

AGENDA

SECTION 86 DEVELOPMENT ASSESSMENT COMMITTEE MEETING

Wednesday 17 April, 2019
North Wing Room 2 & 3
Darley Civic and Community Hub
182 Halletts Way, Darley
6.00pm

MEMBERS

Cr. Paul Tatchell (Mayor)	Councillor – Central Moorabool Ward
Cr. John Keogh (Deputy Mayor)	Councillor – East Moorabool Ward
Cr. Jarrod Bingham	Councillor – East Moorabool Ward
Cr. Tonia Dudzik	Councillor – East Moorabool Ward
Cr. David Edwards	Councillor – East Moorabool Ward

OFFICERS

Mr. Satwinder Sandhu	General Manager Growth & Development
Mr. Rob Fillisch	Manager Statutory Planning and Community Safety
Mr. Ewen Nevett	Manager Engineering Services
Ms. Bronwyn Southee	Coordinator Statutory Planning
Mrs. Jacquie Younger	Minute Taker

Item	Title	Responsibility	Page No.	Action
1.	Welcome, Present and Apologies	Chair		Noting
2.	Recording of Meeting	Chair		Noting
3.	Meeting Minutes	Chair		Noting
3.1	Confirmation of previous minutes 20 March, 2019			Resolution
4.	Conflict of Interest	Chair		Noting
5.	Growth & Development Reports	S. Sandhu		Discussion
5.1	Planning Permit Application PA2018 011 – Five (5) Lot Staged Subdivision at 9 Rosenow Street, Gordon	T. Tonkin	Page 3	Resolution
5.2	Planning Permit Application PA2018 067– Fifty Three (53) Lot Subdivision at 30 Fiskin Street, Maddingley	M Lovell	Page 23	Resolution

- | | | | | |
|-----|---|-----------|---------|------------|
| 5.3 | Planning Permit Application PA2016 144 – Development of a Camping Ground and Caravan Park Associated with a Place of Assembly at 121 Forbes Road, Leigh Creek. | V. Mack | Page 51 | Resolution |
| 5.4 | Planning Permit Application PA2019 025 – Retrospective Dispensation of Carparking Associated with Buildings and Works of an Existing Warehouse (Mezzanine Floor and Office Fit Out) at 2B Smith Street, Maddingley. | S. Duff | Page 68 | Resolution |
| 5.5 | Planning Permit Application PA2018 330 – Use and Development of a Dwelling at Butter Factory Road, Wallace. | M. Lovell | Page 78 | Resolution |

6.	Update on Trends, Issues and Other Matters	S. Sandhu	Discussion
-----------	---	------------------	-------------------

7.	Update of VCAT Decisions	Chair	Resolution
-----------	---------------------------------	--------------	-------------------

8.	Date of Next Meeting	Chair	Noting
-----------	-----------------------------	--------------	---------------

8.1 Wednesday 15 May, 2019
5.00pm
North Wing Room 2 & 3
Darley Civic and Community Hub,
182 Halletts Way, Darley

9.	Meeting Close	Chair	Noting
-----------	----------------------	--------------	---------------

GROWTH & DEVELOPMENT REPORTS

Item 5.1 Planning Permit Application PA2018 011 – Five (5) Lot Staged Subdivision at 9 Rosenow Street, Gordon

Application Summary:	
Permit No:	PA2018011
Lodgement Date:	11 January, 2018
Planning Officer:	Tom Tonkin
Address of the land:	Lot 2 on PS 330420L 9 Rosenow Street, Gordon 3345
Proposal:	Five (5) Lot Staged Subdivision
Lot size:	8068sq m
Why is a permit required?	Clause 32.09 – Neighbourhood Residential Zone – Subdivision. Clause 42.01 – Environmental Significance Overlay – Subdivision. Clause 43.02 – Design and Development Overlay – Subdivision.
Why is this application being presented to s86 Development Assessment Committee?	Objection received.
Public Consultation	
Was the application advertised?	Yes
Notices on site:	One (1)
Notice in Moorabool Newspaper:	No
Number of Objections:	One (1)
Consultation Meeting:	Yes, but there were no resulting changes made to the proposal.
Policy Implications	
Strategy Objective 2:	Minimising Environmental Impact
Context 2A:	Built Environment

Victorian Charter of Human Rights and Responsibilities Act 2006	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	
Officer's Declaration of Conflict of Interests	
Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest. <i>Manager – Robert Fillisch</i> In providing this advice to Council as the Manager, I have no interests to disclose in this report. <i>Author – Tom Tonkin</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.	
Executive Summary	
Application Referred?	Yes – to Infrastructure, relevant utility providers and the water board.
Any issues raised in referral responses?	No.
Preliminary concerns?	Based on the original application for the three (3) lot re-subdivision of 3 & 9 Rosenow Street, the Council officer raised concerns that the proposal was an underdevelopment of the site, considering that the zoning of the site allows for lots as small as 800sq m, and that approving the application would result in further subdivision, particularly the largest lot, preventing the integrated development of the site as a whole and also taking account of how existing vegetation might be retained and integrated with future development.
Any discussions with applicant regarding concerns?	Yes, the Council officer wrote to the applicant and discussed potential plans for an integrated development of the whole site and gave preliminary feedback on the plans which were subsequently submitted and advertised.
Any changes made to the application since being lodged?	Yes. The application originally proposed a three (3) lot re-subdivision of 3 & 9 Rosenow Street to create lot sizes of 1645sq m, 2080sq m and 1.648ha. The changed application to five (5) lots did not entirely resolve Council officers' concerns with the proposal. Council can however consider this application in isolation of the adjacent lot that is in the same ownership.
Previous applications for the site?	None.

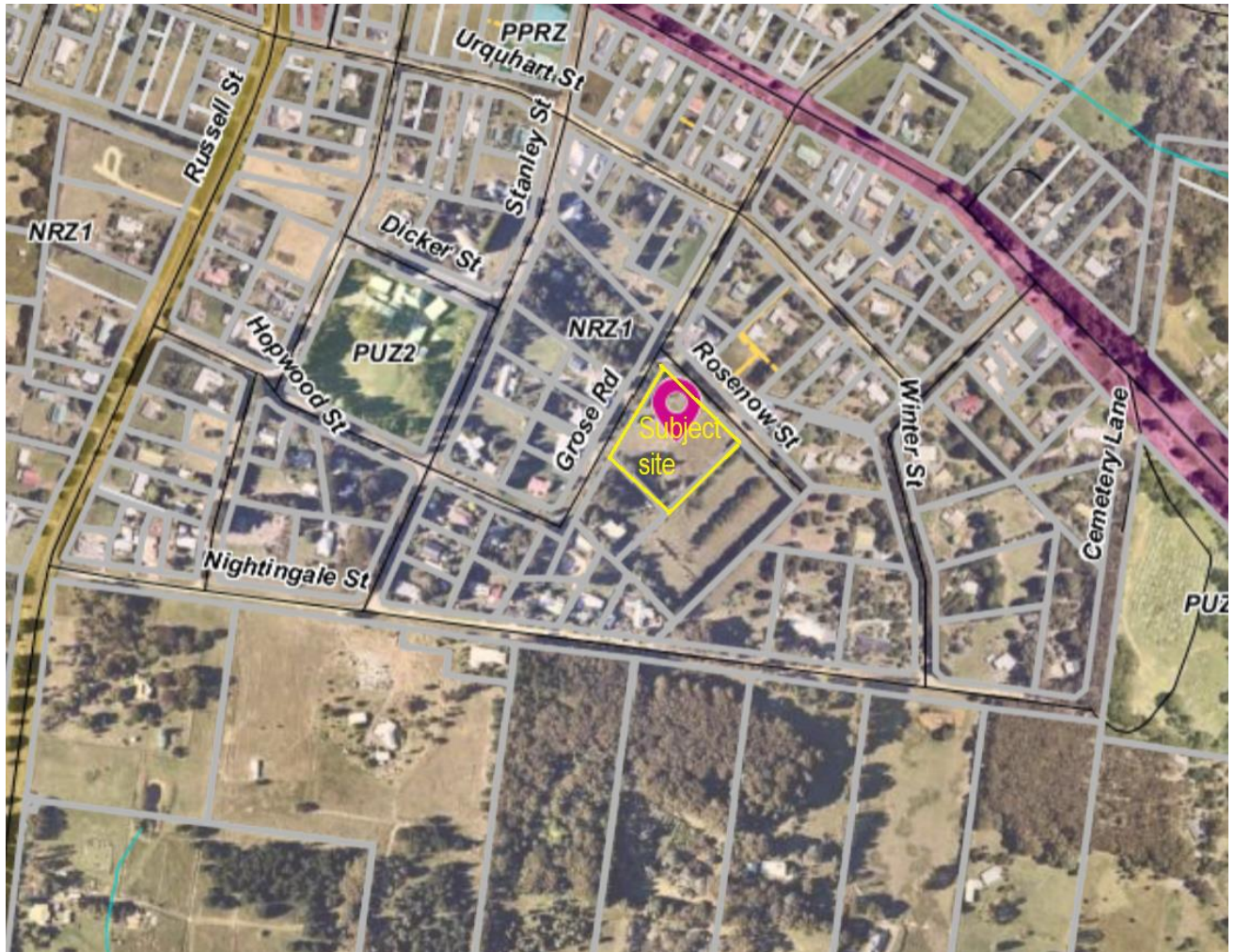
General Summary	<p>It is proposed to subdivide the site into five (5) vacant lots of between 1450sq m and 1834sq m.</p> <p>The proposal is generally consistent with the relevant provisions of the Moorabool Planning Scheme. All lots would achieve the minimum 800sq m requirement and respect the neighbourhood character of the area.</p> <p>One (1) objection was received raising concerns including impact on and loss of wildlife habitat, the need for road upgrades and access between Grose Road and Urquhart Street.</p> <p>Overall the proposal is generally consistent with the relevant planning provisions.</p>
Summary Recommendation	
<p>That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i>, Council issue a Notice of Decision to Grant a Permit for this application in accordance with Section 61 of the Planning and Environment Act 1987, subject to the conditions included at the end of this report.</p>	

Site Description

The site, identified as Lot 2 on PS 330420L and known as 9 Rosenow Street Gordon, is a trapezoid shaped parcel on the southeast corner of Rosenow Street and Grose Road. The site is 8068sq m, has a 98.16m frontage to Grose Road, 99.38m frontage to Rosenow Street, 94.22m east boundary and 71.99m south boundary and is currently vacant except for a dam in the northwest corner and several scattered trees generally towards the southern side of the site. The site falls generally from the southeast to the northwest by 10.0m and is encumbered by a 2.0m wide drainage easement parallel to the east title boundary.

The site and surrounding land is in the Neighbourhood Residential Zone, Schedule 1. Nearby lots vary significantly in size. To the southeast is a vacant 1.213ha lot. To the southwest is a lot of approximately 4100sq m containing a single dwelling. To the northwest, across Grose Road, are lots of 1800sq m, 2008sq m and 9288sq m containing single dwellings. To the northeast, across Rosenow Street, are lots of 1800sq m, 6500sq m and 1700sq m containing single dwellings.

Reticulated water, sewer and power supply are readily available.

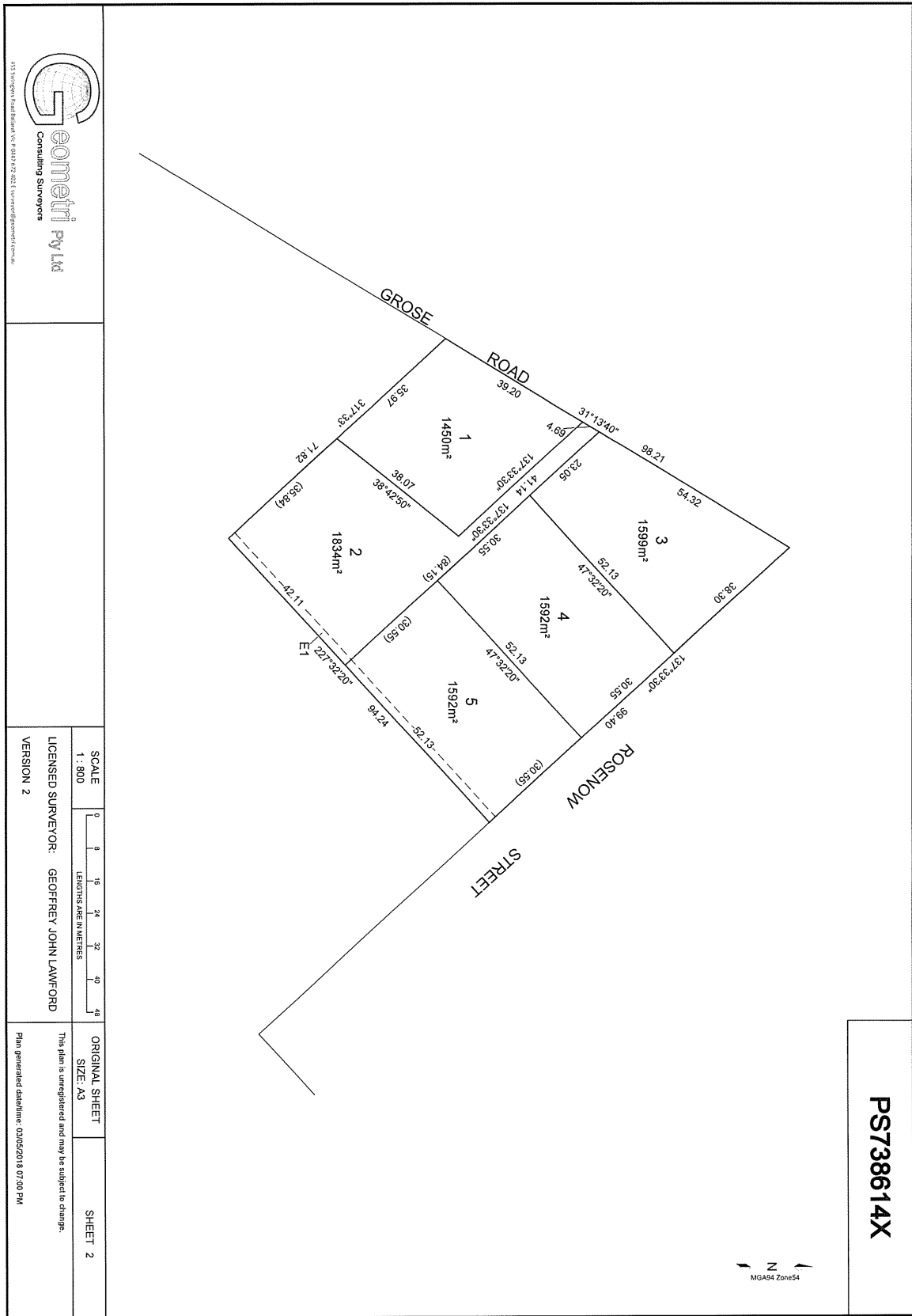


Proposal

It is proposed to subdivide the land into five lots. Lot 1, with an area of 1450sq m, would be a trapezoid shape with a 39.2m frontage to Grose Road. Lot 2, to the rear of Lot 1, would be 1834sq m in size and a battle axe shape with a 4.69m wide frontage to Grose Road. Lots 3, 4 and 5 would front Rosenow Street with respective lot sizes of 1599sq m, 1592sq m and 1592sq m and respective frontage widths of 38.3m, 30.55m and 30.55m. No vegetation removal is proposed. It is proposed to stage the subdivision – Lots 1 and 2 would comprise Stage 1, and Lots 3, 4 and 5 would comprise Stage 2.

The site analysis and proposed plan of subdivision are provided below.





Public Notice

Notice of the application was given to adjoining landowners and occupiers by mail on 16 July, 2018 and a sign erected on site from 23 July until 20 August 2018. One (1) objection was received.

Summary of Objection

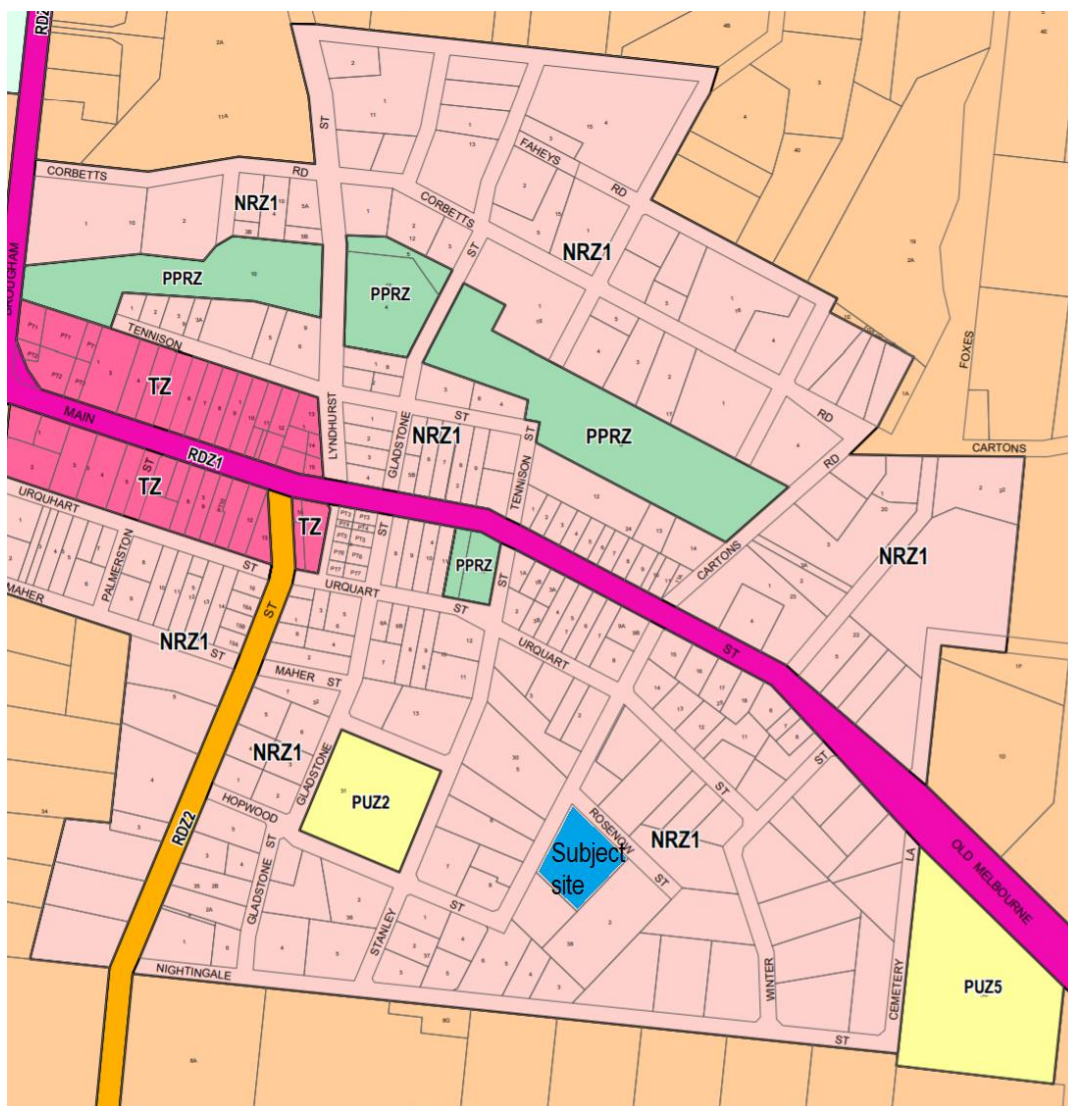
The objection received is detailed below with officer's accompanying comments:

Objection	Any Relevant Requirements
The current condition of Hopwood Street and Grose Road is such that they would need upgrading, as well as the intersection of Stanley and Dicker Streets, to cope with the additional traffic.	Clause 65
Officer's Response: To ensure future residents have adequate amenity, the roads surrounding the subdivision frontages will be upgraded to current day standards. This will be addressed by permit conditions.	
The road between Rosenow and Urquhart Streets is State Government owned, currently under licence to the owners of 16 Rosenow Street and not a public road or constructed to a public standard. There are public liability issues for various parties regarding public use of the road. If the road was made publicly accessible what plans does Council have to upgrade and maintain the road to a standard suited to accommodating additional traffic?	N/A
Officer's Response: It is Council officers understanding that public access to the extension of Grose Road between Rosenow and Urquhart Streets is lawful and that the gate and associated structure at its northern end was constructed illegally. It is therefore understood that there are no liability issues involved with using this road. As previously stated, to ensure future residents have adequate amenity, the roads surrounding the subdivision frontages will be upgraded to current day standards. This will be addressed by permit conditions.	
Gordon households have high car ownership so the proposal could add a significant number of vehicles to the area immediately surrounding the site negatively impacting the town and Shire's environmental footprint.	N/A
Officer's Response: The applicable planning controls include State and local planning policy generally support the consolidation of residential growth within established areas, subject to an assessment against the relevant planning controls. On this basis there is insufficient grounds to refuse the application on the grounds of this objection.	
The proposal does not meet the objective of Clause 21.02-4 to positively enhance biodiversity in Moorabool Shire, because the proposal fails to provide suitable wildlife corridors and habitat and thus contributes to loss of biodiversity. Grose Road and the subject site are part of a wildlife corridor for kangaroos and possums. Has Council conducted a biodiversity survey of the area?	Clause 21.02-4
Officer's Response: The policy referred to in the objection is local to and applies to all land in Moorabool Shire. The site is in a residential zone and there are no applicable planning controls specific to protection of wildlife habitat for the site or surrounding land. Tree removal is not proposed as part of this application, but subject to future dwelling designs may be required for proposed Lots 1 and 2 but subject to further planning approval.	

Objection	Any Relevant Requirements
<p>The proposal would significantly reduce wildlife habitat by removal of the dam in the northwest corner of the site. The dam provides significant habitat for native frogs, ducks and ibis and a watering point for possums and kangaroos, with wildlife accustomed to accessing the dam. A landscape plan incorporating new native tree and bush plantings along all proposed boundaries should be developed. If a permit is granted there should be conditions requiring that the trees not be removed without planning permission.</p>	<p>Clause 21.02-4</p>
<p>Officer's Response: As previously stated there are no planning controls specific to the subject site which relate to protection of biodiversity or wildlife habitat. The site is in a residential zone and the proposed lot sizes are substantially larger than the minimum possible 800sq m. It is acknowledged that the dam supports local native wildlife and that the size and dimensions of Lot 3 on which it is situated could potentially allow for the dam to be retained and incorporated within a residential development of the lot.</p>	

Locality Map

The map below indicates the location of the subject site and the zoning of the surrounding area.



Planning Scheme Provisions

Council is required to consider the Victoria Planning Provisions and give particular attention to the Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- 11.03-3S Peri-urban areas.
- 13.02-1S Bushfire planning.
- 14.02-2S Water quality.
- 15.01-3S Subdivision design.
- 15.01-5S Neighbourhood character.
- 16.01-2S Location of residential development.
- 21.02-2 Non-urban landscapes.
- 21.02-3 Water and Catchment Management.
- 21.03-4 Landscape and Neighbourhood Character.
- 21.03-5 Small Town Development.
- 21.09-2 Gordon.
- 22.02 Special Water Supply Catchments.

Overall the proposal generally complies with the relevant sections of the PPF and LPPF.

Zone

The subject site is in the Neighbourhood Residential Zone, Schedule 1.

The purpose of the Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To recognise areas of predominantly single and double storey residential development.*
- *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

Under Clause 32.09-3 a permit is required to subdivide land. An application to subdivide land must meet the relevant requirements of Clause 56 for residential subdivision.

Schedule 1 to the zone specifies a minimum lot size of 800sq m.

Overall, the proposed subdivision is consistent with the zone provisions.

Overlays

The site is affected by Environmental Significance Overlay, Schedule 1 (ESO1), Design and Development Overlay, Schedules 2 and 5 (DDO2 & 5) and Significant Landscape Overlay, Schedule 2 (SLO2).

The ESO1 applies to land in a Special Water Supply Catchment. Under Clause 42.01-2 a permit is required to subdivide land. Reticulated sewer is available, and subject to conditions the proposal would meet the requirements of this overlay.

The DDO5 applies to the Gordon township and rural surrounds. Under Clause 43.02-3 a permit is required to subdivide land, with a minimum lot size requirement of 800sq m. Overall, the proposal is consistent with the DDO5 provisions.

The DDO2 applies to development using reflective exterior cladding and is not relevant to this proposal.

Under the SLO2 there is no permit requirement for subdivision.

Particular Provisions

Clause 53.01 Public Open Space Contribution and Subdivision

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the Subdivision Act 1988. It is recommended that a permit condition require a contribution to be made equivalent to 5% of the site value.

Clause 56 Residential Subdivision

Clause 56 provides objectives and standards for residential subdivision. This clause requires the submission of detailed information. A subdivision must meet all of the objectives and should meet all of the standards of this clause.

Subject to conditions, the proposal complies with the relevant objectives and standards of Clause 56.

Discussion

The proposed subdivision is considered to be generally consistent with relevant State and Local Planning Policy, the Neighbourhood Residential Zone, relevant Overlays and Particular Provisions of the Moorabool Planning Scheme.

Gordon is part of the Central Highlands region and located in the Melbourne-Ballarat corridor with convenient vehicle connections to the Western Freeway and rail in Ballan. The site is in a sewered area of Gordon and zoned for residential purposes, and within walking distance of some of the town's local amenities. The proposal would make a modest contribution to the town's growth without any detrimental impacts on neighbourhood character, and maintain the low scale character of the township.

All proposed lots are substantially above the minimum 800sq m stipulated under the NRZ1 and DDO5 generally in keeping with the characteristically larger lots in this area of the town. The proposal is generally in accordance with the purpose of the Zone and the relevant design objectives of the DDO5.

The site is in the Special Water Supply Catchment and has access to reticulated sewer in Grose Road. The site is more than 100m from a waterway and, subject to conditions, the proposal would satisfy the provisions of the ESO1.

The proposal meets the relevant standards and objectives of Clause 56 for residential subdivision. The lot design is generally consistent with the existing neighbourhood character, all lots would be oriented to achieve acceptable solar access with dimensions capable of accommodating a dwelling. No common property is proposed and site management during development would be managed by way of permit conditions.

With regard to the proposed removal of the dam, the objectors concerns and provisions of Clause 21.02-4, on balance it is considered desirable to retain the dam on Lot 3 for the benefit of supporting biodiversity on a lot the size of which is capable of accommodating both the dam and a future dwelling. This will be addressed by a permit condition.

General Provisions

Clause 65 – Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

Referrals

The application was referred in accordance with Section 55 of the Planning & Environment Act.

Authority	Response
Infrastructure	Consent with conditions
Barwon Water	Consent with conditions
Central Highlands Water	Consent with conditions
Country Fire Authority	Consent with conditions
Downer Utilities	Consent
Powercor	Consent with conditions

Financial Implications

The recommendation for approval of this application would not have any financial implications for Council.

Risk and Occupational Health and Safety Issues

The recommendation for approval of this application does not have any risk or OH & S implications for Council.

Communications Strategy

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. The applicant and objector were invited to attend this meeting and address Council if desired.

Options

Council could consider the following options:

- Issue a Notice of Decision to Grant a Permit in accordance with the recommendation of this report;
- Issue a Notice of Decision to Grant a Permit with amendments to the recommended conditions in this report; or
- Issue a Notice of Refusal to Grant a Permit on specified grounds.

Conclusion

The proposal to subdivide the site into five (5) vacant lots of between 1450sq m and 1834sq m is generally consistent with the relevant provisions of the Moorabool Planning Scheme. All lots would achieve the minimum 800sq m requirement and respect the neighbourhood character of the area. Subject to conditions, the proposal is acceptable and should be approved.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a Notice of Decision to Grant Planning Permit PA2018011 for a Five (5) Lot Subdivision at Lot 2 on PS 330420L, 9 Rosenow Street, Gordon 3345 subject to the following conditions:

Endorsed Plans

1. Before the plan of subdivision is certified under the Subdivision Act 1988, 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 then form part of the permit. The plans must be generally in accordance with the plans identified as Proposed Site Plan dated January 2017 and proposed Plan of Subdivision no PS 738614X version 2 prepared by Geometri P/L but modified to show:
 - a. Retention of the dam on Lot 3.
 - b. The accessway width of battle axe Lot 2 increased to 10 metres in width.
 - c. Landscape plan showing landscaping treatments along the northern and southern sides of the accessway to Lot 2.
2. The formal plan of subdivision lodged for certification must be generally in accordance with the endorsed plan and must not be modified except to comply with statutory requirements or with the written consent of the Responsible Authority.

Subdivision

3. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.
4. Before the statement of compliance is issued under the *Subdivision Act 1988*, the applicant or owner must pay to the responsible authority a sum equivalent to 5 per cent of the site value of all the land in the subdivision for public open space purposes. The permit holder/developer must pay the reasonable costs of Council in having the land valued for this purpose.
5. The plan of subdivision submitted for certification must include a creation of restriction. The wording of the creation of restriction shall be as follows:

Description of Restriction No .1

- a. Land to be Burdened: Lot 3 on this plan.
 - b. Land to Benefit: All lots on this plan.
 - c. Creation of restriction: Upon registration of this plan, the following restriction is created.
 - d. Description of Restriction: The dam on Lot 3 must not be removed. Any fencing separating the dam from Grose Road and Rosenow Street must not be designed to prevent kangaroos and other wildlife from accessing the dam from adjoining roads.
 - e. Variation: The restriction can only be varied with the written consent of Moorabool Shire Council.
6. Prior to the issue of a Statement of Compliance, landscaping along the accessway to Lot 2 must be completed to the satisfaction of the Responsible Authority.

Telecommunications

7. The owner of the land must enter into agreements with:
 - a. A telecommunications network or service provider for the provision of telecommunication service to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - b. 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 provide by optical fibre.
8. Before the issue of 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. 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
 - b. 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 an area where the National Broadband Network will not be provided by optical fibre.

Infrastructure

9. Prior to the issue of a Statement of Compliance for each stage of the subdivision, each lot must be provided with a standard rural residential vehicle crossing with culvert to the satisfaction of the Responsible Authority. Any redundant vehicle crossings must be removed, and nature strip reinstated to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossings.
10. The property access and the internal driveways to each lot must be constructed in accordance with the requirements specified in Table 5 of Clause 52.47-3 of the Moorabool Planning Scheme, to the satisfaction of the responsible authority.
11. Prior to the development commencing, a "Stormwater Management Strategy" must be prepared and submitted to the responsible authority for approval, based on the objectives and standards of the Moorabool Planning Scheme and the "Urban Stormwater Best Practice Environmental Management Guidelines – CSIRO 1999". The Strategy must:
 - a. Encompass the entire area of the development.
 - b. Propose techniques to manage the quantity and quality of stormwater emanating from the site during construction and after completion of the development in accordance with the Best Practice Guidelines.
 - c. Provide for outfall drainage from the site connecting to an approved discharge point.
 - d. Propose techniques to manage the overland flow paths within the development for the 1% AEP storm for the catchment.
 - e. Once approved, the stormwater strategy will form the basis for preparation of detail design documentation of a stormwater system for the development.

- 12. Prior to the issue of a Statement of Compliance for the subdivision, the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:**
 - a. The development as a whole must be self draining.**
 - b. Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.**
 - c. Each lot must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.**
 - d. Stormwater runoff must meet the “Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)”.**
- 13. Prior to the commencement of the development design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval.**
- 14. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A Stormwater Point of Discharge permit must be obtained from the responsible authority prior to the commencement of the works associated with the permit.**
- 15. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).**
- 16. A landscape plan must be prepared and submitted to the responsible authority for approval detailing all proposed landscaping and proposed tree removal, ensuring that no tree or shrub is planted over existing or proposed drainage infrastructure and easements. The landscape plan must include a plant legend with botanical name, quantity, pot size at time of planting and details of ground treatments.**
- 17. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.**
- 18. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council’s Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.**
- 19. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:**
 - a. Location of vehicle crossings.**
 - b. Details of the underground drainage.**
 - c. Location of drainage legal points of discharge.**
 - d. Standard details for vehicle crossings and legal points of discharge.**
 - e. Civil notes as required to ensure the proper construction of the works to Council standard.**

Infrastructure – Road Construction

- 20. Design computations for all road pavement construction, based on a geotechnical investigation of the site, must be prepared and submitted to the Responsible Authority for approval.**
- 21. Plans and specifications of all road, traffic and drainage works must be prepared and submitted to the responsible authority for approval prior to the commencement of such works and all such works must be carried out in accordance with the approved plans to the satisfaction of the Responsible Authority.**
- 22. Prior to the issue of a Statement of Compliance for the relevant stages of the subdivision, the sections of Rosenow Street and Grose Road abutting the subject land must be constructed to the satisfaction of the responsible authority, to the standard detailed:
 - i. 6.2 metre sealed pavement with 1.5 metres gravel shoulders on each side;**
 - ii. Table drains;**
 - iii. Street lighting; and**
 - iv. Vehicle crossing to each lot.****
- 23. An Environmental Management Plan for the road construction works must be submitted to the Responsible Authority for approval prior to the commencement of construction. All works must be performed in accordance with the approved Environmental Management Plan.**
- 24. Traffic management treatments must be provided in the form of linemarking, signage and pavement markers at intersections and vehicle turning areas, to the satisfaction of the Responsible Authority.**
- 25. Street names and street signs must be provided to the satisfaction of the responsible authority.**
- 26. Prior to the issue of Statement of Compliance for the relevant stage, street lighting must be provided in accordance with the requirements of AS1158 – Lighting for Roads and Public Places, to the satisfaction of the Responsible Authority. All lighting fittings must be “Standard” fittings maintained by the electricity network provider at no additional cost to Council. All lights must utilise LED type luminaires where available.**
- 27. Permanent survey marks must be provided at a maximum spacing of 200 metres and registered, to the satisfaction of the Responsible Authority.**
- 28. Street trees must be provided at approved locations in all internal roads of the subdivision at a rate of one tree per frontage and one tree per lot sideage, with an approved species to the satisfaction of the responsible authority. All street trees must have an existing height of 1.5 metres upon planting, must be planted to an approved standard incorporating two (2) hardwood stakes, tree tie, Ag pipe, water crystals, 100 mm of mulch and initial watering, to the satisfaction of the responsible authority.**
- 29. Street trees must be maintained for a minimum period of 18 months including watering, mulching, weeding and formative pruning, to the satisfaction of the responsible authority.**
- 30. A security deposit equal to 150% of the cost of planting street trees must be lodged with the Council. The deposit will be returned after the final inspection of street trees, 18 months after the completion of planting of the trees, only if Council requires no further maintenance of the trees to be undertaken.**

31. The developer must pay:
 - i. 0.75 % of the total estimated cost of works for the checking of engineering plans associated with the development.
 - ii. 2.50 % of the total estimated cost of works for the supervision of works associated with the development.
32. After all engineering works pertaining to the subdivision have been completed, a complete set of “as constructed drawings” in an approved format must be submitted to the Responsible Authority.
33. All road and drainage works must be maintained in good condition and repair for a minimum of three (3) months after completion of the works, to the satisfaction of the Responsible Authority.
34. A security deposit of 5% of the total value of engineering works as approved by the Responsible Authority must be lodged with the Responsible Authority, to cover the maintenance of all works. The deposit will be returned after the final inspection of works, 3 months after the completion of works, subject to the satisfactory completion of all required maintenance and rectification works.

Barwon Water

35. The following shall be undertaken to the requirements of Barwon Water and to the satisfaction of the responsible authority:
 - a. Each lot created in the development must be connected to a reticulated sewerage system.
 - b. No stormwater is to be discharged less than 100 metres from a waterway unless into an approved drainage system.

Central Highlands Water

36. Any plan lodged for certification will be referred to the Central Highlands Region Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.
37. Reticulated sewerage facilities must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.
38. A reticulated water supply must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Corporation. This will include the construction of works and the payment of major works contributions by the applicant.
39. The owner will provide easements to the satisfaction of the Central Highlands Region Water Corporation, which will include easements for pipelines or ancillary purposes in favour of the Central Highlands Region Water Corporation, over all existing and proposed sewerage facilities within the proposal.
40. If required the owner will provide easements to the satisfaction of Central Highlands Region Water Corporation for pipeline or ancillary purposes through other land in the vicinity, as it is considered by the Authority that such easements may be required for the economical and efficient subdivision or servicing of or access to land covered by the subdivision.

41. If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision.

Country Fire Authority

42. Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.

- 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. Have a minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.
- d. Roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.

43. 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 around lot boundaries.

44. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Powercor

45. The plan of subdivision submitted for certification under the *Subdivision Act 1988* shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.

46. The applicant shall:-

- a. Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor.
- b. The applicant shall provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.
- c. Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
- d. Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.

Permit Expiry

47. This permit will expire if the plan of subdivision is not certified within two (2) years of the date of issue of the permit.

Statement of Compliance must be achieved and certified plans registered at Titles office within five (5) years from the date of certification.

Permit Notes

Country Fire Authority:

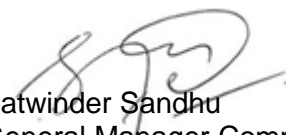
CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA web site (www.cfa.vic.gov.au).

Powercor:

It is recommended that, at an early date, the applicant commences negotiations with Powercor for supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued once all electricity works are completed (the release to the municipality enabling a Statement of Compliance to be issued). Prospective purchasers of lots in this subdivision should contact Powercor Australia Ltd to determine the availability of a supply of electricity. Financial contributions may be required.

Report Authorisation:

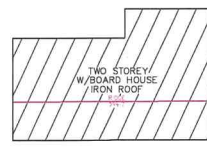
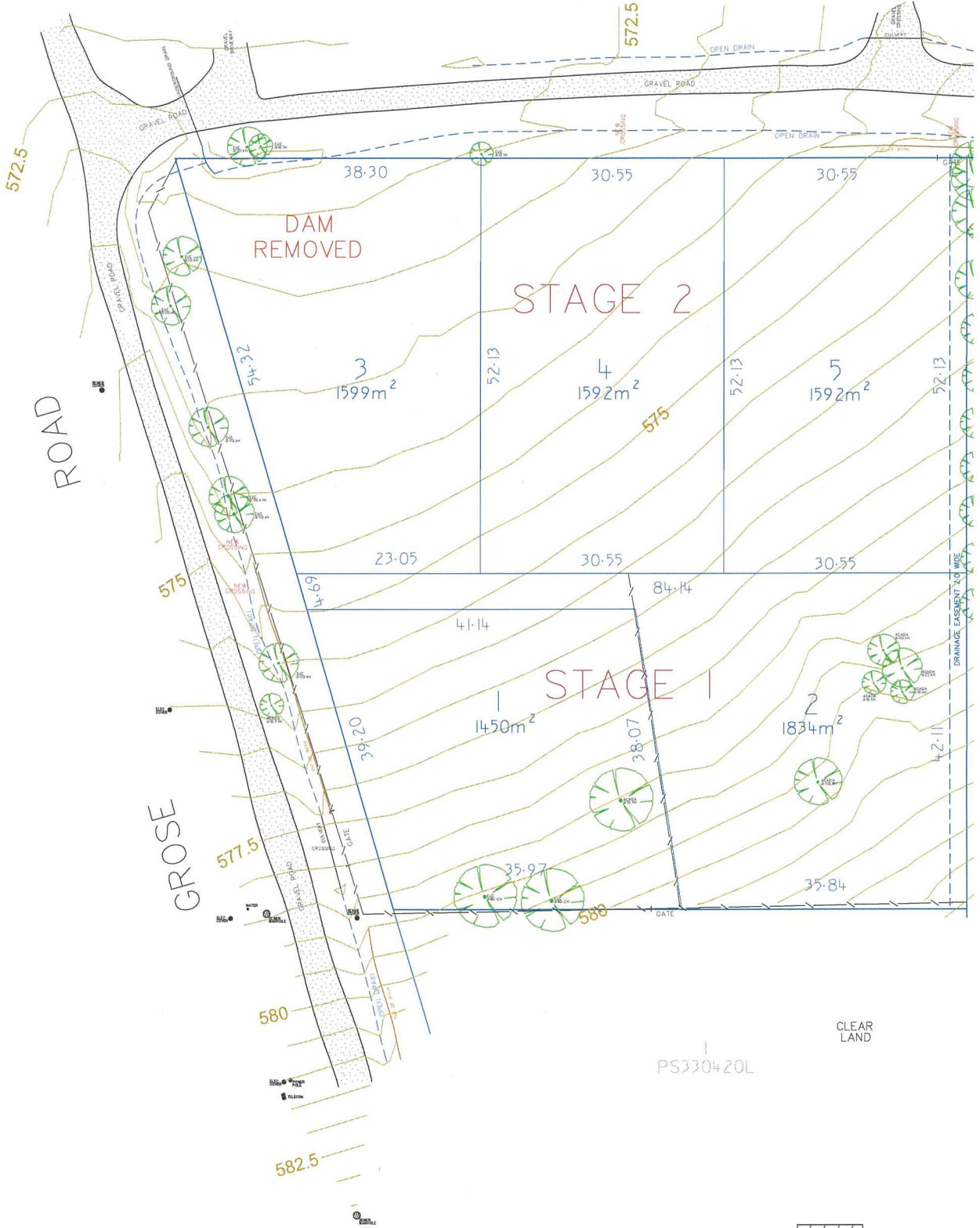
Authorised by:


Name: Satwinder Sandhu
Title: General Manager Community Planning
Date: 19 March, 2019



ROSENOW STREET

STREET

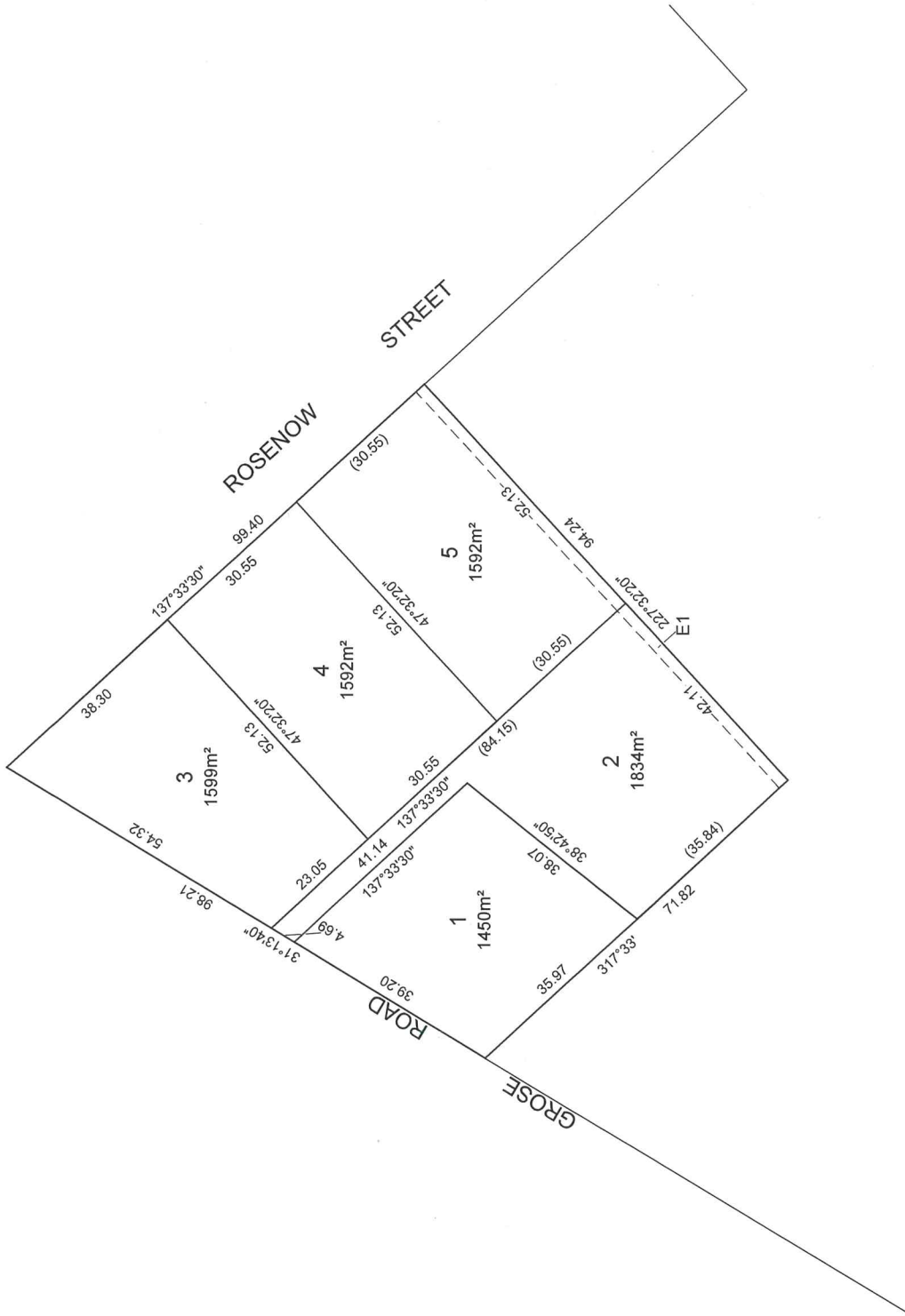


PROPOSED SITE PLAN
9 ROSENOW STREET
GORDON
LOT 2 PS 330420L
SURVEYOR: G. J. LAWFORD
DATE OF SURVEY: JANUARY 2017

LENGTHS ARE IN METRES
ORIGINAL GROUND SHOWN BY
CONTOUR INTERVAL 0.5 METRE
DATUM: AHD

LEGEND	
TITLE BOUNDARY	1:50' OF 55'
CONTOUR	0.5M
BUILDING	---
VEGETATION	---
WATERBODY	---
TRACK	---
ROOF LEVEL	---

PS738614X



SCALE 1 : 800	ORIGINAL SHEET SIZE: A3	SHEET 2
<p>LENGTHS ARE IN METRES</p>		
LICENSED SURVEYOR: GEOFFREY JOHN LAWFORD VERSION 2		
This plan is unregistered and may be subject to change. Plan generated date/time: 03/05/2018 07:00 PM		

455 Swingers Road Ballarat, Vic. 3247 672 403 E: surveyor@geometri.com.au

Item 5.2 Planning Permit Number PA2018 067 – Fifty-Three (53) Lot Subdivision at 30 Fisken Street, Maddingley

Application Summary:	
Permit No:	PA2018 067
Lodgement Date:	5 March, 2018.
Amend an Application in Process Lodged:	19 December, 2018.
Planning Officer:	Mark Lovell
Address of the land:	Lots 3, 4, 5, and 6 on PS856427Y 30 Fisken Street, Maddingley.
Proposal (as amended):	53 Lot Subdivision
Lot size:	7.9 Hectares
Why is a permit required?	Clause 32.04-4 - Mixed Use Zone - Subdivide land.
Reason for being presented to S86 Development Assessment Committee.	Three (3) objections received. Planning application that has significant associated impacts.
Public Consultation	
Was the application advertised?	No, exempt from the notice provisions under Clause 32.04-13.
Notices on site:	No.
Notice in Moorabool Newspaper:	No.
Number of Objections:	Three (3) objections
Consultation Meeting:	No, the applicant is not willing to mediate and has requested a decision be made on the latest set of plans.
Policy Implications	
Strategy Objective 2:	Minimising Environmental Impact
Context 2A:	Built Environment
Victorian Charter of Human Rights and Responsibilities Act 2006	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	

Officer's Declaration of Conflict of Interests	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager – Robert Fillisch</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Mark Lovell</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary	
Application Referred?	Western Water, Powercor Australia, Downer Utilities, Melbourne Water, Transport for Victoria, EPA, Sustainability Victoria, CFA, VicRoads, VicTrack, and Council's Infrastructure.
Any issues raised in referral responses?	<p>EPA raised a series of issues regarding proximity to a coal mine, landfill and horticultural gardens.</p> <p>Sustainability Victoria objected to the application due to the proximity to the MBC Landfill.</p>
Preliminary concerns?	Intensive residential estate in an area not strategically planned for residential growth and site's location next to industrial activities and proximity to a state significant landfill in Maddingley Brown Coal.
Any discussions with applicant regarding concerns?	Yes, the applicant was advised the proposed subdivision would not be supported. The applicant then revised their application to Council's satisfaction.
Any changes made to the application since being lodged?	<p>Yes, the initial application was for 81 lot residential subdivision. Council officers advised the application would not be supported due to the intensity of the residential use proposed and its location within MBC's recommended buffers. The applicant has reduced the number of lots from 81 to 51 and then slightly increased them from 51 to 53 by rearranging the court bowls lots.</p> <p>The current arrangement creates a large commercial balance lot that can act as a buffer between Maddingley Brown Coal and the proposed residential lots.</p>
Brief History	The site is vacant land. Due to the Mixed Use Zoning and large land area with a frontage to a main road, it appears suitable for bulky goods retailing use.
Previous applications for the site?	Nil.

General Summary	<p>The proposed subdivision can utilise vacant Mixed Use land and provide further housing choice in Bacchus Marsh.</p> <p>The site context is unique with the surrounding area being comprised of a mix of land uses that could create negative impacts to a sensitive land use such as a residential development. The applicant has made substantial changes to the plans and has agreed to provide commercial land in the southern part of the site. Future residents will still be subjected to amenity impacts but these can be mitigated by acoustic fencing surrounding the site and by an agreement on title advising that surrounding land uses can continue to operate based on their existing conditions and approvals. The changes to the plans and the concentration of residential lots to the northern side of the site allows support for the application.</p> <p>The applicant will be providing a footpath beyond the subject land to connect to Station Street and the Bacchus Marsh Railway Station. The footpath will allow for excellent pedestrian and cycling connectivity to the subdivision and reduce motor vehicle use in a new estate. This is a positive aspect to the proposal.</p> <p>The application is exempt from the notice and appeal provisions under the Mixed Use Zone. It is recommended a permit be issued and objectors be notified of the decision.</p>
Summary Recommendation	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , Council issue a Planning Permit to Grant a Permit for 53 lot subdivision at Lots 3, 4, 5, and 6 on PS856427Y otherwise known as 30 Fisken Street, Maddingley.	

Site Description

The subject site is bounded by the northern side of Geelong-Bacchus Marsh Road, the eastern side of Fisken Street and the southern side of Ballarat Rail line. The subject land is U shaped and wraps around a historic dwelling with associated private open spaces located at 40 Fisken Street.

The subject site is vacant land and appears to be used for grazing purposes. There is a significant slope with 23 metres difference between the highest to lowest points. The land slopes down from a north-east to the south-west position. The slope is significant in the northern side of the lot.

There is no existing vegetation on the land, however established native trees are present along the boundaries of the dwelling within 40 Fisken Street. There is also a row of trees in the Geelong-Bacchus Marsh road reserve with a commemorative signage stating the trees form the Avenue of Peace.

Surrounding land uses are mixed. The opposite side of Fisken Street contains detached residential dwellings on moderate lots sizes with established garden areas that also have access to Love Close. The eastern boundary is adjacent to a transport depot with associated warehouse buildings and some detached dwellings on large lots sizes that are reliant on septic systems.

The southern side of Geelong-Bacchus Marsh Road is vacant land with Maddingley Brown Coal site located further to the south.

EPA Publication 1518, recommends separation distances between industrial uses and sensitive land uses. With reference to Maddingley Brown Coal, the recommended separation distances are:

- Type 2 landfill 500 metres.
- Open cut coal mine 1,000 metres.
- Composting Facility 2,000 metres.

Proposal

It is proposed to subdivide the land into 53 Lot. The lot sizes vary between 480m² to 4678m² with a balance lot of 3.37 hectares.

The breakup of lot sizes are as follows:

Lot Size	Number of Lots	Percentage of Total Lots
Less than 300m ²	0	0
300m ² -400m ²	0	0
400m ² -500m ²	4	7.55%
500m ² -600m ²	10	18.87%
600m ² -700m ²	24	45.28%
700m ² -800m ²	6	11.32%
Greater than 800m ²	9	16.98%
TOTAL	53 LOTS	100%

Public Notice

The application was exempt from the notice provisions in accordance with Clause 32.04-13 of the Moorabool Planning Scheme. No notice was undertaken however three (3) objections have been received.

Summary of Objections

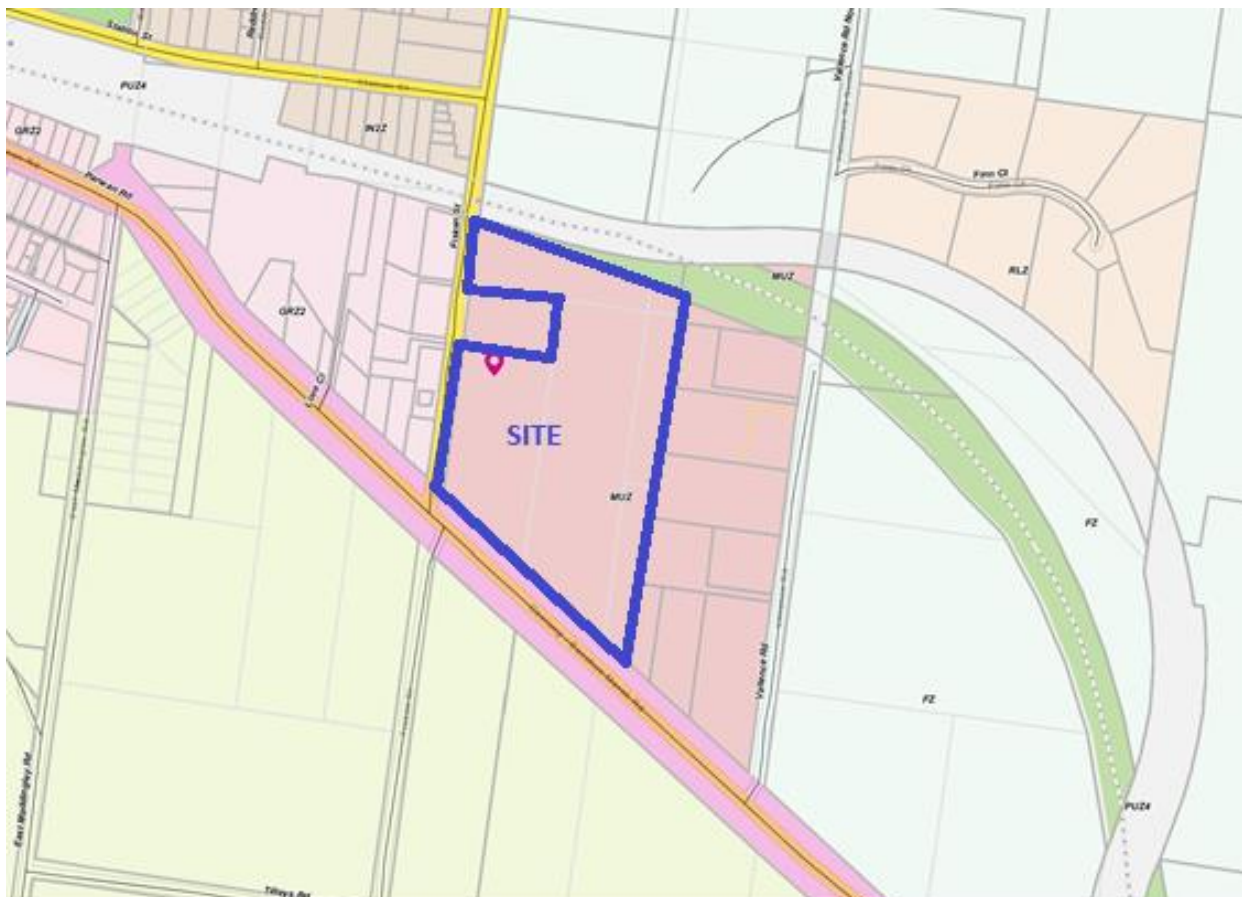
The objections received are detailed below with officer’s comments accompanying them:

Objection	Any Relevant Requirements
Contrary to Council’s strategic planning that indicated no new residential development to occur within the buffers of the Maddingley Hub/ Contrary to the Environment Protection Act (1970).	EPA Guidelines
Officer’s Response: The applicant’s Environmental Consultant examined MBC’s operation and calculated that 1,000 tonnes per month or 12,000 tonnes per annum of composting requires a 1 km separation distance which is achieved with the revised plans and location of the residential lots to the northern side of the site. The minimum of 1km separation is a guideline and does not prevent any development on adjoining land provided it complies with the zone and overlay controls as contained within the Moorabool Planning Scheme.	

Objection	Any Relevant Requirements
New residential development within the buffer of licensed use at the Maddingley Hub/ Maddingley Waste and Resource Hub function may be compromised/2 kilometre composting separation distance/Within buffer distance of waste hub of state significance/ Sensate receptor distances	EPA Guidelines
<p>Officer's response: The entire subject site is located within the EPA recommended 2,000 metres separation distance. The applicant's Environmental Consultant examined MBC's operation and 12,000 tonnes per annum of composting requires a 1 km separation distance which is achieved with the revised plans and location of the residential lots. It is considered a separation distance of over 1 kilometre from the composting facility at Maddingley Brown Coal, using the EPA guidelines, is adequate protection to the nearest proposed residential lot with the intent to minimise impacts between different land uses.</p>	
Inherently incompatible with site activities	
<p>Officer's Response: The removal of lots along the southern side of the subdivision allows for a sufficient buffer with MBC's operation. In addition, future owners can be made aware of the site's proximity to industrial uses and a state significant landfill via a Section 173 agreement registered on title. This will prevent the situation of new land owners being unfamiliar with surrounding land uses.</p>	

Locality Map

The map below indicates the location of the subject site and the zoning of the surrounding area.





MGA 94 ZONE 55

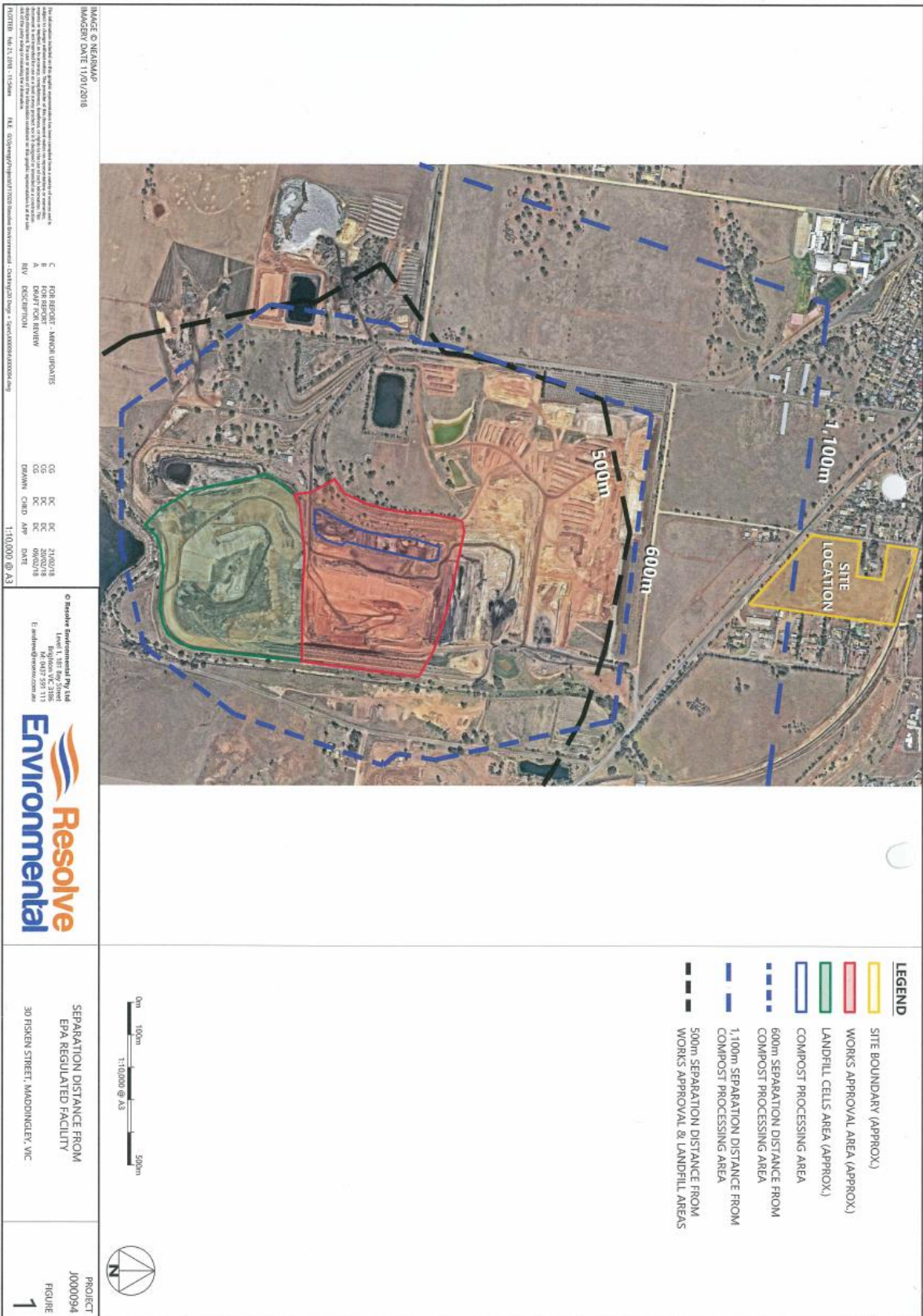


PLAN OF PROPOSED SUBDIVISION
 30 FISKIN STREET, MADDINGLEY
 PARISH OF PARWAN
 PARTS OF CA's 35, 36, 39, 40, 41 & 42

STEELE SURVEYING PTY LTD Land Surveyors 12A Webster Street, Ballarat 3350 Phone (03) 5333 2699	SCALE 1:1500	LENGTHS ARE IN METRES	ORIGINAL SHEET SIZE : A3	SHEET 1 OF 1 SHEET
	RICHARD JOHN STEELE , VERSION 4		DATE: 22-11-2018	SURVEYORS FILE REF. : 3060

Plan of Subdivision

Applicant's Buffer Map of MBC.



Planning Scheme Provisions

Council is required to consider the Victoria Planning Provisions and give particular attention to the Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- Clause 11.01-1R Settlement Central Highlands.
- Clause 11.02-1S Supply of urban land.
- Clause 11.03-3S Peri-urban areas.
- Clause 12.05-2R Landscapes Central Highlands.
- Clause 13.05-1S Noise Abatement.
- Clause 13.06-1S Air Quality Management.
- Clause 13.07-1S Land Use Compatibility.
- Clause 15.01-3S Subdivision Design.
- Clause 15.01-5S Neighbourhood Character.
- Clause 16.01-3S Housing Diversity.
- Clause 16.01-4S Housing Affordability.
- Clause 17.02-1S Business.
- Clause 17.03-3S State Significant Industrial Land.
- Clause 18.02-1S Sustainable Personal Transport.
- Clause 19.03-3S Integrated Water Management.
- Clause 19.03-5S Waste and Resource Recovery.
- Clause 21.03-2 Urban Growth Management.
- Clause 21.03-3 Residential Development.
- Clause 21.03-4 Landscape and Neighbourhood Character.

The proposal complies with the relevant sections of the PPF and LPPF, with the exception of the clauses outlined in the table below:

PPF	Title	Response
Clause 13	Environmental Risk and Amenity	The objective of this provision is planning should aim to avoid or minimise human made environmental hazard and amenity conflicts. The site will be impacted by some surrounding land uses.
Clause 13.06-1S	Air Quality Management	A strategy of this clause to ensure wherever possible that there is suitable separation between land uses that reduce air amenity and sensitive land uses. There maybe some impact from surrounding land uses.

PPF	Title	Response
Clause 13.07-1S	Land Use Compatibility	A strategy of this clause is to ensure the compatibility of a use or development as appropriate to the land use functions and character of the area. The site will be impacted by some surrounding land uses and permit conditions can provide additional protection to the residential lots to minimise potential conflicts.
Clause 19.03-5S	Waste and Resource Recovery	A strategy of this clause is to protect waste and resource recovery infrastructure against encroachment from incompatible land uses by ensuring buffer areas are defined, protected and maintained. The site is within 2 kilometres compositing buffer distance of MBC however a 1.1 kilometres separation is considered adequate.

Zone

Mixed Use Zone

The subject site is located in a Mixed Use Zone (MUZ).

The purpose of the zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality. To provide for housing at higher densities.
- To encourage development that responds to the existing or preferred neighbourhood character of the area.
- To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.

Under Clause 32.04-4 a permit is required to subdivide land.

An application to subdivide land must meet the relevant requirements of Clause 56 for a residential subdivision.

Decision guidelines are listed under Clause 32.04-14. Under the subdivision section has the following decision guidelines:

- The pattern of subdivision and its effect on the spacing of buildings.
- For subdivision of land for residential development, the objectives and standards of Clause 56.

Overlays

The site is not affected by any overlay controls.

Particular Provisions

Clause 52.29 Land Adjacent to a Road Zone Category 1

The land is adjacent to a Road Zone (Geelong-Bacchus Marsh Road) however no new or modified access is proposed to the road zone.

VicRoads, as the main road authority, were notified of the planning application in accordance with Clause 66.03.

Clause 53.01 Public Open Space Contribution and Subdivision

A person who proposes to subdivide land must make a contribution to Council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under section 18 of the Subdivision Act 1988.

The applicant is not providing any public open spaces within the subdivision and will be required to pay 5% public open space contribution fee.

Clause 53.18 Stormwater Management in Urban Development

The objectives for subdivision are:

- To minimise damage to properties and inconvenience to the public from stormwater.
- To ensure that the street operates adequately during major storm events and provides for public safety.
- To minimise increases in stormwater and protect the environmental values and physical characteristics of receiving waters from degradation by stormwater.
- To encourage stormwater management that maximises the retention and reuse of stormwater.
- To encourage stormwater management that contributes to cooling, local habitat improvements and provision of attractive and enjoyable spaces.

The stormwater management system should be:

- Designed and managed in accordance with the requirements and to the satisfaction of the relevant drainage authority.
- Designed and managed in accordance with the requirements and to the satisfaction of the water authority where reuse of stormwater is proposed.
- Designed to meet the current best practice performance objectives for stormwater quality as contained in the Urban Stormwater – Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999).
- Designed to ensure that flows downstream of the subdivision site are restricted to pre-development levels unless increased flows are approved by the relevant drainage authority and there are no detrimental downstream impacts.
- Designed to contribute to cooling, improving local habitat and providing attractive and enjoyable spaces. The stormwater management system should be integrated with the overall development plan including the street and public open space networks and landscape design.

For all storm events up to and including the 20% Average Exceedance Probability (AEP) standard:

- Stormwater flows should be contained within the drainage system to the requirements of the relevant authority.
- Ponding on roads should not occur for longer than 1 hour after the cessation of rainfall.

For storm events greater than 20% AEP and up to and including 1% AEP standard:

- Provision must be made for the safe and effective passage of stormwater flows.
- All new lots should be free from inundation or to a lesser standard of flood protection where agreed by the relevant floodplain management authority.
- Ensure that streets, footpaths and cycle paths that are subject to flooding meet the safety criteria $da \text{ Valve} < 0.35 \text{ m}^2/\text{s}$ (where, da = average depth in metres and Valve = average velocity in metres per second).

The design of the local drainage network should:

- Ensure stormwater is retarded to a standard required by the responsible drainage authority.
- Ensure every lot is provided with drainage to a standard acceptable to the relevant drainage authority. Wherever possible, stormwater should be directed to the front of the lot and discharged into the street drainage system or legal point of discharge.
- Ensure that inlet and outlet structures take into account the effects of obstructions and debris build up.
- Any surcharge drainage pit should discharge into an overland flow in a safe and predetermined manner. Include water sensitive urban design features to manage stormwater in streets and public open space. Where such features are provided, an application must describe maintenance responsibilities, requirements and costs.

Any flood mitigation works must be designed and constructed in accordance with the requirements of the relevant floodplain management authority.

The application was referred to both Melbourne Water and Council's Infrastructure.

Clause 56 Rescode

The proposal complies with the relevant standards of ResCode (Clause 56).

Discussion

Lot Arrangement/Subdivision Pattern

New estates typically have a variety of lots sizes to cater to different household structures. This subdivision has adopted predominately similar sized lots around 600m² with smaller lots in the court bowls and a larger potential future development lot in Lot 51. The lot sizes are large enough to provide for future dwellings that can easily comply with all of the relevant building standards. The lot widths are wide with most at 19 metres. The large lot sizes should prevent boundary to boundary developments and allow for generous secluded private open space areas and side setbacks. The applicant had adopted a simple subdivision layout connected to a main road with court bowls running off the main connector road. This subdivision pattern is more typical of older residential estates however significant site constraints with sloped topography potentially could create difficulties for providing infrastructure services if undertaking a more elaborate subdivision design. In this instance, a simple subdivision pattern is considered acceptable.

Acoustic Issues

The applicant was requested to provide acoustic information given the residential lots are near industrial uses and also subject to noise emissions from the rail line located to the north. The applicant engaged acoustic engineers, Vipac Engineers who only undertook a desktop assessment and made assumptions rather than based on actual results. They however did recommend high quality noise barriers along part of the southern boundary to the residential lots, the eastern property boundary and along the entire northern boundary. This would have the effect of enclosing the estate on three sides. The engineers recommended a noise barrier of a robust material such as concrete.

While the applicant could have produced acoustic results which may not have necessitated a noise barrier, the provision of a robust noise barrier will provide a higher level of protection for future residents. There can be a requirement for installation of a noise barrier to be constructed prior to the issue of a Statement of Compliance. This will be addressed by a permit condition.

Proximity to Maddingley Brown Coal

Three objections all relate to the 2 kilometres recommended buffer to the composting facility at Maddingley Brown Coal. The open coal mine and landfill at Maddingley Brown Coal accord with the recommended EPA separation distances. The 2 kilometres buffer would cover the entire subject lot however 30 Fisken Street is zoned for a sensitive land use such as residential activity. Maddingley Brown Coal are restricted in their operation in that they cannot increase their licence capacity which could have a greater detriment to sensitive receptors.

The EPA Guidelines are useful in minimising conflict between land uses. The applicant has also engaged Resolve Environmental to examine Maddingley Brown Coal's operation which included reviewing the EPA approved licenses. They noted composting which has the largest buffer area is a scheduled activity on the license 45288 and expected the facility to accept 1000 tonnes of composting per month. This would lead to a recommended separation distance of 1 kilometre, a shorter buffer would exist if there is less than 1000 tonnes and greater buffer if there was more than 1000 tonnes. By allowing 1.1 kilometres separation distance, Maddingley Brown Coal could operate higher composting volume at 14,000 tonnes per annum.

The proposed residential lots have separation distance of least 1.1 kilometres. The applicant has taken on board Council's initial concerns and have significantly reduced the number of residential lots and by moving them away from the closest boundary to Maddingley Brown Coal. The large 3.073 hectare commercial lot will also act as a further buffer between Maddingley Brown Coal and the most sensitive land use which are the residential lots. The long term objective is to minimise land use conflicts given the changes made to the plans, the proposal can now be considered to have acceptable separation distances to ensure both industrial and sensitive land uses can occur with minimal impact to each other. To ensure future owners are aware of their surrounds, a Section 173 Agreement will be in place advising owners acknowledge the site is in proximity to industrial activities and a state significant landfill which are permitted to continue to operate in accordance with their current planning controls and existing planning permits/licences.

A further visual relief of the Maddingley Brown Coal site can be achieved by creating a vegetated mound wall or embankment to the south of the Lots 1 to 10 and Lots 17 to 19. The mounded earth wall can be removed when the commercial lot, Lot A is developed as it will contain a high built form and appropriately positioned car parking areas and landscaping areas. This will be required as there is no end user at this stage for the commercial lot and it is expected that the residential lots will be completed and occupied prior to the commencement of any development in the commercial lot.

Proximity to a Heritage Dwelling

The single storey dwelling at 40 Fisken Street (HO160) will be surrounding the proposed subdivision. The dwelling is located on a large parcel of land and will not be adversely affected by the future dwellings on the residential lots. The applicant has submitted a re-establishment survey demonstrating that all existing trees that form part of the border to this dwelling are fully located within the lot and their associated Tree Protection Zones are sufficiently protected from future construction works.

Road Access

The residential lots will be accessed from Fisken Street and the internal roadways that will have 18 metres reserve widths to enable two way vehicle flow. The road reserves accord with Council's IDM design requirements. The Fisken Street intersection will require a basic left turn and basic right turn treatments in accordance with the requirement of Council's Infrastructure. No vehicle access will be permitted to Geelong-Bacchus Marsh Road.

Footpaths/Access to Bacchus Marsh Railway Station

The objective of Rescode standard C15 is to contribute to community health and well being by encouraging walking and cycling as part of the daily lives of residents, employees and visitors. To achieve this objective the standard requires the walking and cycling network to be designed to provide an interconnected and continuous network of safe, efficient and convenient footpaths and to provide an appropriate level of priority for pedestrians.

After discussions with the applicant, there will be a requirement not only for footpaths within the subdivision but to include a connecting footpath from the edge of the subdivision to the new Transport Victoria Fisken Street pedestrian crossing onto the Fisken Street/Station Street corner and then onto the Bacchus Marsh Railway Station. The total footpath length is approximately 400 metres. This will then allow future residents of the subdivision to walk or cycle from their house to the railway station in a safe and convenient manner. The planning scheme supports reduced motor vehicle use and catering to different household structures including those who rely on public transport or short distance trips. This subdivision presents a unique opportunity of providing residents in a new estate with a viable public transport link that can be conveniently accessed by the new footpaths. This will be satisfied by permit conditions.

Stormwater Management

The applicant was requested in the early stages of the application to provide a Stormwater Management Plan for the subdivision. It was agreed to provide a plan later if an approval was issued. On 26 October, 2018, all planning schemes were amended to include a new particular provision, Clause 53.18 covering Stormwater Management in Urban Development. This clause now requires a subdivision to comply with new Standard W1. This can be achieved by a requirement for the applicant to provide a Stormwater Management Plan in accordance with Clause 53.18, prior to the endorsement of plans.

General Provisions

Clause 65 – Decision Guidelines have been considered by officers in evaluating this application:

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.
- The staging of the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of fire.

- The provision of off-street parking.
- The provision and location of common property.
- The functions of any Body Corporate.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

Clause 66 – Stipulates all the relevant referral authorities to which the application must be referred.

Referrals

Authority	Response
Western Water	No objection subject to eleven conditions
Melbourne Water	No objection subject to one condition
Powercor	No objection subject to two conditions
Downer Utilities	No objection subject to one condition
VicRoads	No objection subject to one condition.
Transport for Victoria	No objection subject to twelve conditions
EPA	No objection
Sustainability Victoria - (not a determining referral authority)	Objected to the issue of permit
CFA	No objection subject to two conditions
Infrastructure	No objection subject to twenty-four conditions

Financial Implications

The recommendation of approval of this subdivision application would not represent any financial implications for Council.

Risk & Occupational Health & Safety Issues

The recommendation of approval of this subdivision does not implicate any risk or OH&S issues to Council.

Communications Strategy

Notice was not undertaken for the application as the proposal was exempt from the advertising provisions. Objections were received without advertising the application. All submitters and the applicant were invited to attend this meeting and invited to address Council if required.

Options

Council could consider the following options:

- Issue a permit in accordance with the recommendations of this report;
- Issue a permit with amendments to conditions within the recommendation of this report; or
- Should Council wish to consider refusal of the application, Councilor's need to explore reasons based on the proposal not complying with the Moorabool Planning Scheme.

Conclusion

The proposal is for a residential and commercial subdivision on land. The site is located within an area containing mixed land uses including industrial uses and a state significant landfill called Maddingley Brown Coal. After a lengthy period of time and negotiations with the applicant, they have made significant changes to the plans by reducing the number of residential lots and introducing a commercial lot. These changes allow for a greater separation distance with the Maddingley Brown Coal site, achieving over 1 kilometer buffer which should provide adequate amenity protection to nearest future residences. In addition, the commercial lot will create a visual buffer between Geelong-Bacchus Marsh Road and the residential lots.

Should the application be approved there would be a Section 173 Agreement to ensure residential land owners are aware that surrounding industrial or amenity impacting activities are permitted to operate in accordance with their approvals and owners are not afforded some amenity compared to lots well separated from industrial land uses. There is the potential for noise impacts from the railway line and surrounding industries. A noise barrier will need to be established for acoustic protection and this will be addressed by a permit condition. The large lot sizes are a positive aspect to the proposal to allow for sufficient open space areas and prevents boundary to boundary developments. The applicant has agreed to provide a connecting footpath to the Bacchus Marsh Railway Station which will allow for good pedestrian connectivity to a major public transport link. The provision of a footpath beyond the subject land is a positive design response and makes this estate a public transport accessible estate.

This subdivision is considered to accord with Rescode subdivision provisions and the objectives of the Mixed Use Zone which warrants support for the application. There is sufficient amenity protection contained within the permit conditions.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Planning Permit for a 53 Lot Subdivision at Lots 3, 4, 5, and 6 on PS856427Y otherwise known as 30 Fiske Street, Maddingley:

Endorsed Plans

1. **Before the plan of subdivision is certified under the Subdivision Act 1988, 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 then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application/other specified plans but modified to show:**
 - a) **Plan clearly detailing the length, height and material of the noise barrier based on a completed SEPP N-1 analysis undertaken by an acoustic engineer. The barrier must occupy the southern, eastern and northern boundaries of the site. Submission of a completed and approved Stormwater Management Plan in accordance with condition 40 contained herein and Clause 53.18-4, Standard W1.**
 - b) **Submission of a separate landscape plan for an earth mounded wall/embankment to be located along the northern boundary of Lot A with appropriate landscaping treatments. The wall will be temporary in accordance with condition 66 contained herein.**
 - c) **Plan annotated that a footpath, designed to the satisfaction of the Responsible authority, will be constructed along the entire Fiske Street frontage including land labelled not in subdivision.**

Additional Plans

- 2. Before the plan of subdivision is certified under the Subdivision Act, an additional plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. The plans must show:**
 - a) A 1.8 metres wide footpath from the north-east edge of the subdivision connecting to the Bacchus Marsh Railway Station via Fisken Street and Station Street.**

Acoustic Report

- 3. Prior to Statement of Compliance an updated acoustic report in accordance with the SEPP-1 detailing actual noise levels from the railway land and provide any construction details of acoustic protection measures required for dwellings within the subdivision.**

Section 173 Agreement

- 4. Before the issue of a Statement of Compliance, the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 Agreement of the Planning & Environment Act to provide the following:**
 - a) The owner of the land must acknowledge that while the land remains zoned as Mixed Use Zone or its equivalent successor, the site is adjacent or nearby to commercial uses, industrial uses and a state significant landfill that can continue to operate in accordance with existing permits and/or licences.**
 - b) Lot A (the balance lot) can not be used for the purposes of a dwelling or dependent person's unit as defined in Section 73.03 of the Moorabool Planning Scheme.**
 - c) The northern landscape mound/embankment must be completed to the satisfaction of the Responsible Authority within Lot A and can only be removed when a Building permit has been issued for a development in Lot A and that development has commenced.**
 - d) Each land owner with a lot adjacent to the acoustic wall is responsible for the ongoing maintenance and repair of the wall to the satisfaction of the Responsible Authority.**
 - e) The construction of the acoustic fence adjoining the railway land must be a minimum of 200 mm inside the property boundary of the subject land.**
 - f) Construction of any dwelling must meet the minimum acoustic requirements in accordance with the SEPP-1 analysis report completed under Condition 3 of Planning Permit PA2018-067.**

Before the issue of a Statement of Compliance, application must be made to the Register of Titles to register the section 173 Agreement on the title to the land under section 181 of the Act. The owner must provide evidence of registration of the Agreement to the Responsible Authority as soon as possible after registration has occurred. The owner/operator under this permit must arrange for the preparation of the 173 Agreement at his/her cost before submitting it to the Responsible Authority for approval. The owner/operator under this permit must pay the costs of execution and registration of the section 173 Agreement.

Subdivision

5. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.
6. Before the statement of compliance is issued under the *Subdivision Act 1988*, the applicant or owner must pay to the responsible authority a sum equivalent to 5 per cent of the site value of all the land in the subdivision for public open space purposes. The permit holder/developer must pay the reasonable costs of Council in having the land valued for this purpose.
7. Prior to any works commencing on the land a “Construction Management Plan” (CMP) must be prepared to the satisfaction and approval of the Responsible Authority, detailing how the developer will manage the environmental and construction issues associated with the development. The plan must address, but not be limited to the following:
 - How the land is to be accessed during the construction period;
 - All measures to be introduced to ensure that construction on the land does not impact on any vegetation to be retained;
 - All measures to be introduced to minimise soil erosion and runoff;
 - Details relating to the storage of all plant and equipment during the construction period; and
 - Measures to be implemented to ensure the containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build up of matter outside of the site.

Telecommunications:

8. The owner of the land must enter into agreements with:
 - a. A telecommunications network or service provider for the provision of telecommunication service to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and
 - b. 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.
9. Before the issue of 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. 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
 - b. 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 an area where the National Broadband Network will not be provided by optical fibre.

Powercor:

10. The plan of subdivision submitted for certification under the *Subdivision Act 1988* shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.

11. The applicant shall:

- a. Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.**
- b. Where buildings or other installations exist on the land to be subdivided and are connected to the electricity supply, they shall be brought into compliance with the Service and Installation Rules issued by the Victorian Electricity Supply Industry. You shall arrange compliance through a Registered Electrical Contractor.**
- c. Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.**
- d. Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.**
- e. Set aside on the plan of subdivision for the use of Powercor Australia Ltd reserves and/or easements satisfactory to Powercor Australia Ltd where any electric substation (other than a pole mounted type) is required to service the subdivision. Alternatively, at the discretion of Powercor Australia Ltd a lease(s) of the site(s) and for easements for associated powerlines, cables and access ways shall be provided. Such a lease shall be for a period of 30 years at a nominal rental with a right to extend the lease for a further 30 years. Powercor Australia Ltd will register such leases on the title by way of a caveat prior to the registration of the plan of subdivision.**
- f. Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Powerline Purposes" pursuant to Section 88 of the Electricity Industry Act 2000.**
- g. Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.**
- h. Adjust the position of any existing easement(s) for powerlines to accord with the position of the line(s) as determined by survey.**
- i. Obtain Powercor Australia Ltd's approval for lot boundaries within any area affected by an easement for a powerline and for the construction of any works in such an area.**
- j. Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.**

Transport for Victoria

- 12. Before the certification of a plan of subdivision, or any other time agreed by the Head, Transport for Victoria, a functional layout plan for the subdivision or each stage of subdivision must be submitted to and approved by the responsible authority and the Head, Transport for Victoria. When approved the functional layout plan will be endorsed and will then form part of the permit. The functional layout plan must be drawn at a scale of 1:500 or at another scale which the responsible authority agrees with dimensions and three copies provided and an electronic copy (PDF) must also be provided. The functional layout plan must be generally in accordance with the endorsed plans but incorporate the following:**

 - a) A gated pedestrian crossing at the Fiskin Street level crossing of the Melbourne – Ballarat rail corridor, including DDA compliant pedestrian paths connecting to the development site.**
- 13. Unless otherwise agreed in writing before the development starts, detailed construction / engineering plans and computations must be submitted to and approved by the Head, Transport for Victoria for the gated pedestrian crossing, and all associated infrastructure, including landscaping and must be compliant with the Disability Discrimination Act – Disability Standards for Accessible Public Transport 2002. The plans must be generally in accordance with the endorsed plans under this permit.**
- 14. Prior to the occupation of the development, all works on the gated pedestrian crossing at the Fiskin Street level crossing of the Melbourne – Ballarat rail corridor (including DDA compliant pedestrian paths connecting to the development site) outlined on the endorsed functional layout plans must be completed, to the satisfaction of Public Transport Victoria and V/Line at the full cost to the permit holder.**
- 15. Prior to the issue of a Statement of Compliance for any stage abutting the railway corridor, or other time agreed in writing with the Head, Transport for Victoria, the permit holder must install a visually transparent 1.8 metre high black coated chain mesh fence along the boundary abutting the rail corridor, to the satisfaction of Public Transport Victoria and VicTrack, at the full cost to the permit holder. The fence must be located on the subject land, with up to 100mm encroachment onto rail land for footings only, and the orientation of any supporting rails should be on the railway side to discourage trespassing.**
- 16. The permit holder must take all reasonable steps to ensure that disruption to train operation within the railway corridor is kept to a minimum during the construction of the development. Foreseen disruption to rail operation during construction and mitigation measures must be communicated to V/Line and Public Transport Victoria sixteen weeks (16) prior.**
- 17. No excavation, filling or construction other than shown on the permit plans must take place on the common boundary between the subject property and VicTrack land without the prior approval of VicTrack and the Rail Operator.**
- 18. No drainage or effluent must enter VicTrack land and must be connected to the legal point of discharge.**
- 19. No waste, soil or other materials from the works are to be stored or deposited on VicTrack land.**
- 20. No lighting is to be erected (permanent or temporary) that spills light onto the railway tracks or which interferes with the visibility of signals and rail lines by train drivers.**

21. All works, including hoardings, must be undertaken within the subject land and must not encroach onto VicTrack land.
22. No entry onto railway land is permitted without the written consent of the rail operator.
23. No permanent or temporary ground anchors are permitted within VicTrack land.
24. Plant and tree species must be of the type that will not cause any future overhang onto VicTrack land or disturbance of railway operations.

Western Water:

25. Payment of new customer contributions for each lot created by the development such amount being determined by Western Water at the time of payment.
26. Reach agreement with Western Water for the provision and funding of potable water supply and sewerage services necessary to service the subdivision/development.
27. Provision of reticulated water mains and associated construction works to front each allotment, at the developer's expense in accordance with the standards of construction adopted by and to the satisfaction of Western Water.
28. Provision of reticulated sewerage services and associated construction works to each allotment within the subdivision/development, at the developer's expense, in accordance with the standards of construction adopted by and to the satisfaction of Western Water.
29. The owner shall reach an agreement with Western Water regarding the construction of any Shared Assets (water mains that are greater than 150mm diameter and gravity sewerage mains that are greater than 225mm diameter) required to service the subdivision/development. The construction of Shared Assets reimbursable by Western Water shall comply with Western Water Procurement and Guide to New Customer Contributions.
30. Provision of easements in favour of Western Water over all existing and proposed sewer mains located within private property. The easement shall be 3.0 metres wide for combined sewer and drainage easements and 2.0m wide for a dedicated sewerage easement.
31. Preparation of a digitised plan of subdivision and ancillary requirements in accordance with Western Water's drafting standards and practices.
32. The operator under this permit shall be obliged to enter into an Agreement with Western Water relating to the design and construction of any sewerage or water works required. The form of such Agreement shall be to the satisfaction of Western Water. The owner/applicant shall make a written request to Western Water for the terms and conditions of the agreement.
33. Prior to the issue of a Statement of Compliance, evidence must be provided in a form satisfactory to Western Water that will ensure all future lot owners are made aware that they must undertake water efficiency measures to limit the amount of potable water used.

34. The developer must produce for approval by Western water an Integrated Water Management Plan that incorporates water efficiency measures and water sensitive urban design techniques that reduce reliance on potable water by increasing utilisation of fit for purpose alternative water such as stormwater, rainwater and recycled water. This plan must set out subdivision outcomes that appropriately respond to the site and its context for integrated water management to the satisfaction of Western Water, when approved by Western Water, the Integrated Water Management Plan must be implemented before the issue of a statement of compliance.
35. All contractors engaged on construction of Subdivision Infrastructure obtain a Water Carters Permit from Western Water and comply with that permit at all times. The permit will include a requirement for the Water Carter Permit holder to:
- Own a metered hydrant approved by Western Water;
 - Meter and pay for all water taken;
 - Display a Western Water Permit Number Sticker on the tanker;
 - Only take water from nominated hydrants or standpipes;
 - Only use water for the purpose approved in the Water Carters Permit;
 - Avoid wastage of water on site; and
 - Comply with any water restrictions imposed by Western Water at the time water is used.

For the purpose of this condition, Subdivision Infrastructure includes new and alterations to existing: roads, drains, water mains, sewer mains, power supply, telephone, gas and any other service infrastructure required by this permit and dust suppression during construction of the same. Notwithstanding the above, a Water Carters Permit is not required if the permit holder and contractors engaged by the permit holder can demonstrate to the satisfaction of Western Water that water is not required from Western Water's town water supply systems to construct Subdivision Infrastructure as defined above.

Melbourne Water:

36. Prior to the issue of a Statement of Compliance the Owner shall enter into and comply with an agreement with Melbourne Water Corporation for the acceptance of surface and storm water from the subject land directly or indirectly into Melbourne Water's drainage systems and waterways, the provision of drainage works and other matters in accordance with the statutory powers of Melbourne Water Corporation.

Downer Utilities:

37. The plan of subdivision submitted for certification must be referred to AusNet Services (Gas) in accordance with Section 8 of the *Subdivision Act 1988*.

Country Fire Authority:

38. 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:
- i. 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 around lot boundaries.

- ii. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Note – CFA’s requirements for identification of hydrants are specified in ‘Identification of Street Hydrants for Firefighting Purposes’ available under publications on the CFA web site (www.cfa.vic.gov.au).

39. Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width:

- i. 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.
- ii. Curves must have a minimum inner radius of 10 metres.
- iii. Have a minimum trafficable width of 3.5 metres and be clear of encroachments for at least 0.5 metres on each side and 4 metres above the access way.
- iv. Roads more than 60 metres in length from the nearest intersection must have a turning circle with a minimum radius of 8 metres (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.

VicRoads:

40. All access to the proposed subdivision will only be from Fiskin Road and there will be no access permitted from Parwan Road to the subdivision during the construction.

Infrastructure:

41. Prior to the development commencing, a “Stormwater Management Strategy” must be prepared and submitted to the responsible authority for approval, based on the objectives and standards of the Moorabool Planning Scheme and the “Urban Stormwater Best Practice Environmental Management Guidelines – CSIRO 1999”. The Strategy must:

- i. Encompass the entire area of the development.
- ii. Propose techniques to manage the quantity and quality of stormwater emanating from the site during construction and after completion of the development in accordance with the Best Practice Guidelines.
- iii. Provide for outfall drainage from the site connecting to an approved discharge point.
- iv. Propose techniques to manage the overland flow paths within the development for the 1% AEP storm for the catchment. Once approved, the stormwater strategy will form the basis for preparation of detail design documentation of a stormwater system for the development.

42. The subdivision must be provided with a drainage system to a design approved by the Responsible Authority and must ensure that:

- i. The subdivision as a whole must be self draining.
- ii. All drainage courses within the subdivision must pass through easements or reserves shown on the plan of subdivision.
- iii. All outfall drainage passing through other land must be provided at the cost of the developer and be constructed within easements shown on the plan of subdivision.

- iv. Volume of water discharging from the subdivision in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of retardation basin(s) located and constructed to the satisfaction of the Responsible Authority.
 - v. Flow paths of the 1% AEP storm must be determined and the subdivision designed so that no property is inundated by such a storm. The flow paths must be indicated on the engineering plans.
 - vi. The drainage system must be designed to include provision to intercept litter.
 - vii. All lots must be provided with a stormwater legal point of discharge at the low point of the lot, to the satisfaction of the Responsible Authority.
 - viii. The drainage design must take into account any applicable drainage or flood management strategy. If required, the layout of the subdivision must be modified based on the approved stormwater design.
43. Design computations for drainage of the whole site must be prepared and submitted to the Responsible Authority for approval, and must include analysis of the existing stormwater drainage system in the area to determine:
- i. the requirements for drainage of the whole site.
 - ii. if the existing drainage network has sufficient capacity to cater for the additional runoff from the ultimate development.
 - iii. If additional outfall drainage or upgrading of the existing drainage network is required.
44. The internal road network layout must be designed and constructed to the standards detailed in the Infrastructure Design Manual, to the satisfaction of the Responsible Authority.
45. Design computations for all road pavement construction, based on a geotechnical investigation of the site, must be prepared and submitted to the Responsible Authority for approval.
46. Plans and specifications of all road, traffic and drainage works must be prepared and submitted to the responsible authority for approval prior to the commencement of such works and all such works must be carried out in accordance with the approved plans to the satisfaction of the Responsible Authority.
47. Fisker Street must be constructed along the frontage of the property, to the satisfaction of the Responsible Authority with:
- i. Kerb and Channel, and pavement widening along the frontage of the site to allow for Basic Right Turn (BAR) and Basic Left Turn (BAL) treatments.
 - ii. Stormwater drainage.
 - iii. Nature strip and landscaping.
 - iv. Public lighting.
 - v. A 1.5m Concrete footpath from along the frontage of the property.
48. Basic Right Turn (BAR) and Basic Left Turn (BAL) treatments must be provided at the intersection of Fisker Street and the internal Road to the satisfaction of the Responsible Authority.
49. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.

50. An Environmental Management Plan for the road construction works must be submitted to the Responsible Authority for approval prior to the commencement of construction. All works must be performed in accordance with the approved Environmental Management Plan.
51. Sediment discharges must be restricted from any construction activities within the property in accordance with the relevant Guidelines including "Construction Techniques for Sediment Control" (EPA 1991) and "Environmental Guidelines for Major Construction Sites" (EPA 1995).
52. Traffic management treatments must be provided in the form of linemarking, signage and pavement markers at intersections and vehicle turning areas, to the satisfaction of the Responsible Authority.
53. Prior to the issue of Statement of Compliance for each stage, street lighting must be provided in accordance with the requirements of AS1158 – Lighting for Roads and Public Places, to the satisfaction of the Responsible Authority. All lighting fittings must be "Standard" fittings maintained by the electricity network provider at no additional cost to Council. All lights must utilise LED type luminaires where available.
54. Street names and street signs must be provided to the satisfaction of the responsible authority.
55. Permanent survey marks must be provided at a maximum spacing of 200 metres and registered, to the satisfaction of the Responsible Authority.
56. Street trees must be provided at approved locations along Fiskin Street and in all internal roads of the subdivision at a rate of at least one (1) tree per lot frontage or sideage frontage with a maximum separate distance between trees of seven (7) metres. and with an approved species to the satisfaction of the responsible authority. All street trees must have an existing height of 1.5 metres upon planting, must be planted to an approved standard incorporating two hardwood stakes, tree ties, Ag pipe, water crystals, 100 mm of mulch and initial watering, to the satisfaction of the responsible authority.
57. Street trees must be protected during any construction works with a temporary barrier fence that prevents access and soil disturbances, to the satisfaction of the Responsible Authority. The barrier fence must be secured to the the ground and regularly checked for damage or maintenance.
58. Street trees must be maintained for a minimum period of 18 months including watering, mulching, weeding and formative pruning, to the satisfaction of the responsible authority.
59. A security deposit equal to 150% of the cost of planting street trees must be lodged with the Council. The deposit will be returned after the final inspection of street trees, 18 months after the completion of planting of the trees, only if Council requires no further maintenance of the trees to be undertaken.
60. Landscaping within the development must be provided in accordance with an approved landscape plan, to the satisfaction of the responsible authority. t) Landscaping must be maintained for a minimum period of 18 months including watering, mulching, weeding and formative pruning, to the satisfaction of the responsible authority.

61. A security deposit equal to 150% of the cost of the landscaping must be lodged with the Council. The deposit will be returned after the final inspection of landscaping, 18 months after the completion of landscaping, only if Council requires no further maintenance of the landscaping to be undertaken.
62. Prior to the issue of a Statement of compliance for each stage of the subdivision, the developer must pay:
 - i. 0.75 % of the total estimated cost of works for the checking of engineering plans associated with that stage of the development.
 - ii. 2.50 % of the total estimated cost of works for the supervision of works associated with that stage of the development.
63. Prior to the issue of a Statement of Compliance for the relevant stage of the subdivision, after all engineering works pertaining to the stage have been completed, the following “as constructed” details must be submitted in the specified format to the Responsible Authority:
 - i. Drainage construction details in “D-Spec” format.
 - ii. Roadworks construction details in “R-Spec” format. Subject to the consent of the responsible authority, the data may be provided prior to the end of the maintenance period for the relevant stage of the subdivision.
64. All road and drainage works must be maintained in good condition and repair for a minimum of 3 months after completion of the works, to the satisfaction of the Responsible Authority.
65. Prior to the issue of a Statement of compliance for each stage of the subdivision, a security deposit of 5% of the total value of engineering works for that stage as approved by the Responsible Authority must be lodged with the Responsible Authority, to cover the maintenance of all works. The deposit will be returned after the final inspection of works, three (3) months after the completion of works, subject to the satisfactory completion of all required maintenance and rectification works.
66. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council’s Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

Operational

67. The northern landscape mound/embarkment located within Lot A must be maintained to the satisfaction of Responsible Authority and any dead or dying trees must be replaced.
68. The northern landscape mound/embarkment within Lot A can only be removed when a Building permit has been issued for a development in Lot A and that development has commenced.
69. Boundary fencing/noise barrier around the perimeter of the subject land must be maintained to the satisfaction of the Responsible Authority. Any damaged sections must be immediately repaired or replaced.
70. Without the prior consent of the Responsible Authority, no street trees can be removed from the Geelong-Bacchus Marsh Road frontage.

71. Prior to the issue of a Statement of Compliance, the connecting footpath to the Bacchus Marsh Railway Station as approved by Responsible Authority must be completed to the satisfaction of Responsible Authority.
72. Prior to the issue of a Statement of Compliance, the acoustic boundary fence/noise barrier must be completed to the satisfaction of the Responsible Authority.
73. As a result of the detailed design for the stormwater system, if a drainage easement is created through Lots 32 and 33 connecting to Lot 51, it must be altered to allow a pedestrian access from the northern most cul-de-sac to Lot 51. The development within Lot 51 them must be designed to allow a continuance of this pedestrian path to the Fisken Street frontage.

Permit Expiry

74. This permit will expire if the plan of subdivision is not certified within two (2) years of the date of issue of the permit.

Statement of Compliance must be achieved and certified plans registered at Titles office within five (5) years from the date of certification.

Transport for Victoria Notes

Works undertaken within railway land must consider all standards and work practices for work within the railway corridor and conform to all relevant standards for any interface works and installation of underground utility services to the satisfaction of the Rail Operator and Public Transport Victoria.

Entry onto railway land is at the discretion of the Rail Operator and is subject to the Rail Operators Site Access Procedures and conditions.

Powercor Notes:

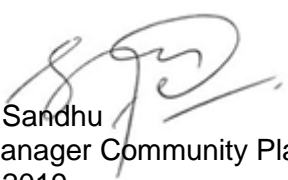
It is recommended that, at an early date, the applicant commences negotiations with Powercor for supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued once all electricity works are completed (the release to the municipality enabling a Statement of Compliance to be issued).

Prospective purchasers of lots in this subdivision should contact Powercor Australia Ltd to determine the availability of a supply of electricity. Financial contributions may be required.

Report Authorisation:

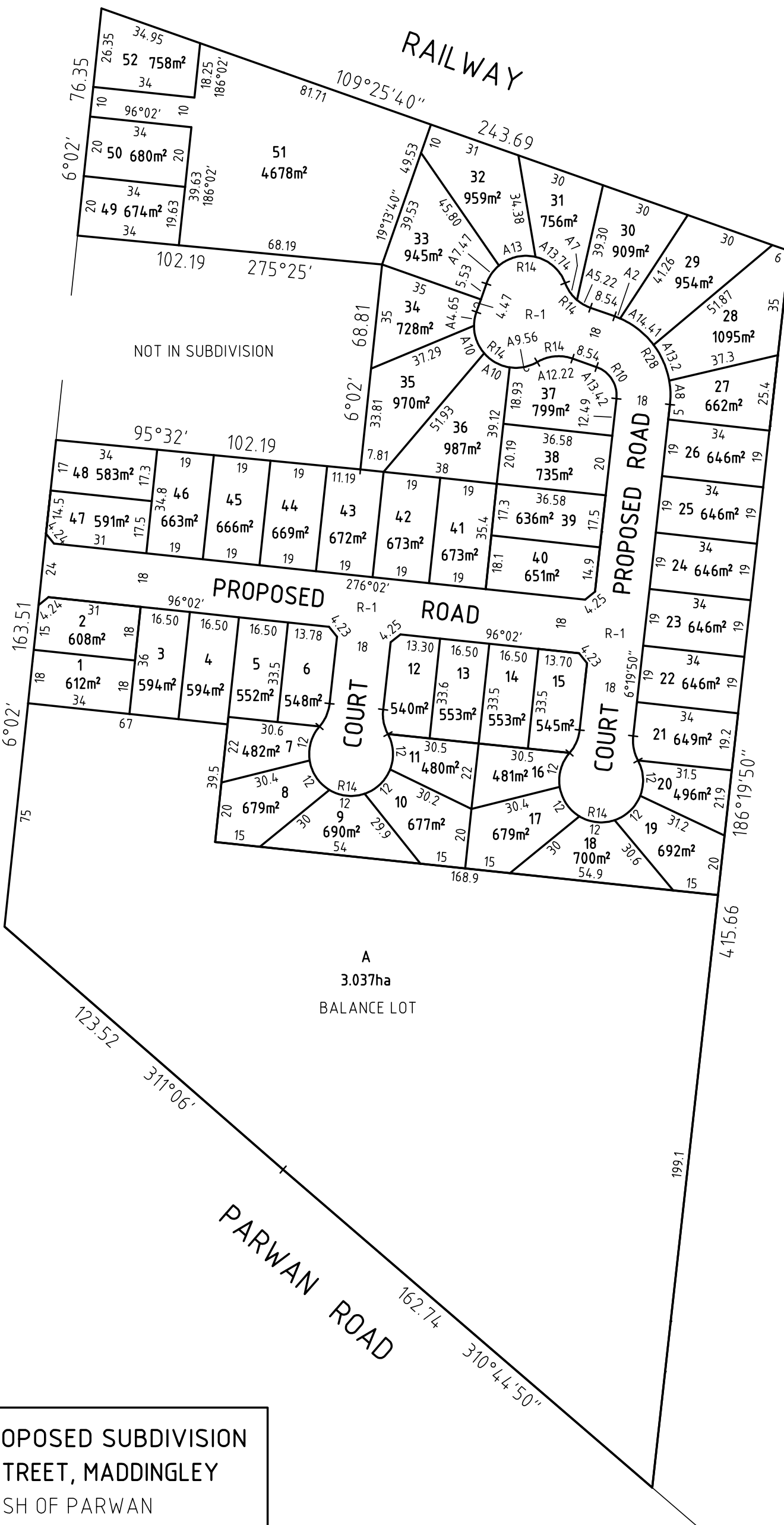
Authorised by:

Name: Satwinder Sandhu
Title: General Manager Community Planning
Date: 19 March, 2019



MGA94 ZONE 55

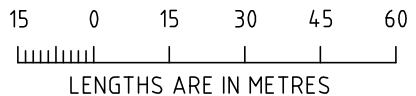
FISKEN STREET



PLAN OF PROPOSED SUBDIVISION
30 FISKEN STREET, MADDINGLEY
 PARISH OF PARWAN
 PARTS OF CA's 35, 36, 39, 40, 41 & 42

STEELE SURVEYING PTY LTD
 Land Surveyors
 12A Webster Street, Ballarat 3350
 Phone (03) 5333 2699

SCALE
 1:1500



ORIGINAL SHEET
 SIZE : A3

SHEET 1 OF 1 SHEET

RICHARD JOHN STEELE , VERSION 4

DATE: 22-11-2018

SURVEYORS FILE REF. : 3060

Item 5.3 Planning Permit Number PA2016 144 – Development of a Camping Ground and Caravan Park associated with a Place of Assembly at 121 Forbes Road, Leigh Creek.

Application Summary:	
Permit No:	PA2016 144
Lodgement Date:	8 June, 2016
Planning Officer:	Victoria Mack
Address of the land:	“Kryal Castle” 121 Forbes Road Leigh Creek Lot 1 and Lot 2 on PS 209123L
Proposal:	Development of a camping ground and caravan park associated with a Place of Assembly.
Lot size:	10.97ha
Why is a permit required?	Farming Zone – use of land for camping and caravan park; and buildings and works.
Reason for being presented to S86 Development Assessment Committee.	Two objections received; and compliance with planning and water authority requirements not able to be met.
Public Consultation	
Was the application advertised?	Yes
Notices on site:	One (1) notice
Notice in Moorabool Newspaper:	No
Number of Objections:	Two (2)
Consultation Meeting:	Not held
Policy Implications	
Strategy Objective 3:	Stimulating Economic Development
Context 3A:	Land Use Planning
Victorian Charter of Human Rights and Responsibilities Act 2006	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	

Officer's Declaration of Conflict of Interests	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager – Rob Fillisch</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Victoria Mack</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary	
Application Referred?	Yes
Any issues raised in referral responses?	<p>The existing waste water treatment system (WWTS) servicing Kryal Castle site is not suitable for any expansion of the use of the land until the WWTS is significantly upgraded, or the whole of the site is connected to a reticulated sewerage system.</p> <p>Central Highlands Water and Council's Environmental Health both requested further information which has not yet been satisfied.</p> <p>In the case of Environmental Health, they later consented with conditions including that the site must be connected to reticulated sewage.</p>
Preliminary concerns?	Waste water management system is inadequate.
Any discussions with applicant regarding concerns?	The issue of waste water management has been an ongoing discussion between the Kryal Castle management, water authorities, Council Environmental Health officers and the Planning Department. They have been advised that this application cannot be progressed until the WWTS issue has been resolved.
Any changes made to the application since being lodged?	Additional documents and plans were provided following the Planning Department request for further information, but not all information requested was provided.
Brief history	The site is the location of the tourist facility Kryal Castle which commenced operating in approximately 1996.
Previous applications for the site?	PAM002/96 - Original permit PA2013023 – Use of a licenced premises
General summary	<p>The application is to extend the range of Kryal Castle's hospitality services to add a glamping and caravan park to the site.</p> <p>However, the application has been unable to demonstrate that the current WWTS on the site can accommodate the proposed uses.</p>

	<p>Environmental Health has advised that the current WWTS is known to be failing and that the Environment Protection Authority has now placed an order on the site that the issues identified with the wastewater treatment plant must be corrected.</p> <p>Council received this application in June 2016. After referral to the required authorities the poor state of the WWTS became apparent.</p> <p>Central Highlands Water requested further information. including a long-term sustainable waste water management plan for the site, and storm water management plan.</p> <p>Council's Environmental Health requested further information but later consented to the application provided the site was connected to reticulated sewerage.</p> <p>Council's Infrastructure Department required a traffic management plan and details of site works and access.</p> <p>Advertising resulted in two (2) objections.</p> <p>The application was allowed to remain on hold to give the applicants time to sort out the many issues raised by referral authorities and objectors, recognising the hospitality, tourism and employment services that Kryal Castle provides to the community, the region and the State.</p> <p>However, as no progress has been made in relation to the WWTS it is considered that further allowance cannot be given, and the application should be refused.</p> <p>In due course once the WWTS and other matters have been rectified the applicants can reapply for the proposed uses.</p>
<p>Summary Recommendation</p>	
<p>That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i>, Council Refuses to Grant a Planning Permit for the <i>Development of a camping ground and caravan park associated with a Place of Assembly</i> at 121 Forbes Road Leigh Creek otherwise known as Lots 1 and 2 on PS 209123L.</p>	

Site Description

The site is 10.97ha. It contains Kryal Castle, which covers 2.26ha, and a large the external car parking area accessed via a 180m long drive way from Forbes Road. The balance of the land is pasture. There are extensive buildings and operational areas within the castle walls. The castle complex is located close to the south side boundary of the site. The land slopes from the castle site down to the entrance on Forbes Road. There is limited native vegetation on the site but there are some exotic trees planted on formed terraces at the front of the castle site and there is extensive landscaping with trees and shrubs within the castle grounds. Kryal Castle is serviced by an on-site waste water (septic) treatment system.

The castle site is in the Farming Zone with the southern portion of the site covered by the Bushfire Management Overlay. Land to the south of the castle is in the Public Conservation and Resource Zone and includes Mount Warrenheip and the Mount Warrenheip Flora Reserve. This land is in private ownership. Surrounding land is in Farming Zone.

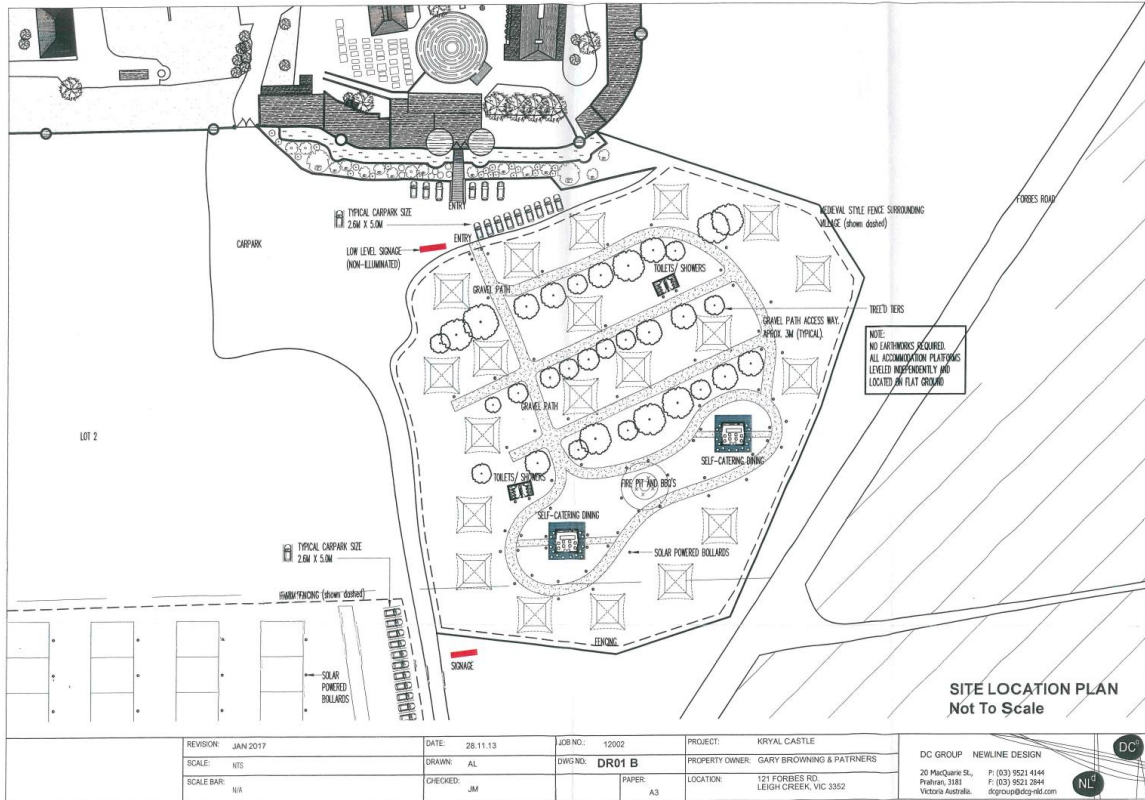
The castle is located approximately 1.2kms south of the Western Freeway; approximately 11kms east of the Ballarat Central Business District; and approximately 4.4kms south-west of the Bungaree township. Kryal Castle hosts visitors from all over the world and is a noted regional and State tourism attraction. At the time of application 80,000 visitors attended the attraction per annum. The new owners intend to extend this to 150,000 visitors per annum in the medium term.

Below is an aerial photo of the Kryal Castle site.



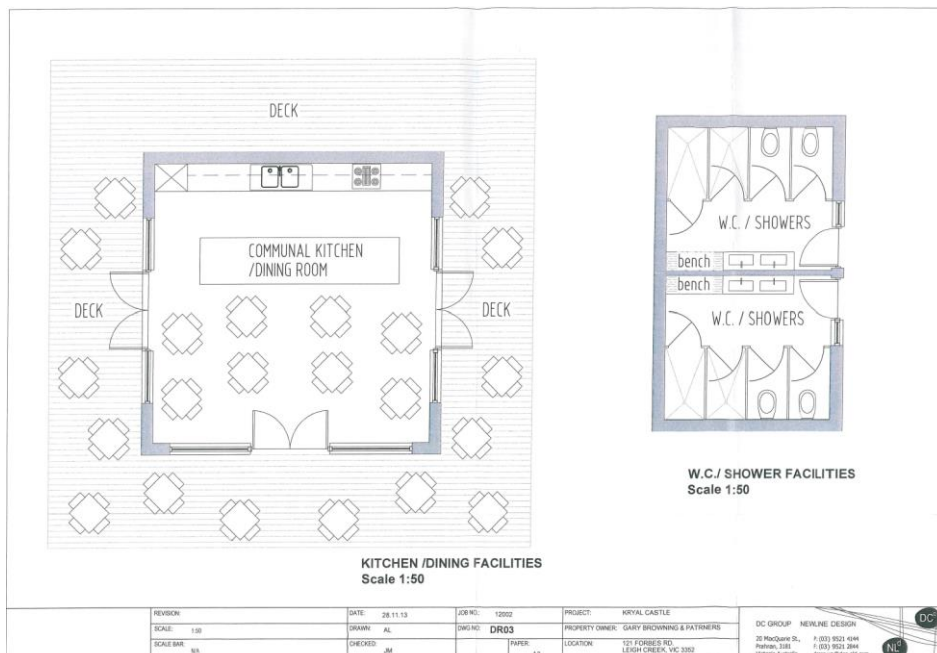
Proposal

It is proposed to construct glamping tents and a caravan park on the site. The development would have twenty (20) glamping tents would be permanently constructed on a site north north-west of the castle on the terraced land on the west side of the driveway which slopes down to Forbes Road.



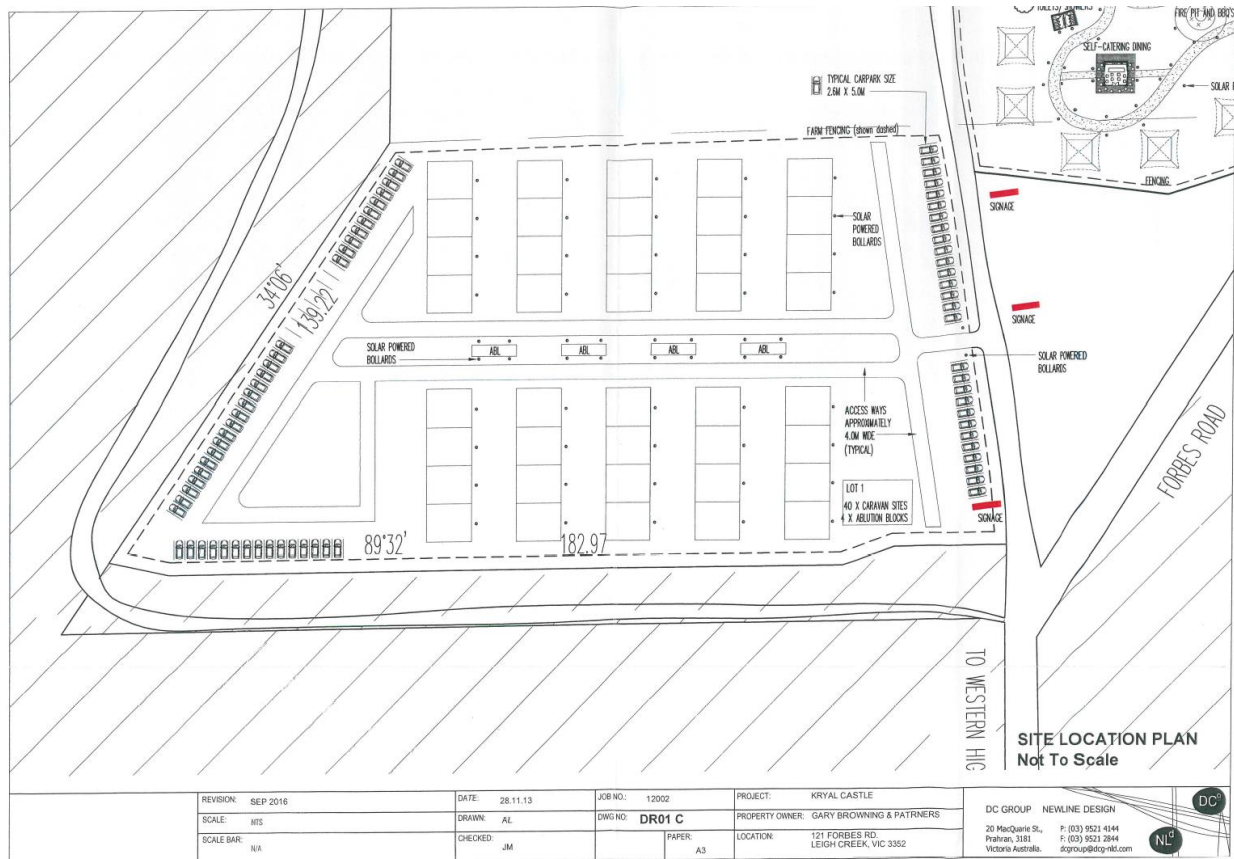
There would be gravel paths between the tents with solar powered bollards for lighting along the pathways. No vehicles would be allowed to access the glamping area. Glamping tents would be heated with purpose-built pot belly type stoves. They would have power and water.

Additionally, there would be two (2) constructed self-catering dining and communal kitchens and two (2) constructed toilet and shower blocks.



Parking to service the glamping sites would be provided by the existing car parking area.

The caravan park would be located on the east side of the driveway on vacant pastured land. Forty (40) powered sites are proposed. Twenty (20) on each side of four (4) ablation blocks to be located centrally. The caravan park would also be lit by solar powered bollards across the site. Parking spaces would be located around the perimeter of the caravan sites. The caravan park site may include permanent cabins and/or permanent caravans. Operating hours proposed would be 24 hours a day seven days per week.



The proposal also included reference to landscaping, signage around the site, security/boom gates on the accessway, further electrical and plumbing work and sewerage upgrades, although the sewerage upgrades were not specified. Additional staff would be employed to run the camping and caravan park side of the Kryal Castle enterprise.

The application was accompanied by the following documents:

1. Risk assessment prepared by *arris*.
2. Quotation for the Design and installation of an on-site waste water system for Kryal Castle prepared by *arris* dated June 2014.
3. Quotation to renew/commission fire services prepared by Southern Dales horizontal boring.
4. A draft Fire Risk Management Plan prepared by Peter McMahon
5. Kryal Castle promotional material including business plan (undated).
6. A Kryal Castle Camping Management Plan

After the original application was received a request for further information was sent to the applicant by the Planning Department. The information received was provided in part which addressed some, but not all, of the request.

Background to Current Proposal

The application has been on hold for considerable time due to the WWTS requirements not being able to be met.

The current septic system is not adequately servicing Kryal Castle's current use. The addition of camping and caravan park to the site cannot be supported unless the existing septic system is substantially upgraded, and/or the site is connected to a reticulated sewerage system.

The applicant/owners have not yet committed to a solution to the issue.

History

Kryal Castle was approved by permit PAM002/96. The permit has been amended over time.

A more recent amendment was to add "external camping (outside the castle building) on the grass terraces for up to 200 people for up to four (4) events per year" approved on 22 November, 2016. Additional conditions were added to the permit.

The external camping was further amended on 19 July, 2017 to allow for up to 600 people for up to 6 (6) events per year and again conditions were adjusted on the permit.

These camping events were approved with a condition that portable toilets were used for all events unless Council was otherwise satisfied that the toileting and shower facilities were suitable for the number of people proposed.

An additional permit PA2013023 for the use of land as a licensed premise (General Liquor Licence) was issued on 10 May, 2013.

Public Notice

The application was notified on 27 February, 2017 to adjoining and surrounding landowners. Two (2) objections were received.

Summary of Objections

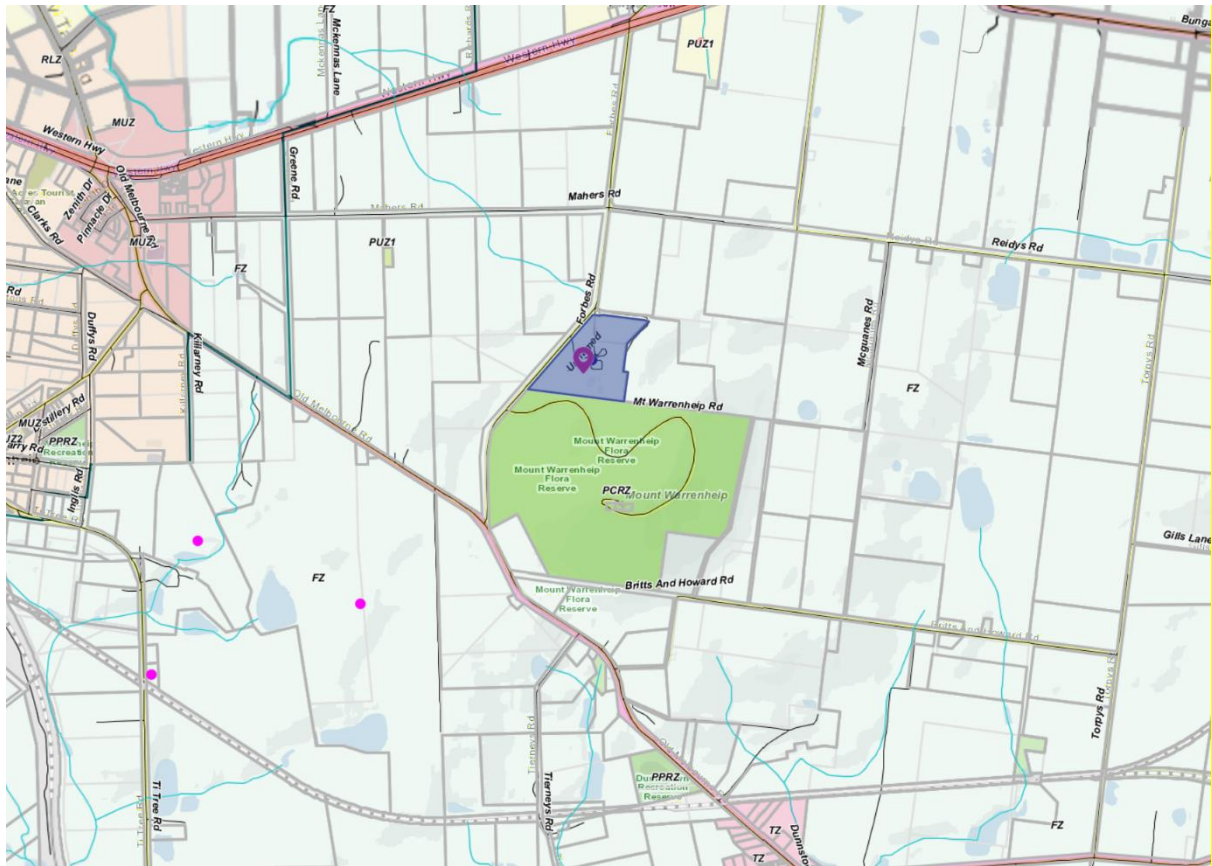
The objections received are detailed below with officer's comments accompanying them:

Objection	Any Relevant Requirements
Noise and litter from additional camping and caravan park users on a regular basis, in addition to the noisy entertainment which already spasmodically disrupts a quiet "lifestyle" farm.	Permit conditions
Officer's Response: It is considered that amenity impacts could be controlled through permit conditions.	
Campers often have dogs, which pose a significant risk to local livestock, particularly sheep and horses.	Permit conditions
Officer's Response: Domestic pets are not permitted to chase or hassle farm livestock anywhere in Victoria. However, permit conditions could provide additional controls if warranted.	

Objection	Any Relevant Requirements
Impact of sewer disposal and surface run-off on the quality of ground water which is used for drinking and livestock from large number of visitors. Impact of the camping and caravan park on the water catchment.	
Officer's Response: As detailed elsewhere in this report, sewerage and waste water treatment is hampering the current use and restricting any future development of the Kryal Castle facility.	
Adverse impact on quiet rural lifestyle and amenity as well as property values and rental returns.	
Officer's Response: Kryal Castel was approved in 1996. It has existing use rights to operate. Additional uses, such as this application will be assessed on their merits. VCAT has determined that the impact of a development on property values is not a planning consideration.	
Fire risks from wood fires, gas cylinders, open fire pits and barbeques close to agricultural properties and the Mount Warrenheip Reserve to the south. Farmers are not prepared to have Council pressure them to slash their paddocks to provide de facto fire breaks for Kryal Castle.	Municipal fire protection
Officer's Response: Fire risk management must be addressed by Kryal Castle management as part of their current obligations. Any new use of the site will require approved fire prevention compliance.	
The current septic system's location poses a severe downslope risk to our property and additional visitors will exacerbate the risk of septic overflow onto our property.	
Officer's Response: As detailed elsewhere in this report, sewerage and waste water treatment is hampering the current use and restricting any future development of the Kryal Castle facility.	
Storm water management of the site is already poor and needs to be addressed before any additional development is approved. Any additional hard stand areas will just make storm water management issues worse.	Council's Infrastructure Department
Officer's Response: Council's Infrastructure Department will address storm water management requirements through permit conditions.	

Locality Map

The map below indicates the location of the subject site and the zoning of the surrounding area.



Planning Scheme Provisions

Council is required to consider the Victoria Planning Provisions and give particular attention to the Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- Clause 12 Environmental and Landscape Values.
- Clause 14.02-1S Catchment planning and management.
- Clause 17.01-1R Diversified economy - Central Highlands.
- Clause 17.02-2S Out-of-centre development.
- Clause 17.02-1S Business.
- Clause 17.04-1S Facilitating tourism.
- Clause 21.04 Economic Development and Employment.

The proposal complies with the relevant sections of the PPF and LPPF, with the exception of the clauses outlined in the table below:

PPF	Title	Response
14.02-1S	Catchment planning and management	The land is not within the proclaimed water catchment area according to Land Victoria's VicPlan mapping; however Central Highlands Water has advised that Lot 1 on PS209123L is located within the proclaimed water supply catchment, specifically for the Pincotts Reservoir. The current WWTS does not meet the requirements.
LPPF		
22.02	Special Water Supply Catchments	The land is not within the proclaimed water catchment area according to Land Victoria's VicPlan mapping; however Central Highlands Water has advised that Lot 1 on PS209123L is located within the proclaimed water supply catchment, specifically for the Pincotts Reservoir. The current WWTS does not meet the requirements.

Farming Zone

In accordance with Clause 35.07-1, Section 2, a permit is required to use land for a camping or caravan park.

In accordance with Clause 35.07-4, a permit is required for buildings or works associated with a use in Section 2 of Clause 35.07-1.

The purpose of the Farming Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

The proposal generally accords with the purposes of the Farming Zone except in relation to waste water treatment and management.

Overlays

Bushfire Management Overlay

The subject site is partly covered (51.4%) by the Bushfire Management Overlay specifically on the southern side of the site which contains the castle. The land that would be used for the glamping tents and the caravan park is not located within the Bushfire Management Overlay. However, Clause 13.02-1S Bushfire planning would apply as the land is within a designated bushfire prone area.

Relevant Policies

Domestic Waste Water Management Plan

Executive Summary

Moorabool Shire Council (MSC) is committed to the monitoring and management of onsite wastewater systems within its boundary. Significant progress has been made since the 2006 DWMP, with over 2,800 inspections conducted on these systems, and process improvements made to ensure septic systems are installed and operated correctly. Under the provisions of the State Environment Protection Policy (Waters of Victoria) (SEPP), local Councils need to develop a Domestic Wastewater Management Plan (DWMP) in conjunction with relevant water authorities and the community. This DWMP has been prepared to ensure MSC meets the requirements of Guideline 1 - Planning permit applications in open, potable water supply catchment areas (November 2012) for domestic wastewater management; to ensure existing and future development assist in maintaining a sustainable environment. Key issues for Domestic Wastewater Management (DWM) that have been identified within MSC, include:

- There are a number of sensitive catchments within the Shire and the protection of these areas is important for the supply of potable drinking water to residents within Moorabool, Ballarat and Geelong.*
- Failing DWM systems have the potential to pollute these sensitive environments; and*
- Physical environments may limit the effectiveness of DWM systems within the Shire and therefore many systems may require a high level of design and management to ensure each DWM system is sustainable.*

Council has also commenced a journey of 'Moorabool 2014', which is a process/framework aimed at documenting the opportunities, pressures and challenges facing Moorabool. This will lead to a long-term vision to guide the development of Moorabool to retain its character and ensure change provides new services and opportunities for our residents.

This plan will continue the high level of design, treatment and management of DWM systems within the Shire. The Operational Plan in this DWMP provides measures for which management actions will be implemented to improve the effectiveness of DWM within MSC to protect public and environmental health and to ensure that future development within the Shire is sustainable and protects the sensitive waterways and potable drinking water catchments.

Particular Provisions

No particular provisions apply to this application.

Discussion

Council has allowed this application to remain on hold for a considerable time to enable the applicants to sort out their waste water treatment system issues. However, the applicants have been unable to resolve these issues to achieve an acceptable outcome within extended timeframes.

There are two (2) potential options:

1. Connecting the site to reticulated sewerage which would involve significant cost and would take considerable time to construct the infrastructure required.

- Substantial renovation, or full replacement, of the on-site waste water treatment system. This would require the consent of the relevant authority which in this instance is the Environment Protection Authority. Environmental Health has advised that the current septic is failing and discharging septic waste down the paddock on the west side of the castle complex. The EPA has advised Environmental Health that they have placed an order on Kryal Castle to fix their failing septic within 6 months; either connect to sewer or put in a commercial quality treatment plant.

It is considered that until the WWTS requirements have been resolved for the Kryal Castle site that further assessment of the merits or otherwise of the glamping and caravan park concept cannot be undertaken.

It is considered that Council has given the applicants sufficient time and extensions of time to resolve these matters, and that the current application should be refused.

General Provisions

Clause 65 – Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 – Stipulates all the relevant referral authorities to which the application must be referred.

Referrals

Authority	Response
Central Highland Water Powercor	Further information requested Consent with conditions
Infrastructure Environmental Health	Further information required in line with the Planning Department RFI. Consent with condition that the site is connected to reticulated sewage.

Comment on Referral Responses:

Central Highlands Water required a long-term sustainable waste water management plan; a response to storm water runoff and management; a response to the requirements of the Moorabool Planning Scheme; and how potable water would be supplied to the development.

Environmental Health initially requested further information but later consented to the application subject to conditions including that they required:

- Compliance with the *Residential Tenancies Act 1997* and the *Residential Tenancies (Caravan Parks and Moveable Dwellings Registration and Standards) Regulations 2010*;
- Relevant registration with the Shire; compliance with fire safety report provided by the CFA; an emergency management plan; and
- That all proposed plumbing fixtures must be connected to reticulated sewage.

Infrastructure stated that they would respond to the application when the Planning Department's Request for Further Information had been received, which included a traffic management plan and site works and access issues.

As the further information requested by the above authorities was only provided in part, final referral responses with conditions were not able to be provided.

Financial Implications

Refusal of the application may result in the applicant seeking review at VCAT with associated cost to Council.

Risk & Occupational Health & Safety Issues

The recommendation of refusal of this application does not implicate any risk or OH&S issues to Council.

Communications Strategy

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address Council if required.

Options

Council could consider the following options:

- Refuse to issue a permit in accordance with the recommendations of this report;
- Ask the applicant to withdraw the application.

It should be noted that this has been offered to the applicant but not taken up.

Conclusion

The application aims to expand Kryal Castle's service offering to include a range of accommodation options at the facility. The merits of adding glamping and a caravan park to the site, however have not been able to be fully assessed due to the inability of the site to manage its wastewater.

Council has been fair in allowing extensive time for the applicant to resolve these issues, however no solution has been provided and therefore, it is considered this application should be closed and the applicant can apply at a future date once the waste issues have been resolved.

Recommendation

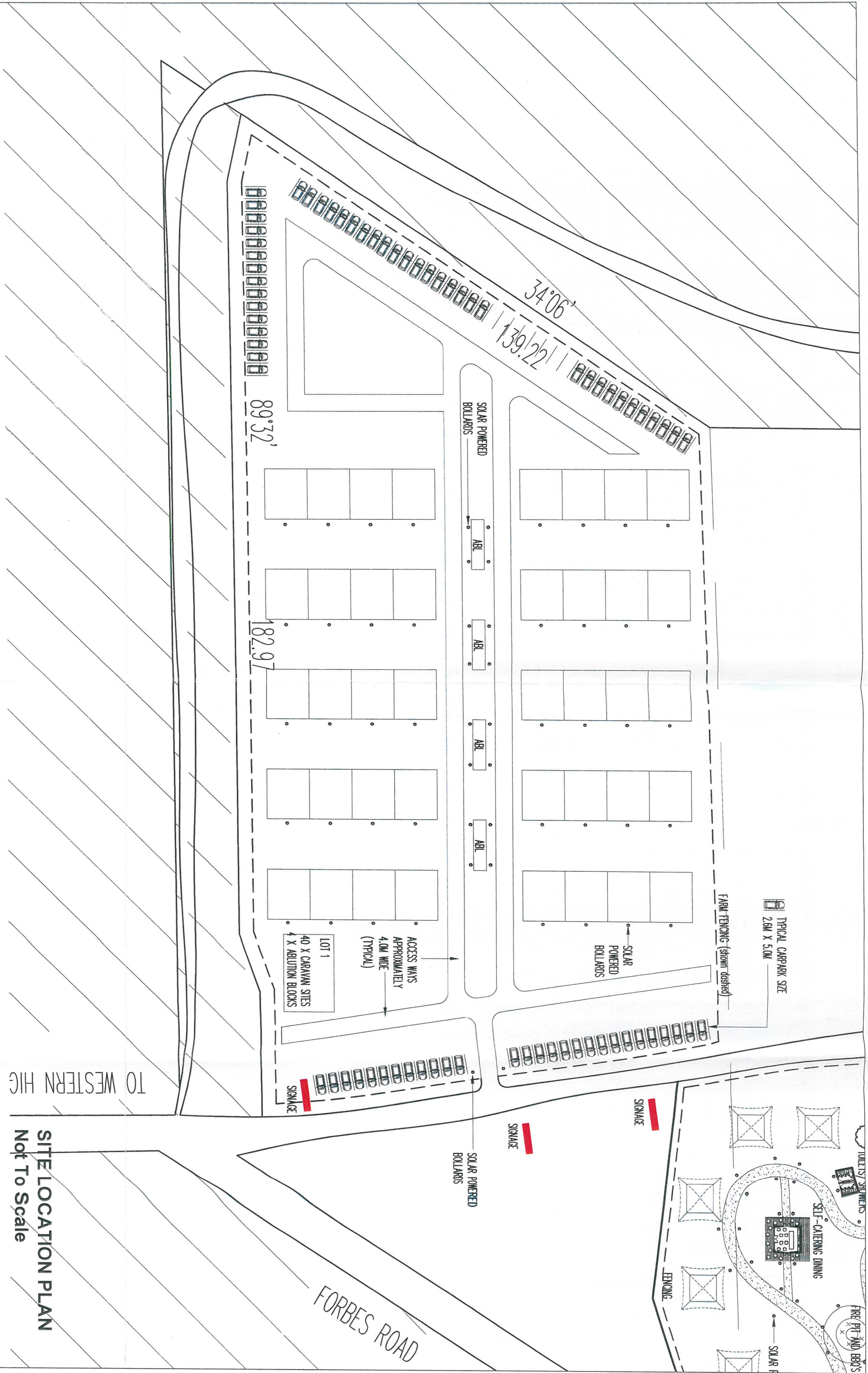
That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council Refuses to Grant a Planning Permit for the *Development of a camping ground and caravan park associated with a Place of Assembly at 121 Forbes Road Leigh Creek otherwise known as Lots 1 and 2 on PS 209123L on the following grounds:*

- 1. The proposal has failed to demonstrate that waste water can be contained on the site in accordance with Council, Central Highlands Water and the Environmental Protection Authority's requirements.**
- 2. Insufficient information to assess the application.**

Report Authorisation:

Authorised by:

Name: Satwinder Sandhu 
Title: General Manager Community Planning
Date: 19 March, 2019



SITE LOCATION PLAN
Not To Scale

REVISION:	SEP 2016	DATE:	28.11.13	JOB NO.:	12002	PROJECT:	KRYAL CASTLE
SCALE:	NIS	DRAWN:	AL	DWG NO.:	DR01 C	PROPERTY OWNER:	GARY BROWNING & PATRINNERS
SCALE BAR:	N/A	CHECKED:	JM	PAPER:	A3	LOCATION:	121 FORBES RD, LEIGH CREEK, VIC 3362

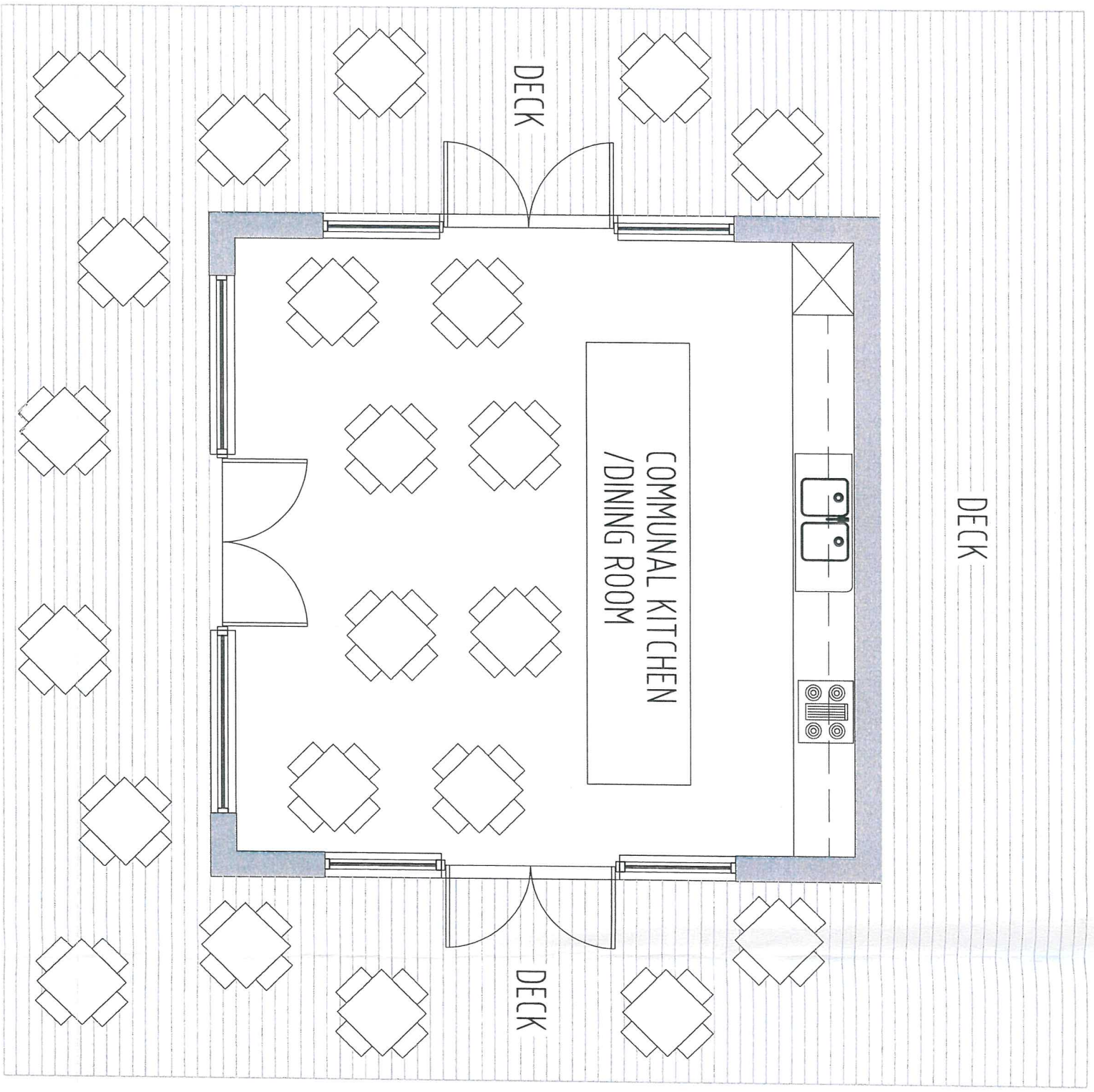
DC GROUP NEWLINE DESIGN

20 MacQuarie St,
Prahran, 3181
Victoria Australia.

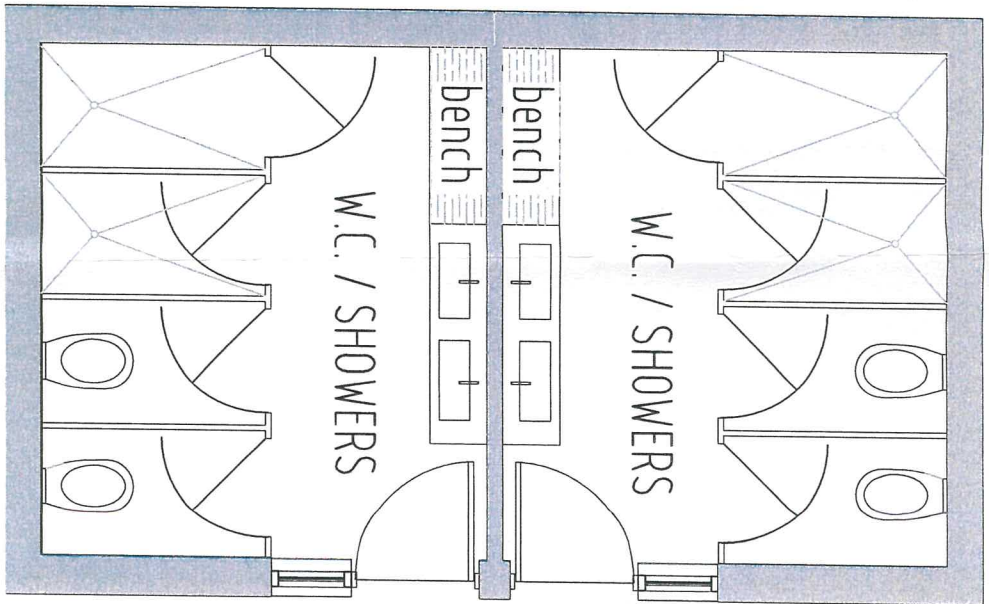
P: (03) 9521 4144
F: (03) 9521 2844
dcgroup@dcg-nld.com

DC⁹

NLD

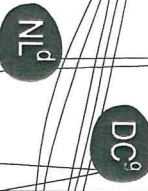


KITCHEN /DINING FACILITIES
Scale 1:50



W.C./ SHOWER FACILITIES
Scale 1:50

REVISION:	DATE:	JOB NO.:	PROJECT:	DC GROUP
SCALE: 1:50	28.11.13	12002	KRYAL CASTLE	NEWLINE DESIGN
SCALE BAR: N/A	DRAWN: AL	DWG NO. DR03	PROPERTY OWNER: GARY BROWNING & PATRINNERS	20 MacQuarie St., Prahran, 3181 Victoria Australia.
	CHECKED: JIM	PAPER: A3	LOCATION: 121 FORBES RD, LEIGH CREEK, VIC 3352	P: (03) 9521 4144 F: (03) 9521 2844 dcgroup@dcg-nld.com



Item 5.4 Planning Permit Application PA2019 025 – Retrospective Dispensation of Carparking Associated with Buildings and Works of an Existing Warehouse (Mezzanine Floor and Office Fit Out) at 2B Smith Street, Maddingley.

Application Summary:	
Permit No:	PA2019 025
Lodgement Date:	4 February, 2019
Planning Officer:	Samuel Duff
Address of the land:	Lot 2 on PS 631650P 2B Smith Street, Maddingley VIC 3340
Proposal:	Retrospective Dispensation of Carparking Associated with Buildings and Works of an Existing Warehouse (Mezzanine Floor and Office Fit Out)
Lot size:	208.38 square meters
Why is a permit required?	Clause 52.06-2 Dispensation of Carparking due to increase in floor area
Reason for being presented to S86 Development Assessment Committee.	Dispensation of Carparking
Public Consultation	
Was the application advertised?	Exempt pursuant to Clause 52/06-4
Notices on site:	No
Notice in Moorabool Newspaper:	No
Number of Objections:	NIL
Consultation Meeting:	No
Policy Implications	
Strategy Objective 3:	Stimulating Economic Development
Context 3A:	Land Use Planning
Victorian Charter of Human Rights and Responsibilities Act 2006	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	

Officer's Declaration of Conflict of Interests	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager – Robert Fillisch</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Samuel Duff</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary	
Application Referred?	Yes, to Councils Infrastructure Department
Any issues raised in referral responses?	No
Preliminary concerns?	<p>Site visit revealed that the upstairs office has a bed. Pursuant to the Zoning Controls, accommodation is typically a Section 3 Use, with the exception being a caretaker's residence.</p> <p>This is against what the documents supporting the application have said, with the car parking waiver number drawn from the rates associated with a warehouse.</p>
Any discussions with applicant regarding concerns?	<p>An email was sent to the applicant seeking clarification. A call from the occupier of the site has clarified that the site is being used as storage and that the site is not used as accommodation in any way.</p> <p>He verbally consented to a condition be placed on the permit to restrict the use of the site being used for the purposes of accommodation.</p>
Any changes made to the application since being lodged?	No
Brief History	<p>In late November 2018, a building notice was issued for the property for works that had been carried out on site.</p> <p>This prompted the occupier of the site to engage a consultant to assist in drafting documents to submit for planning approval.</p> <p>Due to the increase in floor area inside of the warehouse, the required carparking was increased, which is the reason why the application is before the S86 Development Assessment Committee.</p>

Previous applications for the site?	A search of Council records shows that there are no other planning permits associated with the site.
General Summary	The additional 67 square meter addition to the warehouse would require an additional car park. However, as the site is already developed to the full extent, it is impossible to develop an additional car park on the subject site. The site has no vacant area which could be utilised as the additional car parking bay as the existing carparking and existing building occupy the entirety of the site.
Summary Recommendation	
That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , Council issue a planning permit for the Retrospective Dispensation of Carparking Associated with Buildings and Works of an Existing Warehouse (Mezzanine Floor and Office Fit Out)	

Site Description

The subject site is within the Industrial 2 Zone of Maddingley and is entirely occupied by the warehouse and the associated carparking. The site is slightly sloping, however, has been flattened as part of the development of the warehouse.

The subject site is a rectangular parcel of land and is one of the smaller parcels of land in the vicinity. The site is one of six premises that was built as part of the same development. To the East, South and West of the subject site, the land is predominantly in the Industrial 2 Zone. To the north is Griffith Street, a Road Zone Category 2 Road and beyond that is a residential area in the General Residential Zone, Schedule 3. The site has good access to main roads including to Geelong Bacchus Marsh Road, Gisborne Road and the Western Freeway as well as access to the trainline, with the station approximately 1 100 meters away from the subject site



Proposal

The applicant is seeking retrospective approval for the dispensation required due to the development of a mezzanine level to an existing warehouse. The warehouse is currently used as a storage facility, storing vehicles and ancillary equipment for the tenant. The mezzanine level, as per the plans submitted with the application, is to be used as an office space, with an upstairs wash closet kitchenette/break room as well as two (2) rooms identified as a store room and private office.

History

The subject site was created and developed under PA2007 005, which allowed for the Development of Buildings, Development and Use of a Convenience Shop, the Development of 6 Business Identification Signs, a 6 Lot Subdivision and a Waiver of nine (9) Car Spaces.

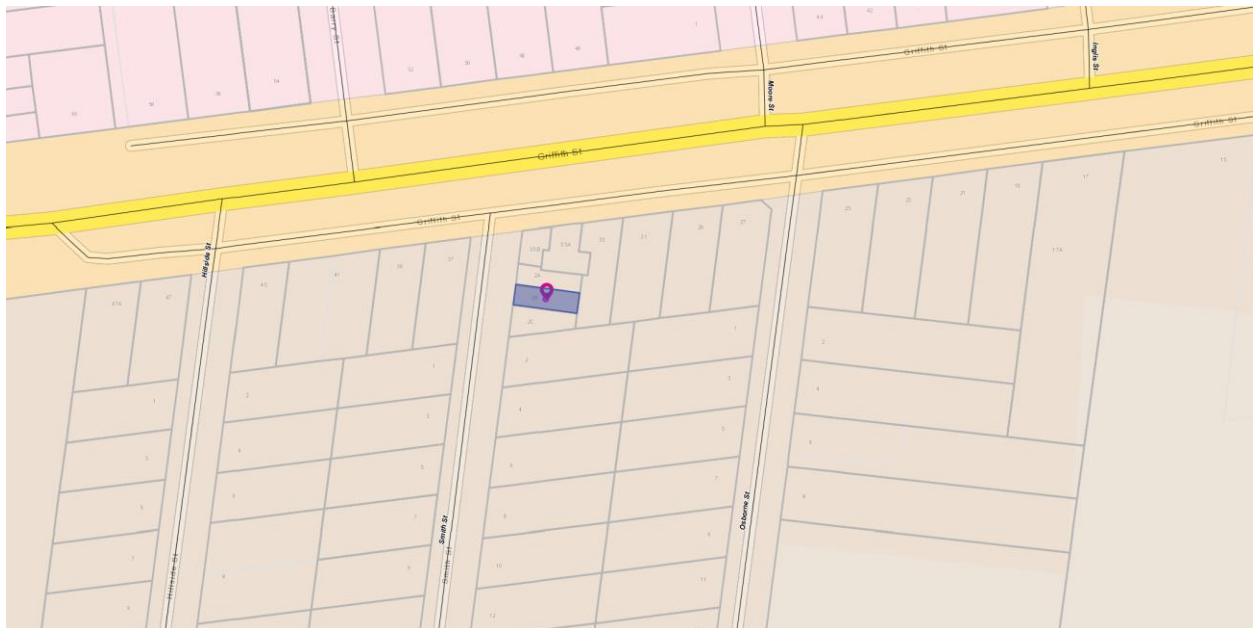
This planning permit was approved, subject to conditions.

Public Notice

The application was not required to be notified to adjoining and surrounding landowners pursuant to Clause 33.02-2 as well as Clause 52.06-4.

Locality Map

The map below indicates the location of the subject site and the zoning of the surrounding area.



Planning Scheme Provisions

Council is required to consider the Victoria Planning Provisions and give particular attention to the Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- Clause 11.03 Planning for Places.
- Clause 13.07 Land use compatibility.
- Clause 15.01 Built Environment.
- Clause 17.02 Commercial.
- Clause 17.03 Industry.
- Clause 18.02 Movement Networks.
- Clause 21.07 Bacchus Marsh.
- Clause 22.05 Presentation of Industrial Areas.

The proposal complies with the relevant sections of the PPF and LPPF, with the exception of the clauses outlined in the table below:

PPF	Title	Response
Clause 18.02-4S	Car Parking	The objective of this is to ensure an adequate supply of car parking that is appropriately designed and located. This application is seeking a dispensation of one car space.

Zone

The land is within an Industrial 2 Zone, the purpose of this zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for manufacturing industry, the storage and distribution of goods and associated facilities in a manner which does not affect the safety and amenity of local communities.*
- *To promote manufacturing industries and storage facilities that require a substantial threshold distance within the core of the zone.*
- *To keep the core of the zone free of uses which are suitable for location elsewhere so as to be available for manufacturing industries and storage facilities that require a substantial threshold distance as the need for these arises.*

There is no permit under the Zoning for building or works which rearrange, alter or renew plant if the area or height of the plant is not increased.

Overlays

No Overlays apply to the property.

Relevant Policies

Moorabool Industrial Areas Strategy – June 2015

The Moorabool Industrial Areas Strategy identifies that the site is within the Maddingley Industrial precinct number 2. This area is primarily used for Manufacturing and Other Services (such as auto repairs). The area provides a mix of land sizes with the subject site being of average size. The site, if the current tenant was to leave and change the use from storage warehouse to manufacturing would be suitable for low impact manufacturing or providing services.

Particular Provisions

Clause 52.06 Carparking

The particular provision for Car Parking is the sole permit trigger for this application, as Clause 52.06 applies when there is an increase in the floor area or site area of an existing use. In this instance the additional 67 square meters of floor space triggers the requirement for an additional car space.

The rate of carparking is two (2) per each premises plus 1.5 per each 100 square meters of net floor area, with the total floor area being 165 square meters. Utilising these inputs, total number of carparks that should be provided equates to 4.475 car parks. Pursuant to Clause 52.06-5, if in calculating the number of car parking spaces the result is not a whole number, the required number of car parking spaces is to be rounded down to the nearest whole number.

In essence, a waiver of one (1) full car space is required for the site, as the site currently provides three (3) car spaces.

Discussion

The subject site is in an Industrial 2 Zone, identified within the Moorabool Industrial Areas Strategy – June 2015 as part of the Maddingley Industrial Precinct number 2. There is no permit trigger under the Zoning controls. The subject site is currently occupied by a tenant who predominantly uses the site for storage. The current tenant is a single operator where the current carparking that exists on site is underutilised. Under the current owner, it is unlikely that the applied for dispensation of the car park would cause an issue therefore, the 'future proofing' of the site should be the main consideration to issuing a planning permit for the site.

The site is at a size where it is unlikely to be further subdivided which may cause additional carparking requirements. Therefore, the most prudent issue for Council to consider is whether a change of use that would require more intensive carparking is likely, and if the requirements for car parking would have an undue impact on the surrounding area. However, given that the site is presumably not going to be increased in floor area in the future and the useable warehouse space on the ground floor is 130 square meters, it is unlikely that a use will be at an intensity that it warrants or necessitates more than the three car spaces supplied for the site, particularly when combined with the on street carparking. Further to this and pursuant to Clause 52.06-3, a planning permit would be required to waive or give dispensation to the required number of car parks for a new use of an existing building as the land is not within a Commercial Zone or Activity Centre Zone. Therefore, a second planning permit would be required to waive or give dispensation to the requirement if a new use was to commence at the site.

The Moorabool Industrial Areas Strategy identifies that *"a business which already owns or leases a site in close proximity to large population centres would be looking to leverage this locational advantage for marketing and sales purposes"*. With this strategy identifying that some retail aspect associated with the warehousing or manufacturing aspects of businesses within the precinct are possibly being sought after in the future, there may be an increase in demand for on street car parking. In turn there may have an undue impact on the surrounding roadways where on street parking may be more sought after, but would likely be assessed under a permit, should a new use require a dispensation of carparking in the future. These impacts are compounded with the service oriented businesses, who benefit from the proximity to population centres, exposure and passing traffic.

However, given that the current use as a warehouse is low impact and at does not require additional car parking spaces this time to support the operation, combined with any future use change possibly requiring a use permit as well as a possible further dispensation of car parking, it is recommended that the item be approved, subject to conditions outlined in this report.

General Provisions

Clause 65 – Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 – Stipulates all the relevant referral authorities to which the application must be referred.

Referrals

A referral to Councils Infrastructure Department occurred during the assessment of the application. The infrastructure response noted that the internal alterations have increased the required car parking bays by one, but there is a significant informal space available outside of the immediate precinct of the site, which would be able to absorb the minor increase in demand generated by the development.

Infrastructure consented to the application, subject to conditions.

Financial Implications

The recommendation of refusal for this dispensation of car parking is not thought to have any financial implications to Council.

Risk & Occupational Health & Safety Issues

The recommendation of approval of this dispensation of car parking does not implicate any risk or OH&S issues to Council.

Communications Strategy

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address Council if required.

Options

Council could consider the following options:

- Issue a permit in accordance with the recommendations of this report;
- Issue a permit with amendments to conditions within the recommendation of this report; or
- Should Council wish to consider refusal of the application, Councillor's need to explore reasons based on the proposal not complying with the Moorabool Planning Scheme.

Conclusion

Given the low impact of the current use of the site, and any drastic potential change of use that may occur in the future requiring further consent to both uses and waivers of car parking, it is recommended that the application for the Retrospective Dispensation of Carparking Associated with Buildings and Works of an Existing Warehouse (Mezzanine Floor and Office Fit Out) at 2B Smith Street Maddingley be approved.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issues a planning permit for the Retrospective Dispensation of Carparking Associated with Buildings and Works of an Existing Warehouse (Mezzanine Floor and Office Fit Out), at the land known as 2B Smith Street, subject to the following conditions:

Endorsed Plans

1. The development as shown on the endorsed plans (plans numbered) must not be altered without the written consent of the Responsible Authority. All buildings and works must be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority. All buildings and works must be located clear of any easements or water and sewer mains or septic tank and effluent lines unless written approval is provided by the relevant authority.

General Conditions:

2. The site must not be used for any habitable purpose and must not be used for any commercial or industrial purpose except in accordance with the provisions of the Moorabool Planning Scheme.

Infrastructure:

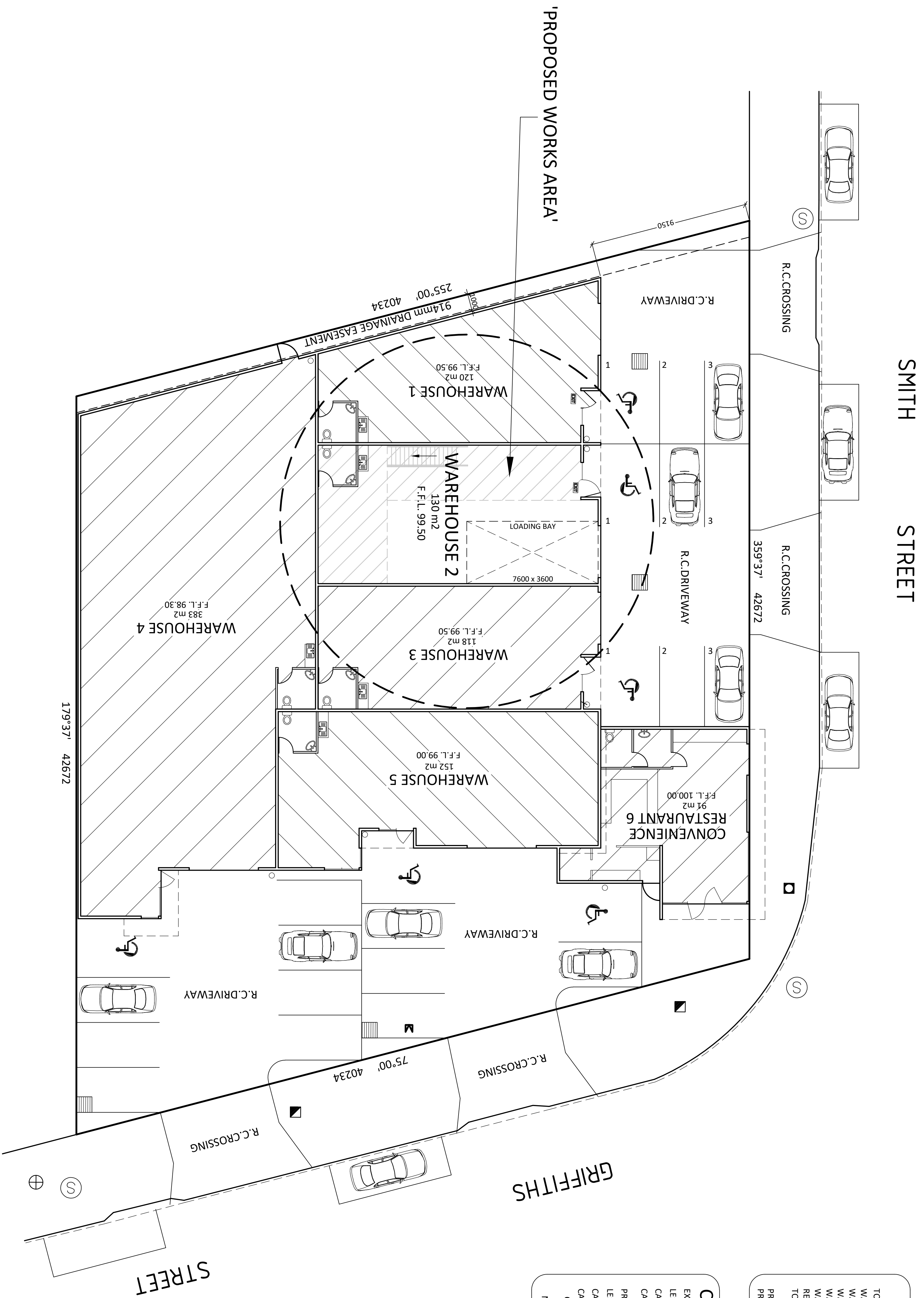
3. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).
4. Unless otherwise approved by the responsible authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.
5. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

Permit Expiry:

6. This permit will expire if one of the following circumstances applies:
 - a) The development is not started within two years of the date of this permit;
 - b) The development is not completed within four years of the date of this permit.

Report Authorisation:

Authorised by: 
Name: Satwinder Sandhu
Title: General Manager Community Planning
Date: 19 March, 2019



SITE ANALYSIS

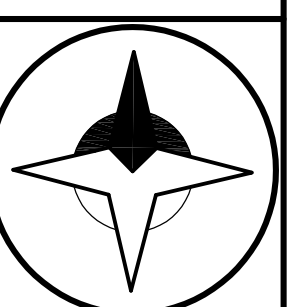
TOTAL SITE AREA	= 1,661 m ²
WAREHOUSE 1	= 120 m ²
WAREHOUSE 2	= 130 m ²
WAREHOUSE 3	= 118 m ²
WAREHOUSE 4	= 383 m ²
WAREHOUSE 5	= 152 m ²
RESTAURANT 6	= 91 m ²
TOTAL EXISTING FLOOR AREA	= 994 m ²
60% COVERAGE OF SITE	= 67 m ²
PROPOSED WAREHOUSE 2 FIRST FLOOR	= 67 m ²
PROPOSED WAREHOUSE 2 TOTAL AREA	= 197 m ²

CAR PARKING ANALYSIS

EK. WAREHOUSE 2 FLOOR AREA	= 130 m ²
LESS LOADING AREA (27m ²)	= 103 m ²
CARPARKS REQ. @ 1.5/100m ² + 2 CARS	= 3 CARS
CARPARKS SUPPLIED ON SITE FOR W2	= 3 CARS
PROPOSED WAREHOUSE 2 FLOOR AREA	= 197 m ²
LESS LOADING AREA & STAIR (32m ²)	= 165 m ²
CARPARKS REQ. @ 1.5/100m ² + 2 CARS	= 4 CARS
CARPARKS SUPPLIED ON SITE FOR W2	= 3 CARS
CAR PARKING DISPENSATION OF 1 SPACE REQ.	= 1 SPACE

NOTE: STREET PARKING IS AVAILABLE ADJACENT

OFFICE/MEZZANINE FIT OUT at
No. 2B SMITH STREET, MADDINGLEY for
MR. JEREMY BURNETT



SITE PLAN

Bricklok Building Design P/L

ATF: Bricklok Building Design Trust
Building Practitioner Reg. N° DP-AD 25793
Unit 5, No.49-55 Riverside Avenue, Werribee 3030
Tel: (03) 9742 5211 Mob: 0403 196 133
email: justin@bricklok.com.au

A.B.N. 64 256 522 387

designed	scale	drawing number
OWNER	1:125 @ A1	WD1
drawn	date	revision
J.W.H.	25/01/19	-
checked	job number	
T.C.	118007	

Item 5.5 Planning Permit Application PA2018 330 – Use and Development of a Dwelling at Butter Factory Road, Wallace

Application Summary:	
Permit No:	PA2018 330
Lodgement Date:	11 December, 2017
Planning Officer:	Mark Lovell
Address of the land:	Lot 1 and Lot 2 on TP 006841G Butter Factory Road, Wallace 3352
Proposal:	Use and Development of a Dwelling
Lot size:	8.19 hectares
Why is a permit required?	Clause 35.07-1 - Use of and land for a dwelling Clause 35.07-4 - Building and Works Clause 42.01-2 - Building and Works
Reason for being presented to Development Assessment Committee.	The registered land owner is a Moorabool Shire Councillor Pat Toohey.
Public Consultation	
Was the application advertised?	Yes
Notices on site:	Yes
Notice in Moorabool Newspaper:	No
Number of Objections:	One (1) initial lodged and later withdrawn in writing.
Consultation Meeting:	Not required.
Policy Implications	
Strategy Objective 2:	Minimising Environmental Impact
Context 2A:	Built Environment
Victorian Charter of Human Rights and Responsibilities Act 2006	
In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.	

Officer's Declaration of Conflict of Interests	
<p>Under section 80C of the <i>Local Government Act 1989</i> (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager – Robert Fillisch</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Mark Lovell</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary	
Application Referred?	Yes, Council's Infrastructure, Council's Environmental Health and Central Highland Water.
Any issues raised in referral responses?	None.
Preliminary concerns?	None
Any discussions with applicant regarding concerns?	Not applicable.
Any changes made to the application since being lodged?	No changes made.
Brief history	The site is vacant farming land that is currently used for cropping.
Previous applications for the site?	No previous applications.
General summary	<p>The proposal is for a dwelling on farming zoned land. The location of the dwelling in a corner of the lot and current productive capacity of the land is not reduced as a result of the dwelling and its associated effluent fields.</p> <p>The proposal dwelling allows the farming use to diversity to include training stock horses in addition to cropping.</p> <p>The proposal is considered not to fragment farming land and in this instance is an appropriate use of the land. The relevant catchment authority had no objection to grant of a permit and proposal will not affect water quality within the catchment area.</p>
Summary Recommendation	
<p>That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i>, Council issue a Planning Permit for application number PA2018330 for the use and development of the land for a dwelling on the land at Lot 1 and Lot 2 on TP 006841G otherwise known as Butter Factory Road, Wallace.</p>	

Site Description

The subject site is located on the northern side of Butter Factory Road, west of Chapmans Road, Gordon and comprises of two (2) parcels of land. The lot is triangular in shape with the widest point against the western property boundary and has a total lot area of 8.198 hectares. The site is largely cleared except for border trees. There are two (2) centrally located agricultural sheds near the street frontage used to store machinery. There is a dam located near the western property boundary but due to steep sloping land is not readily accessible and it next to Moorabool River West Branch. A new crossover has been established near the south-east corner of the site.

The site is used for cropping such as potatoes, ryegrass and clover.

The surrounding area is characterised by high productive, fertile open fields used for variety of agricultural purposes including cropping. Some fields are accessing water supplies such as bores. There are a scattering of dwellings in the area mostly to the east of Chapmans Road.

Proposal

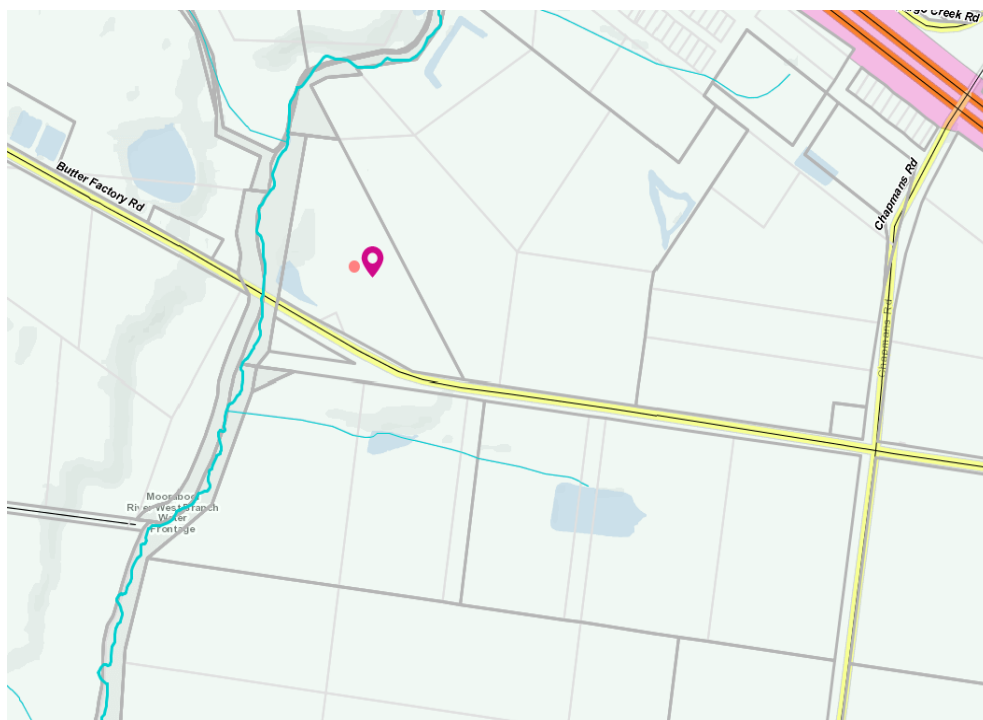
It is proposed to construct a single storey dwelling. The dwelling will consist of three (3) bedrooms, home office, combined family/meals/kitchen, bathroom, laundry and double car garage. The dwelling is setback 20 metres from the street frontage and 10 metres from the northern side boundary and is located near the south-east corner of the lot. The dwelling will be accessed by a new 7 metres wide crossover from Butter Factory Road. The dwelling will be comprised of face brickwork walls, Colorbond® roofing sheeting, aluminium framed windows and panel lift garage door.

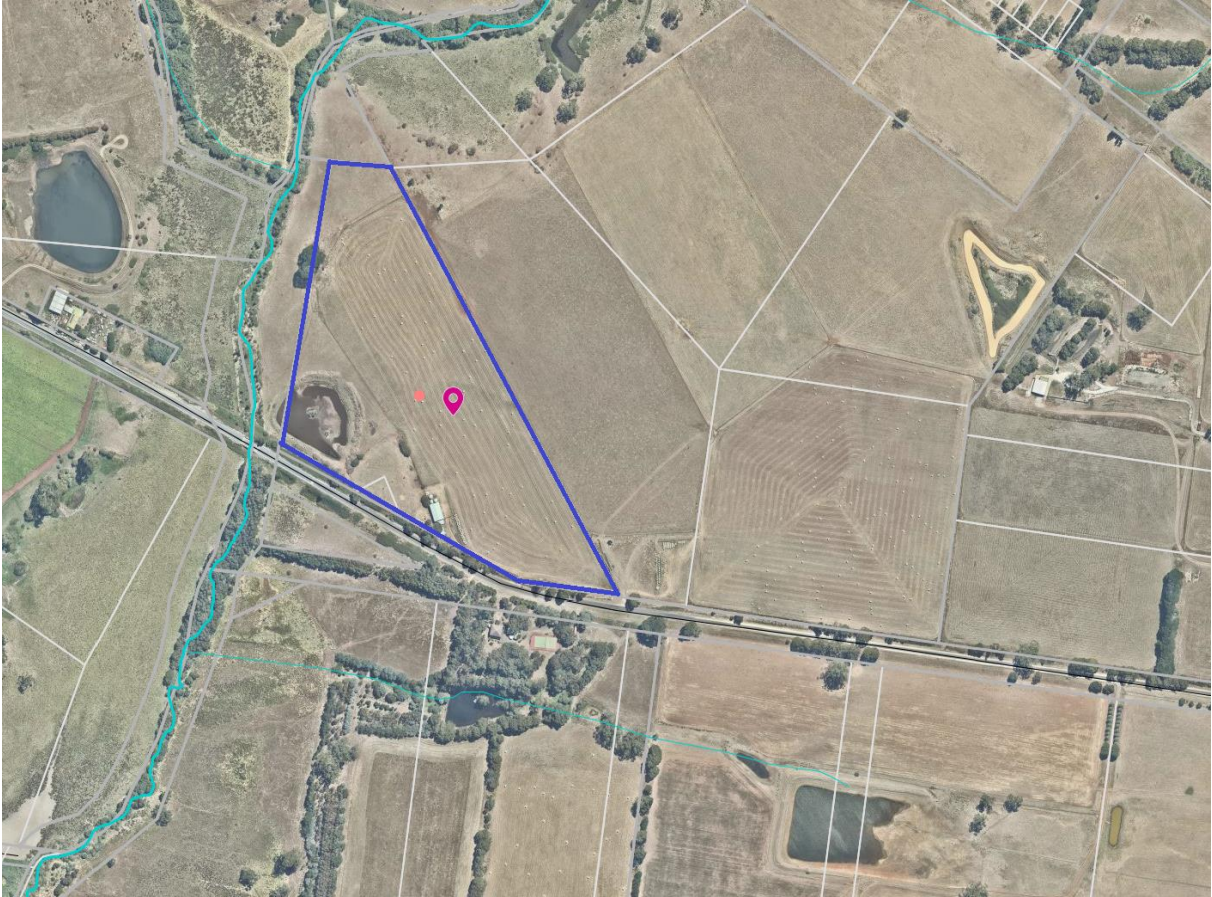
Public Notice

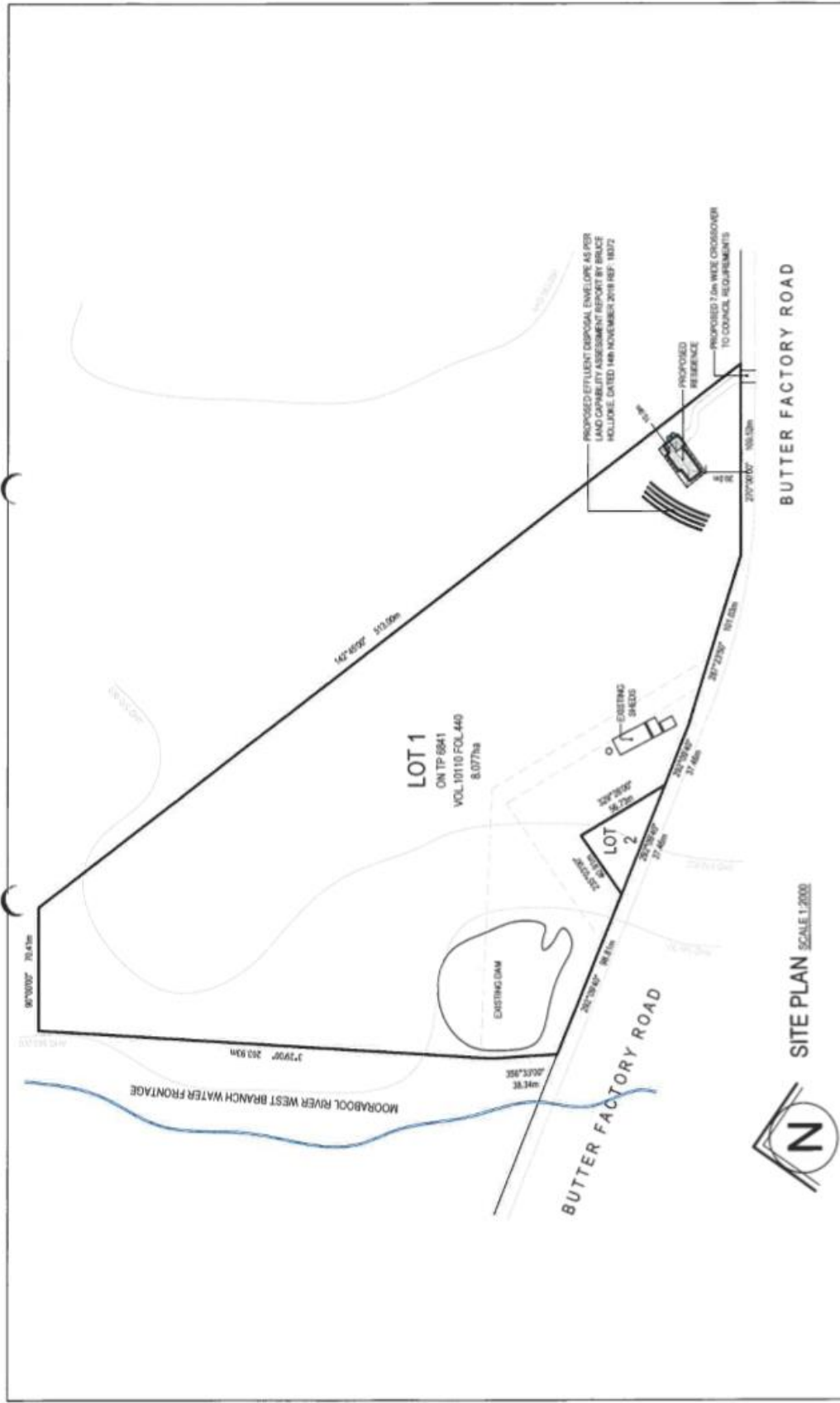
The application was notified to adjoining and surrounding landowners. One (1) objection was initial received regarding the visual impact of any future stables or building associated with the horse training facility. The objection was withdrawn in writing.

Locality Map

The map below indicates the location of the subject site and the zoning of the surrounding area.



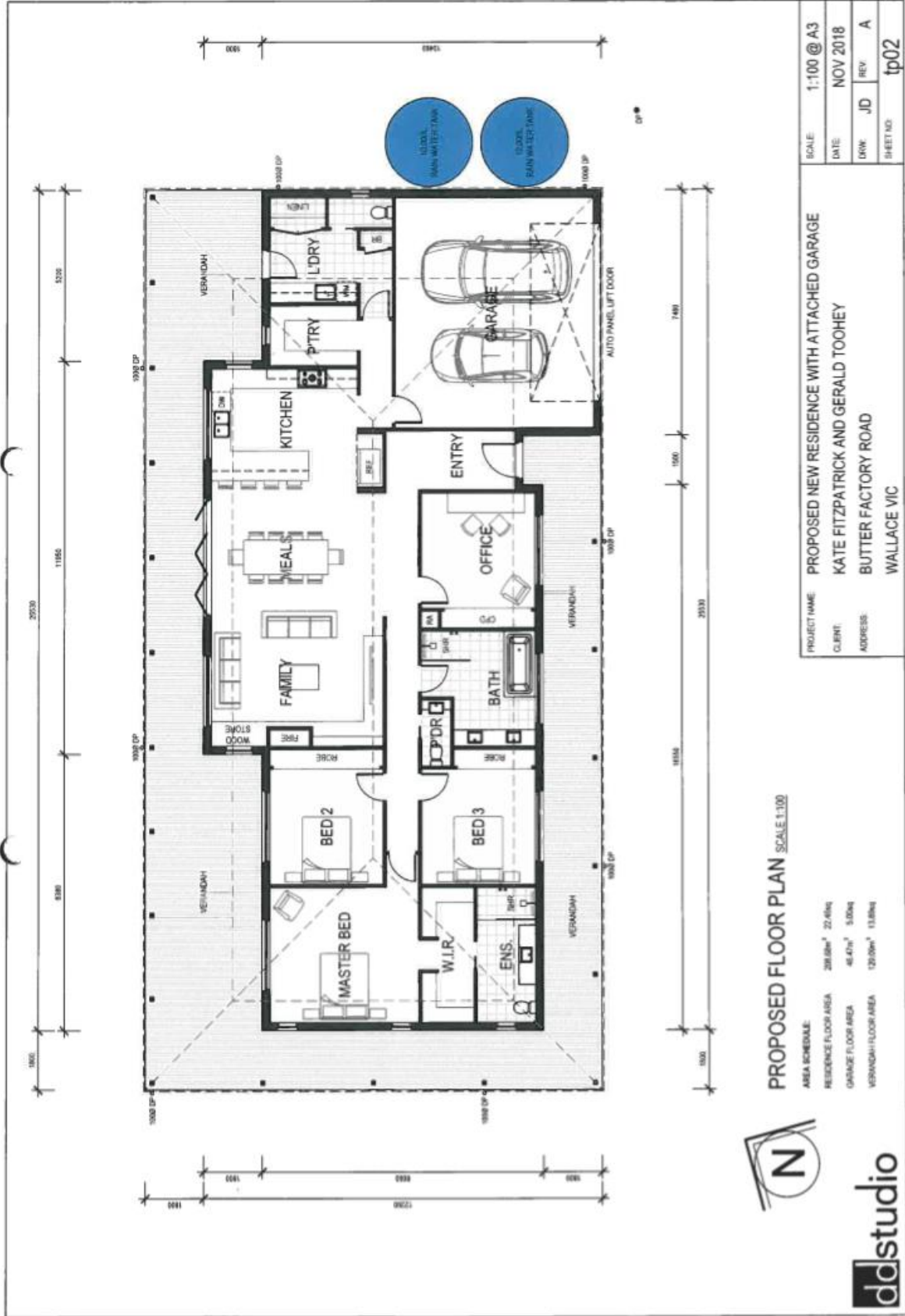




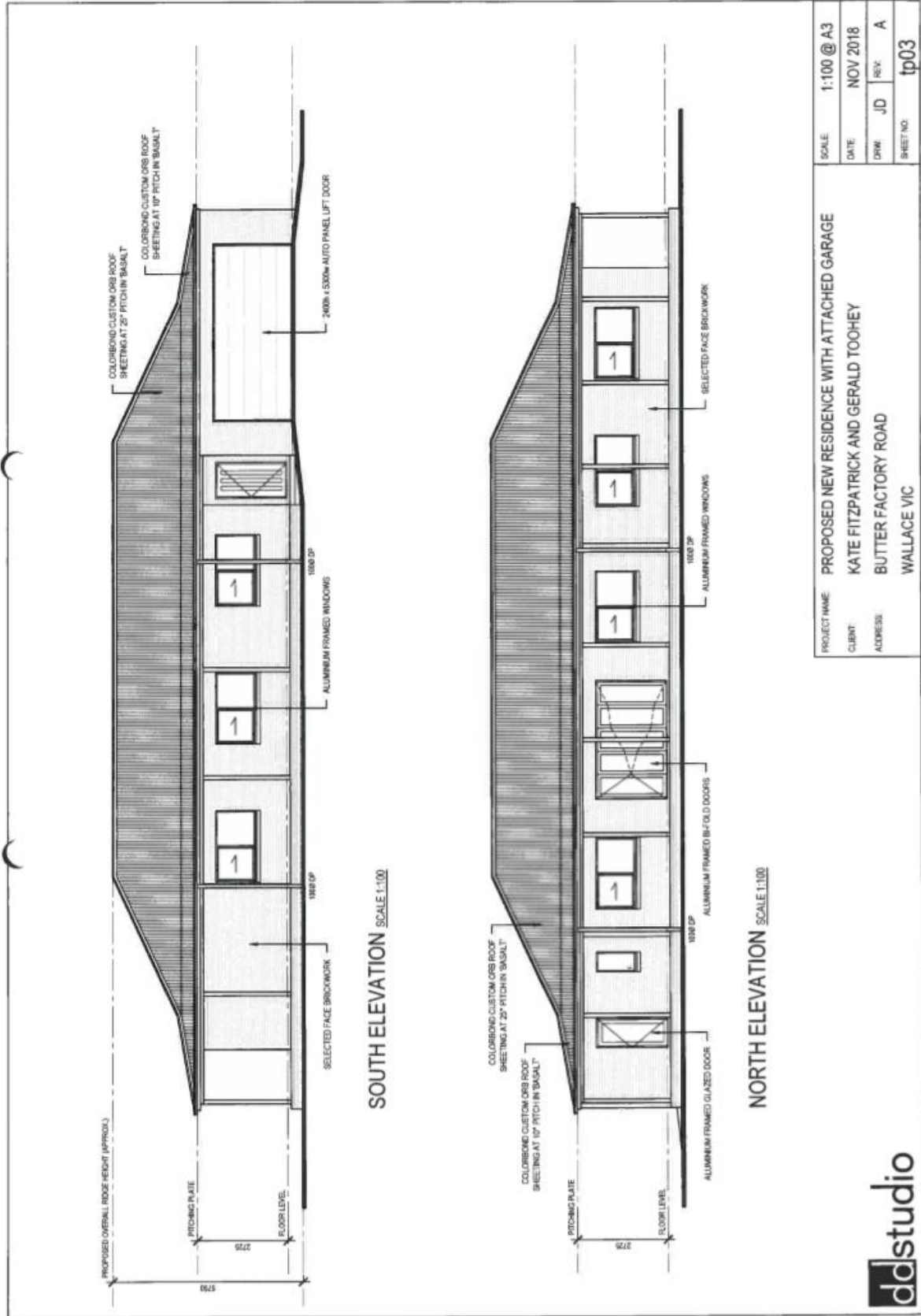
SCALE	1:100 @ A3
DATE	NOV 2018
DRN	JD
REV	A
SHEET NO.	tp01

PROJECT NAME: PROPOSED NEW RESIDENCE WITH ATTACHED GARAGE
 CLIENT: KATE FITZPATRICK AND GERALD TOOHEY
 ADDRESS: BUTTER FACTORY ROAD WALLACE VIC





ddstudio



Planning Scheme Provisions

Council is required to consider the Victoria Planning Provisions and give particular attention to the Planning Policy Framework (PPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

The relevant clauses are:

- Clause 14.01-1S Protection of agricultural land.
- Clause 14.02-1S Catchment planning and management.
- Clause 14.02-2S Water Quality.
- Clause 21.02-3 Objective - Water and Catchment Management.
- Clause 21.03-5 Objective – Rural Lifestyle Opportunities.
- Clause 22.02 Special Water Supply Catchments.

The proposal complies with the relevant sections of the PPF and LPPF, with the exception of the clauses outlined in the table below:

PPF	Title	Response
Clause 14.01-1S	Protection of Agricultural Land	A strategy of this clause limit new housing development in rural areas by discouraging development of isolated small lots in the rural zone from use for dwellings or other incompatible uses. The proposed is a small lot on farming zone land however the dwelling location is considered not reduce the productive capacity of the land.

Zone

Farming Zone

The purpose of the zone is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

A permit is required for use of land for a dwelling on a lot less than 40 hectares under Clause 35.07-1 provided the conditions of Clause 35.07-2 are met.

Under Clause 35.07-5 an application for the use a lot for a dwelling must be accompanied by written statement which explains how the proposed dwelling responds to the decision guidelines for dwellings in the zone.

A permit is also required for building and works to a Section 2 use under Clause 35.07-4 and decision guidelines are listed under Clause 35.07-6.

Overlays

Environmental Significance Overlay Schedule 2

The land covered by an Environmental Significance Overlay – Schedule 1 where a permit is required for buildings and works.

The purpose of the overlay is to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

The environmental objective to be achieved.

- To protect the quality and quantity of water produced within proclaimed water catchments.
- To provide for appropriate development of land within proclaimed water catchments.

A permit is required under Clause 42.01-2 for the construction or carrying out works. Decision guidelines are listed under Clause 42.01-4.

Design & Development Overlay Schedule 2

The land is covered by a Design & Design & Development Overlay - Schedule 2.

The purpose of the overlay is to:

- To enhance visual amenity in rural, township and vegetated areas of the Moorabool Shire.
- To encourage the use of external cladding, such as non-reflective materials for building construction.
- To discourage the use of materials, such as reflective cladding for building construction, which could have a detrimental effect on amenity.

Relevant Policies

Council's Rural Growth Policy Statement

Council's Rural Growth Policy Statement was adopted by Council on 19 September, 2012. The document applies to all land in Farming Zone under the Moorabool Planning Scheme.

The policy states:

- Encourage dwellings in areas nominate in Map 1 of Council Rural Growth Policy Statement
- Ensure the siting of any dwellings is designed to have a minimal impact on any existing or future agricultural activities on the site and on surrounding.
- Ensure it is clear whether the dwelling is required for agricultural operation use or to maintain rural communities.
- Ensure sufficient infrastructure is available or that alternative methods are available which do not require normal infrastructure.
- Encourage development of dwellings to support communities of land which is unlikely to support agricultural land which still considering any other overlays which may impact the land. This is land which is constrained for use as agriculture by other environment factors such as vegetation, slope, soil quality, etc.
- Ensure any subdivision is undertaken in accordance with the scheme in order to discourage fragmentation of agricultural land. Subdivision in accordance with the scheme.

Council's Rural Housing Policy

Council's Rural Housing Policy has been developed to provide direction for how limited farming potential rural dwellings should be considered, and more broadly, rural settlement patterns. The policy seeks to articulate support for resilient and integrated rural communities and agricultural enterprises, recognising that 'State Government Planning Policy Framework does not adequately recognise or support agriculture trends and rural settlements in the Moorabool Shire'.

The principles of the policy relevant to this application include:

- Support the agriculture sector so that it can be more productive, diverse, resilient and adaptive to changing agricultural trends, including supporting agricultural activities that recognise Moorabool's advantageous proximity to market;
- Protect agricultural land use from loss and allow development that increases agricultural productivity;
- Focus growth opportunities in settlements along major transport corridors, in particular where there is physical and social infrastructure and services;
- Recognise that there is substantial existing lots under 40 hectares capable of supporting the viable operation of agricultural enterprises;
- Promote a rural housing market that meets the needs of the Shire's rural communities; and
- Land parcels for the proposed farm living dwellings are to have a minimum lot size of 8 hectares as identified in Map 1.

The subject land is located in an area designated on Map 1 as a rural development area and coloured orange which is to support dwelling in Ballarat-Melbourne transport corridor. The lot size is also greater than 8 hectares.

Particular Provisions

Nil.

Discussion

The applicant has submitted a Farm Management Plan (FMP) and has advised the site is about intergenerational change of farmers from Patrick Toohey to Gerald Toohey. The site will change from entirely cropping and grazing cattle to also breed and train quarter/stock horses. The applicant has submitted five (5) year plan including fencing, weed control, pastural improvement for the horse activity. Over the five (5) year period, the applicant expects to make losses over Year 2 and 3 and return a modest profit in Year 5. Therefore the horse activity will commence more akin to a hobby farm. There is however the expectation that as breeding and training program grows there will be less reliance on cropping and activity will be reliant on horses and cattle. The horse activity is a high end business with horses ranging in value between \$5,000 to \$20,000. The welfare of the horses and with expectation to grow the business will require a constant presence of a farm manager. The applicant has also advised the Toohey family are well established in the Springbank/Wallace area and this provides an opportunity to pass the farm within the family.

The location of the dwelling is a key consideration with the dwelling positioned in a triangular corner of the site and close to the Butter Factory Road frontage. This location ensures the productive capacity of the land is not adversely affected. The dwelling is well away from the centrally located shedding area and well way from the onsite dam and the adjacent Moorabool River located near the western property boundary. This allow the productive land to be maintained and reduces potential amenity impacts to the dwelling through machinery noise and spraying.

The use of non-reflective roofing materials ensures the proposal is consistent with objectives of the Design & Development Overlay Schedule 2.

The site is also covered by an Environmental Significance Overlay Schedule 1. The applicant has submitted a Land Capability Assessment (LCA) demonstrating that waste water can be contained within a Land Application Area of 150m² sufficiently setback from the dam on site and well over 300 metres from the Moorabool River. These setback distances will ensure the dwelling and its effluent field will not impact upon the water quality of the surrounding catchment area. The relevant catchment authority, Central Highland Water along with Council's Environmental Health Officer had no objection to the application subject to conditions. The building works are consistent with the objectives of the Environmental Significance Overlay Schedule 1.

The proposed dwelling is considered appropriate within the context of Farming Zone Land and allows for the Toohey family to continue their farming tradition in the local area. The dwelling and its associated effluent field area are located within a corner of the site leaving land available for productive agricultural purposes. The horse activity in association with cattle will be effectively managed by presence of the farm manager who will reside on the property. Given the site context and the location of the dwelling, the proposal should be supported.

General Provisions

Clause 65 – Decision Guidelines have been considered by officers in evaluating this application.

Clause 66 – Stipulates all the relevant referral authorities to which the application must be referred.

Referrals

Authority	Response
Central Highland Water	No objections subject to three conditions
Infrastructure Environmental Health	No objections subject to five conditions No objections subject to six conditions

Financial Implications

The recommendation of approval of this use and development application would not represent any financial implications for Council.

Risk & Occupational Health & Safety Issues

The recommendation of approval of this use and development does not implicate any risk or OH&S issues to Council.

Communications Strategy

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. The applicant was invited to attend this meeting and invited to address Council if required.

Options

Council could consider the following options:

- Issue a permit in accordance with the recommendations of this report;
- Issue a permit with amendments to conditions within the recommendation of this report; or
- Should Council wish to consider refusal of the application, Councilor's need to explore reasons based on the proposal not complying with the Moorabool Planning Scheme.

Conclusion

The proposal dwelling is associated with an existing productive use of farming land which will diversify to a cattle and horse activity with less reliance on cropping. The proposal will ensure the farming use can be maintained on this land. The dwelling is appropriately positioned by maximising the productive land and not interfering water bodies located along one property boundary. This dwelling is consistent with Council's Rural Housing Policy by achieving a minimum land area of 8 hectares and providing a comprehensive Farm Management Plan. The applicant is not seeking a rural lifestyle opportunity but instead wants to remain in the area, taking over a family farm and wants to diversify the farming activity into a more high end use. The wastewater from the dwelling can be appropriately contained within the land and will not pose any risk to the surrounding water catchment. The application should be supported with standard permit conditions.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Planning Permit PA2018330 for the Use and Development of a Dwelling at Lot 1 on TP 006841G otherwise known as Butter Factory Road, Wallace subject to the following conditions.

Endorsed Plans

- 1. Before the use and/or development starts, 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 and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:**

- a) Plan of Consolidation of Lots 1 and 2 on TP6841G**

Unless otherwise approved in writing by the Responsible Authority, all buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.

Operational

- 2. Before the use commences, the Plan of Consolidation of Lot 1 and 2 on TP6841G must be registered with Land Victoria in accordance with the provisions *Subdivision Act 1988*.**

Dwelling Requirements

- 3. The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act 1970.**
- 4. The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes.**
- 5. The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.**

6. **Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.**

Farm Management Plan

7. **A Farm Management Plan to the satisfaction of the Responsible Authority must be endorsed as part of this permit, and cannot be varied without the written consent of the Responsible Authority.**
8. **Prior to the issue of a building permit, sufficient work must have occurred in accordance with the five (5) year plan of the Farm Management Plan to the satisfaction of the Responsible Authority.**
9. **Before the issue of a Building Permit the owner must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority:**
 - a. **The owner of the land must acknowledge that while the land remains zoned as Farming Zone or its equivalent successor the primary use of the land is for agricultural activities and the use of the dwelling must be in conjunction with an approved agricultural activity.**
 - b. **Agricultural activities and environmental management identified in the endorsed Farm Management Plan must be undertaken on the land and must be in accordance with the Farm Management Plan endorsed under Condition 7 of the Planning Permit and cannot be varied without the written consent of the Responsible Authority.**
 - c. **Before a Building Permit is issued for the dwelling, application must be made to the Register of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the Act and the owner must provide evidence of that registration of the Agreement to the Responsible Authority.**
 - d. **The owner must pay the reasonable costs for the preparation, execution and registration of the Section 173 Agreement.**

Infrastructure

10. **A standard rural vehicle crossing must be provided on Butter Factory Road to the satisfaction of the Responsible Authority. A vehicle crossing permit must be taken out for the construction of the vehicle crossing.**
11. **Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any waste water disposal areas.**
12. **Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).**
13. **Unless otherwise approved by the responsible authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.**

14. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.

Environmental Health:

15. An onsite waste water management system with the capacity to treat effluent must be installed.

16. The land application area and all conditions must be in accordance to the Land Capability Assessment prepared by Bruce Hollioake, ref number 18372 dated 14th November 2018 or any approved amendment are to be strictly adhered to.

17. The wastewater management system including all effluent must be wholly contained within the property boundaries at all times.

18. The effluent disposal area must be kept free of buildings, driveways, vehicular traffic and services trenching.

19. All setback distances must be adhered to as dictated by Table 5 of the Code of Practice, Onsite Wastewater Management, EPA Publication Number 891.4

20. The owner will maintain all drainage lines at all times to divert surface water and subsurface water clear of the effluent disposal field.

Central Highlands Water:

21. The dwelling and effluent disposal system must be located in accordance with the Land Capability Assessment by Bruce Hollioake Reference 18372 dated 14th November 2018.

22. The owner must install a wastewater management system that provides a secondary level of treatment of wastewater, in accordance with Section 1.2 of Land Capability Assessment by Bruce Hollioake Reference 18372 dated 14th November 2018.

23. Prior to a Building Permit being issued for a dwelling the owner shall enter into an agreement with Central Highlands Region Water Corporation (CHW) and the responsible authority under Sections 173 and 174 of the Planning and Environment Act 1987, requiring that:

a. The owner shall have any wastewater treatment facility and effluent disposal system for the dwelling inspected annually by a qualified environmental health officer ("the EHO") and shall provide annually to both the Shire and to CHW a written report from the EHO on the condition of the wastewater treatment and effluent disposal system.

b. The Owner shall have the wastewater treatment facility desludged at least once every 3 years or as otherwise determined by the EHO and evidence of this desludging shall be provided in the EHO report referred to in Clause (a) herein.

c. The Owner shall carry out any works considered necessary by the EHO to ensure the satisfactory operation of the wastewater treatment facility and effluent disposal system.

d. The owner will maintain all drainage lines at all times to divert surface water and subsurface water clear of the effluent disposal field.

- e. The Owner and the Shire agree to do all things necessary to register a memorandum of this Agreement on the title of the land pursuant to Section 181 of the Planning and Environment Act 1987.
- f. The Owner shall meet all costs of inspections, reports and works referred to in Clauses (a), (b), (c) and (d) herein and all costs of the Shire in relation to stamping and registration of this Agreement.
- g. The Owner shall not sell or enter into any contract to sell the land until this Agreement has been registered pursuant to Clause (e) herein.

24. The landowners shall meet all costs of preparing and recording this agreement.

Permit Expiry:

25. This permit will expire if one of the following circumstances applies:

- a. The development and the use are not started within two years of the date of this permit;
- b. The development is not completed within four years of the date of this permit.

Permit Note:

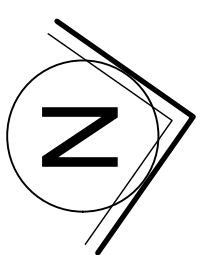
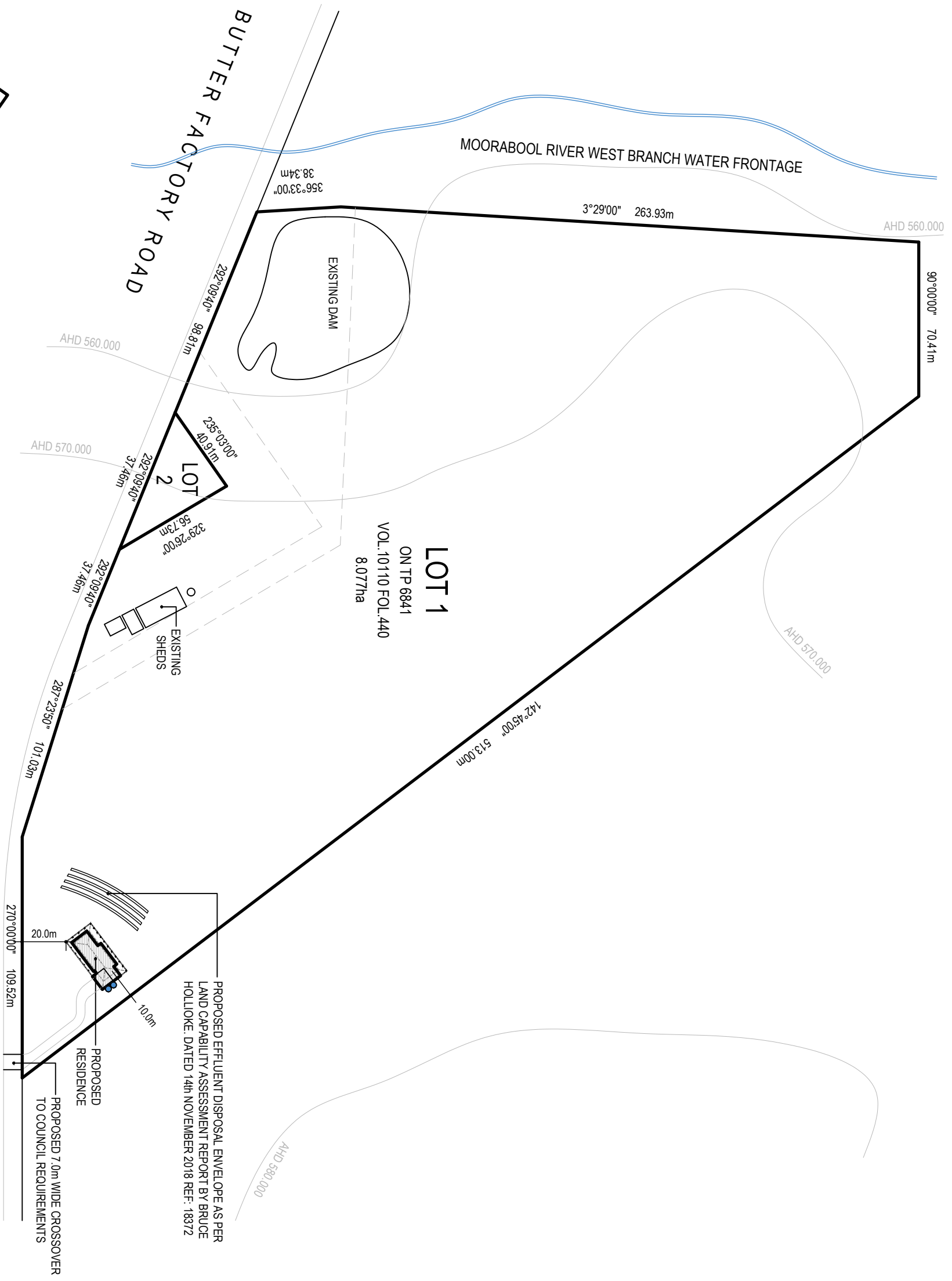
A permit to install an onsite wastewater management system must be submitted to Environmental Health.

Report Authorisation:

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Community Planning
Date: 19 March, 2019



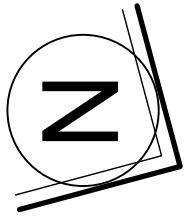
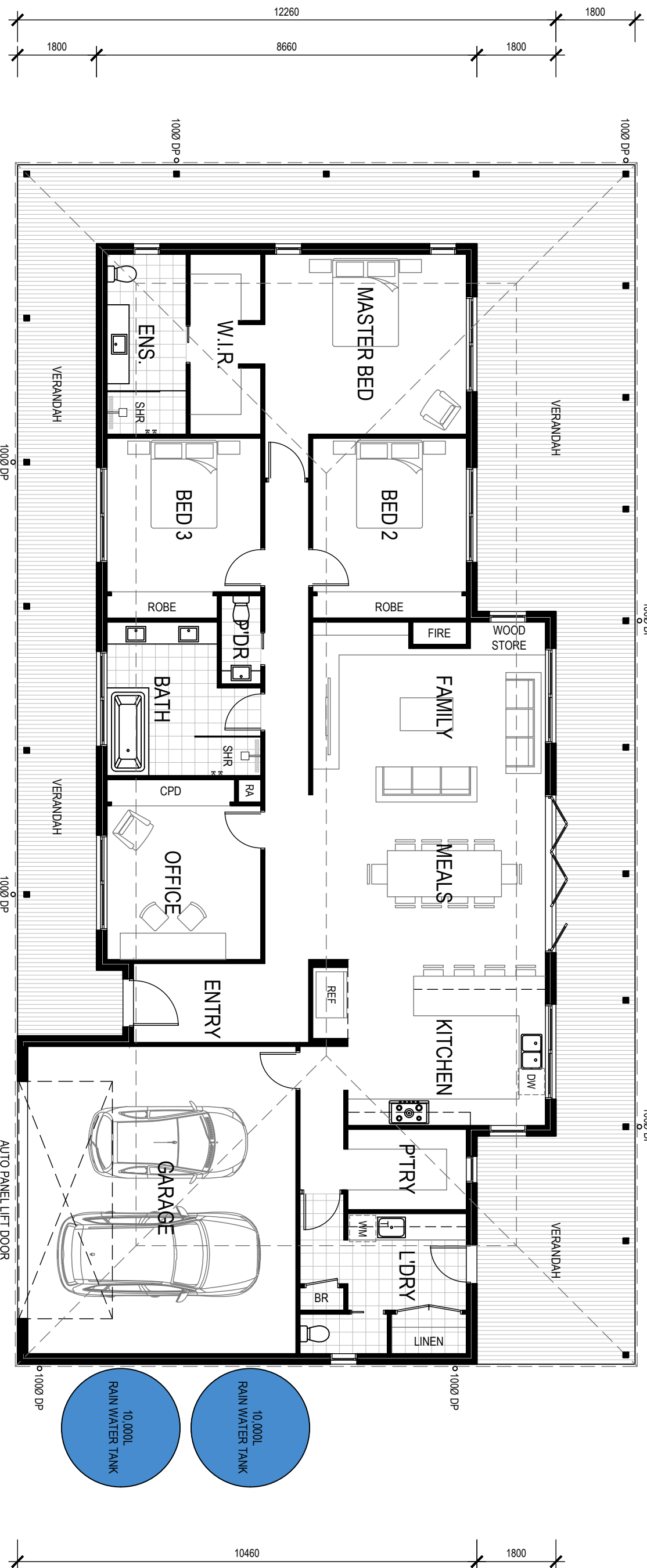
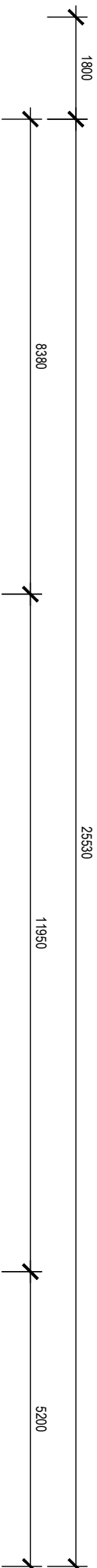


SITE PLAN
SCALE 1:2000

PROJECT NAME: **PROPOSED NEW RESIDENCE WITH ATTACHED GARAGE**
 CLIENT: **KATE FITZPATRICK AND GERALD TOOHEY**
 ADDRESS: **BUTTER FACTORY ROAD
WALLACE VIC**

SCALE:	1:100 @ A3	
DATE:	NOV 2018	
DRW:	JD	REV: A
SHEET NO:	tp01	





PROPOSED FLOOR PLAN SCALE 1:100

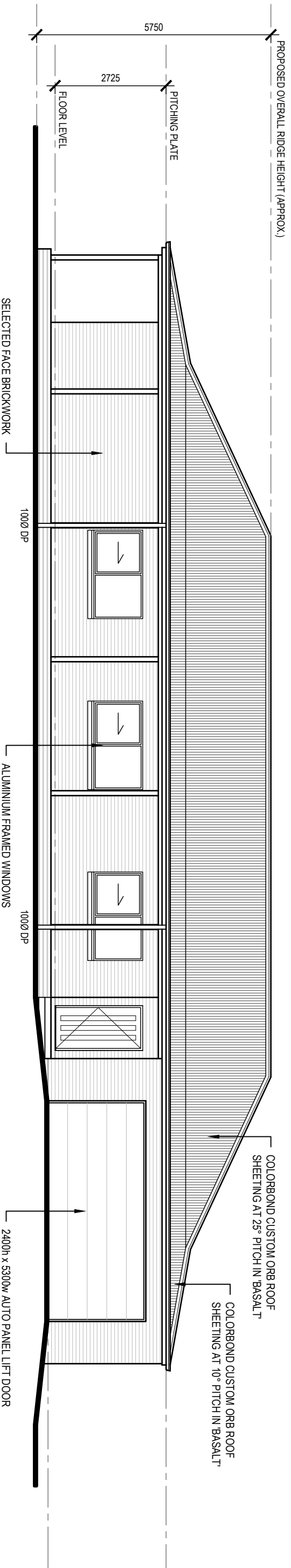
AREA SCHEDULE:

RESIDENCE FLOOR AREA	208.68m ²	22.46sq
GARAGE FLOOR AREA	46.47m ²	5.00sq
VERANDAH FLOOR AREA	129.09m ²	13.89sq

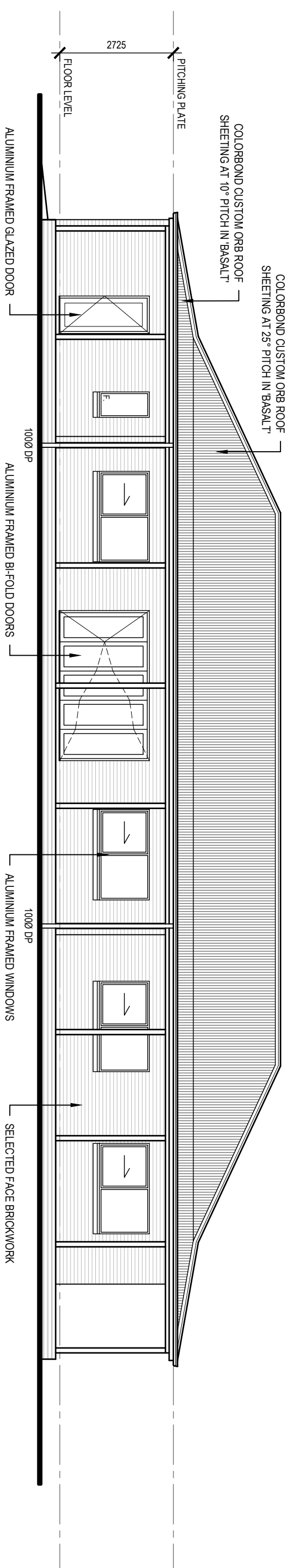


PROJECT NAME:	PROPOSED NEW RESIDENCE WITH ATTACHED GARAGE
CLIENT:	KATE FITZPATRICK AND GERALD TOOHEY
ADDRESS:	BUTTER FACTORY ROAD WALLACE VIC

SCALE:	1:100 @ A3
DATE:	NOV 2018
DRW:	JD
REV:	A
SHEET NO:	tp02



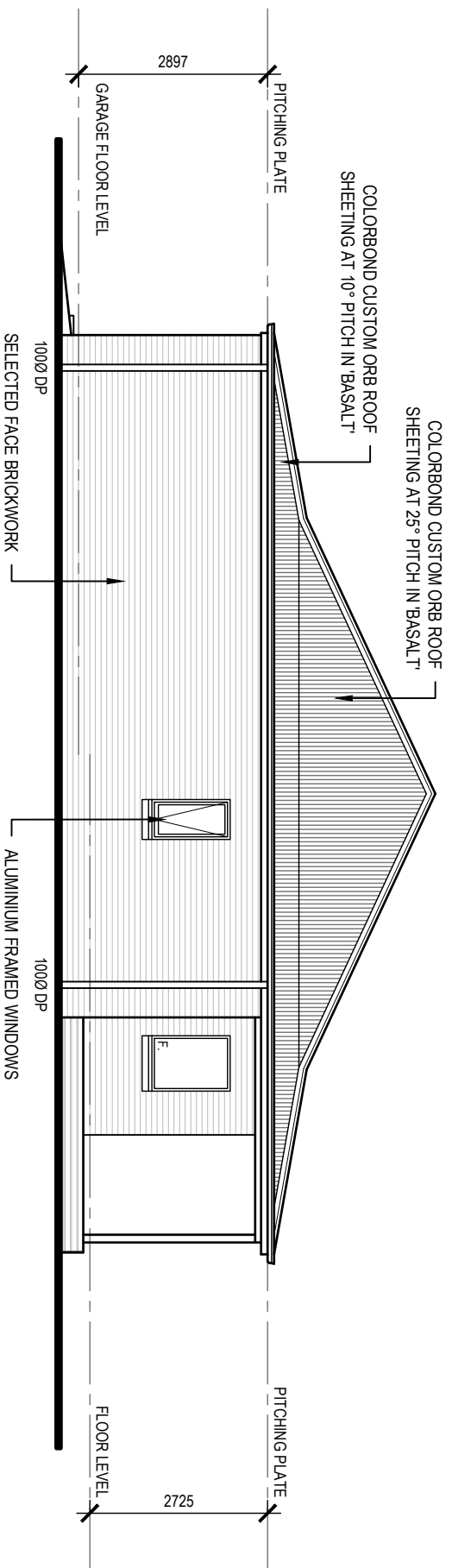
SOUTH ELEVATION
SCALE 1:100



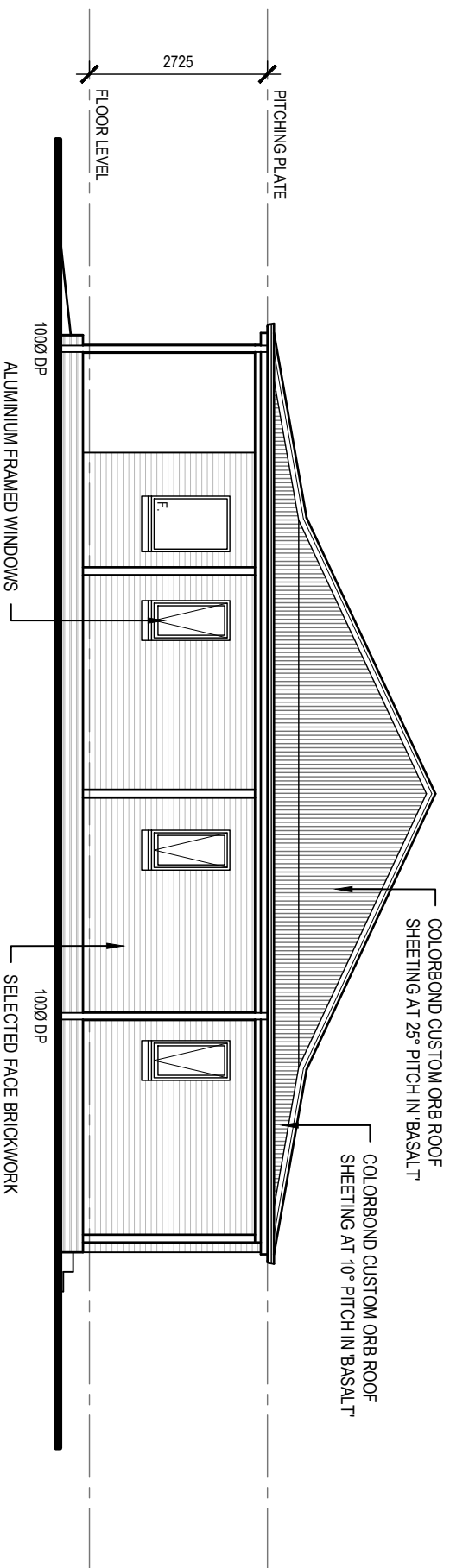
NORTH ELEVATION
SCALE 1:100

PROJECT NAME:	PROPOSED NEW RESIDENCE WITH ATTACHED GARAGE		SCALE:	1:100 @ A3
CLIENT:	KATE FITZPATRICK AND GERALD TOOHEY		DATE:	NOV 2018
ADDRESS:	BUTTER FACTORY ROAD WALLACE VIC		DRW:	JD
			REV:	A
			SHEET NO:	tp03





EAST ELEVATION SCALE 1:100



WEST ELEVATION SCALE 1:100

MATERIALS & COLOURS



ROOF SHEETING
COLORBOND CUSTOM ORB
COLOUR: 'BASALT'



FASCIA GUTTERING &
SPOUTING
COLORBOND
COLOUR: 'BASALT'



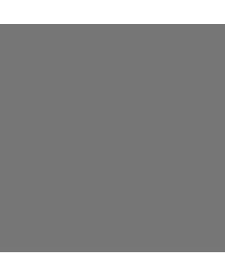
FACE BRICKWORK
COLOUR: SELKIRK MOSMAN
RED OR SIMILAR



TIMBER VERANDAH POSTS
COLOUR: NATURAL CYPRESS PINE



ALUMINIUM WINDOWS
COLOUR:
COLORBOND 'BASALT'



PANEL LIFT GARAGE DOOR
COLOUR:
COLORBOND 'BASALT'

PROJECT NAME: **PROPOSED NEW RESIDENCE WITH ATTACHED GARAGE**

CLIENT: **KATE FITZPATRICK AND GERALD TOOHEY**

ADDRESS: **BUTTER FACTORY ROAD**

WALLACE VIC

SCALE: **1:100 @ A3**

DATE: **NOV 2018**

DRW: **JD** REV: **A**

SHEET NO: **tp04**