responsible Authority and must include:
- a) Each lot being provided with a property drainage inlet located within that lot.
 - b) Discharge from the site being connected to the invert of Kackeraboite Creek to the satisfaction of Melbourne Water and Responsible Authority.
 - c) Minimum 6.1metre wide reinforced concrete or asphalt surfaced vehicular crossing being constructed to service lots 1-8 with any redundant crossing or vehicle laybacks being removed and replaced with kerb and channel and reinstated nature strip to the satisfaction of the Responsible Authority.
 - d) Tree Protection Zones (TPZs) impacted by the works, or as shown on any other development plans and documents.
 - e) Drainage works designed to avoid TPZs where possible.
 - f) Proposed methodologies for complying with AS4970-2009 (Protection of trees on development sites) for any works that are required within TPZs.
24. Prior to the issue of a Statement of Compliance, the applicant must provide to Council the schedule of quantities and rates for the construction of works.

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25. Prior to the issue of a Statement of Compliance, the applicant must pay to the Responsible Authority appropriate fees for plan checking and supervision.

26. Prior to the issue of a Statement of Compliance the applicant must:

a) Demonstrate to the Responsible Authority that water quality features will be implemented in accordance with clause 56.07-4 of the planning scheme.

and/or

b) Subject to the approval of the Responsible Authority, demonstrate by way of receipt or advice from Melbourne Water that Melbourne Water Stormwater Quality Contributions has been paid.

27. Prior to the commencement of any works, a project-specific Major Construction Management Plan (CMP) must be endorsed by the Responsible Authority. This CMP is to be based on the standard Major CMP template found on the Mornington Peninsula Shire's website. When approved, the CMP will be endorsed and form part of the Planning Permit. The endorsed CMP must be implemented to the satisfaction of the Responsible Authority prior to, and during the works.

Section 173 Agreement

28. Prior to the issue of a Statement of Compliance for any stage, 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*. This agreement must be registered by the Responsible Authority pursuant to Section 181 of the *Planning and Environment Act 1987* on the title of the subject land prior to approval of the subdivision.

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This agreement must provide for:

- Common Property No.1 and its drainage detention being constructed in accordance with engineering plans approved by the Responsible Authority prior to the transfer or occupation of any lot created by the subdivision, whichever occurs first.

The costs in preparation and registration of such agreement are to be met by the subdivider and must be paid prior to the registration of the agreement.

The above condition will be deemed to be satisfied and the Responsible Authority will waive the need for the subdivider to enter into an Agreement, if the Common Property areas and drainage detention have been completed in accordance with engineering plans approved by the Responsible Authority.

29. Prior to the issue of a Statement of Compliance for any stage, 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*. This agreement must be registered by the Responsible Authority pursuant to Section 181 of the *Planning and Environment Act 1987* on the title of the subject land prior to approval of the subdivision.

(a) Unless with the prior written consent of the responsible authority:

- i. The liability associated with the waste, recyclables and green waste management or alternatively, recyclables and green waste management for the development being vested with the Owner or Owners Corporation, and for the Owner or Owners Corporation to undertake the management of private collections for the development in accordance with an endorsed Waste Management Plan.

Or, alternatively,

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With the further written consent of the Responsible Authority, Council collection of waste, recyclables and green waste bins from all dwellings in accordance with an endorsed Waste Management Plan.

The agreement is to remain extant for the life of the development at this property.

The agreement must be executed prior to the commencement of any works and all costs relating to the preparation and registration of the agreement are to be borne by the applicant.

30. Prior to the issue of a Statement of Compliance for any stage, the owner must enter into an Agreement with the Responsible Authority pursuant to Section 173 of the Planning and *Environment Act 1987*. The Agreement must be prepared and registered on the title to the land to the satisfaction of the Responsible Authority. The Agreement must require the owner or occupier to undertake the following to the satisfaction of the Responsible Authority:

- Owners and occupiers of approved Lots to undertake weed management in accordance with the approved Restoration Plan.
- No planting of environmental weed species.
- The Agreement end date (sunset clause) as it relates to the Restoration Plan as no earlier than the date on which the Restoration Plan ends (10 years after commencement).
- Develop and comply with a Construction Environment Management Plan (CEMP) or equivalent prior to the commencement of any development on approved lots. The CEMP should identify appropriate measure to manage and mitigate any erosion or sedimentation risk to Kackeraboite Creek from the proposed development.
- All dwellings (including outbuildings and swimming pools) to be constructed within Building Envelopes shown on endorsed plans,

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except with the written consent of the Responsible Authority. This does not apply to decking, fencing and driveways.

- Fences to boundaries be 1.5 metre high post-and-wire except with the written consent of the Responsible Authority.
- No fencing to the Kackeraboite Creek boundary.

The costs in preparation and registration of such agreement are to be met by the subdivider and must be paid prior to the registration of the agreement.

Subdivision

31. Prior to the certification of the plan of subdivision hereby permitted, the plan must be referred to South East Water, United Energy CFA and Melbourne Water in accordance with Section 8 of the *Subdivision Act 1988*.
32. Prior to the issue of a Statement of Compliance, the subdivider must pay a Public Open Space Contribution to the Responsible Authority, in accordance with the Schedule to Clause 53.01 of the planning scheme. Such payment will satisfy in full any Public Open Space requirement under the planning scheme.
33. Prior to the certification of a plan of subdivision, the subdivider must pay for the installation of a road name sign to the satisfaction of the Responsible Authority.

Melbourne Water

34. Building envelopes must be setbacks a minimum 20 metres from the waterway centreline.

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35. Prior of Certification of Plan of Subdivision, the plan of subdivision must include a 10m wide easement measured from the eastern property boundary, which shown in favour of Melbourne Water Corporation for the purpose of drainage and waterway management.
36. Prior to the issue of Statement of Compliance, a separate application direct to Melbourne Water must be made for approval of any new or modified storm water connection to Melbourne Water's drains or watercourses. Prior to accepting an application, evidence must be provided demonstrating that Council considers that it is not feasible to connect to the local drainage system.

South East Water

37. The owner of the subject land must enter into an agreement with South East Water for the provision of drinking water supply and fulfil all requirements to its satisfaction.
38. The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.
39. All lots shown on the Plan of Subdivision must be included in the Owners Corporation schedule.
40. The certified Plan of Subdivision will need to show sewerage supply easements over all existing and/or proposed South East Water sewer mains located within the land, to be in favour of South East Water Corporation pursuant to Section 12(1) of the Subdivision Act.

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United Energy

41. The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards.

Notes: Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.

42. The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).

Notes: Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.

CFA

43. Prior to the issue of a Statement of Compliance under the *Subdivision Act 1988* the following requirements must be met to the satisfaction of the CFA:
- a) Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured as a hose would be laid on the ground. Not over obstructions and obstacles, such as fences, or over side and rear boundaries.
 - b) The hydrants must be identified with marker posts, blue road reflectors and white road triangles (as applicable).

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44. Roads must be constructed to the following requirements:

- a) The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres. Dips must have no more than a 1 in 8 (12%) (7.1 degree) entry and exit angle.
- b) Curves must have a minimum inner radius of 10 metres.
- c) The trafficable width must be a minimum of 3.5 metres, be of all-weather construction and have a load limit of at least 15 tonnes.
- d) Encroachments must be clear for at least 0.5 metres on each side and 4 metres vertically.
- e) Where the distance to the nearest intersection exceeds 60 metres then a turning area for firefighting vehicles must be provided by one of the following:
 - i. A turning circle with a minimum radius of 8 metres.
 - ii. The provision of other vehicle turning heads – such as a T or Y head – which meet the specification of Austroads Design for an 8.8 metre service vehicle.
- f) Where the distance to the nearest intersection exceeds 200 metres then passing bays must be provided. Passing bays must be at least 20 metres long and be at least 6 metres wide.

Telecommunications

45. The owner of the land must enter into an agreement with:

- a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan

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in accordance with the provider's requirements and relevant legislation at the time; and

- a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
46. Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:
- a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Expiry

47. This permit will expire if:
- a) The Responsible Authority has not certified the plan of subdivision within 2 years of the date of issue of this permit.
 - b) The removal of the approved vegetation is not completed within 2 years of the date of this permit.

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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.

Notes

- The permitted development must be undertaken in accordance with Cultural Heritage Management Number: 17367 by Jem Archaeology, dated 12/11/2021 approved under the *Aboriginal Heritage Act 2006*.
- CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under 'About us' then 'Publications' on the CFA website (www.cfa.vic.gov.au)

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IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED?

The Responsible Authority has decided to grant a permit. The permit has not been issued.

This notice sets out what the permit will allow and what conditions the permit will be subject to if issued.

WHAT ABOUT REVIEWS?

For the applicant-

- * The person who applied for the permit may apply for review of any condition in the notice of decision to grant a permit. The application for review must be lodged within 60 days of the giving of this notice.

For an objector-

- * An objector may apply for review of the decision of the Responsible Authority to grant a permit. The application for review must be lodged within 28 days of the date of this notice.
- * If there is no application for review, a permit will be issued after 28 days of the date of this notice.

For a recommending referral authority—

- * A recommending referral authority may apply for review of the decision of the responsible authority—
 - (a) to grant a permit, if that recommending referral authority objected to the grant of the permit; or
 - (b) not to include a condition on the permit that the recommending referral authority recommended.
- * The application for review must be lodged within 21 days of the giving of this notice.
- * If there is no application for review, a permit will be issued after 21 days of the giving of this notice.

For all applications for review-

- * An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- * An application for review must be made on the relevant form which can be obtained from the Victorian Civil and Administrative Tribunal and be accompanied by the applicable fee.
- * An application for review must state the grounds upon which it is based.
- * A copy of an application for review must be served on the responsible authority, each other party and each other person entitled to notice of the application for review under the **Planning and Environment Act 1987** and the **Victorian Civil and Administrative Tribunal Act 1998** within 7 days after lodging the application with the Victorian Civil and Administrative Tribunal.
- * Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.