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Diocese of Sandhurst & Ors v Greater Bendigo CC [2011] VCAT 128

(3 February 2011)

Last Updated: 10 February 2011

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO.
P643/2010 & P1006/2010
PERMIT APPLICATION NO.
DS/843/2008

CATCHWORDS

Greater Bendigo Planning Scheme; Applications pursuant to [Sections 82](#) and [80](#) of the [Planning and Environment Act 1987](#); Residential 1 Zone; Vegetation Protection Overlay (Schedule 2); Subdivision into 77 lots (originally 135 lots); Vegetation removal; Habitat; Site of High Conservation Significance; Box Ironbark forest; Large Rustyhood Orchid; Eltham Copper Butterfly; Site responsive layout.

APPLICANTS

Aspinall Action Group Inc, Fiona
Dangerfield, Christina Lonsdale, Bendigo
& District Environment Council Inc (in
P643/2010)

**RESPONSIBLE AUTHORITY
REFERRAL AUTHORITY**

Diocese of Sandhurst (in P1006/2010)
Greater Bendigo City Council
Department of Sustainability &
Environment

RESPONDENTS

Diocese of Sandhurst (in P643/2010)
Aspinall Action Group (in P1006/2010)
134-136 Aspinall Street, Golden Square
Bendigo

**SUBJECT LAND
WHERE HELD
BEFORE**

J A Bennett, Member

HEARING TYPE

Hearing

DATE OF HEARING

25 & 26 November, 1 December 2010

DATE OF ORDER

3 February 2011

CITATION

Diocese of Sandhurst & Ors v Greater
Bendigo CC [\[2011\] VCAT 128](#)

ORDER

1. The decision of the Responsible Authority is set aside.
2. In permit application No. DS/843/2008 no permit is granted.

J A Bennett

Member

APPEARANCES

For Applicants for Review and
Respondents

Mr David Lonsdale for Fiona Dangerfield
and Christina Lonsdale.

Mr Stuart Fraser, Convenor for The
Bendigo and District Environment Council
Inc.

Mr George Ryan, Solicitor for the Aspinall
Action Group Inc. Written and oral
evidence provided by Mr Lincoln Kern,
Ecologist of Practical Ecology Pty Ltd.
Professor Andrew Bennett, School of Life
and Environmental Sciences, Deakin
University prepared a written statement but
was unable to attend to give an oral
presentation and answer questions. In
addition, a statement was prepared by Mr

Greg Williams, who is a teacher, local resident and member of the Aspinnall Action Group Inc.

Mr John Cicero, Solicitor of Best Hooper Solicitors for Diocese of Sandhurst.

Written and oral evidence provided by Mr Andrew Robertson, Town Planner of Tract Consultants Pty Ltd and Mr Brett Lane, Ecologist of Brett Lane & Associates Pty Ltd.

For Responsible Authority

Mr Egils Stokans, Solicitor of Russell Kennedy.

For Referral Authority

Ms Amanda Fleming and Ms Jenni Thomas. A statement prepared by Tree Wishes Land Care Advice was tendered for the information of the Tribunal and parties.

INFORMATION

Description of Proposal

As amended, the Version 3 plan proposes subdivision of the land into 75 residential lots generally of between 545m² and 1020m² in area (the one exception is Lot 53 which has an area of 2,360m²). In addition two super lots are to be created. Lot A contains remnant bushland with an area of 5.81 ha and Lot 66 contains the Catholic Bishop's residence and garden with an area of 2.507 ha. Although native vegetation is being retained, approval is also sought to remove 7.82 ha of native vegetation on that part of the land being subdivided into residential lots.

Nature of Application

Section 82 [*Planning and Environment Act 1987*](#) (P643/2010).

[*Section 80 Planning and Environment Act 1987*](#) (P1006/2010).

Zone and Overlays

Residential 1 Zone (R1Z).

Permit requirements	Vegetation Protection Overlay (VPO2). Cl. 32.01-2 (subdivision in R1Z). Cl. 42.02-2 (remove, destroy or lop any vegetation in VPO2). Cl. 52.17-2 (remove, destroy or lop any vegetation).
Site inspection	I inspected the site and the immediate locality before the hearing, between the first & second days of hearing and again after the hearing.
Land description	The review site is located on the north western corner of Alder and Aspinall Streets and has an area of 14.98 ha. Druid Street abuts the northern boundary but consists of a winding, unconstructed track through native bushland. The site is owned by the Roman Catholic Trusts Corporation and the period style residence of the Bishop of the Diocese of Sandhurst is positioned in the south east section of the site with driveway access from both Alder and Aspinall Streets. Gardens and lawns provide a more formal setting in contrast to the native bushland on the remainder of the site.

REASONS

Why the 2 month delay in issuing my determination?

1. The hearing for this proceeding concluded on Wednesday 1 December 2010. The possibility of the review site being suitable habitat for the Eltham Copper Butterfly (*Paralucia pyrodiscus lucida*) was raised as an issue in a number of submissions and discussed by expert witnesses. I was advised on the third day of hearing (Wednesday 1 December 2010) that the Eltham Copper Butterfly had been recently sighted at Big Hill, to the south of Bendigo.

2. The Sweet Bursaria on the review site is one of the two key requirements for butterfly habitat. The other is the presence of a certain type of ant (*Notoncus capitatus*) which has not, as yet, been found on the review site.
3. Given that the butterfly had been so recently sighted at Big Hill, there was a small window of opportunity during December to undertake a survey/assessment of the review site in an effort to determine whether the Eltham Copper Butterfly was present. I directed that the survey/assessment was to be undertaken during December 2010 and the results circulated to me and all other parties by the close of business on 31 December 2010.
4. By letter dated 6 January 2011 ARG Planning, acting on behalf of the permit applicant, submitted a copy of a brief report by Brett Lane & Associates Pty Ltd on the Eltham Copper Butterfly survey undertaken during December 2010. Three walk-through surveys were undertaken on 14, 29 and 31 December 2010 at which time no butterflies were found, despite them being present at the Big Hill site south of Bendigo. The report did note that a Square-tailed Kite (listed as a vulnerable species by DSE) was observed on the review site on 14 December 2010. Despite a targeted search on 31 December 2010, no nest was found and Mr Lane comments that:

Although of interested (sic), the observation on 14th December is considered unusual and probably represents an individual wandering from its main territory in the larger forest blocks to the west of Bendigo.

1. As noted in my order dated 3 December 2010, the presence or absence of the Eltham Cooper Butterfly determines whether the majority of the site is re-graded from High to Very High Conservation Significance in accordance with the Native Vegetation Framework/Net Gain assessment procedures. Its absence means the High Significance grading remains but, as I noted in December 2010, its absence does not automatically mean that a permit will be granted.

What is in dispute and what is the key issue?

1. The review site is owned by the Catholic Diocese of Sandhurst and a residence in the cleared south east corner of the site is the home of the Bishop of Sandhurst. The Diocese now seeks to subdivide and

dispose of the majority of the land not required to be retained for the Bishop's residence and garden. Although the whole of the review site is zoned Residential 1, it is also affected by a Vegetation Protection Overlay (VPO2) in recognition of the significant coverage of Box Ironbark Forest which is classified as a depleted Ecological Vegetation Class in the Goldfields Bioregion.

2. Council agreed to support a revised subdivision proposal but included a condition deleting 10 of the proposed residential lots fronting Alder Street in the south west corner of the site. Nearby residents and the Bendigo and District Environment Council Inc disagree with Council's decision and seek to have it set aside. The permit applicant does not agree with the condition seeking to delete 10 lots and wants it removed from any permit that may be issued.
3. Having regard to submissions by parties, evidence given by experts and the information submitted by Council as required by Practice Note 2, I have determined that the key issue/question in this appeal is whether the proposed subdivision has responded appropriately to the significant native vegetation that exists on that part of the land not being retained by the Diocese of Sandhurst.

Is subdivision of the land consistent with policies for urban growth and settlement?

1. The land is zoned Residential 1, is within the urban growth boundary of Bendigo, can be fully serviced with reticulated and other services, is surrounded on all sides by existing or soon to be completed residential subdivisions and development, is on a bus route and is within convenient distance of schools, parkland, and commercial and other facilities.
2. From a broad urban development perspective the land is suitable for subdivision into residential lots consistent with the Residential 1 Zone and relevant planning policies. The site is not identified as being a *New Development Area* on the Residential Strategic Framework Plan at Clause 21.05. Some degree of subdivision will, in a small way, help to fulfil the need for additional lots within the urban growth boundary of Bendigo and satellite areas to cater for the expected population increase of 38,500 by 2030 (see Clause 21.06-1).

3. However any subdivision must also respond to its specific site characteristics and context and be tailored to reflect any particular attributes (or constraints) that may impact on how the land is subdivided. Local policy recognises that discrete pockets of native vegetation exist throughout the residential areas and that there is a need to protect environmental values, especially the network of forested private and public land, by ensuring that development is environmentally sustainable.
4. It is especially important that any subdivision of land with high conservation values be responsive to those values and attributes. The review site may not be unique, but it is certainly unusual even in the context of Bendigo, where urban development and forest intermingle and where the Planning Scheme acknowledges that:

The beautiful ‘green’ surrounds of Bendigo are an important reason for many people choosing Bendigo as a desirable place to live and additionally are a marketable feature in attracting tourists to the area. It is important to recognise that the existence of these areas of ecological significance, provide environmental and economic benefits, and they also provide an important contribution to the City’s unique character. (Clause 21.05-1).

1. While I agree with Mr Robertson that the proposed subdivision meets all the calculable standards set out in Clause 56, I do not accept that all the qualitative objectives and standards such as those relating to neighbourhood character (e.g. *Protect significant vegetation and site features*) have been met. The Version 3 subdivision layout that was the basis for Council’s decision to conditionally support the proposal is a great improvement over the original proposal which sought to create 135 residential lots, with the Bishop’s grounds and residence retained on one large lot of 2.487 ha in the south east corner. The vast majority of the site (83%) was to be subdivided into residential lots and no land was being set aside for vegetation retention and protection. Despite a Net Gain Assessment undertaken by Brett Lane and Associates (report dated March 2008) that identified the subdivision area as being of medium conservation significance according to *Victoria’s Native Vegetation Management – A Framework for Action*, it was as if the site was a cleared paddock with no environmental values at all. The Version 2 and Version 3

plans have recognised those environmental and conservation values by setting aside more than 5 ha for vegetation protection. That is a marked improvement over Version 1 but, as I discuss in the following section, the conservation significance of the land (other than the lot with the Bishop's residence) has now been upgraded to High rather than Medium based on an assessment using *Victoria's Native Vegetation Management – A Framework for Action*. The regrading took place towards the end of the hearing on the basis of the discovery of numerous examples of the Large Rustyhood Orchid (*v Pterostylis maxima*) which is listed as a vulnerable species. During my inspection I observed some of these orchids in the north east corner of the site.

2. The relevance of *Clause 22.01 -Development at the Urban Forest Interface Policy* was the subject of submissions and discussion at the hearing with Mr Cicero suggesting in his oral submission on Day 2 that it does not apply having regard to the documents underpinning Amendment C60 which introduced the policy into the Planning Scheme. As I now explain, I am not convinced by his submission although I concede that the policy is at best ambiguous.
3. Clause 22.01 notes that the policy applies to land in the Residential 1 Zone while the objective is *to ensure residential development protects and maintains the environmental values of adjoining forested areas surrounding Bendigo*. The policy basis notes that *this policy sets minimum standards to be applied to residential development that abuts both public and privately owned forest*. The standards for residential development that abuts privately owned forest does not distinguish between private forest on an application site and private forest on adjoining land.
4. Separate policies are then given for different categories of forest including, most relevantly for this case, the following:

Private forest - (areas of very high, high and medium conservation significance vegetation) – existing Residential 1 and Low Density Residential

- A 30-metre buffer be provided from residential development (including outbuildings) to the forest boundary. A road reserve may be included within the buffer. Planting of the buffer will be based on the EVC. If the land is identified in the Urban Vegetation Study (Stage 1), the

development must demonstrate that an appropriate management regime can be introduced that will produce a positive environmental outcome.

- Subdivision applications should include:
 - The development of biolinks to link critical vegetation;
 - Building envelopes;
 - Dwellings to be constructed of materials that are sympathetic with adjoining forest (ie muted tones, etc);
 - All utility services to be placed under ground in common trenches;
 - A fire management plan, which addresses issues such access for emergency vehicles and fire hazard reduction;
 - Higher density lots in areas that have been previously disturbed and undisturbed areas left as public open space, here appropriate; and
 - EVC mapping where applicable and the protection of areas of very high, high and medium conservation significance vegetation from residential development.
1. The last dot point above provides the best reason for concluding that the policy applies because it requires EVC mapping and the protection of areas of very high, high and medium conservation significance from residential development. In this context, protection can only relate to land that is actually part of the subdivision application, not adjoining land outside the application site.
 2. Other parties adopted a different approach to Mr Cicero and submitted that Clause 22.01 does apply to this application. I also note that Mr Robertson's witness statement (page 12) makes reference to the proposal *responding to the requirements of Clause 22.01 by providing a 30m buffer from the proposed retention of native vegetation to all future build structures*. Both Mr Stokans and Mr Cicero tabled documents associated with Amendment C60 including the Explanatory Report and extracts of the Panel Report. The Panel was very critical of the exhibited policy – *even with the extensive*

revisions that have been recommended. The Panel also expressed concerns about the manner in which it had been drafted and the ease with which it would be able to be interpreted. It noted for example, that *the policy needs to be explicit about whether ‘existing residential’ refers to zoning or development of land and that there also needs to be some guidance about what constitutes private forest’.* Given the differences in opinion about how the policy should be applied to this subdivision application, it seems that the Panel’s concerns were well founded. I also acknowledge that Clause 21.05 gives weight to Mr Cicero’s submission that Clause 22.01 does not apply because it includes a strategy to *control new residential subdivisions on existing residential land in the vicinity of the surrounding state and national parks* and that the strategy will be implemented by using Clause 22.01 *to manage the interface between residential areas and the forest.*

3. But even I am wrong about the relevance of Clause 22.01 to this application, it does not change the fundamental requirement that the layout must be respond appropriately to the particular site context and the constraints (and opportunities) that exist.

Have the ecological attributes of the site been fully considered?

1. A permit is required to remove, destroy or lop any vegetation under both the Vegetation Protection Overlay and Clause 52.17. The decision guidelines of Clause 52.17-5 require consideration of *Victoria’s Native Vegetation Management – a Framework for Action* while Clause 12.01-2 requires application of the three step process set out in the *Framework for Action*. These three steps require:

Step 1: As a priority, avoid adverse impacts on native vegetation, particularly through clearance.

If the removal of native vegetation can not be avoided:

Step 2: Minimise impacts through appropriate consideration in the planning process and expert input to project design or management; and

Step 3: Identify appropriate offset options.

1. As part of the assessment process, the conservation significance of land is rated Very High, High, Medium and Low and

recommendations made about whether clearing is to be permitted and what offset requirements may be required. In the case of sites rated as either Medium or High Conservation Significance clearing is generally not permitted (in contrast to Very High where clearing is not permitted unless exceptional circumstances apply or Low where clearing may be permitted but only as part of an appropriate sustainable use response).

2. The review site has been assessed by both Brett Lane and Associates Pty Ltd (BLA) and Practical Ecology Pty Ltd (PE). Mr Lane and Mr Kern prepared witness statements and were available for cross examination. The assessments undertaken by both companies resulted in different outcomes and differences in opinion as to whether the majority of the site should be rated as of Medium or High Conservation Significance. A comparison of the relevant maps in both statements (Mr Kern's Map 3 and Mr Lane's Figure 1) suggests a high degree of similarity in plotting the boundaries of the low/medium zones in the south eastern two thirds of the site with the main difference being the grading given for the balance of the site (Mr Lane assessed it at Medium while Mr Kern assessed it at High). However, the discovery of the Rustyhood Orchid in the north east area of the site (BLA Habitat Zone F) resulted in agreement that the Medium grading should be increased to High Conservation Significance.
3. The key difference between a Medium and High Significance grading based on the criteria contained in Appendix 4 of *A Framework for Action* concerns offsets. While I am satisfied that the land has been assessed in accordance with the recommended procedures, I am not convinced that priority has been given to avoiding adverse impacts on the important native vegetation on this site. In particular I am concerned about the potential for large trees to be lost because of inadequate clearances around trees (protect rather than retain).

The subdivision layout has not responded appropriately to the site characteristics

1. At the hearing I made reference to a very old, but seminal textbook from my days as an undergraduate student – *Design with Nature*.[\[1\]](#) While some of the terminology and techniques appear somewhat

dated 40 years later, the basic philosophy is sound and is encapsulated in our current planning system and Planning Schemes by the concepts of site and context description and site responsive design.^[2] I consider that the subdivision on the review site is a poor response to its site context. Although the progressive redesign of the layout and reduction in the number of lots has been an attempt to respond to the special characteristics of this site, the basic philosophy underpinning the subdivision is flawed.

2. The starting point for any subdivision must be an appreciation of the need to protect (not just retain) significant vegetation. While setting aside 5.181 hectares is a great improvement over the first subdivision layout, it represents a simple paring back of the original layout without any attempt to produce a more organic outcome that reflects the specific location of significant vegetation on the site. While I accept that the Version 3 layout was prepared before most of the site was regraded from Medium to High Conservation Significance as a result of the discovery of the Large Rustyhood Orchid, the existence of 9 Large Trees was recognised by BLA in their report dated March 2008. Six of these trees are within the area proposed for small lots or associated roadways. No attempt has been made to exclude these trees (and surrounding protection areas) from the subdivision. In making these comments I am not suggesting that every Large Tree (or every Rustyhood Orchid plant) must be protected. Rather that a genuine attempt must be made to ‘avoid’ their loss and minimise impacts, and that the subdivision layout must be more ‘organic’ in responding to the specific site features.
3. In 2006, Member Komesaroff and I considered a proposal for a 52 lot subdivision of Residential 1 zoned land near Blackburn Lake in Melbourne.^[3] In that instance the site was rated as being of Very High Conservation Significance but the comments about subdivision layout are equally relevant to this case at Golden Square.

[19] We are not satisfied that the layout is sufficiently ‘organic’ in the sense that it does not respond appropriately to the very particular features of this site. Contrary views were taken by Ms Katz and Mr Wyatt for the permit applicant and Dr Wulff for the Council. On the one hand Ms Katz gave evidence that that she was:

satisfied that the proposal adequately meets the objectives of Clause 56

and provides a subdivision that ensures a liveable neighbourhood, identifies and responds to the environmental values of the site and respects the existing neighbourhood character.

[20] In her written evidence-in-chief she said:

The design of the subdivision emphasises the landscape qualities of the site and integrates well with the existing residential development in the immediate vicinity and will provide an environment that is similarly dominated by indigenous vegetation and at a similar density to that of surrounding residential development. A benefit of the subdivision over the corresponding development in the vicinity is the ability of the subdivision to provide a (relative) range of lot sizes to suit a variety of dwelling and household types.

[21] Mr Wyatt gave evidence that the proposed subdivision layout has responded to the site context and that the majority of existing vegetation that is worthwhile has been retained and construction envelopes will assure that development will be restricted on critical allotments to preserve existing vegetation.

[22] In contrast Dr Wulff suggested that a more site responsive design would: recognise nearby setbacks along Central Road; reinforce the parkland character of Blackburn Lake; protect the main stands of trees by including them in large lots, open space or wide road reserves; locate higher density development in the cleared land adjacent to the rail line or to the east; locate roads to follow contours; provide on-site stormwater treatment; back conventional lot layouts onto similarly laid out lots on adjoining land; and use local provenance plant material in any new public areas.

[23] When giving her oral evidence-in-chief, Ms Katz conceded a different layout would achieve the more 'organic' response we adverted to, although her solutions varied from those of Dr Wulff. Her suggestions included a different design for court bowls, a less geometric layout for roads (particularly in the north eastern corner), narrowing roads to pinch points, converting roads to local access places and stormwater drainage down the centre of road pavements. We have put this down to a reasonable variation in views between expert witnesses.

[24] Despite the evidence called for the permit applicant and Mr Gobbo's submission to the contrary, we have formed the strong impression that this subdivision has been driven by conventional subdivision and engineering priorities rather than by the need to tailor the layout of lots, roads, services and building envelopes to the quite unique natural attributes of this site. Our site inspection confirmed evidence and submissions that there are areas of trees/habitat on this site which should be excluded from development altogether or alternatively placed in public reserves and wider road reserves. This may mean fewer lots with building envelopes on such lots being well clear of any native vegetation. While the Department of Sustainability and Environment in its letter of 2 May 2006 suggested that only 20% of the site should be developed at an unspecified higher density with the balance protected by a binding agreement, we have not formed a view about specifying a specific outcome in terms of the exact area that should be set aside for development.

1. The comments in paragraph 24 above about the subdivision being driven by conventional subdivision and engineering priorities are reflective of my response to this application. The three versions all adopt a similar and conventional approach to residential subdivision. Apart from the major change to exclude Lot A from the subdivision, there are only relatively limited variations to the lot layout for the rest of the site, particularly in the north east corner where, despite changes in road layout, the number of lots is broadly the same in Versions 1 and 3.
2. Given my refusal of this particular proposal, does it rule out any subdivision at all, or is there scope to subdivide to some degree? The answer is yes, the land could be partly subdivided. However, it will require a very different approach to the one demonstrated in the Versions 1, 2 and 3 layouts. I have already made it clear that the starting point should be recognition of the significant vegetation including Large Trees and the Rustyhood Orchids. I also agree with residents that the area in the south east corner with the lowest conservation significance should be the focus of more intensive subdivision. While setting aside 5.181 hectares of the site is laudable, given the regrading to High Conservation Significance and the discovery of the Rustyhood Orchid in the north east corner, it may be that the area excluded from subdivision is enlarged or relocated to

some degree. It may also mean that any residential lots created in the High Conservation Significance area should be very much larger and with particular controls, such as building envelopes, tree protection zones, ongoing vegetation management and prohibition on further subdivision.

3. At the hearing parties made submissions about Amendment C89. The amendment sought to implement the *Bendigo Urban Vegetation Study Stage 2*^[4] and proposed that all but the south eastern ‘garden and residence’ area of the review site be rezoned to Low Density Residential Zone with a 4 ha minimum lot size. Subsequently the review site was ‘withdrawn’ from the amendment and the current Residential 1 Zone retained. It is not my task to review the decisions made about Amendment C89, but I would make the perhaps obvious point that applying the Residential 1 Zone to land does not mean that it is automatically allowed to be subdivided to suburban sized lots. There may be circumstances where the site demands something different and more innovative, and that is the case here.
4. Parties also referred me to a large number of ‘native vegetation cases’ including *Roman Catholic Trusts Corporation, Villawood, Reeve, Giltedge Homes Pty Ltd* and *Ikonomidis Reid Pty Ltd*.^[5] These all provide useful insights into how policies should be applied but ultimately it is a case of assessing each application on its facts and reaching a conclusion based on the specifics of the particular case. I do however agree with Mr Cicero that policies concerning native vegetation should not be favoured over other policies, although the weight to be given to various policies will depend on what controls apply to a particular parcel of land. For example, a Vegetation Protection Overlay requiring a permit to remove, destroy or lop vegetation will result in greater emphasis being placed on vegetation issues than would be the case for a site without such an overlay. The Planning Scheme at Clause 10.4 is quite clear about the approach that should be taken - that decision makers should endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

Conclusion

1. The review site is zoned Residential 1, is within the urban growth boundary and has very good access to urban facilities and services. However much of the site is also of High Conservation Significance and despite the setting aside of over 5 hectares of the site for retention of this vegetation, I am not persuaded that the application should be supported in its current form.
2. As always, there is a need to balance often competing objectives and policies in determining whether an application is appropriate and ought to be supported. Although a residential subdivision of some sort may be possible on the review site, it needs to adopt a quite different and more 'organic' response to the highly significant native vegetation that exists.

DECISION

1. Having regard to the above I will set aside Council's decision and direct that no permit is to issue.

J A Bennett

Member

[1] *Design with Nature* (McHarg, I L) (Doubleday/National History Press, 1971)[2] See for example, Clause 56.01-1.[3] *Seventh Day Adventist Church v Whitehorse CC* [2006] VCAT 1952 (19 September 2006)[4] Prepared for the City of Greater Bendigo by RPD Group, May 2006.

[5] *Roman Catholic Trusts Corporation v Maroondah CC* [2004] VCAT 470, *Villawood Properties Pty Ltd v Greater Bendigo CC* [2005] VCAT 2703, *Reeve v Hume CC & Ors* [2009] VCAT 65, *Giltedge Homes Pty Ltd v Yarra Ranges SC & Ors* [2009] VCAT 746 and *Ikonomidis Reid Pty Ltd v Whittlesea CC* [2010] VCAT 1344.