COUNCIL MEETING AGENDA

CITY OF GREATER BENDIGO

6:00 pm on Monday, February 27 2023

Livestreaming at www.bendigo.vic.gov.au/councilmeeting
Broadcast live on Phoenix FM 106.7 ***

Copies of the City of Greater Bendigo Council's Agendas & Minutes can be obtained online at www.bendigo.vic.gov.au

COMMUNITY VISION 2021–2031

Greater Bendigo celebrates our diverse community.
We are welcoming, sustainable and prosperous.
Walking hand-in-hand with the Traditional custodians of this land.
Building on our rich heritage for a bright and happy future.

The community vision is underpinned by five values –
Transparency, sustainability, inclusion, innovation and equity.

COUNCIL PLAN (MIR WIMBUL) – OUTCOMES

The Council Plan (Mir wimbul) is based on seven outcomes, which are the main focus of the Council Plan.

Each outcome has a set of goals, objectives and actions that will help to achieve the community vision, and indicators to measure achievement against each goal:

1. Lead and govern for all
2. Healthy, liveable spaces and places
3. Strong, inclusive and sustainable economy
4. Aboriginal reconciliation
5. A climate-resilient built and natural environment
6. A vibrant, creative community
7. A safe, welcoming and fair community

STAFF VALUES AND BEHAVIOURS

The City of Greater Bendigo's values and behaviours describe how Councillors and staff will work together to be the best we can for our community.

They are aligned to our strategic documents, such as the Council Plan, which ensure they are meaningful for Council and the organisation.

A shared commitment to living our values and behaviours will help us to build the type of culture we need to be able to work together and support each other to deliver the best possible outcomes for the community.

This Council Meeting is conducted in accordance with the

- Local Government Act 2020
- Governance Rules

ORDER OF BUSINESS

1. ACKNOWLEDGEMENT OF COUNTRY 5
2. TRADITIONAL LANGUAGE STATEMENT 5
3. OPENING STATEMENT 5
4. MOMENT OF SILENT REFLECTION 5
5. ATTENDANCE AND APOLOGIES 5
6. LEAVE OF ABSENCE 5
7. SUSPENSION OF STANDING ORDERS 5
8. COMMUNITY RECOGNITION 5
9. PUBLIC QUESTION TIME 5
10. RESUMPTION OF STANDING ORDERS 5
11. WARD REPORTS 5
    11.1. Eppalock Ward - Cr Penna 5
    11.2. Lockwood Ward - Cr Fyffe 5
    11.3. Whipstick Ward - Cr Sloan 5
12. DECLARATIONS OF CONFLICT OF INTEREST 5
13. CONFIRMATION OF PREVIOUS MINUTES 6
14. PETITIONS AND JOINT LETTERS 7
    14.1. Petition: Proposed Off-Leash Dog Park at Molesworth Road, Kangaroo Flat 7
15. LEAD AND GOVERN FOR ALL 23
    15.1. Quarterly Finance and Capital Management Report Q2 - December 2022 23
    15.2. Victorian Local Government Women's Charter 30
    15.3. Contracts Awarded under Delegation 35
16. HEALTHY, LIVEABLE SPACES AND PLACES 37
    16.1. 909 Wellington Street & 6 Uxbridge Street, STRATHFIELDSAYE 3551 - Use and Development of the Land for a Restricted Recreation Facility (Gym) 37

16.2. 22 Old Ford Road, REDESDALE 3444 - 2 Lot Subdivision and Removal of Native Vegetation 72
16.3. 8 Lester Street Eaglehawk - 3 Lot Subdivision and Construction of 2 Dwellings on a Lot 91
16.4. Lot 2 Drummonds Lane DERRINAL 3523 - Use and Development of the Land for a Dwelling and Facilities Associated with Horse Husbandry and Dog Breeding....117
16.5. 9 Schoder Street, STRATHDALE 3550 - Use and Development of the Land for Service Industry (Motor Vehicle Servicing) 230
16.6. 12 Whipstick Road, EAGLEHAWK 3556 - Development of Community Care Accommodation 254
16.7. C247gben Corrections and Planning Scheme Review Part 2 Implementation 272
17. STRONG, INCLUSIVE AND SUSTAINABLE ECONOMY 328
17.1. Bendigo Airport Lease of Lot N3 328
18. ABORIGINAL RECONCILIATION 331
19. A CLIMATE-RESILIENT BUILT AND NATURAL ENVIRONMENT 332
19.1. Zero Emissions Plan for Council Operations 2023-2030 332
20. A VIBRANT, CREATIVE COMMUNITY 385
21. A SAFE, WELCOMING AND FAIR COMMUNITY 385
22. URGENT BUSINESS 385
23. NOTICES OF MOTION 386
23.1. Investing in Telecommunications & Digital Connectivity in Regional Communities 386
23.2. Local Government Divestment from Investment in Fossil Fuel Financing Institutions 389
24. MAYOR'S REPORT 393
25. CHIEF EXECUTIVE OFFICER'S REPORT 393
26. CONFIDENTIAL (SECTION 66) REPORTS 393
27. CLOSE OF MEETING 393

1. ACKNOWLEDGEMENT OF COUNTRY

2. TRADITIONAL LANGUAGE STATEMENT

3. OPENING STATEMENT

4. MOMENT OF SILENT REFLECTION

5. ATTENDANCE AND APOLOGIES

6. LEAVE OF ABSENCE

7. SUSPENSION OF STANDING ORDERS

RECOMMENDED MOTION

That Standing Orders be suspended to allow the conduct of the Community Recognition Section and Public Question Time.

8. COMMUNITY RECOGNITION

9. PUBLIC QUESTION TIME

10. RESUMPTION OF STANDING ORDERS

RECOMMENDED MOTION

That Standing Orders be resumed.

11. WARD REPORTS

11.1. Eppalock Ward - Cr Penna

11.2. Lockwood Ward - Cr Fyffe

11.3. Whipstick Ward - Cr Sloan

12. DECLARATIONS OF CONFLICT OF INTEREST

Section 130 of the *Local Government Act 2020* (Vic) (**the Act**) provides that a relevant person must disclose a conflict of interest in respect of a matter and exclude themselves from the decision making process in relation to that matter including any discussion or vote on the matter at any Council meeting or delegated committee meeting and any action in relation to that matter.

The procedure for declaring a conflict of interest at a Council Meeting is set out at rule 18.2.4 of the Governance Rules.

Section 126 of the Act sets out that a relevant person (Councillor, member of a delegated Committee or member of Council staff) has a conflict of interest if the relevant person has a **general conflict of interest** or a **material conflict of interest**.

A relevant person has a **general conflict of interest** in a matter if an impartial, fair minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

A relevant person has a **material conflict of interest** in a matter if an *affected person* would gain a benefit or suffer a loss depending on the outcome of the matter.

13. CONFIRMATION OF PREVIOUS MINUTES
RECOMMENDED MOTION

That the Minutes of the Council Meeting held on January 30, 2023, as circulated, be taken as read and confirmed.

Previous minute location:
https://www.bendigo.vic.gov.au/About/Council/Council-meetings/Past-Council-meetings

14. PETITIONS AND JOINT LETTERS

14.1. Petition: Proposed Off-Leash Dog Park at Molesworth Road, Kangaroo Flat

Responsible Director:	Stacy Williams, Director, Healthy Communities and Environments

Purpose

For Council to receive a petition from residents and ratepayers in the vicinity of a proposed off-leash dog park in Molesworth Road, Kangaroo Flat.

As the petition relates to the current Domestic Animal Management Plan that has been out for public exhibition and was received prior to the closure of the receipt of submissions on February 13, 2023, it will be dealt with in the context of a submission to this plan.

Recommended Motion

That Council:

1. Acknowledge receipt of the petition and thank submitters for their contribution to the petition.
2. Advise the lead petitioners that the feedback provided will be considered as part of the consultation process for the Domestic Animal Management Plan review.

Report

The petition is:

“We the undersigned residents and ratepayers of Greater Bendigo City Council formally request Council to seriously consider our concerns regarding the proposed Off-Leash Dog Park at **19-21 Molesworth rd. Kangaroo Flat.** Our concerns include the following:

The location is not appropriate for this use due to the confined nature of the reserve, being completely surrounded by residences, many of whom have pets in their yards which will be *worried and/or threatened* by unfamiliar animals so close to their *private open space.*

These parks are often used by owners to toilet their pets and inevitably owners will not *remove and dispose of their dog's waste,* leaving it to putridly fester right outside resident's properties. Dogs will do this to mark territory near to where other dogs live.

Increased foot traffic by pet owners from beyond the immediate neighbourhood will *significantly impact on the amenity of the secluded private open space of residents* adjoining the reserve.

“As local caveats don't allow front fences, pets in the immediate area are at risk from off-leash dogs that are not under effective control of their owners. But fencing would not be *consistent with the neighbourhood character* and would severely *disrupt the streetscape.*

Parking for visiting owners is quite limited and will seriously affect the amenity of Molesworth Rd & Guy Ct residents.

This reserve is a precious wildlife habitat where we can frequently observe lizards, ground nesting spur wing plovers, grass parrots, galahs regularly feeding on grasses, two magpie families rummage for grubs & worms, a local kangaroo often visits the reserve to feed.

Local children often play on the reserve & residents regularly use the reserve as a short cut but would be *worried and/or threatened* by dogs running freely.

We are concerned that this proposal will adversely impact local property prices. The reserve has long been a positive element of the neighbourhood.

With Emily Way, Alder St, Bay St., Morrison St. & Allingham St Dog Parks in the area and a larger site available at 99-101 Olympic Pde., there seems no need for another at this location.

Thank you for your consideration”.

Signatures: 93

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025
Outcome 2 - Healthy, liveable spaces and places

Secondary Council Plan Reference(s)

Goal 1 - Strengthened community health and wellbeing

Other Reference(s)

Domestic Animal Management Plan

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Attachments

1. Petition Proposed Dog Park Kangaroo Flat Redacted [**14.1.1** - 13 pages]

Att: Samuel JOHNSTON
Coordinator Local Laws and Animal Services
Greater Bendigo City Council
15 Hopetoun St, BENDIGO, VIC 3550

Dan Parry
[redacted]
KANGAROO FLAT, VIC, 3555

Geoffrey SMART
[redacted]
KANGAROO FLAT, VIC, 3555

10 February 2023

SUBJECT:

Submission concerning City of Greater Bendigo new Domestic Animal Management Plan.

PETITION:

Objection to proposed designated off leash area being the Drainage and Recreation Reserve, *situate* at numbers 19 & 21 Molesworth Road and number 1 Guy Court in Kangaroo Flat.

Dear Samuel,

Please find (enclosed):

(12) Pages, with the personal particulars of (93) persons, entered and signed in their own handwriting, forming a petition to the proposed off leash area at numbers 19 & 21 Molesworth Road and number 1 Guy Court in Kangaroo Flat.

Regards,

Dan Parry & Geoff Smart

[redacted]

RECEIVED
13 FEB 2023
City of Greater Bendigo

City of Greater Bendigo

Local Laws and Animal Services

Att. Samuel Johnston

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Thank you for your consideration.

NAME	ADDRESS	SIGNATURE
DANIEL PARRY	[redacted] K FLAT	
Helena Parry	[redacted] K Flat	
ANDREW VAN [redacted]	[redacted] K/FLAT	
Paige Rewell	[redacted]	
P. Jane	[redacted] K. Flat	
Helen Martin	[redacted] K/Flat	

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Thank you for your consideration.

NAME	ADDRESS	SIGNATURE
GRAEME ROSE	[redacted]	G. Rose
RUSSELL CONN	[redacted]	
Carole Conn	[redacted]	
Colleen Chandler	[redacted]	
H.G. LAUNER.	[redacted]	
T. Hadlow	[redacted] Cal gully	
A. MOORE	[redacted]	
D. ALLISON	[redacted]	
W. ALLISON	[redacted]	
S McGRORY	[redacted]	
S. Hudson	[redacted]	
Peter Crew	[redacted]	
PAT KEAVENEY	[redacted]	
Andrew Bruun	[redacted]	
Elsa Barry	[redacted]	
Stacey Rogers	[redacted]	
Amelia Bruggy	[redacted]	

1

We the undersigned residents and ratepayers of Greater Bendigo City Council formally request Council to seriously consider our concerns regarding the proposed Off-Leash Dog Park at **19-21 Molesworth rd. Kangaroo Flat.** Our concerns include the following:

AREA

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NAME	ADDRESS	SIGNATURE
Rosemary Barber	[redacted] garoo Flat	R Barber
GARRY Barber	[redacted] angaroo Flat	
Danielle McWhae	[redacted] garoo Flat	
KEN McWHAE	[redacted] KANGAROO FLAT	
KYLIE-ANNE TURNER	[redacted] FLAT KANGAROO	
JOHN CHARLTON	[redacted] NGAROO FLAT	
SYLVIA CHARLTON	[redacted] ANG FLAT	
TERESA SMART	[redacted] ANGAROO FLAT	Teresa Smart
GEOFF SMART	[redacted] K/FLAT	G.S.
DON McMAHON	[redacted] K/FLAT	
Will Tamsh	[redacted] K/F	
A. SLINGO	[redacted] K FLAT	
ELAINE WILKINSON	[redacted] K. FLAT	E. Wilkinson
DIANA CROOK	[redacted]	Can't sign due to broken wrist.
JOHN + KATH CHESTER	[redacted]	
LINDA JEFFERY	[redacted] Kangaroo Flat Vic	L Jeffery

-3-

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NAME	ADDRESS	SIGNATURE
Kathy Hayward	[redacted]	
Emily Chapman		
Bryce Chapman		
John Hayward		
Julie Needs		
Jonni Needs	[redacted] G. S.	
Janice Gorse	[redacted] K/F	

-2-

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With Emily Way, Alder St., Bay St., Morrison St. & Allingham St. Dog Parks in the area

NAME	ADDRESS	SIGNATURE
K. WILKINSON	[redacted] K/FLAT	
Dennis Garsed	[redacted] K/Flat.	
SHERRI PARRY	[redacted] K/FLAT	
KATHY LOWE	[redacted] K/FLAT	
SUSAN BECKET-THORPE	[redacted] Spring Gully	
PAUL BECKET-THORPE	[redacted] SPRING GULLY	
Mary Semmens	[redacted] Bendigo	

-5-

City of Greater Bendigo

Local Laws and Animal Services

Att. Samuel Johnston

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NAME	ADDRESS	SIGNATURE
Mitchell Burke	[redacted] East Bendigo	
Emily Williams	[redacted] KANGAROO FLAT	
David Ward	[redacted] Kangaroo Flat	
Emma Draper	[redacted] Quarry Hill	
Brodie Stacey	[redacted] K Flat	
Donna Rankin	[redacted] K/Flat	

-6-

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NAME	ADDRESS	SIGNATURE
Kylie Akers	[redacted] Sedgwick	
Jason Courtnall	[redacted] Kangaroo Flat	
Hamish Morrow	[redacted] SPRING GULLY 3550	
Sara Hunt	[redacted] Golden Square	
Kylie Snell	[redacted] Kangaroo Flat	K. Snell.
	[redacted]	

-7-

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NAME	ADDRESS	SIGNATURE
Karen Holden	[redacted] Golden Sq	K Holden.
Teaghan Mckay	[redacted] Golden Squae	T.
Trevor Read	[redacted] Strathfieldsaye	T Read
Jemma Lyons	[redacted] Spring Gully	
Sandy Maber	[redacted] Maiden Gully	S.
Claire Dugdale	[redacted] Golden Square	

-8-

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These parks are often used by owners to toilet their pets and inevitably owners will not *remove and dispose of their dog's waste*, leaving it to putridly fester right outside resident's properties. Dogs will do this to mark territory near to where other dogs live.

Increased foot traffic by pet owners from beyond the immediate neighbourhood will *significantly impact on the amenity of the secluded private open space of residents* adjoining the reserve.

As local caveats don't allow front fences, pets in the immediate area are at risk from off-leash dogs that are not under effective control of their owners. But fencing would not be *consistent with the neighbourhood character* and would severely *disrupt the streetscape.*

Parking for visiting owners is quite limited and will seriously affect the amenity of Molesworth Rd & Guy Ct residents.

This reserve is a precious wildlife habitat where we can frequently observe lizards, ground nesting spur wing plovers, grass parrots, galahs regularly feeding on grasses, two magpie families rummage for grubs & worms, a local kangaroo often visits the reserve to feed.

Local children often play on the reserve & residents regularly use the reserve as a short cut but would be *worried and/or threatened* by dogs running freely.

We are concerned that this proposal will adversely impact local property prices. The reserve has long been a positive element of the neighbourhood.

With Emily Way, Alder St., Bay St., Morrison St. & Allingham St. Dog Parks in the area and a larger site available at 99-101 Olympic Pde., there seems no need for another at this location.

NAME	ADDRESS	SIGNATURE
Kerrie Frisvell	[redacted] Maryborough	Kerrie Frisvell
Tomas Napolitano	[redacted] Kalimna	
Helen Favaro	[redacted] McCrae	Helen Favaro
Matt Higgins	[redacted] Epsom	Matt Higgins
Tyler Dempster	[redacted] Bendigo	
Edith Theuns	[redacted] Flora Hill	

-9-

City of Greater Bendigo

Local Laws and Animal Services

Att. Samuel Johnston

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NAME	ADDRESS	SIGNATURE
Melissa Zacht	[redacted] Eaglehawk	
Maria Bayer	[redacted] Junortoun	
Julie Tanner	[redacted] Epo	
Heidi Turnbull	[redacted] Marong.	
Gael Kelly	[redacted] Ironbark	
Jane Walsh	[redacted] Kennington	

- 10 -

City of Greater Bendigo

Local Laws and Animal Services

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NAME	ADDRESS	SIGNATURE
Sara Matthews	[redacted] Strathfieldsaye	S Matthews
Clint READING	[redacted] epsom	C. Reading
Daniel Barber	[redacted] Kangaroo Flat	
Christopher Bamber	[redacted] Kangaroo Flat	

-11-

City of Greater Bendigo

Local Laws and Animal Services

Att. Samuel Johnston

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NAME	ADDRESS	SIGNATURE
[illegible]	[redacted] Marden Gully	
Chris Nash	[redacted] Lockwood South	
Mick,	[redacted] Strathfieldsay	
Davina McCurdy	[redacted] Shelbourne	D McCurdy
Sharon Morton	[redacted] Quarry Hill	
Andrea Brasher	[redacted] Harcourt	

- 12 -

15. LEAD AND GOVERN FOR ALL

15.1. Quarterly Finance and Capital Management Report Q2 - December 2022

Author:	Kate Fox, Coordinator Management Accounting & Analysis
Responsible Director:	Jessica Clarke-Hong, Acting Director Corporate Performance

Purpose

The purpose of this report is to provide Council with a report on the financial position and capital program results for the City of Greater Bendigo 2022/2023 financial year, as at 31 December 2022 (Q2), in accordance with the requirements of the Local Government Act 2020.

Recommended Motion

That Council receive the report comparing budgets and actual revenues and expenses to 31 December 2022, in accordance with the requirements of the Local Government Act 2020.

Executive Summary

The Quarterly Report provides an update on financial performance for the 2022/2023 financial year across operational expenditure and capital works.

The report provides a summary of general debtors; rate debtors / management; cash and investments; borrowings; grants; reserves; and key capital and project information.

Background

In accordance with Section 97 of the Local government Act 2020: As soon as practicable after the end of each quarter of the financial year, the Chief Executive Officer must ensure that a quarterly budget report is presented to the Council at a Council meeting which is open to the public.

Report

The City’s operating result as at December 31 2022 is $1.3M (2%) favourable to budget. The 2022/2023 budget was prepared on the basis of stable inflation rates, and additional costs for materials and services are starting to flow through to the City’s bottom line.

Financial forecasting has been undertaken across the organisation with the Victorian flood events one of the key impacts over the quarter. Many costs incurred will be supported by additional State and Federal Government funding and insurance claims, however this is

subject to a relatively complex and contested claims process before any revenue is received or recorded.

Other key year to date results include:

- $3.7M favourable variance for Operational and Capital Government Grants partly due to funds receipted in 2021/2022 financial year being recognised in the current financial year (project related).
- $2.2M favourable variance for User Fees and Charges due to Bendigo Art Gallery Elvis exhibition carrying over to July, increased parking occupancy, and childcare utilisation at full capacity.
- $6.9M unfavourable variance for general expenses. Portions of this variance are timing related for upfront payments, however the City is forecasting a 9% total increase on materials and services, by the end of the financial year, due to inflation and flood recovery works.

The operating surplus forecast to the end of the financial year is $6.1M (16% favourable to budget). The favourable forecast result is largely an accounting result, as it includes additional capital grants forecast which are tied to specific projects and increases capital expenditure. Excluding capital grants, the forecast position for the City is a small deficit for the current financial year of $3.4M.

The City's profit and loss statement for the 6 months ended 31 December 2022 is provided below:

	YEAR TO DATE				FORECAST			
	YTD Actual $'000	YTD Budget $'000	YTD Variance $'000	%	Annual Budget $'000	Full Year Forecast $'000	Forecast Variance $'000	%
REVENUE								
Rates and Charges	138,711	139,021	(309)	(0%)	139,298	139,705	407	0%
Statutory Fees and Fines	3,046	2,627	419	16%	5,553	5,798	244	4%
User Fees	14,631	12,433	2,198	18%	24,967	26,428	1,460	6%
Government Grants - Operating	12,090	8,943	3,147	35%	29,315	33,558	4,243	13%
Government Grants - Capex	11,920	11,372	548	5%	19,923	29,439	9,516	32%
Contributions - Monetary	2,881	1,511	1,370	91%	2,877	3,055	178	6%
Contributions - Non Monetary	-	-	-	-	12,000	12,000	-	-
Other Income	2,467	1,242	1,224	99%	2,306	3,499	1,192	34%
Total Revenue	185,746	177,149	8,596	5%	236,239	253,481	17,242	7%
EXPENSES								
Employee Benefits	39,965	39,639	(326)	(1%)	78,441	81,000	(2,559)	(3%)
Materials and Services	44,461	37,502	(6,959)	(19%)	74,072	81,341	(7,269)	(9%)
Depreciation and Amortisation	21,837	21,828	9	0%	46,456	46,476	(20)	(0%)
Bad and doubtful debts	1	1	(0)	(26%)	262	287	(25)	(9%)
Borrowing Costs	518	498	(20)	(4%)	997	997	-	-
Finance costs lease	-	175	175	100%	350	360	(10)	(3%)
Net (Profit) / Loss on Disposal of PP&E Held for Sale	(270)	-	(270)	100%	4,020	5,000	(980)	(20%)
Other Expenses	17	87	70	81%	245	509	(264)	(52%)
Total Expenses	106,529	99,730	(7,321)	(7%)	204,842	215,969	(11,128)	(5%)
Surplus/(Deficit):	79,217	77,419	1,275	2%	31,397	37,512	6,114	16%

Cash holdings & investments

Cash holdings remain above minimum required levels. There has been slightly higher intake of early payments due to the discount incentive compared to the previous year, and a relatively small number of rate deferrals remain in place in response to COVID-19 or other financial hardship.

The City's investment portfolio remains diverse in line with policy. As at December 31, there was $84.3M invested across eight different institutions. Competition has increased in recent months, with increased central bank rates. Interest rates are now closer to 4% in January. Currently 46.92% of investments are with institutions without fossil fuel interests.

October 2022 flood events

In October 2022 the City, along with various other Local Government areas, were impacted by a storm/flood event. The City provided and operated an Emergency Relief Centre and Incident Control Centre which was an immediate response to provide assistance to those impacted by the event. Costs relating to the centre operations, infrastructure damage, community recovery, waste disposal, rates revenue reduction and building damage is currently estimated to be up to $10M.

There are various disaster funding sources that are available and claims are currently underway – Council is currently estimating that between 70% and 80% of the total costs may be claimable.

Borrowings

The City has a total loan portfolio of $22.6M as at 31 December, 2022. The City's adopted Budget was prepared with an upper borrowing limit of $5.1M available if required. Loan facilities are now supported more directly by a Victorian Government entity since September 2021, with Treasury Corporation of Victoria (TCV) having the capacity to lend directly to Local Government entities.

Rate Cap & City financial sustainability: looking forward

A rate cap of 3.5% was announced in late December for the 2023/2024 financial year. For other costs, the ABS records National CPI through to September 2022 as 7.3% (7.4% for Victoria). This will represent a significant gap between the rate cap and the increased cost for materials. Council are currently working through these ongoing challenges whilst developing the 2023/2024 annual budget and an updated long term financial plan which incorporates these price increases.

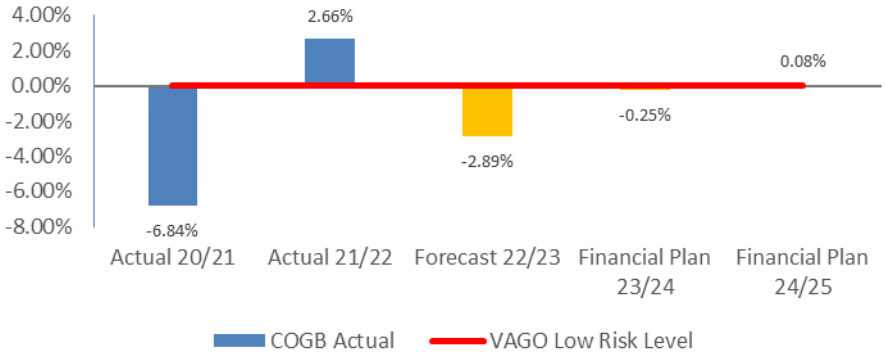
The City completed the year end audit and continues to be low risk for the majority of the key VAGO financial sustainability indicators, with the exclusion of the adjusted underlying

result ratio in future years. Long term financial sustainability to resource current service delivery (i.e. current pools, paths, and current services) will require operational efficiencies, review of services, or future increases in rates.

Adjusted Underlying Result

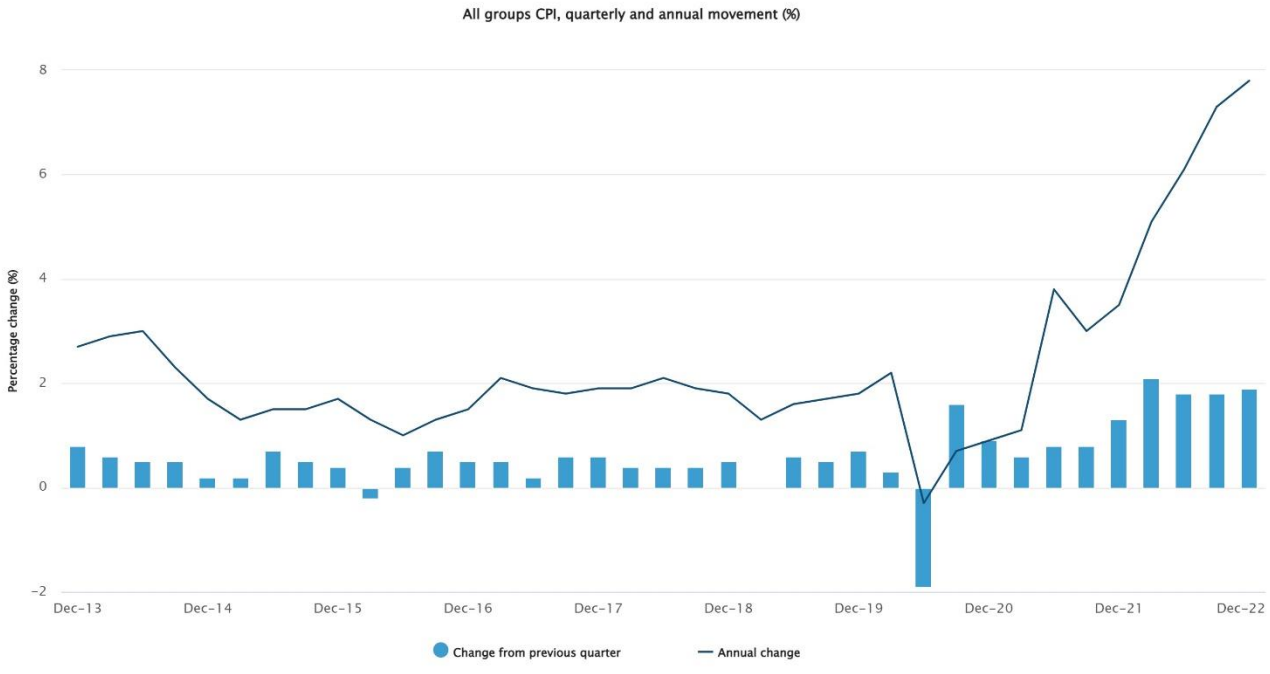
Adjusted Underlying Surplus/Deficit / Underlying Revenue

The Underlying Surplus/Revenue is the City's surplus/revenue less non-recurrent government grants received for capital purposes, contributions for capital works and the value of assets received from developers



The latest inflation statement at the time of this report from the RBA Governor predicted "…the Bank's central forecast is for CPI inflation to be around 7¾ per cent over 2022, a little above 4 per cent over 2023 and around 3 per cent over 2024." The City has issued rates in the current year in line with the 1.75% rate cap set for the City for 2022/2023, and rates collection results YTD are comparable to previous years.

For each year that a gap of this magnitude exists between revenues (1.75%) and increased costs (7 ¾%) - service delivery will be impacted.



Source: ABS CPI Australia release – December 2022 Quarter (released 25th January 2023)

Capital Program

Expenditure of the 2022/2023 capital works portfolio is at 86% ($26M) of the Quarter 2 revised target ($30.1M). Compared with prior year's Q2 performance, actual spend is up by $1.4M. The 2022/2023 Quarter 2 expenditure exceeded the City's 5-year average delivery by $4.7M or 18%.

The City's renewal program has reached 77% of the $12.9M delivery target, with the delivery split between asset classes that are significantly in front of expectations (Unsealed Roads, Plant & Equipment and Public Furniture) and asset classes that may be experiencing delays (Sealed Roads, Drainage and Land Improvements). Factors such as resourcing, phasing and lead times contribute to the progress status of the renewal program, however Quarter 2 delivery was also impacted by the storm/flood event in October.

Whilst the damage caused by the event has not increased the overall capital works delivery target for 2022/2023, the temporary redistribution of resources to assess and contain damaged assets, has contributed to some delays.

Initial tender and design outcomes have proven that price increases will be an issue over the course of the City's Capital program this year.

Construction costs continue to increase significantly faster than broader CPI, and it is likely that additional funds will be required across the program where scope/savings cannot be realised.

Reserves

The works on the Wolstencroft Reserve Playspace have been completed, in order to comply with regulations there was additional work being carried out – part of which relates to the City's waste reserve expenditure.

In line with the City's Financial Reserves Management Policy certain transfers from Reserves require Council endorsement where not captured in the Budget.

The table below sets out the previous Council approvals for reserve expenditure at Wolstencroft:

Financial Year	Approval by	Amount
2020/2021	Budget	$1,050,000
2021/2022	Budget	$150,000
2021/2022	Quarterly Reporting (in Council meeting)	$300,000
Total Approvals		$1,500,000

It is forecast that a further $200,000 approval for a transfer from the reserve is required to complete the required works at the Wolstencroft site.

Priority/Importance

In accordance with Section 97 of the Local Government Act 2020: “As soon as practicable after the end of each quarter of the financial year, the Chief Executive Officer must ensure that a quarterly budget report is presented to the Council at a Council meeting which is open to the public.”

Timelines

A report on finances must be adopted by the City each quarter as per the Local Government Act.

Communications/Engagement

Managers reviewed financial results and provided commentary and forecasting to information the Quarterly Report, and EMT considered this report in January.

Financial Sustainability

The Q2 report and discussions are a key tool in assessing and managing the City’s ongoing financial sustainability.

Risk Assessment

Financial sustainability remains a key City strategic risk, currently assessed as Medium.

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025
Outcome 1 - Lead and govern for all

Secondary Council Plan Reference(s)

Goal 1 - Accountable, financially responsible, equitable, transparent decision making

Other Reference(s)

City of Greater Bendigo Financial Plan 2021-2031
City of Greater Bendigo Budget 2022/2023

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Attachments

Nil

15.2. Victorian Local Government Women's Charter

Author:	Tiffany O'Connell, Acting Coordinator - Governance
Responsible Director:	Jessica Clarke-Hong, Acting Director Corporate Performance

Purpose

The purpose of this report is for Council to reaffirm the signatory endorsement of the Victorian Local Government Women's Charter.

The emphasis of the Charter is not only on increasing the number of women in elected representative roles, but on encouraging and empowering women from a diverse range of backgrounds to actively participate in decision-making roles in their communities.

Increasing gender diversity in decision-making roles improves democracy – a diversity of views leads to better representation, and we see that around the board table as well as in the parliament and the council chamber.

Recommended Motion

That Council:

1. Notes the history and progress of the Victorian Local Government Women's Charter ('the Charter'), detailed in this Report;
2. Reaffirm Council's commitment to the Charter;
3. Continues to progress actions in the City's *Equity For All (E4A) Gender Equity Action Plan 2021-2025* that support implementation of the Charter's three principles: gender equity, diversity and active citizenship;
4. Authorises the Chief Executive Officer to promote Council's Charter signatory status and display the Charter in Council premises and communications (including Council's website).
5. Supports the VLGA campaign to increase gender diversity in local government as citizens, candidates and Councillors;
6. Directs that a six monthly progress report of relevant actions to the Charter, outlined in the *E4A Gender Equity Action Plan 2021-2025* be provided at Councillor briefing.

Executive Summary

Council to reaffirm its signatory endorsement of the Victorian Local Government Women's Charter as per action 2.3.1 in the *Equity For All: Gender Equity Action Plan 2021-2025*.

Background

Following council amalgamations in 1996, the number of women councillors was at a record low (134 out of more than 600).

The Charter was established in 1998 by the Women's Participation in Local Government Coalition (WPILGC) to recognise the need for increased women's participation in the key decision-making forums in the community and in democratic governance. The WPILGC was a coalition of organisations, including peak bodies in local government, the Victorian Immigrant and Refugee Women's Coalition, Victorian Women's Trust, Women's Electoral Lobby Victoria, Women's Planning Network and YWCA Victoria.

Council first endorsed the Victorian Local Government Women's Charter at the Council Meeting held October 20, 2010.

In 2013, the WPILGC dissolved itself and handed responsibility for this work to the MAV and the VLGA. At present, the VLGA manages the administration of the Charter signatories and network, working alongside the MAV on promoting the Charter and achieving gender equity in local government. Cross sector/community collaboration has been crucial to achieving the Charter's aims, from the women's groups who were part of the original WPILGC to the VLGA and MAV jointly holding responsibility for the coordination of the Charter today.

Currently 74 of 79 Victorian councils are signatories to the Charter.

Since endorsing the Charter in 2010, the City has demonstrated its ongoing commitment to increasing women's participation in public life. The City supports the VLGA Local Women Leading Change Campaign and facilitates information sessions in the lead up to Council elections which promote the opportunity for women to nominate. The City also promotes available resources such as the 'A Gender Agenda' toolkit for women considering nominating for Council and for those who want to assist other women to nominate.

In 2020, the City helped pioneer the Greater Bendigo Coalition for Gender Equity (the Coalition) which is a diverse collective of 39 organisations in the public, private and community sector dedicated to advancing gender equity and the prevention of gender-based violence. The Coalition's *Gender Equity Strategy 2020-2025,* of which the City is a signatory to, aims to see community governance structures and representation at all levels of workplaces reflect the gender diversity of the Greater Bendigo community. The strategy also recognises that gender equality is advanced by promoting women's agency in decision-making which in turn supports the reduction of violence against women.

The City has also developed the *Equity For All (E4A) Gender Equity Action Plan 2021-2025* (the plan) to ensure it is able to demonstrate meaningful progress towards gender

equality in the indicators outlined in the *Gender Equality Act 2020*, including the gender composition of its governing body (indicator 2). The following actions aim to support progress in this indicator:

Objective 2.3: We promote increased participation of females and gender diverse people in public life (see also GB Coalition GE Strategy 2.2)			
Action	**Year**	**Responsible**	**Indicator**
2.3.1 Re-endorse and showcase our signatory to the Victorian Local Government Women's Charter	2022	Governance Community Partnerships	Gender composition of governing body
2.3.2 Partner with Victorian Local Governance Association to host 'Local Women Leading Change' informational workshops in the lead up to local government elections	2024	Governance Community Partnerships	Gender composition of governing body
2.3.3 Source available demographic data of Councillors in previous 5 Councils to identify any recurrent themes of under-representation and conduct targeted consultation with community members of under-represented demographics to identify barriers and support mechanisms to run for Council and seek to implement	2023	Governance Community Partnerships	Gender composition of governing body
2.3.4 Identify and address barriers to equitable representation on the City's Youth Council in order to help create a Youth Council that is representative of young people in our community	2023	Community Partnerships	Gender composition of governing body

The City will be presenting information about the Women's Charter to Youth Council on March 14, 2023 and support them to identify and address barriers to equitable representation on Youth Council as per Action 2.3.4 in the plan.

As we continue our progress towards gender equality, it is also valuable to reflect on the considerable gains that have been achieved. Women in Greater Bendigo are represented at all levels within our workplaces and are strongly represented in the roles of elected office, including at a local, state and federal level.

At a local level, the position of Mayor at Greater Bendigo Council has been occupied by a woman since 2016. Cr Andrea Metcalf is serving her second consecutive term as Mayor (2021/22 and 2022/23) and Cr Dr Jennifer Alden 2020/2021. Cr Margaret O'Rourke, previously the City's Mayor from 2016-2020, also serves as Chair of the Bendigo Kangan Institute.

At a state level, the Hon. Jacinta Allan represents the Bendigo East Electorate in the Parliament of Victoria and was recently appointed Deputy Premier in June 2022. Ms Allan is the Minister of Transport and Infrastructure, Minister for the Suburban Rail Loop and the

Minister for the Commonwealth Games Delivery. Maree Edwards has been State Member for Bendigo West since 2010 and has been appointed Speaker of the Victorian Legislative Assembly in 2022, only the fourth woman to hold this position.

At a federal level, Ms Lisa Chesters MP is the Member of Parliament for Bendigo and has been re-elected to the House of Representatives for Bendigo since 2013. Ms Chesters is also the Chair of Standing Committee on Employment, Education and Training.

Report

Local governments, in their capacity as the governments closest to communities, are in a unique position to contribute to the global goal of gender equity for women.

The Charter is consistent with state, national and international protocols which highlight equal rights and opportunities as central to good local governance including: the Declaration on the Role of Australian Local Government (1997), the Worldwide Declaration on Women in Local Government (1998), the Victorian Code of Good Governance (2000) and the National Framework for Women in Local Government 2007, Victorian Human Rights and Responsibilities Charter 2006.

Rationale for Council to reaffirm commitment include:

- Ties in with and provides an avenue to promote existing work to achieve gender equality, prevent violence, and improve outcomes for women, men and gender diverse people, including *Equity for All: Gender Equity Action Plan 2021-2025*, Equity Impact Assessments, Greater Bendigo Coalition for Gender Equity, and Greater Bendigo Against Family Violence Committee.
- Ensures that gender equality remains central to the work that Council does in supporting communities.
- The Charter principles are pertinent to the Victorian Gender Equality Act 2020, which requires Councils to promote gender equality in the workplace and community.

Priority/Importance

Action 2.3.1 (to re-endorse and showcase our signatory to the Victorian Local Government Women's Charter) from the *Equity For All: Gender Equity Action Plan 2021-2025*.

Risk Assessment

Of Victorian Councils, 74 of 79 are signatories to the Charter. Council not re-affirming commitment to the Charter would undermine existing work and progress towards achieving gender equality in public life. Ongoing commitment and support is required to create sustainable change.

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025
Outcome 1 - Lead and govern for all

Secondary Council Plan Reference(s)

Goal 4 - Leadership that sets a standard for good governance and integrity in action, working in partnership with regional Councils

Other Reference(s)

Equity For All Gender Equity Action Plan
Victorian Local Government Women's Charter
Gender Equality Act 2020

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Attachments

Victorian Local Government Women's Charter

15.3. Contracts Awarded under Delegation

Author:	Chelsea Wearne, Procurement Officer
Responsible Director:	Jessica Clarke-Hong, Acting Director Corporate Performance

Purpose

To inform Council of contracts signed under Delegation.

Recommended Motion

That Council note the contracts awarded under delegation during the previous reporting period.

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025
Outcome 1 - Lead and govern for all

Secondary Council Plan Reference(s)

Goal 1 - Accountable, financially responsible, equitable, transparent decision making

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Attachments

1. Contracts Awarded Under Delegation Council Report January 2023 [**15.3.1** - 1 page]

Capital Contracts							
Contract No	Project	Successful Contractor	Delegated Officer	Date Signed	Price (ex GST)	Practical Completion	Budget
Service Contracts							
Contract No	Project	Successful Contractor	Delegated Officer	Date Signed	Price (ex GST)	Contract Term & Options	Budget
Cultural Permission Agreement	Bendigo Creek instream works – Djandak's project management, engagement and design	Dja Dja Wurrung Enterprises acting as Trustee for Djandak Fixed Trust and Trading as Djandak	Chris Mitchell	18/01/2023	Schedule of Rates	10 month with optional additional period of 12 months	$102,865.00
CT000627	Provision of Landscaping Services	Ian Evans Creative Landscapes Dja Dja Wurrung Enterprises MKJ Softscapes	Craig Niemann	19/05/2022 *this award has been missed during the administration process	Schedule of rates	3 Years with the option of a further 2 years (1x2)	Year 1 Budget $750,000 Total estimated budget $3,750,000
Contracts Awarded at Council							
Contract No	Project	Successful Contractor	Delegated Officer	Date Signed	Price (ex GST)	Practical Completion / Contract Term & Options	Budget

16. HEALTHY, LIVEABLE SPACES AND PLACES

16.1. 909 Wellington Street & 6 Uxbridge Street, STRATHFIELDSAYE 3551 - Use and Development of the Land for a Restricted Recreation Facility (Gym)

Author:	Rees May, Statutory Planner
Responsible Director:	Steve Hamilton, Director Strategy and Growth

Summary/Purpose

Application No:	DC/1006/2021
Application Documents:	https://epathway.bendigo.vic.gov.au/ePathway/Production/Web/GeneralEnquiry/ExternalRequestBroker.aspx?Module=EGELAP&Class=P&Type=PLNADV&Applicationid=1049614
Applicant:	Perryman Group Pty Ltd
Land:	909 Wellington Street & 6 Uxbridge Street, STRATHFIELDSAYE 3551
Zoning:	Transport Zone 1 Commercial 1 Zone
Overlays:	Design and Development Overlay – Schedule 27
No. of objections:	5
Consultation meeting:	14 July 2022
Key considerations:	• Whether the use and development of the land for a gym is consistent with the relevant planning policy framework, including whether potential adverse amenity impacts can be appropriately managed. • Whether the access arrangement and the provision of car parking is satisfactory. • Whether the proposed easement removal and creation is acceptable. • Whether the removal of Section 173 Agreement AF343628W is appropriate. • Objector concerns.
Conclusion:	The proposal is consistent with the relevant policies contained within the Municipal Planning Strategy and the Planning Policy Framework, the Commercial 1 Zone and the Design and Development Overlay – Schedule 27. The proposal will promote sustainable growth and development, assist in creating a vibrant commercial centre for Strathfieldsaye and address the needs of the local community. The proposed land use will contribute to the expansion of the Strathfieldsaye Township and the built form has been designed to provide for an orderly and attractive outcome. Appropriate vehicle and pedestrian movements will be provided to and from the site and the proposal is unlikely

	to cause detriment to the amenity of the surrounding area. The proposal represents an appropriate planning outcome for the site and it is recommended that a Notice of Decision to Grant a Permit be issued with conditions.

Recommended Motion

Pursuant to section 61 of the Planning and Environment Act (1987), Council issue a Notice of Decision to Grant a Permit for the use and development of the land for a restricted recreation facility (gym); removal and creation of an easement; display signage; car parking to the satisfaction of the responsible authority; creation of access to a road in a Transport Zone 2; and ending of Section 173 Agreement AF343628W at 909 Wellington Street & 6 Uxbridge Street, STRATHFIELDSAYE 3551 subject to the conditions at the end of this report.

Background Information

The planning permit application was lodged with the City in November 2021 and preliminary concerns were raised with the applicant with regards to the interface of the development with Wellington Street and the inadequacy of proposed landscaping.

Notice of the application was given in March 2022 and 4 objections were received. A formal consultation meeting was held in July 2022, where the applicant agreed to incorporate acoustic fencing into the design. None of the objections were withdrawn as a result of these discussions and it is noted that a fifth objection was received in August 2022. The applicant chose not to provide a response to this objection.

The application was presented at a Delegated Panel Meeting, comprising of senior staff within the Statutory Planning Unit, in September 2022. At this meeting it was determined that, prior to any decision being made on the application, an Acoustic Report should be provided to identify potential noise impacts resulting from the proposal, and amended plans required to be provided to improve the building façade addressing the Wellington Street frontage.

The applicant provided amended plans and an Acoustic Report in December 2022 which have addressed the concerns raised at officer level. This is discussed below.

Report

Subject Site and Surrounds

The subject site comprises of two lots located at 909 Wellington Street and 6 Uxbridge Street, Strathfieldsaye and is formally described as Lot 2 on PS 814922N and Lot 2 on PS 606768G. The site is irregular in shape with an overall area of 2,083 square metres. The

site has a southern frontage onto Wellington Street of 28.85 metres and a western frontage onto Uxbridge Street of 4 metres.

The subject site is currently vacant and is mostly cleared of vegetation with the exception of some planted vegetation in the centre of the site and along the eastern and western boundaries. The topography of the site is relatively flat with a slight fall from the southern and western portions of the site towards the north-eastern corner. No formal access to the site currently exists.

The site is located on the northern side of Wellington Street within the Commercial 1 Zone and is affected by Schedule 27 to the Design and Development Overlay which applies to the Strathfieldsaye Town Centre. The site is strategically located within the heart of the Strathfieldsaye commercial precinct (Town Centre). The adjoining properties to the north, east and west are also located within the Commercial 1 Zone. The surrounding area contains a mix of commercial and residential land use and development as follows:

- The site is adjoined to the north by a 2,373.2sqm lot located within the Commercial 1 Zone, with frontage onto Uxbridge Street and Apsley Lane. The lot contains a single storey dwelling fronting Uxbridge Street, with a swimming pool and outbuilding located to the rear.
- The site is adjoined to the east by a 3,080.9sqm lot within the Commercial 1 Zone which contains a childcare centre (Goodstart Early Learning Strathfieldsaye). The building and play area are located in the central portion of the site with access to the site and car parking located to both the front and rear of the building. The site has access onto both Wellington Street and Apsley Lane.
- The site is adjoined to the south by Wellington Street (which is a road in the Transport Zone 1 due to it being a Department of Transport owned road). On the southern side of Wellington Street is a large lot located within the Mixed Use Zone which contains a dwelling and associated outbuildings located centrally within the site.
- The site is adjoined to the west by the following:
    - North-west of the site is a 1,220.2sqm lot located within the Commercial 1 Zone which contains a single storey dwelling fronting Uxbridge Street.
    - South-west of the site is a 1,409.1sqm lot located within the Commercial 1 Zone which contains a car wash which is accessed from Uxbridge Street. Further west, on the western side of Uxbridge Street is a large lot containing a single dwelling. It is noted that a planning permit (DC/651/2020) has recently been issued (at the direction of the Victorian Civil and Administrative Tribunal) for this site for a medical centre and service station.

Figure 1: Aerial image of the site and surrounds.

Figure 2: View of the subject site from Wellington Street (southern frontage).

Figure 3: View of the site from Wellington Street (southern frontage).

Figure 4: View of the site from Uxbridge Street (western frontage).

Proposal

The application proposes the use and development of the land for a restricted recreation facility (gym); removal and creation of an easement; display signage; car parking to the satisfaction of the responsible authority; creation of access to a road in a Transport Zone 1; and ending of Section 173 Agreement AF343628W as follows:

Restricted Recreation Facility (Gym)

The gym is proposed to operate 24 hours, 7 days a week and will be staffed between the hours of 5.30am to 8.00pm Monday – Friday and 6.00am to 10.00am Saturday. Fobs will be required for afterhours access.

The gym will have a maximum number of 40 patrons (at any one time), and a maximum number of 4 staff.

It is proposed to construct a two storey building in the southern portion of the site, setback 2.3 metres from the Wellington Street frontage and 200mm from the eastern boundary.

The building will have a gross floor area of 893.07sqm.

The ground floor will comprise of:
- A reception area;
- A creche (which will only operate during staffed hours);
- Three offices and two consulting rooms;
- Gym facilities (toilets, change rooms, lockers etc.);
- Open plan gym area.

The upper floor (mezzanine) will comprise of:
- Two consulting rooms;
- A staff room;
- An additional gym space.

The building features a flat roof with a maximum height of 7.7 metres and will be constructed of concrete tilt panels, with a Colorbond roof located behind a parapet wall. The concrete panels will include a colour finish and glazing (in the form of windows and doors), will be provided along portions of the north, south and west elevations. Two verandahs will be incorporated into the design, with one verandah above the entry door on the southern elevation, and one above the entry door on the south-western corner of the building.

The building can be accessed via either the primary entrance at the rear of the building (fronting the carpark) or the two secondary entrances at the front of the building (Wellington Street). A roller door is also located on the western side of the building.

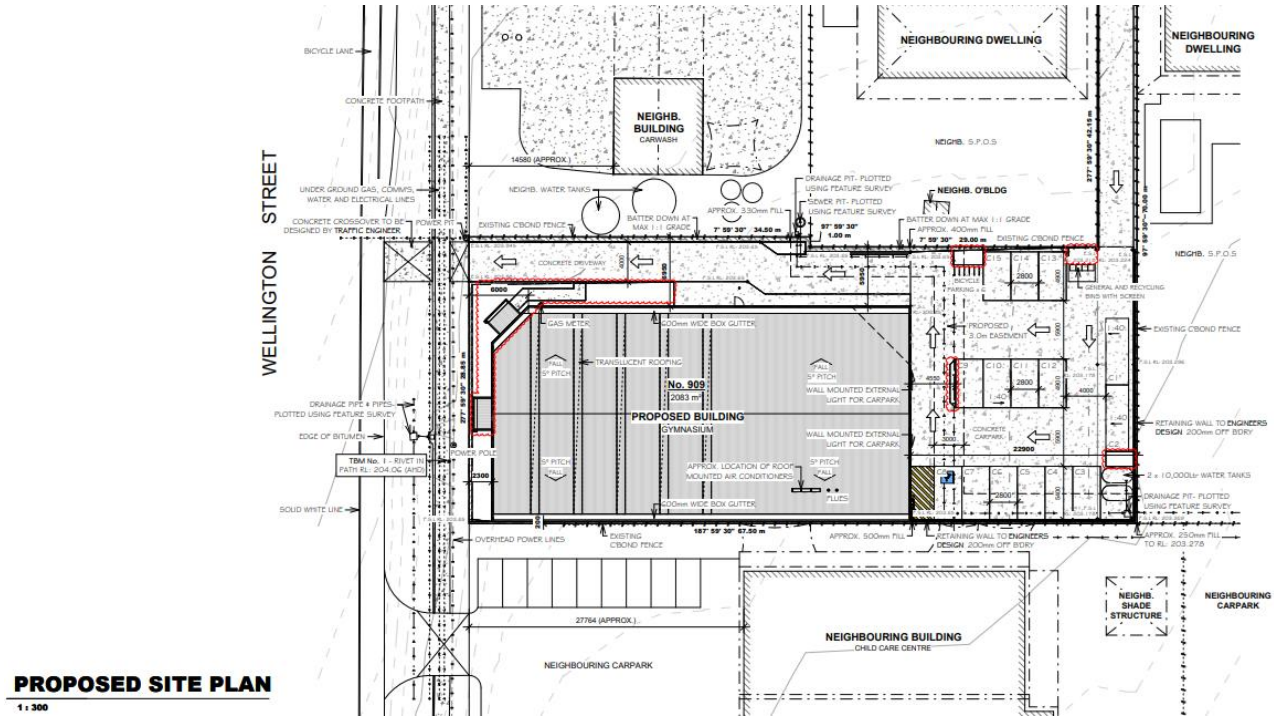


Figure 5: Proposed Site Plan

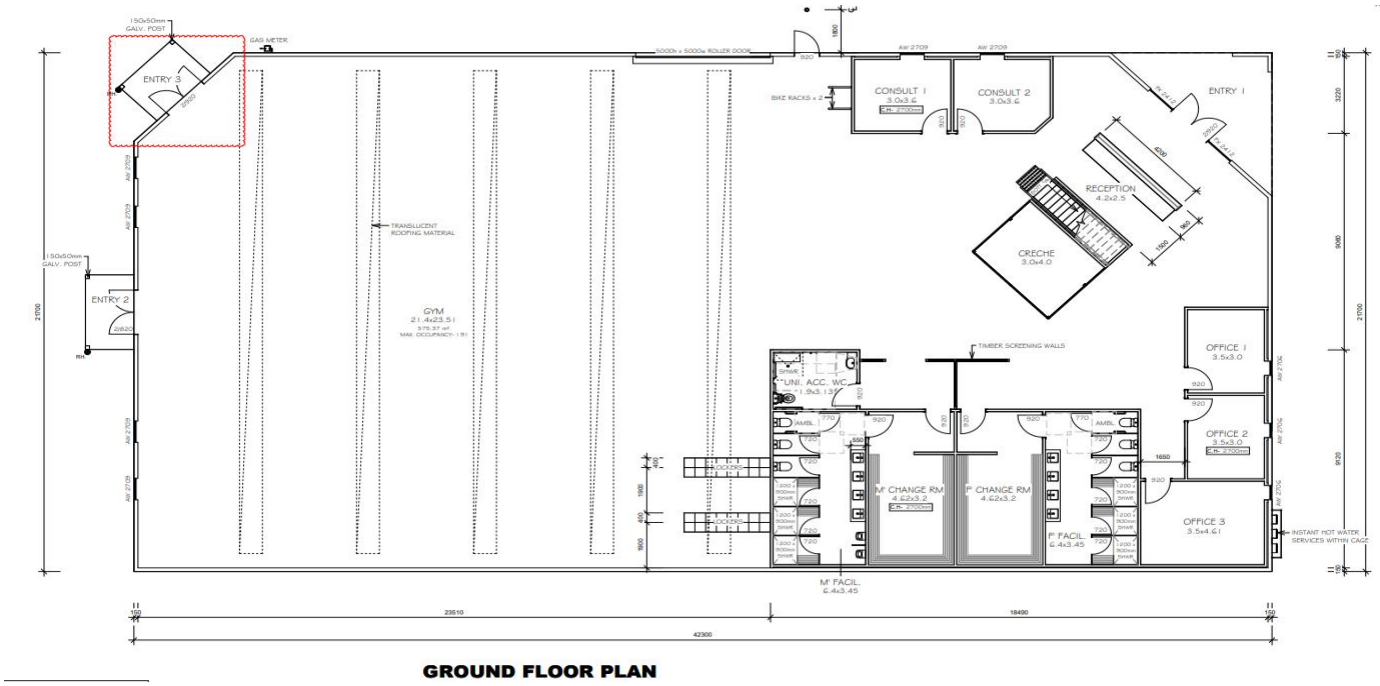
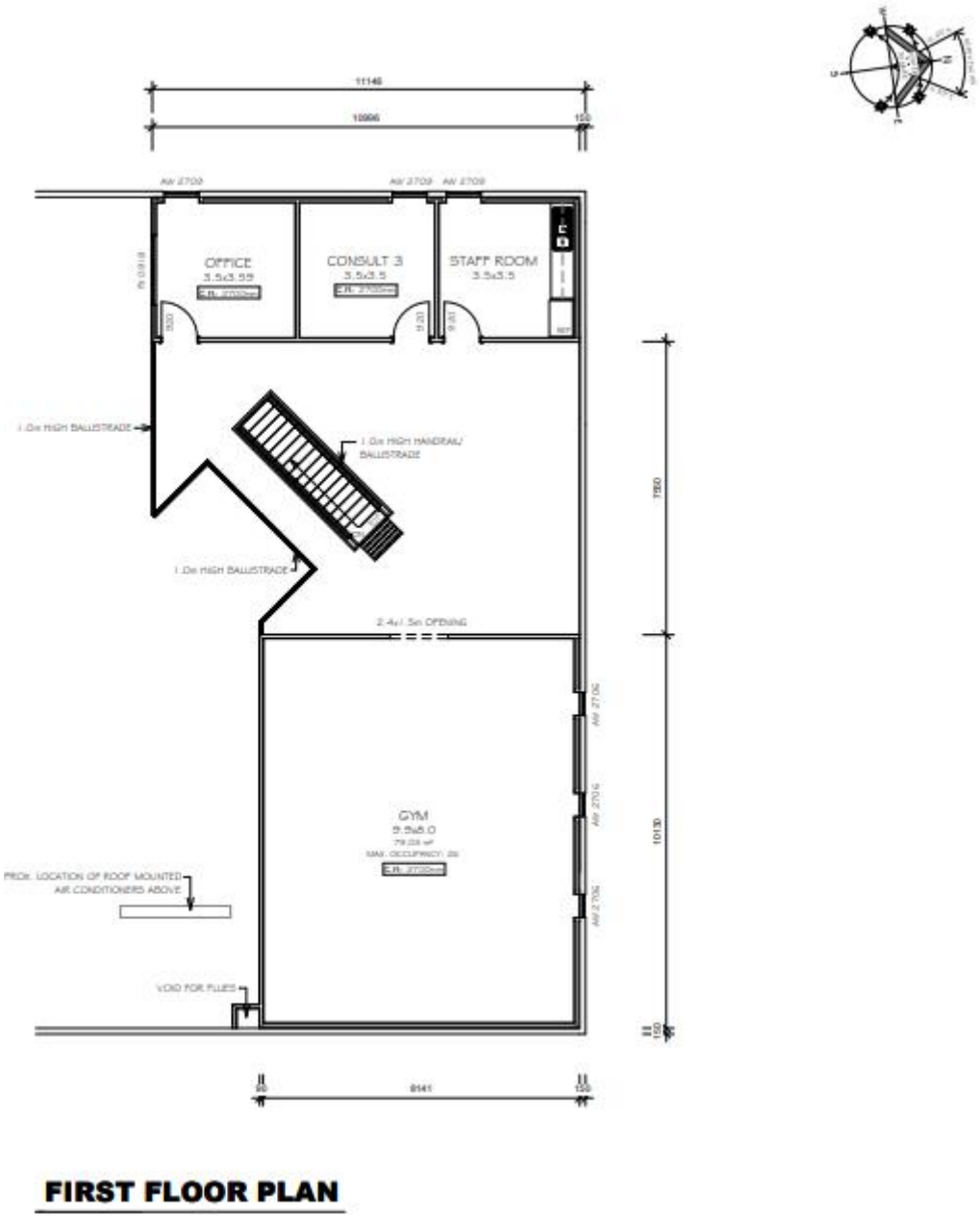


Figure 6: Proposed Ground Floor Plan



FIRST FLOOR PLAN

Figure 7: Proposed First Floor Plan

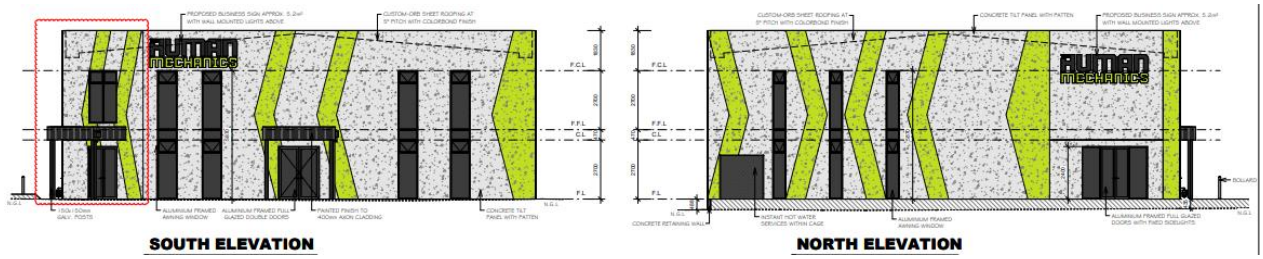


Figure 8: Proposed north and south (front and rear) elevations

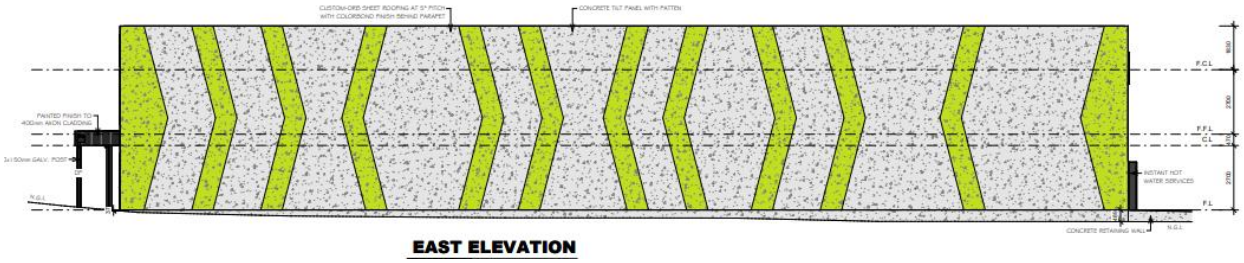


Figure 9: Proposed eastern elevation

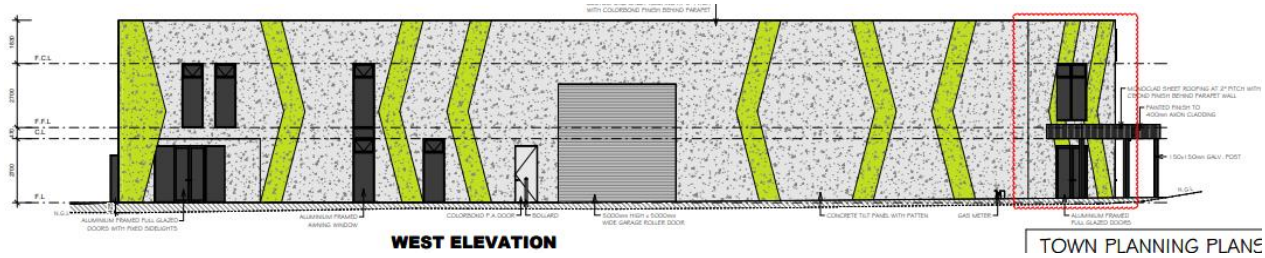


Figure 10: Proposed western elevation

Removal and Creation of an Easement

It is proposed to remove the following existing easements to facilitate the development:

- E-1 on PS814922N – a 3 metre wide easement located along the eastern boundary of 6 Uxbridge Street. The easement is for the purpose of drainage and water supply in favour of the City of Greater Bendigo and the lots in LP134643 (8-10 Uxbridge Street and 913 Wellington Street).
- E-1 on PS606768G – a 3 metre wide easement located along the eastern boundary of 909 Wellington Street. The easement is for the purpose of drainage and water supply and is in favour of the lots in LP134643 (8-10 Uxbridge Street and 913 Wellington Street).
- E-2 on PS606768G – a 2 metre wide easement located along the northern boundary of 606 Wellington Street. The easement is for the purpose of drainage in favour of the City of Greater Bendigo.

The drainage and water supply easements will be redirected on the site and consolidated into a new easement proposed to be created as part of this application in order to protect the new infrastructure.

The easement will be located further north to the rear of the proposed building. The easement will run along the northern portion of the eastern boundary, across the width of the property (to the north of the proposed building) and along the central portion of the western title boundary.

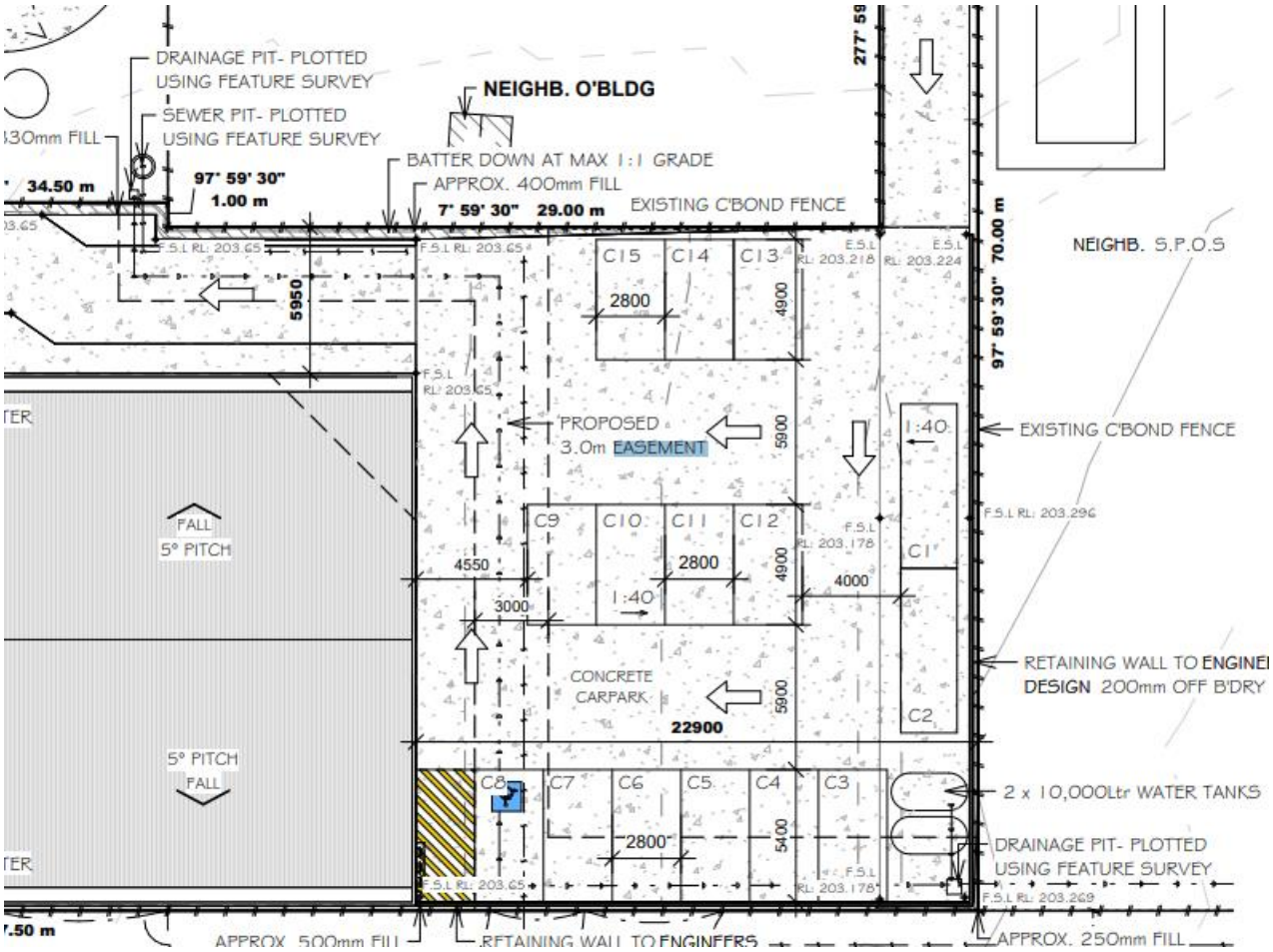


Figure 11: Plan showing the location of the proposed easement.

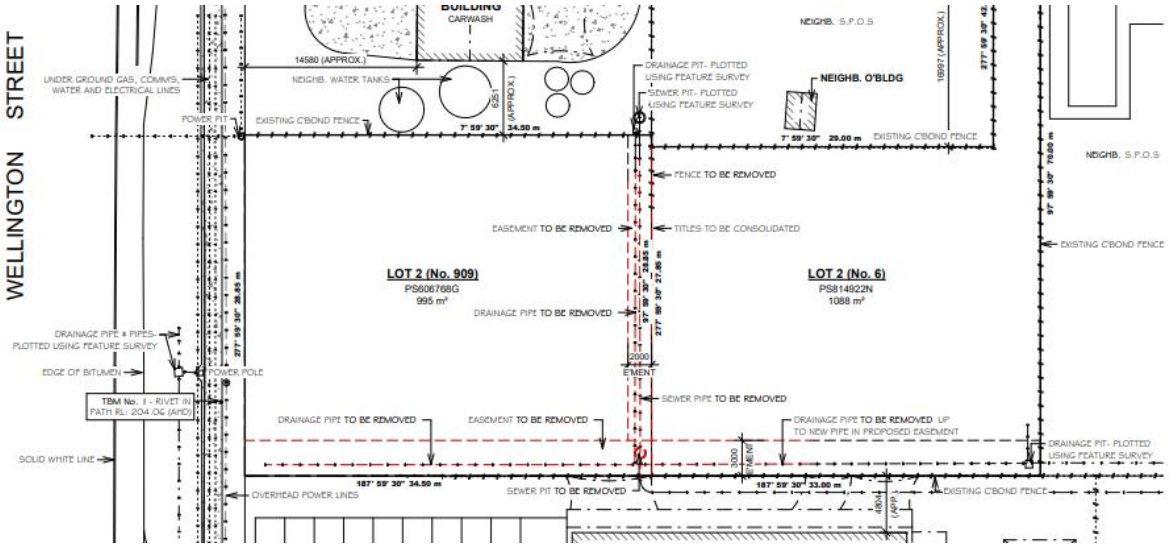


Figure 12: Plan showing the existing easements proposed to be removed.

Ending of a Section 173 Agreement

The land at 909 Wellington Street is affected by Section 173 Agreement AF343628W which relates to the requirement to undertake civil works (which have already been

completed) and also requires a 10 metre front setback for future buildings on the site from Wellington Street. The agreement also burdens Lot 1 PS606768G which is the property at 2 Uxbridge Street that contains the car wash. The applicant is seeking to remove this Agreement, in order to allow for a setback of less than 10 metres.

Signage

The application proposes to display two signs on the northern and southern elevations of the building (as shown in Figure 8 above) as follows:

- A 5.2 square metre internally illuminated business identification sign located on the southern elevation of the building (fronting Wellington Street). This sign is proposed to be illuminated at all times to assist in identifying the building.
- A 5.2 square metre floodlit business identification sign located on the northern elevation of the building (fronting the carpark). The sign will be flood lit by wall mounted lights above the sign, during staffed hours.

Car Parking and Access

A total of 15 car spaces (including one accessible car space) will be provided to the rear of the building, with vehicles to enter the site via Uxbridge Street and then exit the site onto Wellington Street.

6 bicycle spaces will be provided along the western boundary.

Planning Controls - Greater Bendigo Planning Scheme

Why is a permit needed?

Clause	Permit Trigger
Clause 34.01-1 Commercial 1 Zone	A permit is required to use the land for a restricted recreation facility (gym).
Clause 34.01-4 Commercial 1 Zone	A permit is required to construct a building or carry out works.
Clause 43.02-2 Design and Development Overlay – Schedule 27	A permit is required to construct a building or carry out works.
Clause 52.02 Easements, Restrictions and Reserves	A planning permit is required before a person proceeds under Section 23 of the Subdivision Act 1988 to create, vary or remove an easement or restriction.

Clause	Permit Trigger
Clause 52.05-11 Signs	A planning permit is required to: • Display business identification signage (in excess of 8sqm). • An internally illuminated sign (in excess of 1.5sqm) • A floodlit sign.
Clause 52.29-2 Land adjacent to the Principal Road Network	A planning permit is required to create or alter access to a road in a Transport Zone 2.
Section 178A of the *Planning and Environment Act 1987*	An owner of land (or a person who has entered into an agreement under section 173 in anticipation of becoming the owner of the land) can apply to Council to end or vary an agreement.

The following clauses are relevant in the consideration of this proposal:

Municipal Planning Strategy

- Clause 02.03-1 Settlement
- Clause 02.03-5 Built environment and heritage
- Clause 02.03-7 Economic development

Planning Policy Framework

- 11.01-1S Settlement
- 11.01-1R Settlement – Loddon Mallee South
- 11.01-1L-01 Settlement – Greater Bendigo
- 11.01-1L-02 10 minute neighbourhoods – Greater Bendigo
- 11.03-1S Activity centres
- 11.03-1S Activity centres – Greater Bendigo
- 11.03-2S Growth areas
- 11.03-6L-03 Strathfieldsaye
- 13.02-1S Bushfire planning
- 13.05-1S Noise management
- 13.07-1S Land use compatibility
- 15.01-1S Urban design
- 15.01-1L-01 Landscaping – Greater Bendigo
- 15.01-1L-03 Signs
- 15.01-2S Building design

- 15.01-2L Environmentally sustainable development – Greater Bendigo
- 17.01-1S Diversified economy
- 17.01-1R Diversified economy – Loddon Mallee South
- 17.01-1L Diversified economy – Greater Bendigo
- 17.02-1S Business
- 17.02-1L Business – Greater Bendigo
- 18.02-4S Roads

Other Provisions

- 34.01 Commercial 1 Zone
- 36.04 Transport Zone
- 43.02 Design and Development Overlay – Schedule 27
- 52.02 Easements, Restrictions and Reserves
- 52.05 Signs
- 52.06 Car parking
- 52.29 Land adjacent to the Principal Road Network
- 53.18 Stormwater management in urban development

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025

Outcome 2 – Healthy, liveable spaces and places

Secondary Council Plan Reference(s)

Goal 7 – Sustainable population growth is planned for

Consultation/Communication

Referrals

The following authorities and internal departments have been consulted on the proposal:

Referral	Comment
Department of Transport	No objection subject to conditions relating to the requirement for no entrance signs to be installed at the Wellington Street crossover; and specifying construction and maintenance requirements for access lanes, driveways and crossovers.
Engineering - Drainage	No objection subject to standard conditions relating to the requirement to provide detailed drainage plans, the construction of works, and consent for works within the road reserve.
Environmental Health	No objection – provided advice regarding potential permit conditions.
Environmentally Sustainable Development	No objection subject to standard conditions relating to the requirement to annotate specific ESD requirements on the plans, and for works to be undertaken in accordance with the Sustainability Management Plan provided.
Strategic Planning	No objection – provided advice regarding the suitability of the proposal in this location.
Engineering - Traffic	No objection subject to standard conditions relating to construction requirements for vehicle crossings, accessways and car parking areas.

Public Notification

The application was advertised by way of notice on the site and letters to adjoining and nearby owners and occupiers, along with direct notice to the beneficiaries of the Agreement.

As a result of advertising, five objections were received, with the grounds of objection being:

- Hours of operation.
- Noise (music and vehicles).
- Overshadowing to adjoining properties.
- Overlooking to adjoining properties.
- Insufficient provision of car parking (impacts of overflow on school and childcare centre).

- Traffic (increase, congestion, road safety, pedestrian safety, proximity to school).
- Design of building (siting, height, scale, form, lack of articulation, not consistent with Strathfieldsaye Township Plan.
- Landscaping (blockages to gutters on adjoining properties, insufficient space for canopy trees in front setback).
- Light spill (from car park and signage).
- Removal of native vegetation.
- The absence of an Operation Management Plan and Waste Management Plan.
- Accuracy of Traffic Impact Assessment Report (not undertaken at peak times).
- The removal of the Section 173 Agreement will prevent Wellington Street from being widened in the future.
- Proposed fill (will reduce the height of existing boundary fencing).

Figure 13: Aerial image showing the location of objectors' properties within proximity to the site (noting that one objector resides approximately 840 metres from the site).

Planning Assessment

Is the proposed land use appropriate?

The subject site is located within the Commercial 1 Zone which contains the following purpose:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.*
- *To provide for residential uses at densities complementary to the role and scale of the commercial centre.*

The use of the land for a restricted recreation facility (gym) is an allowable use within the Commercial 1 Zone, subject to planning approval. As such, consideration must be given to whether the use of the land for a gym is appropriate in this instance, with regard to the relevant planning policy framework and the context of the site and surrounding area.

In determining the appropriateness of such a land use, the Decision Guidelines of the Commercial 1 Zone direct that consideration must be given to the following relevant considerations:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The interface with adjoining zones, especially the relationship with residential areas.*
- *The effect that existing uses may have on the proposed use.*
- *The drainage of the land.*
- *The availability of and connection to services.*
- *The effect of traffic to be generated on roads.*

The site forms part of a commercial strip within the Strathfieldsaye Town Centre which compromises of a mix of commercial and residential land uses, with the site being located directly adjacent to established residential land use and development.

An assessment of the proposed land use against the relevant planning policy framework is included below.

Clause 02.03-7 Economic development recognises that there will be significant demand for commercial floor space expected until 2035. The urban strategic framework plan and urban area activity centre hierarchy plans identify the Strathfieldsaye Town Centre as being a large activity centre. A strategic direction for economic development is to direct commercial growth to activity centres. The proposal is considered to support the role of the Strathfieldsaye Town Centre.

Clause 11.01-1R Settlement – Loddon Mallee South identifies Bendigo as the regional city and the major population and economic growth hub for the region, offering a range of employment and services. Facilitation of increased commercial and residential densities,

mixed use development and revitalisation projects for underutilised sites and land in Bendigo is encouraged. The proposal supports these objectives.

Policy through **Clause 11.03-1S Activity centres** encourages the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community. Activity centres should be built up to provide high-quality development, activity and living. Strategies include:

- *Supporting the continued growth and diversification of activity centres to give communities access to a wide range of goods and services, provide local employment and support local economies.*
- *Encouraging economic activity and business synergies.*
- *Improving the social, economic and environmental performance and amenity of activity centres.*

The objective of **Clause 11.03-6L-03 Strathfieldsaye** is to support the development of Strathfieldsaye to become a sustainable town with a strong sense of place for a community of approximately 14,000 people. The subject site is located within Precinct 1 Town Centre. Within this precinct a compact and lively town centre should be created that provides a wide range of commercial, employment and residential options to serve the local community. The proposal is consistent with this policy objective.

Clause 17.02-1S Business has the objective to encourage development that meets the community's needs for retail, entertainment, office and other commercial services. Strategies to achieve the objective include locating commercial facilities in existing or planned activity centre and to ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.

The *Strathfieldsaye Township Plan 2012* (the Plan) provides a high level planning vision for how Strathfieldsaye should develop over the next 20 years. The site was identified as being within the existing urban area of the plan. Within the Plan the site is identified as to be retained within the Business 1 Zone and to encourage commercial, residential, community or education uses. By way of background, the Business 1 Zone was part of a former suite of commercial zones and no longer exists in the Victoria Planning Provisions and the site has been converted to the Commercial 1 Zone.

A key strategy of the plan was to prepare an Urban Design Framework to increase the density of buildings within the Core Area of Strathfieldsaye. The *Strathfieldsaye Town Centre Urban Design Framework 2017* was completed in February 2017 and relevant changes including the introduction of the Design and Development Overlay – Schedule 27 were introduced into the Planning Scheme December 2020.

The Urban Design Framework provided a more detailed vision and development direction for land within the Strathfieldsaye Town Centre and included the application site. The site

is located within Precinct 1 Commercial Core, on the boarder of Precinct 2 Transitional Town Centre as shown below in Figure 14.

Figure 14: Strathfieldsaye Urban Design Framework Precincts

The desired character of the Precinct is a lively and compact town centre that provides a wide range of commercial, employment and business options that service the local community, in a native vegetated setting. In relation to land use, the guidelines for Precinct 1 seek to support mixed uses that contribute to a lively town centre and achieve a compact town centre core through medium density and multi-storey development.

From a review of applicable policies outlined above, there is a clear direction that commercial intensification within the Strathfieldsaye Town Centre is to be supported. However, the potential amenity impacts on the surrounding area given the adjoining sensitive uses must be considered along with an appropriate design response. Potential amenity impacts and the proposed design are discussed below.

Are the amenity impacts acceptable?

As outlined above the subject site directly adjoins residential properties which, although being located within the Commercial 1 Zone, contain residential land use and

development. The gym is proposed to operate 24 hours a day, 7 days a week with a patron capacity of 40 people. Consideration must be given to the scale and intensity of the proposal to determine if the proposal is appropriate for the commercial setting given the adjacent sensitive land uses.

Planning Policy through **Clause 13.05-1S Noise management** has the objective to assist the management of noise effects on sensitive land uses. Such strategies include ensuring that development is not prejudiced and community amenity and human health is not adversely impacted by noise emissions, and minimising the impact on human health from noise exposure to occupants of sensitive land uses (residential use, child care centre and school).

Clause 13.07-1S Land use compatibility seeks to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts. Use and development should be compatible with adjoining and nearby land uses and adverse off site impacts minimised through building design, siting and operational measures.

Concerns were raised by objectors in relation to noise, hours of operation, the scale of the built form with overlooking and overshadowing impacts and light spill from the car park and signage. When considering potential amenity impacts it should be acknowledged that one must expect a varied level of amenity for residential land uses within a commercial area, as opposed to that which could be reasonably expected in the heart of a residential area.

An Acoustic Report prepared by a suitably qualified consultant was provided as part of the application material, at the request of the City. The report identified nearby sensitive land uses, undertook background noise monitoring, conducted computational noise modelling to assess potential noise impacts to determine compliance with relevant noise criteria and provided recommendations to mitigate noise. The modelling was undertaken in accordance with the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues (Publication 1826, Environment Protection Authority, May 2021).

The Report concluded the following:

- That amplified music be limited to the daytime;
- That mechanical plant noise impacts associated with the operation pose a low risk. and will comply with noise protocols;
- That traffic noise emissions are not expected to result in adverse noise provided that boundary acoustic fencing is incorporated into the proposal; and
- That the proposal is not expected to result in adverse sleep disturbance impacts to adjoining neighbours.

To mitigate any risk of adverse noise impacts occurring from the proposal the Acoustic Report included the following recommendations:

1. Architectural building treatment and acoustic fencing recommended in Section 3.1 is to be installed on the subjectlLand;
2. Amplified background music noise shall be restricted to the following hours:
    a. 7am to 11pm – Mondays to Saturdays
    b. 9am to 10pm – Sundays
3. Scheduled gym classes with raised background music shall be restricted to the following hours:
    a. 7am to 8pm – Mondays to Saturdays
    b. 9am to 8pm – Sundays
4. Garage roller doors on the West façade shall be kept closed at all times when the gym is in use, unless used for loading/unloading.

The Acoustic Report will be endorsed to form part of the permit and permit conditions will include a Facility Management Plan to be submitted, outlining noise mitigation measures, require the noise attenuation measures to be implemented prior to the commencement of the use and require an acoustic test to be carried out within 6 months of the use commencing to demonstrate that the use complies with the relevant noise legislation.

Other potential impacts to the surrounding amenity include the scale of the built form (visual amenity), overlooking, overshadowing and light spill from the carpark and signage.

Concerns were raised by objectors that the proposal has the potential to cause visual impact to the surrounding area due to the large scale built form. The suitability of the built form is discussed in greater detail below.

The proposal will result in some overshadowing to the adjoining properties due to the scale and height of the development. The extent of overshadowing is not considered unreasonable for a commercial area and will ensure that a reasonable level of amenity for adjoining residential properties is maintained.

It is acknowledged that the proposal may result in some overlooking into adjoining properties from the upper floor windows of the staff room, office and consulting room. Whilst overlooking within the Commercial 1 Zone is only required to be considered in general terms, it is not considered unreasonable to request that these windows be treated with glazing or external screens to prevent any potential overlooking from occurring.

Appropriate conditions will be included on the permit to minimise potential light spill from the carpark and signage including designing the signage to be baffled to ensure that no direct light is emitted outside the boundaries, requiring appropriate light fittings to be installed and limiting the hours of operation of the rear floodlit sign.

Subject to appropriate permit conditions the proposed use and development will be compatible with adjoining sensitive land uses.

Is the site layout and built form appropriate?

Site Layout

The development will be setback 2.3 metres from the Wellington Street frontage which will achieve the design outcome sought by the Design and Development Overlay affecting the site, which seeks to shape the future development of the Town Centre. The site layout allows for the built form to address the streetscape which provides an active frontage, along with passive surveillance. Landscaping will be provided within the front setback, along the internal accessway and within the car parking area where possible to assist in making the site more attractive from the public realm.

Locating the carparking area to the rear of the site (away from the public realm) is also a preferred outcome sought by both the Design and Development Overlay and the *Strathfieldsaye Town Centre Urban Design Framework 2017.*

Built Form

The Design and Development Overlay seeks for new development to have a minimum useable floor space of 60 per cent of the lot area. The 60 per cent floor space requirement is not able to be achieved in this circumstance due to the ‘battle axe’ layout of the site and the need for car parking to be provided on site. This is considered to be an acceptable outcome in this instance.

Preliminary concerns were raised with the applicant in regard to the building presenting as an industrial style building in a commercial setting. It was advised that design measures such as providing a splay on the front corner of the building, providing additional glazing, providing verandahs and painting should be considered in order to break up the bulk of the building and allow the building to better respond to its commercial context. The applicant amended the plans in response to the concerns raised.

The proposed development will be contemporary in design, will fit comfortably within the streetscape and is considered to be in keeping with the preferred character of the area. Whilst it could be said that the front setback is minimal for a building of this scale, this is the design outcome which the Overlay is ultimately seeking to achieve. The proposed built form has been designed to integrate with the streetscape due to the splayed south-western corner, the inclusion of verandahs, glazing and external painting to create visual interest. The design response is considered to be visually compatible with the desired built form.

The building façade has been designed to provide variation in wall articulation, vertical windows, door opening and verandahs. In order to break up the visual bulk and massing of the building, coloured bandings will be included in sections of the panelling. This will also create visual interest.

Rooftop plant and services will be integrated into the design below the parapet to reduce impact to the streetscape, and bin storage facilities will be provided at the rear of the site and screened from the public view.

The proposal provides for a multi storey built form to assist in achieving a compact town centre. The Design and Development Overlay seeks for new development to have a minimum height of 6 metres. The built form will have an overall height of 7.7 metres.

Planning policy through **Clause 15.01-2L Environmentally sustainable development – Greater Bendigo** aims to achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The application has considered the policy and the proposal accompanied by a Sustainability Management Plan, Green Travel Plan and a Drainage Strategy. The application has been referred to the City's Environmentally Sustainable Design Officer who has provided consent to the proposal subject to minor amendments to the plans occurring to incorporate sustainable design measures.

It is concluded that the proposal satisfactorily addresses the provisions of the Planning Scheme including the applicable Municipal Planning Strategies, the applicable Planning Policy Framework, the Commercial 1 Zone and the Design and Development Overlay. Therefore, the proposal should be supported.

Car Parking and Access

A total of 15 car spaces are to be provided. It is noted that given a specified car parking rate is not provided for a restricted recreation facility, car parking is to *be* provided to the satisfaction of the responsible authority (meaning that the City is required to consider what number of car spaces would be appropriate). Clause 52.06 seeks to ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.

The application was accompanied by a Traffic Impact Assessment Report (TIAR) prepared by a suitably qualified consultant (O'Brien Traffic), which included a Car Parking Demand Assessment in accordance with Planning Scheme requirements. The TIAR included an analysis of the car parking demand likely to be generated by the proposal, along with surrounding land use and development and the availability of on-street parking in the locality.

The assessment was based on the gym operating with a maximum of 16 patrons and 2-3 staff on-site during normal business hours of 9am to 5pm on weekdays and a higher number of 30-40 patrons and 3-4 staff outside of the normal business hours and on weekends. While the TIAR was based on an unknown number of patrons, the modelling is

consistent with the maximum number of 40 patrons which the application is seeking approval for.

The TIAR concluded that there is sufficient car parking availability on the site and within the immediate area to support the proposal, stating the following:

- 15 car spaces will largely cater for the demand likely to be generated during business hours (9am – 5pm).
- The 12-21 (approximate) additional car spaces required to accommodate the likely demand can be found within the adjoining road reserves, within a 100 metre walk of the site excluding the car parking spaces fronting Strathfieldsaye Primary School.

Car parking matters were a key theme amongst the objections received. It is acknowledged that there are limitations within the TIAR submitted with the application due to the car parking survey being undertaken from the use of aerial imagery (due to COVID-19 restrictions at the time).

Based on the information provided in the TIAR and a review of the surrounding area it is the officer's view that the additional car parking required to accommodate the likely demand can reasonably be provided off-site within the road reserves of Wellington Street and Uxbridge Street. It is anticipated that outside of peak times, the 15 car parking spaces provided on site will be able to cater for the use.

It is noted that a Decision Guideline outlined in the *Strathfieldsaye Town Centre Urban Design Framework 2017* is to support on-street car parking throughout the activity centre to calm vehicle speeds, enhance the perception of safety for pedestrians, without compromising walking and cycling amenity.

The design and layout of the car park is functional and meets the design standards of Clause 52.06. Car parking has been located to the rear of the building (away from the public realm), in accordance with planning policy objectives.

A Landscape Plan has been provided which shows somewhat limited landscaping surrounding the development. A condition will be included on the permit requiring an amended Landscape Plan to be provided which includes the provision of native canopy trees, where possible. In addition to the canopy trees the Landscape Plan will require the inclusion of garden beds along the northern and western boundaries to adjoin the proposed carparking spaces. Given that the car parking is not visible from the streetscape and the nature of the parking will generally be short stay in nature it is considered that the *car park* landscaping response will be acceptable.

A one-way access arrangement is proposed so that vehicles will enter the site from Uxbridge Street into a carpark located to the rear of the building, and then exit the site onto Wellington Street. Concerns were raised by objectors in relation to pedestrian safety, noise generated from vehicles entering the site from the narrow accessway, and vehicles

existing onto Wellington Street. The application was referred to the Department of Transport, due to Wellington Street being a Transport Zone 1 road. The Department of Transport did not object to the granting of a permit subject to conditions relating to access requirements. The application was also referred to the City's Traffic Engineers who supported the proposal subject to standard conditions. The proposal allows for the safe and efficient access to/from the site and for the movement of vehicles throughout the site. Both Uxbridge Street and Wellington Street are capable of accommodating the increase in traffic resulting from the proposal and there is no evidence to suggest that the proposal would adversely impact pedestrian safety.

Signage

Signage, in the form of two signs, will be included on the northern and southern façades of the building to promote the business. As encouraged by Clause 15.01-1L-03 Signs the extent of signage has been rationalised to reduce cumulative impacts on the public realm, and the scale of signage is proportionate to the scale of the building. The signage is appropriate for the commercial nature of the area and will not visually dominate the streetscape.

Both of the signs are proposed to be illuminated by wall mounted lights above the signs. The sign at the front of the site is proposed to be illuminated at all times and the rear sign only proposed to be illuminated during staffed hours. A condition will be included on the permit requiring the signage lighting to be baffled and designed to ensure that there is no glare towards motorists or spillage of light onto the roadway or neighbouring properties. The rear sign will only be illuminated during staffed hours to minimise the impact on adjoining properties.

The car parking area will be provided with lighting. Fittings will be installed on the lights to minimise light spill to the adjoining residential properties.

Removal and Creation of an Easement

As outlined above, the existing drainage and water supply easements are required to be removed in order to facilitate the proposed development. This is not unusual for a proposal to develop a vacant site and it is proposed that the pipelines will be relocated into a new easement that will protect this infrastructure.

The easement will be located further north to the rear of the proposed building. The easement will run along the northern portion of the eastern boundary, across the width of the property (to the north of the proposed building) and along the central portion of the western title boundary. Three easements are proposed to be removed and consolidated into one easement.

The application was accompanied by a Drainage Strategy which found that the site can be appropriately drained subject to the inclusion of rainwater tanks to capture stormwater runoff. The Drainage Strategy has been reviewed and supported by the City's Drainage Engineers.

The proposal to relocate the easements is unlikely to adversely affect the interest of any person or authority and will not result in any adverse impacts on drainage or water supply.

Ending of Section 173 Agreement AF343628W

Pursuant to Section 178A(1) of the Planning and Environment Act 1987 *an owner of land, or a person who has entered into an agreement under section 173 in anticipation of becoming the owner of the land, may apply to the responsible authority for agreement to a proposal— (b)) to end an agreement in respect of that land, wholly or in part or as to any part of that land.*

In considering a proposal under section 178A to end an agreement, the responsible authority must consider the following:

(a) the purpose of the agreement;

The purpose of the Section 173 Agreement is to require civil works to be completed and to ensure a 10 metre setback of any buildings or substantial structures from the Bendigo-Redesdale Road (Wellington Street) for future road widening.

The civil works required have since been completed.

(b) whether and why the agreement is no longer required;

The agreement was entered into in 2007. Since the entering of the agreement there has been significant strategic work undertaken within Strathfieldsaye by the City of Greater Bendigo, including the *Strathfieldsaye Township Plan* 2012 and the *Strathfieldsaye Town Centre Urban Design Framework 2017* which was implemented into the Greater Bendigo Planning Scheme as part of Planning Scheme Amendment C232. The Design and Development Overlay – Schedule 27 now affects the site and encourages building setbacks of less than 2 metres. The Department of Transport were consulted as part of this planning scheme amendment process and did not raise concern regarding future building setbacks.

The application was referred to the Department of Transport who has provided consent to the proposal.

(c) whether the ending of the agreement would disadvantage any person, whether or not a party to the agreement;

It is considered unlikely that the ending of the agreement would disadvantage any person that is a party or not a party to the agreement. The Agreement affects this property and the adjoining property at 2 Uxbridge Street only.

(d) the reasons why the responsible authority entered into the agreement;

The responsible authority entered into the agreement based on a referral response received from VicRoads requesting a permit condition as part of Planning Permit Application DS/74/2007. The permit condition required the landowner to enter into an agreement to provide a 10 metre setback of any buildings or substantial structures from the Bendigo-Redesdale Road (Wellington Street) for future road widening.

As outlined above there has been significant strategic work undertaken since the agreement was entered into and the Department of Transport has also provided consent.

The agreement was also entered into for roadworks and civil works (including the construction of a footpath) relating to the subdivision that created 909 Wellington Street. The purpose of the agreement was to ensure that these works were completed prior to Statement of Compliance for the subdivision being issued. These works have since been completed.

(e) any relevant permit or other requirements the land is subject to under the Subdivision Act 1988;

Not applicable

(f) any other prescribed matter.

Not applicable.

In principal support in relation to the removal of the agreement has previously been provided by the City on 22 September 2021. The parties to the Section 173 Agreement did not object to the proposal.

Conclusion

The proposal is consistent with the relevant policies contained within the Municipal Planning Strategy and the Planning Policy Framework, the Commercial 1 Zone and the Design and Development Overlay – Schedule 27.

The proposal will promote sustainable growth and development, assist in creating a vibrant commercial centre for Strathfieldsaye and address the needs of the local community. The proposed land use will contribute to the expansion of the Strathfieldsaye Township and the built form has been designed to provide for an orderly and attractive outcome.

Appropriate vehicle and pedestrian movements will be provided to and from the site and the proposal is unlikely to cause detriment to the amenity of the surrounding area. The proposal represents an appropriate planning outcome for the site subject and it is recommended that a Notice of Decision to Grant a Permit be issued with conditions.

Options

Council, acting as the responsible authority for administering the Planning Scheme, may resolve to: grant a permit, grant a permit with conditions, or refuse to grant a permit.

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Proposed Notice of Decision Conditions

1. MODIFIED PLAN REQUIRED
   Before the use and 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. The plans must be generally in accordance with the plans submitted with the application but modified to show:
   (a) The boundary acoustic fencing and building treatment measures outlined in the Acoustic Report (prepared by Enfield Acoustic Consultants Pty Ltd, dated 6/12/2022) to be clearly notated on all relevant plans.
   (b) One of the following measures introduced to the upper floor windows of the staff room, consult 3 and office to prevent potential overlooking:
      i. Fixed, obscure glazing to a height of 1.7 metres above floor level.
      ii. Permanently fixed external screens to at least 1.7 metres above floor level and be no more than 25% transparent.
   (c) The following requirements clearly notated on all relevant plans:
      i. Heating and cooling systems within 1 star, or Coefficient of Performance (COP) and Energy.
      ii. Efficiency Ratios (EER) 85% or better than the most efficient capacity unit available.
      iii. Hot water heating units within 1 star or 85% or better that the most efficient equivalent capacity unit available.
      iv. Water taps 5-star, toilets 4-star and showers minimum 3 star WELS rating or greater.
      v. All exposed floors and ceilings (forming part of the envelope) are to demonstrate a minimum 10% improvement in required NCC2019 insulation levels (total R-value upwards and downwards)

(d) An amended Landscape Plan in accordance with the requirements of Condition 3.
(e) Amended plans in accordance with the requirements of Condition 29 (Department of Transport).

2. NO LAYOUT ALTERATION

The use and/or development permitted by this permit as shown on the endorsed plan*(s)* and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the responsible authority.

3. AMENDED LANDSCAPE PLAN

Before the development starts, a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions. The landscaping plan must be generally in accordance with the landscape concept plan dated 7 December 2022 prepared by Penno Drafting and Design.

The plan must show:

(a) A survey (including botanical names) of all existing vegetation to be retained and/or removed
(b) Details of surface finishes of pathways and driveways
(c) Planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant
(d) Canopy trees (minimum two metres tall when planted) in the following areas:
    i. Two canopy trees within the carparking area at the rear of the building.
    ii. Three canopy trees along the western elevation of the proposed building.
(e) The inclusion of garden beds and shrub planting along the portions of the northern and western boundary alongside where car parking spaces will be provided.

All species selected must be to the satisfaction of the responsible authority

4. LANDSCAPING WORKS

Before the use starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.

5. LANDSCAPING MAINTENANCE

The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

6. NUMBER OF PATRONS

No more than 40 patrons may be present on the premises at any one time without the written consent of the responsible authority.

7. INDOOR RECREATION FACILITY

The use permitted by this permit must only occur within the building, and not outside.

8. FACILITYMANAGEMENT PLAN

Prior to the commencement of the use, a Facility Management Plan must be submitted

to the satisfaction of the City of Greater Bendigo, the Gym Amenity Management Plan shall be endorsed to form part of the planning permit and its recommendations implemented on an ongoing basis. The Facility Management Plan shall include (but not be limited to) the following:

(a) Details of the hours of operation of the premises.
(b) Details of the maximum number of patrons to be permitted on the premises.
(c) Processes in place for limiting noise, particularly to adjoining residential properties including, but not limited to, the following:
    i. Measures in place to ensure that indoor music noise levels complies with EP Regulations 2021 and Publication 1826: Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues - Part II, noting that noise level requirements differ at different times of the day.
    ii. Measures in place to ensure that music (volume and bass) cannot be increased by patrons (including outside of staffed hours).
    iii. Patrons to be reminded to keep noise to a minimum when entering and exiting the facility.
    iv. Gym equipment that generates significant vibration and structure-borne noise must be laid out to provide maximum separation from adjoining sensitive uses.
    v. Measures such as matting and isolation mounts must be implemented for application to gym equipment which induce significant vibration.
(d) Measures to be taken by management and staff to ensure participants do not cause nuisance or annoyance beyond the land.
(e) Deliveries and waste collections to be conducted in accordance with EPA Publication 1254 ‘Noise Control Guidelines’ and shall not occur after 10pm, and before 7am weekdays or 9am all other days.
(f) Any other measures to be undertaken to ensure no unreasonable amenity impacts.
(g) A complaint handling process to be put in place and undertaken by all staff to effectively manage complaints received from neighbours and local residents.
(h) Requirement for staff to read the management plan.
(i) Any other management strategies relevant to your business.

9. AMENITY OF THE LOCALITY
The use permitted by this permit must not, in the opinion of the responsible authority, adversely affect the amenity of the locality by reason of the processes carried on; the transportation of materials, goods or commodities to or from the subject land; the appearance of any buildings, works or materials; the emission of noise, artificial light, vibration or otherwise.

10. CONSTRUCTION OF BOUNDARY ACOUSTIC FENCING
Before the use commences, the acoustic fencing as shown on the endorsed plans and outlined in the Acoustic Report (prepared by Enfield Acoustic Consultants Pty Ltd, dated 6/12/2022) must be constructed. Suitable evidence that the required fencing has been constructed must be provided to the responsible authority.

11. ACOUSTIC ASSESSMENT
Should the Responsible Authority understand the operation resulting from the development is likely to have been generating negative noise impacts, the owner and/or occupier of the land is to submit within 30 days an Acoustic Report, to the satisfaction of the Responsible Authority, containing amongst other things:
(a) Noise measurements and acoustic assessment demonstrating noise generated is to be no greater than the applicable noise limits as per current legislation, guidelines and best practices; and
(b) Any measures considered necessary to achieve this.

12. NO FLASHING LIGHT IN SIGNS
Flashing or intermittent light must not be used in the sign(s) permitted by this permit except with the prior written consent of the responsible authority.

13. EXTERNAL SIGN ILLUMINATION
(a) External sign lighting must be designed, baffled and located to the satisfaction of the responsible authority such that no direct light is emitted outside the boundaries of the subject land.
(b) The floodlit signage must be installed and maintained to ensure there is no glare towards motorists or spillage of light onto the roadway or neighbouring properties.
(c) The floodlit sign on the northern elevation of the building must only be floodlit during the staffed hours of 5.30 am to 8.00 pm Monday to Friday and 6.00am to 10.00am Saturday.

14. MAINTENANCE OF SIGN
The sign(s) permitted by this permit must be maintained in good condition to the satisfaction of the responsible authority.

15. LIGHT EMISSIONS
Lighting must be designed, baffled and located to the satisfaction of the responsible authority to prevent any adverse effect on adjoining land.

16. CONSTRUCTION MANAGEMENT PLAN
Prior to commencement of works the owner or applicant must submit a Construction Management Plan (CMP) for approval by the responsible authority. This plan shall include, but not be limited to:
(a) A site specific plan showing proposed erosion and sedimentation control works.
(b) Techniques and intervention levels to prevent a dust nuisance.
(c) Techniques to prevent mud and dirt being transported from the site to adjacent streets.
(d) The protection measures taken to preserve any vegetation identified for retention.

During construction of works associated with the subdivision, the applicant must employ and provide the protection methods contained in the CMP to the satisfaction of the responsible authority and the Environment Protection Agency.

17. FENCING OF SITE
The fence(s) as shown on the endorsed plans*(s)* must be erected and maintained to the satisfaction of the responsible authority.

18. PROPERTY APPEARANCE
The subject land must be kept neat and tidy at all times and its appearance must not, in the opinion of the responsible authority, adversely affect the amenity of the locality.

19. REFRIGERATION AND AIR CONDITIONING EQUIPMENT
Any equipment required for refrigeration, air-conditioning, heating and the like must be suitably insulated to EPA standards for the purpose of reducing noise emissions and must be located so as to not be highly visible from the street to the satisfaction of the responsible authority.

20. SECURITY ALARMS
All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service.

21. DRAINAGE PLANS
Before the use and development starts, 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 will form part of the permit. The plans must be drawn to scale with dimensions. The plans must include
(a) Underground drainage;
(b) A point of connection;
(c) Stormwater quality;
(d) Stormwater detention;
    i. Allowable Discharge : Q 10% = 20 l/s.

22. CONSTRUCTION OF WORKS
Road works, drainage and other civil works must be constructed in accordance with the City of Greater Bendigo Infrastructure Design Manual and plans and specifications approved by the Responsible Authority and must include:
(a) Underground drainage.

23. PEDESTRIAN SIGHTLINES
The minimum sight line for pedestrian safety must be provided at the exit lane frontage so as to accord with Clause 52.06-9 of the City of Greater Bendigo Planning Scheme.

24. CAR PARKING AND ACCESSWAY REQUIREMENTS
Before the occupation of the development, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be constructed to meet the following requirements and standards:
(a) Surfaced with an all-weather seal coat
(b) Line marked to indicate each car space and all access lanes
(c) Accessible parking bays, where required by the BCA, must be provided in accordance with AS/NZ 2890.6-2009, section 2 and must be signed in accordance with AS/NZ 1742.11-1999 and line marked in accordance with AS/NZ 2890.6-2009, section 3.
(d) The car parking spaces must be line marked and maintained to Council's satisfaction. (Clause 52.06-11).
(e) The carpark must be provided with public lighting in accordance with AS/NZ 1158.3.1 with fittings to minimise spill lighting on to neighbouring property (including road reserves) in accordance with AS/NZ 4282-1997.
(f) The driveway in Uxbridge Street between the property boundary and the kerb must be constructed in accordance with the Infrastructure Design Manual.
(g) The driveway off Uxbridge Street must be 1.0 metre clear of the stormwater pit and service pits or the pit lid be replaced with a Class C driveable lid in accordance with AS3996:2006.

The car parking and access areas must comply with the requirements of clause 52.06 of the Greater Bendigo Planning Scheme and meet all other applicable Australian and New Zealand Standards unless otherwise agreed in writing with the responsible authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times. The areas must be maintained in a continuously useable condition to the satisfaction of the responsible authority.

25. BICYCLE STORAGE
Provision must be made for the parking of 6 bicycles on the subject land to the satisfaction of the responsible authority.

26. SUSTAINABILITY MANAGEMENT PLAN
    (a) All works must be undertaken in accordance with the endorsed Sustainability Management Plan (SMP) including BESS and STORM reports to the satisfaction of the responsible authority. No alterations to the SMP, BESS and STORM reports may occur without the prior written consent of the responsible authority.
    (b) Prior to the commencement of occupation, a report must be submitted to the responsible authority. The report must be to the satisfaction of the responsible authority and must confirm that all measures specified in the Sustainability Management Plan (SMP) including the BESS and STORM reports have been implemented in accordance with the approved plans. The report must include all levels of insulation to be provided and photographic evidence that all measures approved as part of the SMP, BESS and STORM reports have been implemented. These include but not limited to:
        - Rainwater tank location, size and pumps connected to toilet;
        - The number and area of translucent roof sheeting;
        - Schedule of water fittings and fixtures;
        - The Coefficient of Performance (CoP) of heating and cooling systems used achieving the notational requirements on plan and the relevant level of insulation installed to meet the notations on plan.

27. ENDING OF SECTION 173 AGREEMENT
    Prior to the commencement of the development, the registered Section 173 Agreement (Dealing Number AF343628W) must be ended. The agreement must be ended at the full cost of the applicant/ owner having engaged the City's Solicitors.

28. EASEMENTS
    All existing and proposed easements and sites for existing and required utility services must be set aside in favour of the relevant authority for which the easement or site is to
    be created on the plan of subdivision submitted for consolidation under the Subdivision Act
    1988.

29. DEPARTMENT OF TRANSPORT
    (a) Prior to the endorsement of plans, amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be generally in accordance with the advertised plans but modified to show:
        i. The installation of two 'no entry' signs at the Wellington Street crossover to the satisfaction of the Head, Transport for Victoria.
    (b) Prior to commencement of the use the crossover and driveway are to be constructed to the satisfaction of the Head, Transport for Victoria and the

Responsible Authority and at no cost to the Head, Transport for Victoria.

(c) Prior to commencement of the use the access lanes, driveways, crossovers and associated works must be provided and available for use and be:
   i. Formed to such levels and drained so that they can be used in accordance with the endorsed plans.
   ii. Treated with an all-weather seal or some other durable surface.

(d) Driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (e.g. by spilling gravel onto the roadway).

(e) The level of the footpath must not be lowered or altered in any way to facilitate access to the site.

30. EXPIRY OF PERMIT

This permit will expire if the development permitted by this permit is not completed and the use permitted by this permit is not commenced within 2 years from the date hereof or if the use is discontinued for a period of 2 years. The time within which the development must be completed and the use must commence may, on written request made before or within 12 months after the expiry of the permit, be extended by the responsible authority.

Department of Transport Note

The proposed development requires the construction of a crossover. Separate approval under the Road Management Act 2004 for this activity may be required from the Head, Transport for Victoria. Please contact the Department of Transport prior to commencing any works.

Consent For Work On Road Reserves

The applicant must comply with;

- The Road Management Act 2004,
- Road Management (Works and Infrastructure) Regulations 2005 and
- Road Management (General) Regulations 2005

with respect to any requirements to notify the Coordinating Authority and/or seek consent from the Coordinating Authority to undertake “works” (as defined in the Act) in, over or under the road reserve. The Responsible Authority in the inclusion of this condition on this planning permit is not deemed to have been notified of, or to have given consent to undertake any works within the road reserve as proposed in this permit.

Noise Control

Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol
(Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues (Publication 1826.2, Environment Protection Authority, May 2021)).

Attachments

1. CONFIDENTIAL REDACTED - Objections - 909 Wellington Street and 6 Uxbridge Street, Strathfieldsaye [**16.1.1** - 12 pages]

16.2. 22 Old Ford Road, REDESDALE 3444 - 2 Lot Subdivision and Removal of Native Vegetation

Author:	Penny Loader, Statutory Planning
Responsible Director:	Steve Hamilton, Director Strategy and Growth

Summary/Purpose

Application No:	DS/918/2021
Application Documents:	https://epathway.bendigo.vic.gov.au/webdocs/applications.aspx?appid=1041454
Applicant:	Ekaterina Svyatitskaya
Land:	22 Old Ford Road, REDESDALE 3444
Zoning:	Township Zone
Overlays:	Environmental Significance Overlay 1 Environmental Significance Overlay 3
No. of objections:	10
Consultation meeting:	9 August 2022
Key considerations:	Whether the proposed subdivision is in accordance with the Greater Bendigo Planning Scheme, in particular planning policies relating to wastewater disposal, neighbourhood character and native vegetation.
Conclusion:	The proposal is generally in accordance with the relevant State and local policy, the intent of the Township Zone, the provisions of the Environmental Significance Overlay, the relevant particular provisions and the decision guidelines at Clause 65. It is recommended that Council approve the proposal and issue a Notice of Decision, subject to conditions.

Recommended Motion

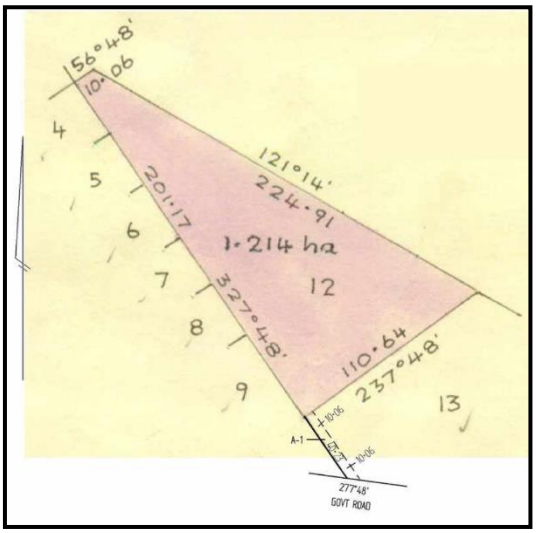
Pursuant to section 61 of the Planning and Environment Act (1987), Council issue a Notice of Decision to Grant a Permit for 2 lot subdivision and removal of native vegetation at 22 Old Ford Road, REDESDALE 3444 subject to the conditions at the end of this report.

Report

Subject Site and Surrounds

The subject site is a 1.2 hectare, wedge-shaped Crown allotment located on the southern side of the Campaspe River. The lot is unusually situated, with the south-western boundary formed by allotments facing Old Ford Road (single lane, unsealed). The south-eastern boundary abutting a parcel (developed with a dwelling at the eastern end and a vacant paddock at the point of adjoinment) provides access to Old Ford Road by way of a

10m wide carriageway easement (see images below), which is fenced to approximately 6m from the boundary with a carriageway of approximately 4m.



Figures 1 and 2: Current Title Plan showing carriageway easement and image of driveway along carriageway easement.

The subject site contains a dwelling, which was relocated to the site from elsewhere by virtue of planning permit DR/450/2002, and associated outbuildings (a garage constructed around 2019 and an old shed clustered towards the north-eastern end of the lot). The existing wastewater disposal system is located on the southern side of the dwelling. The site falls to the north-east, towards the Campaspe River and is heavily vegetated at the northern end and along the north-eastern boundary. The trees range from very small saplings to large, mature specimens (refer to Figures 4 and 5 below.

Figure 3: View of the site from the southern boundary/northern end of the carriageway easement.

Figures 4 and 5: Vegetation at the northern end of the subject site

The subject site is located 550 metres north of Redesdale's town centre and is surrounded by lots located within the Township Zone of varying sizes ranging from around 2,000 square metres to 1.3 hectares, most of which are developed with dwellings. The City's aerial imagery shows that relatively little development has occurred in the area over the last decade.

The site is approximately 43km south-east of the Bendigo City Centre.

Figure 6: Location map showing subject site. Objectors' properties marked with a star (one property attracted two separate objections).

Restrictive Covenants

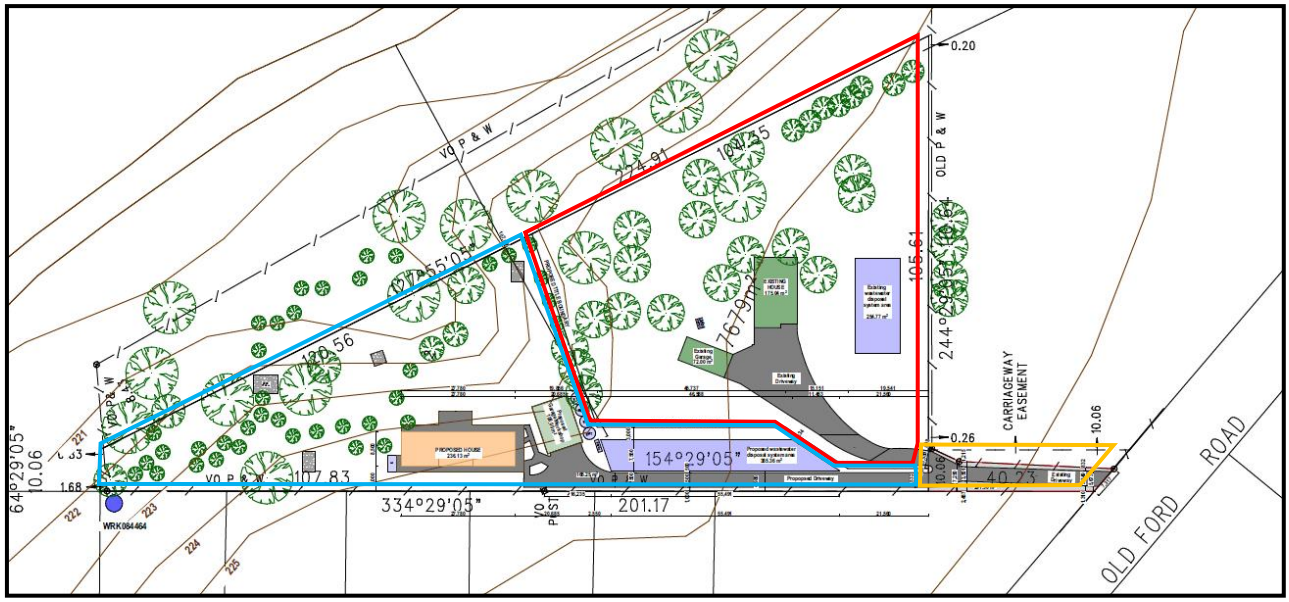
The site is not subject to any restrictive covenants that would affect the proposal.

Proposal

The application proposes to subdivide the subject site into two lots as follows:

- Lot 1 – will have an area of 6,748 square metres and will contain the existing dwelling and outbuildings (outlined below in red).
- Lot 2 – will have an area of 5,412 square metres, will have a battle-axe configuration and will be vacant (outlined below in blue).

Both lots will utilise the existing carriageway easement from Old Ford Road (outlined below in Figure 7, in yellow). Please note the dwelling and shed (shown in Figure 7 below) are not included in the scope of this application and are indicative only.


0.20
OLD P & W
105.61
24.4°
CARRIAGEWAY EASEMENT
10.06
0.26
40.23
OLD FORD ROAD
154°29'05"
334°29'05"
201.17
107.83
64°29'05"
10.06
1.68
WRK084464
PROPOSED HOUSE
Proposed Driveway
Existing Driveway
Existing Shed
Existing Garage
Existing Dwelling
Existing wastewater disposal system area
Proposed wastewater disposal system area
Existing Water Tank
Existing Septic Tank
Existing Power Pole
Existing Power Pole
Existing Power Pole

The trees to be removed are all located towards the northern end of the lot in the vicinity of the indicative building envelope. The trees all have co-dominant stems (multiple trunks) and are of lower value than other trees on the site.

Planning Controls - Greater Bendigo Planning Scheme

The following clauses are relevant in the consideration of this proposal:

Municipal Planning Strategy (MPS)

- Clause 02.03-1 Settlement
- Clause 02.03-2 Environment and Landscape Values

Planning Policy Framework (PPF)

- Clause 11 Settlement
- Clause 12.01-1L Protection of Biodiversity – Greater Bendigo
- Clause 12.01-2S Native Vegetation Management
- Clause 15.01-3S Subdivision Design
- Clause 15.01-5S Neighbourhood Character

Other Provisions

- Clause 32.05 Township Zone
- Clause 42.01 Environmental Significance Overlay, Schedule 1
- Clause 42.01 Environmental Significance Overlay, Schedule 3
- Clause 52.17 Native Vegetation
- Clause 56 Residential Subdivision
- Clause 65 Decision Guidelines
- Clause 71.02-3 Integrated Decision-Making

Why is a permit needed?

- ***Township Zone***

  A planning permit is required pursuant to Clause 32.05-5 for the subdivision of land.
- ***Environmental Significance Overlay***

  A planning permit is required pursuant to Clause 42.01-2 for the subdivision of land.

  A planning permit is not required for the vegetation removal under the overlay as the removal does not exceed 1 hectare and is not within 30 metres of the waterway.
- ***Native Vegetation***

  A planning permit is required pursuant to Clause 52.17-1 to remove, destroy or lot native vegetation.

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025

Outcome 2 – Healthy, liveable spaces and places

Secondary Council Plan Reference(s)

Goal 7 – Sustainable population growth is planned for

Consultation/Communication

Referrals

The following authorities and internal departments have been consulted on the proposal:

Referral	Comment
North Central Catchment Management Authority	No objection – subject to conditions requiring a restriction on title prohibiting the construction of any new buildings or works within 50 metres of the top of the river bank.
Coliban Water	No objection – subject to conditions relating to the appropriate management of wastewater as described in the Land Capability Assessment. It is noted that the initial referral response provided was an objection based on non-compliance with water protection policies.
Goulburn Murray Water	No objection – subject to conditions requiring the plan being amended to show a reserve wastewater disposal field at least 80 metres from the river, wastewater envelopes being carried over to title and compliance with construction standards. It is noted that the initial referral response provided was an objection based on non-compliance with the EPA Code of Practice for Onsite Wastewater Management.

Referral	Comment
Department of Environment, Land, Water and Planning	No objection – subject to conditions relating to control of runoff during construction, fencing of the Crown land boundary and restriction of use of the Crown land during works.
Traffic	No objection – did not request any conditions
Drainage	No objection – did not request any conditions.
Environmental Health	No objection – did not request any conditions.

Public Notification

The application was advertised by way of notice on the site and letters to adjoining and nearby owners and occupiers.

As a result of advertising, 10 objections were received, with the grounds of objection being:

- Increased density not in accordance with existing character and pattern of development.
- Potential obstruction of private viewlines.
- Dimensions of lot will obligate minimal setback from neighbouring properties, encroaching on privacy and amenity.
- Non-compliance with policy, in particular catchment protection, due to proximity to river.
- Destruction of habitat.
- Location of development in wildlife corridor will disrupt a range of native species.
- Potential amenity impacts including noise and dust associated with increased vehicle movements and construction.
- Degradation of Old Ford Road by increased vehicle movements and construction machinery.
- Potential impacts to water quality associated with effluent disposal system (increase in waste water in sensitive area and potential inundation of field by river).
- Risk of disruption to natural overland flows.
- Applicant’s response to Area of Aboriginal Cultural Heritage Sensitivity.
- Dimensions of access inadequate to permit emergency vehicles.
- Proposal does not result in net community benefit.

The objections are discussed below.

A consultation meeting was held on 9 August 2022 in the Redesdale Hall and was attended by the permit application, objectors and a Ward Councillor. The concerns raised by objectors were discussed at length and while there was no resolution, the meeting was invaluable to provide additional context for the issues raised.

The applicant subsequently provided a revised Land Capability Assessment and site plan which was circulated to all parties. This resulted in the withdrawal of objections from Coliban Water and Goulburn Murray Water (as referral authorities) and conditional consent from both authorities. None of the objections from nearby property owners and occupiers were withdrawn and some objectors provided addendums to their original objections.

Planning Assessment

The subject site is located within the Township Zone, for which the identified purpose is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for residential development and a range of commercial, industrial and other uses in small towns.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

There is no minimum lot size specified in either the zone or the schedule to the zone, nor are there any neighbourhood character objectives in the schedule.

The application has been assessed against the relevant policy contained within the Municipal Planning Strategy, Planning Policy Framework, the Township Zone, the Environmental Significance Overlay Schedules 1 and 3, Clauses 52.17 and 56 and the general decision guidelines at Clause 65. The key themes of this assessment can be defined by lot capability, views of referral authorities, policy and character. Impact on the natural environment underpins all of these themes. The concerns raised by objectors are discussed throughout these themes, with other matters addressed at the end of the report.

Can the proposed lot accommodate a future dwelling?

The creation of a new lot in the Township Zone for residential purposes is in accordance with the identified purpose of the zone. The zone also specifies that a subdivision must meet a number of specified objectives and standards of Clauses 56 relating to residential subdivision. As the land does not have access to reticulated sewerage, a Land Capability Assessment and a plan showing a building envelope and effluent disposal area were required to be provided as part of the application material.

In the interests of orderly planning, the potential of the lot to accommodate a future dwelling is a primary consideration, there being little point creating a new lot if it is

incapable of being developed. As this application does not seek approval to develop a dwelling on the proposed lot (which would require further planning permission), the question of whether the lot can accommodate a dwelling has been considered in general terms, rather than assessment of specific development plans.

The assessment against Clause 56 has found the proposal compliant with the relevant objectives. The applicant has also provided a Land Capability Assessment, prepared by a suitably qualified consultant, which concludes that the site is capable of retaining and treating wastewater to the standard required by the Environment Protection Authority (EPA) for a dwelling of up to and including three bedrooms. This is discussed in further detail below.

The applicant has also provided an indicative layout plan which demonstrates that both the effluent disposal field and a dwelling and outbuilding can be accommodated on the proposed lot whilst maintaining the necessary setback distances requested by referral authorities and specified in the schedules to the Environmental Significance Overlay. There are no setback requirements specified in the zone.

Whilst the site is somewhat constrained, the proposed vacant lot is capable of meeting the setbacks specified in policy. Particularly, the effluent disposal field is located 107 metres from the watercourse (edge of the riverbank). The indicative dwelling envelope is setback 27 metres from the eastern boundary and 5 metres from the western (38 and 42 Old Ford Road) boundary, and the driveway is located 1 metre from the western (24 and 38 Old Ford Road) boundary.

It has been demonstrated that proposed Lot 2 is capable of being developed with a dwelling in the future.

What are the views of referral authorities?

The Decision Guidelines of the Environmental Significance Overlay require consideration to be given to the views of referral authorities. The application was referred to multiple authorities, in accordance with Planning Scheme requirements, all of which provided responses in relation the proximity of the site to the river and its location in a special water catchment supply area.

It should be noted that the role of a statutory body is to make a decision or recommendation based on whether an outcome is *acceptable,* not whether an outcome is *ideal.*

Coliban Water provided comments in relation to the location of the proposed effluent field being upslope of the existing dwelling and questioned whether the potential for any irrigation flows beneath the existing dwelling was an acceptable outcome. Regardless of this concern, no objection was offered on the conditions that the Land Capability

Assessment (LCA) be endorsed, the recommendations of the LCA form part of the permit and that the eventual effluent disposal system be installed, operated and managed in accordance with a City of Greater Bendigo issued septic permit.

North Central Catchment Management Authority (NCCMA) offered no objection, subject to the imposition of a restriction on title to prohibit the construction of any new buildings or works within 50 metres of the top of the river bank. This is to ensure that the future development of the land is acceptable. Upon request, NCCMA provided a diagram of the extent of this area, which does not prejudice the ability of the proposed lot to accommodate a dwelling and associated infrastructure (as shown in Figure 9 below).

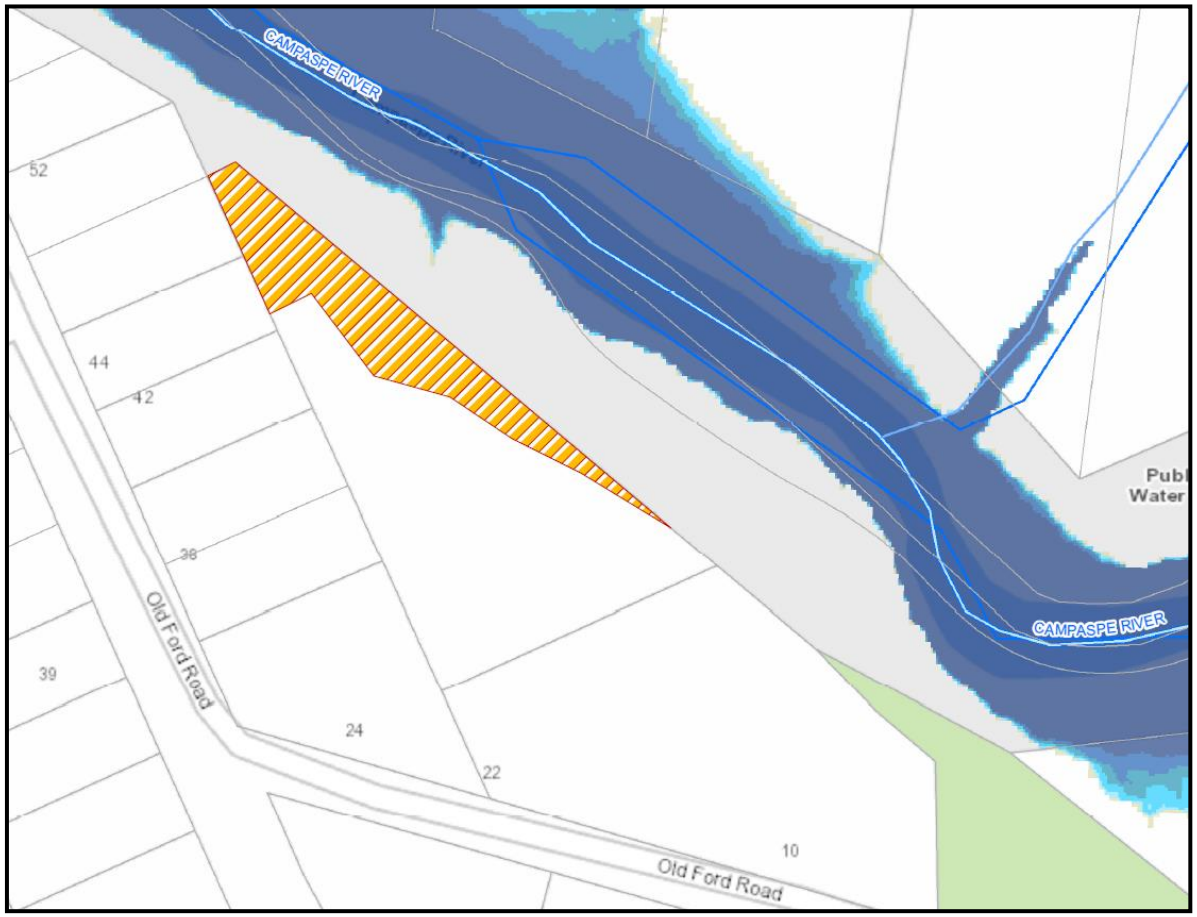


Figure 9: Plan of title restriction from NCCMA showing 50m from top of bank

The Department of Environment, Land, Water and Planning (DELWP) did not provide any objection to the proposal on the condition that no polluted or sediment laden runoff is permitted to discharge into the adjoining Crown land, that the boundary fence shared with the Crown land is realigned to the actual title boundary at the expense of the applicant and that no works, machinery storage, vehicle movements or other activities occur on the adjoining Crown land.

Goulburn Murray Water (GMW) has noted that no reserve effluent disposal field has been shown on either the site plan, nor described in the LCA. No objection was offered provided that any future application for the certification of the plan of subdivision (a process

following issue a planning permit) be referred to them, works are carried out in accordance with the EPA's Civil Construction Guide and the effluent disposal field is carried over as a restriction on title. GMW has also requested that the plan of subdivision include a reserve field to equal size as the primary field with a minimum setback of 80m from the river. This requirement will require an amended layout, by way of increasing the setback of a future dwelling on Lot 2 from the western boundary i.e. requiring the building envelope to be placed nearer to the river. The dimensions of the site can accommodate this change. The restriction requested by NCCMA still leaves in excess of 1,500m^2 of potentially developable area on the proposed lot, which is more than sufficient to accommodate a future dwelling and associated structures.

The application was referred internally to the City's Environmental Health and Engineering (Drainage and Traffic) teams who supported the proposal without imposing any conditions. The City's Engineering Unit (Traffic) initially requested construction of a driveway, but as the location of the building envelope is obligated to change as a result of Goulburn Murray Water's condition, this will now be considered as part of any future dwelling application.

The above referral authority requirements will be included as conditions on the permit (if approved), which will ensure that construction associated with servicing the site and wastewater associated with any future dwelling will be managed appropriately and safely.

Is the creation of a new lot in accordance with policy?

The Municipal Planning Strategy (MPS) provides two particularly pertinent strategic directions for settlement growth, being to protect high value environmental areas from development and to focus residential development outside the Urban Growth Boundary in rural townships shown on the rural strategic framework plan (which includes Redesdale).

The subject site also contributes to several environment and landscape values defined in the MPS including distinctive fauna (one objector has submitted a detailed species list which includes Swift Parrot sightings, and another cited a Brush Tailed Phascogale; both species mentioned in the policy) and the Campaspe River and associated environs. The strategic directions for these environment and landscape values do not necessarily prohibit development in these areas but do highlight the importance of their protection.

Such protection is also sought at both the State and local policy levels, in particular seeking riparian buffers. The policy does not specify the appropriate width of a buffer, with various authorities for this application imposing 50 metres (NCCMA – buildings and works), 100 metres (Coliban – effluent field) and 80 metres (GMW – reserve effluent field).

As outlined above, planning approval is not required for the removal of the native vegetation under the Environmental Significance Overlay. As such, the removal can only be assessed against the relevant policy contained within the State and local policy framework, and Clause 52.17.

It was initially argued by the applicant that the trees proposed to be removed were exempt from requiring planning approval, by virtue of the regrowth exemption at Clause 52.17. The applicant failed to provide suitable evidence that this regrowth is less than 10 years old and as such it was determined that the exemption does not apply.

The application was accompanied by a Native Vegetation Removal Report, in accordance with policy requirements, which identifies the extent of removal as being 0.142 hectares, which falls within the Intermediate Assessment pathway and has a biodiversity value of 0.184.

The removal of native vegetation has been minimised as far as possible by locating the building and wastewater envelopes on the clearest part of the site. The vegetation removal cannot be avoided completely due to the requirements to locate the wastewater envelopes in certain areas of the site. The native vegetation removal is restricted to five multi-trunked trees. The trees contribute to the vegetated backdrop of the site, but their removal will not dramatically alter the appearance of the site.

Figure 10: Photo showing trees with co-dominant stems proposed to be removed

An offset will be required via a permit condition which will ensure that there is no net loss to biodiversity as a result of the proposal.

Concerns were raised by objectors in relation to potential impacts of the tree removal on specific species, particularly given the proximity of the site to the Campaspe River. The Native Vegetation Removal Report notes that given the extent of vegetation removal is less than 0.5 hectares, the proposal will not have a significant impact on any habitat for a rare or threatened species. The trees are located in excess of 50 metres from the riverbank and as such are unlikely to result in any adverse impacts on the river environs. Some objectors were concerned that a wildlife report was not required for this proposal. Such an assessment is only required for a Detailed Assessment pathway per the

Guidelines for the Removal, Destruction or Lopping of Native Vegetation, and is therefore unable to be requested for this application. The assessment therefore, must be based on the information which is available, against the decision guidelines provided by the policy.

A Public Open Space contribution has not been requested on the basis that the proposal is for a two lot subdivision and the constraints of the site mean it is unlikely to be further subdivided in the future, in accordance with the requirements of Section 18 of the *Subdivision Act 1988.*

The proposal is generally in accordance with relevant planning policy.

Does the proposed subdivision accord with the character of the area?

The surrounding area is characterised by single detached dwellings, mostly with extensive gardens, on lots of ranging between 2,200 square metres to 6,500 square metres with larger lots located to the south. Redesdale, in general, has a lower than conventional density development pattern owing to the lack of reticulated sewerage. Most dwellings in the vicinity are well set back from their street boundaries, though side and rear setbacks are highly variable (ranging from 2.2 metres at number 24 to 40 metres at number 38). Dwellings display a variety of styles, materials and siting angles. There are few street trees along Old Ford Road, with the vegetated backdrop of the street drawn from private gardens and the river reserve.

The proposed subdivision seeks to create two lots of 6,700 square metres and 5,400 square metres, which is consistent with the prevailing density. Whilst this application does not seek to construct a dwelling, proposed Lot 2 is capable of containing a building envelope setback from all boundaries and resulting in minimal vegetation loss, on a lot with adequate dimensions to accommodate associated outbuildings, water tanks and landscaping; all of which are consistent with the character of the street.

The proposed lot configuration is unusual and there are no other battle axe allotments in the township. The proposed subdivision seeks to create a battle axe lot, which is uncharacteristic in the area, but otherwise sets out two parcels of dimensions consistent with the surrounding area. It should be acknowledged that lots in the surrounding area are of varying shapes and configurations which provides a somewhat varied character with regards to lot layout. The creation of a new lot will not adversely impact the character of the street as viewed from the public realm as the location of the crossover and drive will remain unchanged (though the avenue of trees may require some lopping).

Concerns were raised by objectors in relation to noise and dust associated with the driveway running the length of several property boundaries. These concerns are valid, but do not warrant a refusal. Nor is it unusual for an internal driveway to be located in proximity to a property boundary. Noise and dust associated with the introduction of services required to support the subdivision will be minimal as the only service available to

be connected will be electricity. Any issues relating to residential noise in the future can be investigated and appropriately addressed, should they eventuate. Ultimately, a planning decision cannot be based on an assumption that a future development may be occupied by noisy residents.

On balance, the proposed subdivision presents an acceptable character outcome.

The application has been assessed against the objectives and standards of Clause 56 and has been found to be generally compliant with all relevant objectives and standards.

Objector concerns

A number of concerns were raised in the objections, some of which were addressed in the consultation meeting – such as the matter of the Bushfire Prone Area construction requirements, which are not relevant to this proposal as development is not proposed and the application is for fewer than 10 lots. Other matters which do not necessarily fit in with the main themes (outlined above) are discussed here.

There is a concern that approval of this application may set a precedent for more development of this nature. Every application must be assessed on its merits and while there may be scope within the policy for more subdivision proposals in Redesdale, a decision on this application cannot be founded upon this potential.

Suggestions were made by objectors that the applicant could build elsewhere. Council's role it to make a decision on the application at hand, not consider alternative proposals.

Several objectors raised the issue of obstruction of private views. It is well established that there is no legal right to a view, though views are a relevant amenity consideration. Due to the available developable area on the proposed lot, there would be ample opportunity for a future dwelling and outbuildings to be sited to ensure a reasonable sharing of views. A permit condition can ensure that a building envelope of appropriate dimensions can ensure a future development is sited to accommodate the reasonable sharing of views.

Concerns associated with potential construction noise are outside the scope of consideration and are controlled by legislation which sits outside of the Planning Scheme.

No road upgrades were required by the City's Engineering Unit, nor was there a request for a pre-construction defect report, which indicates that the expert department is not concerned with potential damage to Old Ford Road as a result of this application.

The site is also mapped as an area of Aboriginal Cultural Heritage Sensitivity, but a Cultural Heritage Management Plan is not required as the two lot subdivision is not classified as a high impact activity under the *Aboriginal Heritage Regulations 2018*.

Conclusion

The City has received an application for the subdivision of land into two lots and the removal of native vegetation. The application is generally in accordance with the relevant State and local policy. It is recommended that Council approve the proposal and issue a Notice of Decision to Grant a Permit, subject to conditions.

Options

Council, acting as the responsible authority for administering the Planning Scheme, may resolve to: grant a permit, grant a permit with conditions, or refuse to grant a permit.

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Proposed Notice of Decision Conditions

1. MODIFIED PLANS REQUIRED
   Before the commencement of any works or certification of the Plan of Subdivision, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. These must be generally in accordance with the plans submitted with the application but modified to show:
   a) The following requirements for Lot 2:
      i. A building envelope sited outside the exclusion zone and effluent disposal fields required by the authorities described.
      ii. Primary and reserve envelopes as required by Goulburn Murray Water and described in Condition 8.
   b) The location of all fencing works to be undertaken as required by the Department of Environment, Land, Water and Planning in accordance with the requirements of Condition 10.
   c) An exclusion zone, and a notation included on the plans excluding any buildings and works within 50m of the top of the river bank as required by the North Central Catchment Management Authority in accordance with the requirements of Condition 11.

   When approved, the plans will be endorsed and will then form part of the permit.

2. LAYOUT PLANS
   The subdivision and vegetation removal, as shown on the endorsed plans, must not be altered without the prior written consent of the responsible authority.

3. CREATION OF RESTRICTION
Prior to the certification of the Plan of Subdivision, restrictions on the plan of subdivision in accordance with the plans endorsed under this permit must be included on the Plan of Subdivision. The Plan of Subdivision must include a building envelope and primary and reserve effluent disposal envelopes as restrictions and must be drafted in absolute terms so as not to provide a secondary consent mechanism.

4. REFERRAL OF PLAN
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.

5. NATIVE VEGETATION REMOVAL
The total area of native vegetation permitted to be removed is 0.142 hectares, comprised of 5 trees.
To offset the removal of the five trees (0.142 hectares of native vegetation) the permit holder must secure a native vegetation offset(s) that meet the following:
- A general offset of 0.047 general habitat units located within the North Central Catchment Management Authority Boundary or Greater Bendigo City Council municipal district;
- Have a Strategic Biodiversity score of at least 0.184;
- Must be in accordance with *Guidelines for the Removal, Destruction or Lopping of Native Vegetation (DELWP, 2017).*

6. OFFSET EVIDENCE
Before any native vegetation is removed, evidence that the required offset for the project has been secured must be provided to the satisfaction of the responsible authority. This evidence must be one or both of the following:
a) A credit extract(s) allocated to meet the requirements of the permit from the Native Vegetation Credit Register; or
b) An established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site.

A copy of the offset evidence must be endorsed by the responsible authority and form part of this permit.

In the event that a security agreement is entered into, the applicant must provide the annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of a statutory authority.

7. NOTIFICATION OF PERMIT CONDITIONS
Before works start, the permit holder must advise all persons undertaking the

vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.

8. GOULBURN MURRAY WATER
   a) Any Plan of Subdivision lodged for certification must be referred to Goulburn-Murray Rural Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.
   b) All works within the subdivision must be done in accordance with EPA Publication 1834 Civil Construction, Building and Demolition Guide (November 2020).
   c) The Plan of Subdivision submitted for Certification must show wastewater disposal field envelopes identified accordance with proposed site plan (Kat Design – project 22_XI_013 TP-03) dated Oct 2021.
   d) The Plan of Subdivision submitted for Certification must show a reserve wastewater disposal field envelope the size of the primary disposal field for use in the event that the primary field requires resting or has failed. The reserve field envelope is to be at least 80m from the Campaspe River where possible setback distances should be maximised in accordance with EPA Code of Practice – Onsite Wastewater Management.

9. COLIBAN WATER
   a) Prior to the commencement of the construction of buildings or other works, the Land Capability Assessment, prepared by Land Capability Assessment Victoria, Report No. LCA20072022, and dated July 2022, must be endorsed under the permit.
   b) The disposal area, and any recommendations for fencing or the prevention of trafficable access to the disposal area, which are set out in the Land Capability Assessment, must be shown on the site plans that form part of the permit.
   c) The wastewater treatment systems and disposal areas must be installed, and, at all times, must be operated and managed, in accordance with the endorsed Land Capability Assessment and the council-issued septic tank permit.

10. DEPARTMENT OF ENVIRONMENT, LAND, WATER AND PLANNING

Runoff

   a) No polluted and/or sediment laden run-off or other concentrated flow of water is to be discharged directly or indirectly into the adjoining Crown land being Crown allotment 21, Section 17 Township and Parish of Redesdale.

Fencing

   b) The current fence line is within the Crown land and prior to work commencing, the shared boundary with the adjoining Crown land (Crown allotment 21, Section 17, Township and Parish of Redesdale) must be fenced on the correct boundaries to the satisfaction of the Department of Environment, Land, Water and Planning in accordance with the Fences Act 1968 and at the applicant’s expense.

Works

c) To prevent impacts on Crown land, all works are to be contained within the freehold land and must take place from the freehold side of the boundary.

Adjoining Crown Land

d) No plant, machinery or associated equipment, is to be permitted on the adjoining Crown land. Adjoining Crown land must not be used for truck turning areas, parking areas or temporary stack sites during the construction of buildings or works. There is to be no removal of native vegetation associated with the development from the adjoining Crown land.

11. NORTH CENTRAL CATCHMENT MANAGEMENT AUTHORITY

Prior to Certification of the Plan of Subdivision, a suitable restriction must be placed on title prohibiting the construction of any new buildings or works within 50 metres of the top of bank of Campaspe River.

12. MANDATORY REQUIREMENTS

a) The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
b) All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
c) 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.

13. TELECOMMUNICATIONS

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

- A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time.
- 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.

Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the

provider's requirements and relevant legislation at the time.

- A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

14. EXPIRY OF THE PERMIT

The subdivision and vegetation removal permission hereby permitted will expire if any of the following circumstances occur:

a) The subdivision is not certified within five years from the date of this permit; or
b) The subdivision is not completed within five years from the date of certification of the plan of subdivision and the vegetation removed.

The Responsible Authority may extend the time for certification of the plan if a request is made in writing before the permit expires or within six months afterwards.

City of Greater Bendigo Engineering Note

A Works within Road Reserves permit must be obtained from the City of Greater Bendigo Engineering Department prior to any work commencing in the road reserve.

CONSENT FOR WORK ON ROAD RESERVES

The applicant must comply with:

(a) The Road Management Act 2004,
(b) Road Management (Works and Infrastructure) Regulations 2005, and
(c) Road Management (General) Regulations 2005

with respect to any requirements to notify the Coordinating Authority and/or seek consent from the Coordinating Authority to undertake "works" (as defined in the Act) in, over or under the road reserve. The responsible authority in the inclusion of this condition on this planning permit is not deemed to have been notified of, or to have given consent, to undertake any works within the road reserve as proposed in this permit.

Attachments

1. CONFIDENTIAL REDACTED - Combined Objections to DS/918/2021 - 22 Old Ford Road REDESDALE [**16.2.1** - 55 pages]

16.3. 8 Lester Street Eaglehawk - 3 Lot Subdivision and Construction of 2 Dwellings on a Lot

Author:	Rees May, Statutory Planner
Responsible Director:	Steve Hamilton, Director Strategy and Growth

Summary/Purpose

Application No:	DSD/40/2022
Application Documents	https://epathway.bendigo.vic.gov.au/ePathway/Production/Web/GeneralEnquiry/ExternalRequestBroker.aspx?Module=EGELAP&Class=P&Type=PLNADV&Applicationid=1061246
Applicant:	K J Flexman
Land:	8 Lester Street, EAGLEHAWK 3556
Zoning:	General Residential Zone
Overlays:	None
No. of Objections:	5
Consultation Meeting:	27 October 2022
Key Considerations:	• Whether the proposal is consistent with Planning Scheme policy regarding housing, design and infill residential development; • Whether the proposal is consistent with the provisions of the General Residential Zone; • Compliance with ResCode and whether the impacts on neighbours are acceptable; • Whether the potential for land contamination has been appropriately considered. • Objector concerns.
Conclusion:	The site is well located to take advantage of existing infrastructure, facilities, services and transport options. The proposal is consistent with Planning Scheme policy regarding infill residential development and subdivision and will provide for a higher density development within the urban growth boundary. Acceptable character and amenity outcomes can be achieved.t Overall, the proposal is generally in accordance with the relevant Planning Scheme provisions and as such it can be concluded that the proposal presents an acceptable outcome for infill

development. It is recommended that a Notice of Decision to Grant a Permit be issued with conditions.

Recommended Motion

Pursuant to section 61 of the Planning and Environment Act (1987), Council issue a Notice of Decision to Grant a Permit for 3 lot subdivision and construction of 2 dwellings on a lot at 8 Lester Street, EAGLEHAWK 3556 subject to the conditions at the end of this report.

Background Information

Planning Permit Application DSD/40/2022 was lodged with the City on 1 February 2022. The applicant was required to provide additional information and amended plans in order to demonstrate compliance with ResCode (the residential amenity standards), and the minimum garden area requirement. It was also requested that a Preliminary Site Assessment be provided in order for potential land contamination to be appropriately considered.

Notice of the application was given in July 2022, and five objections were received.

A consultation meeting was held on 27 October 2022 and was attended by the applicant, objectors and Ward Councillors. As a result of the consultation meeting the applicant submitted amended plans on 14 December 2022. The amended plans were circulated to the objectors, with none of the objections withdrawn as a result of this process.

Throughout the assessment of the application it was identified that the existing outbuilding on the site is being unlawfully used for accommodation purposes (noting that an occupancy certificate has not been issued under the Building Regulations). This issue has been raised with the City's Building team who will undertake further investigation as a separate process.

Report

Subject Site and Surrounds

The subject site is located at 8 Lester Street, Eaglehawk and is formally described as Crown Allotment 107 Section A at Eaglehawk, Parish of Nerring. The site is rectangular in shape with an overall area of 1,213 square metres. The site is located on the eastern side of Lester Street with a frontage onto Lester Street of 20.12 metres and an overall depth of 60.35 metres.

The site contains a single storey dwelling located in the front (western) portion of the site with an attached carport and outbuildings to the rear. Some established non-native trees are located in the rear yard and some small shrubs are located within the front setback of

the dwelling. The site is accessed from Lester Street via a single unsealed crossover and has rear access by way of a constructed, but unnamed (single lane, unsealed) laneway. The topography of the site has a moderate fall to the south of 6°.

The site and surrounds are located within the General Residential Zone, with land to the north-east of the site within the Public Conservation and Resource Zone. The site is not affected by any overlays.

The site is fully serviced and adjoins two other properties of similar size. The area is experiencing a level of change; with some infill residential development including a 6 lot subdivision and a unit development at 4 and 1 Lester Street respectively, and a two lot subdivision at number 7. The pattern of past and current development is that of single detached dwellings on lots.

The site lies between two former goldmining seams, being Virginia Hill (New Argus Company Mine Site and Specimen Hill Surface Workings) to the east and sites associated with the Lancashire Reef to the west. The site is located 830 metres to the north-west of the Eaglehawk Town Centre. The surrounding context is as follows:

- To the north of the site is a 1,625.7 square metre residential lot containing a single storey dwelling and associated outbuilding with frontage onto Lester Street.
- To the east of the site is an unnamed gravel road. On the opposite side of this road is a parcel of land owned by the Department of Environment, Land, Water and Planning that was previously used for mining activities.
- To the south of the site is a 1,105.3 square metre residential lot containing a single dwelling and associated outbuilding with frontage onto Lester Street.
- To the west of the site is Lester Street. On the opposite side of Lester Street is three residential lots. The northern lot has an area of 1,210.4 square metres and contains a single dwelling with a number of outbuildings and frontage onto Lester Street. The two southern lots have recently been subdivided in a ‘battle axe’ configuration. The front lot contains a dwelling and the rear parcel an outbuilding. All three parcels are accessed via Lester Street.

Lots in the surrounding area vary in size from 341 square metres to 1,821.5 square metres.

Figure 15: Aerial image of the site and surrounds.

Figure 16: View of the site from the Lester Street frontage.

Proposal

The application proposes a three lot subdivision and the construction of two dwellings on a lot as follows:

Subdivision

Lot 1

- Will be located within the front portion of the site, fronting on to Lester Street and will have an overall area of 383 square metres. Lot 1 will contain the existing dwelling at the front of the site, with a new double carport proposed to be constructed to the rear of the dwelling.

Lot 2

- Will be located in the central portion of the site with an overall area of 293 square metres and will front the common property driveway. Lot 2 will contain a new two story dwelling.

Lot 3

- Will be located at the rear of the site with an overall area of 296 square metres and will front the common property driveway. Lot 3 will contain a new two storey dwelling.

Common Property

- A 241 square metre common property driveway is proposed along the southern property boundary to provide access from Lester Street to all three lots.

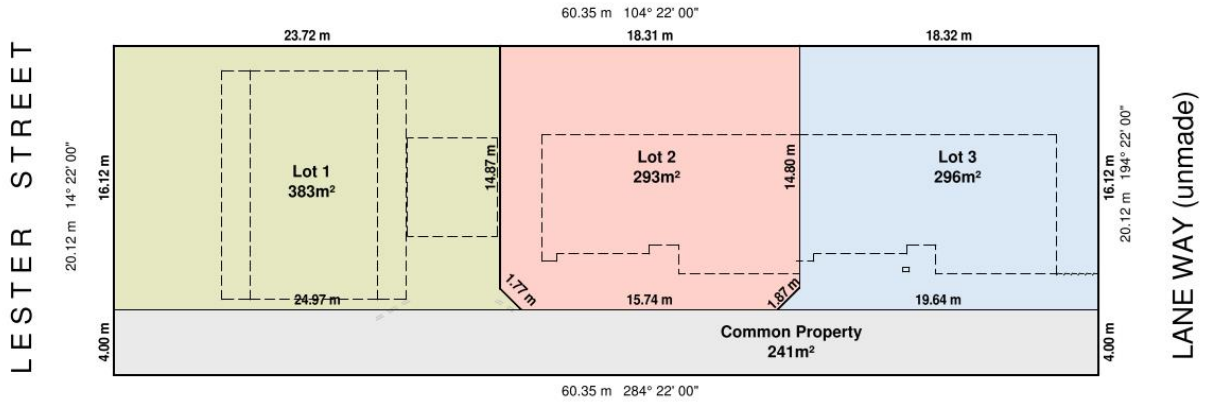


Figure 17: Proposed subdivision layout.

Dwellings

The proposed dwellings will have the same design and layout as follows:

- A two storey design with an overall floor area of 296 square metres.
- The ground floor will contain an open plan kitchen, living and dining area, toilet, alfresco area and attached double garage.

- The first floor will contain four bedrooms, two bathrooms, a toilet, rumpus room and balcony.

The dwellings will be constructed in a combination of brown and cream brickwork, grey weatherboards and corrugated sheeting, with a Colorbond skillion roof.

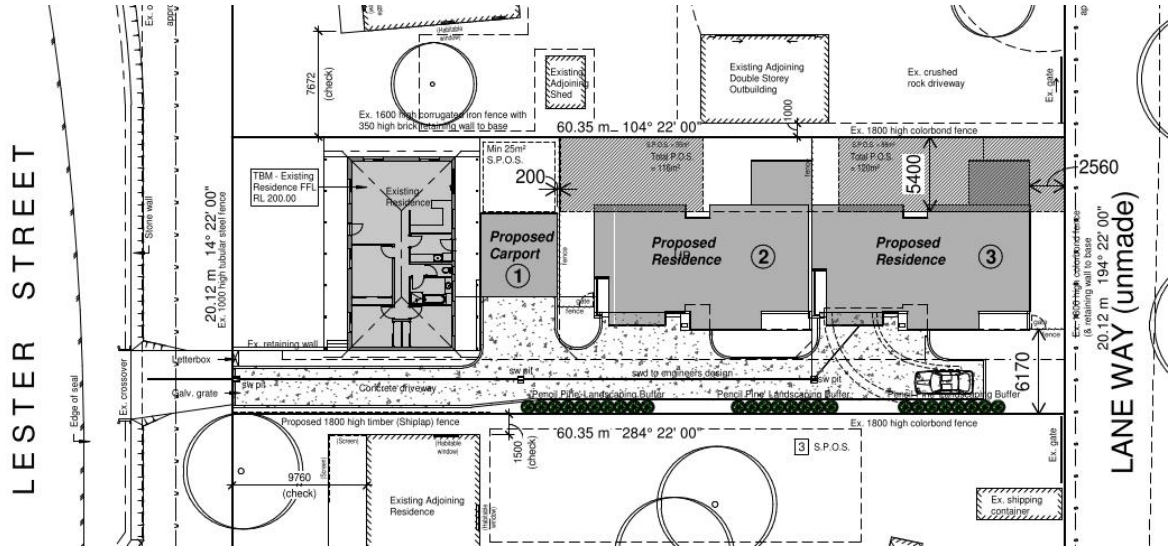


Figure 18: Proposed site layout plan.

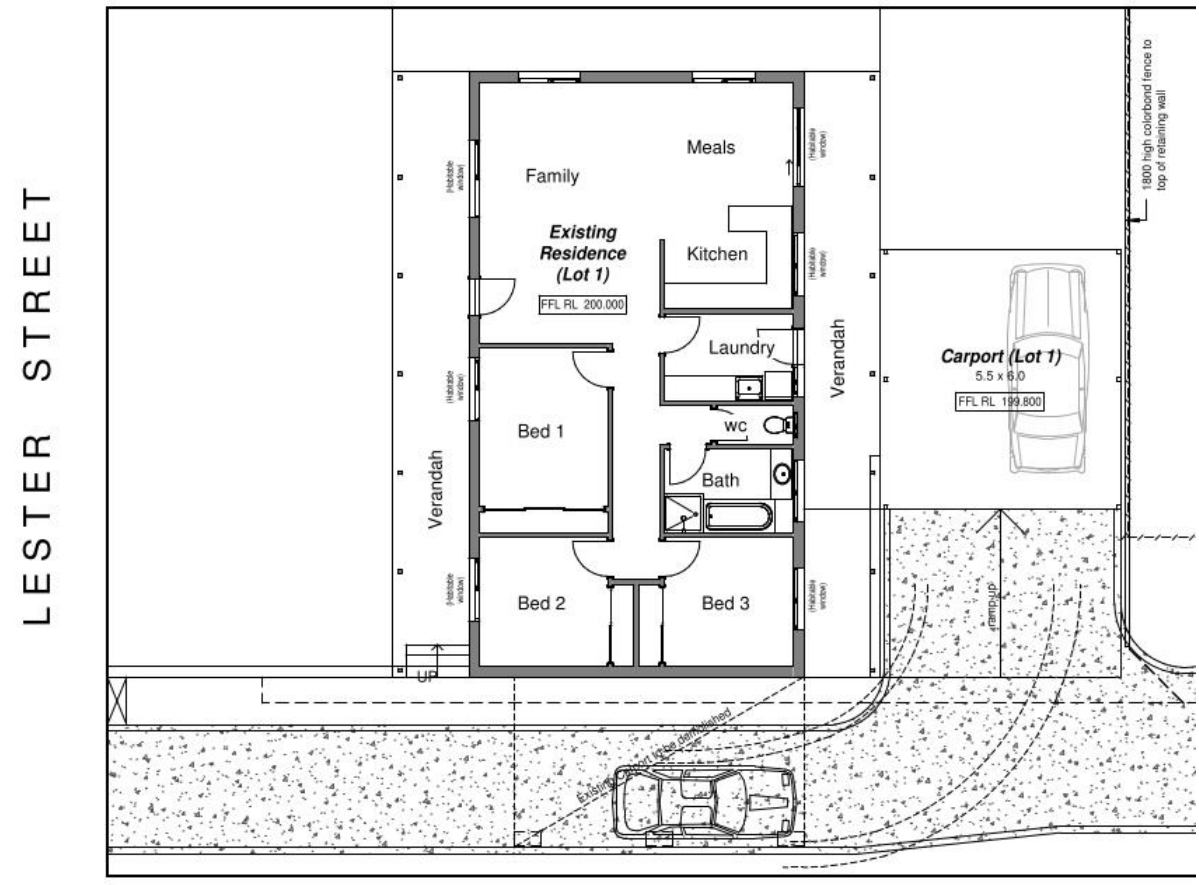


Figure 19: Floor plan of the existing dwelling with new carport.

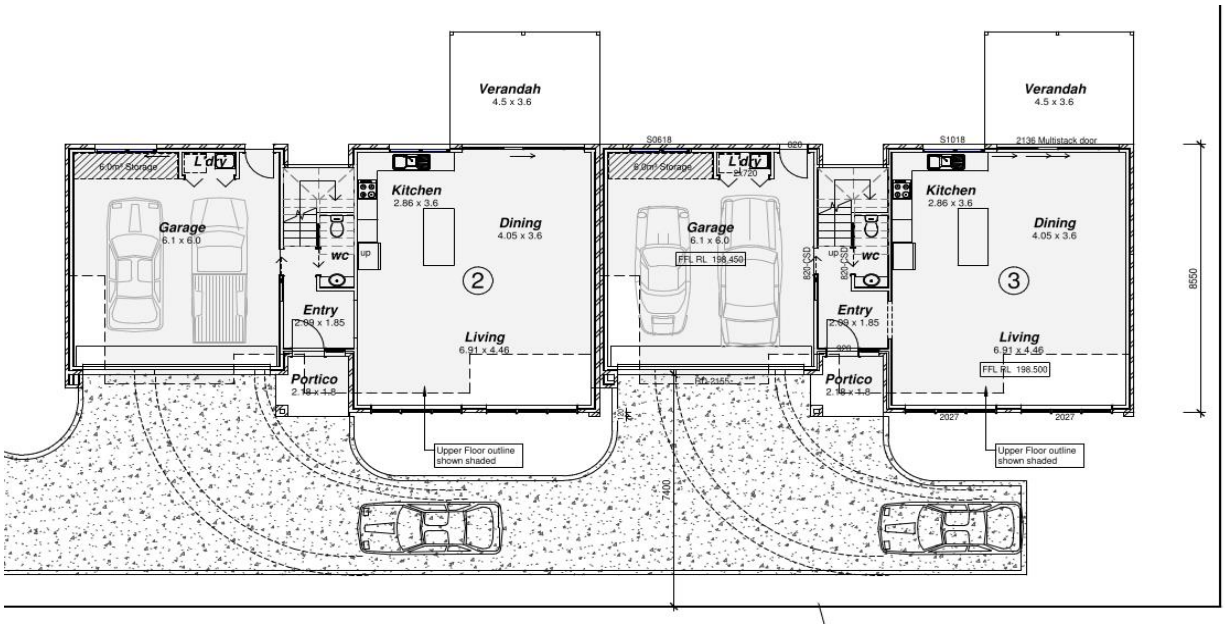


Figure 20: Ground floor plan of the proposed dwellings.

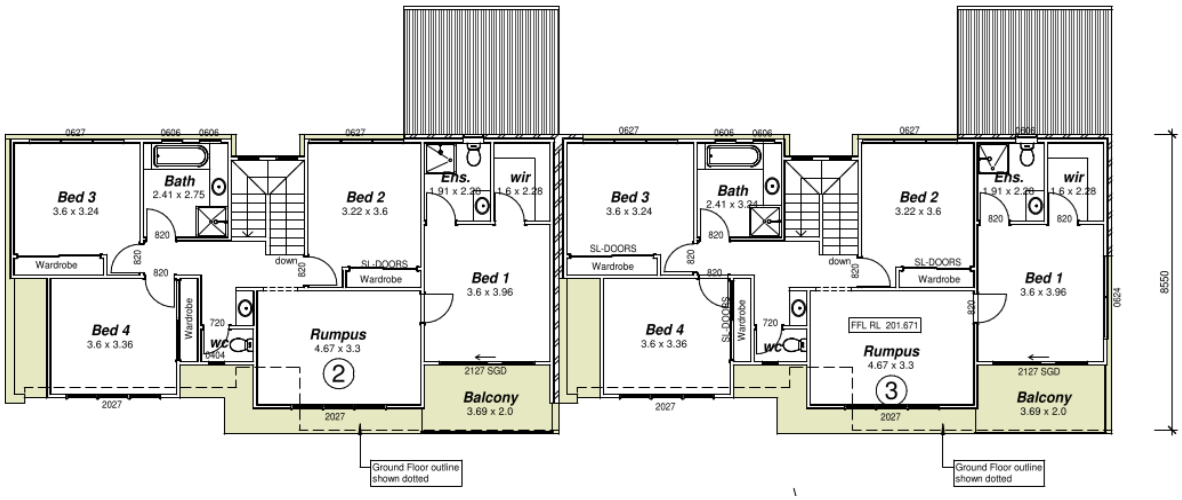


Figure 21: Upper floor plan of the proposed dwellings.

Figure 22: Southern (front) elevation of the proposed dwellings.

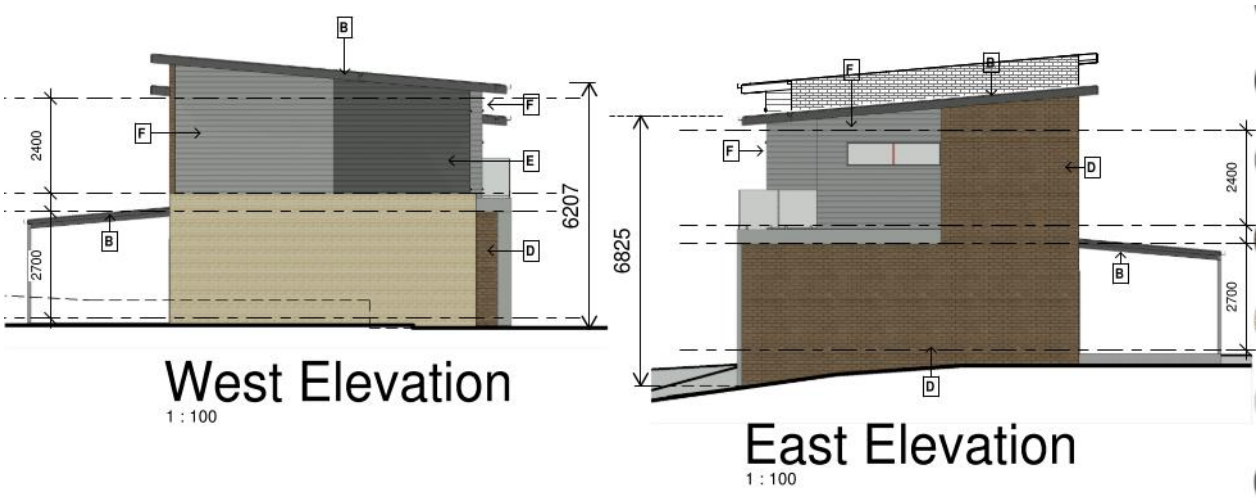


Figure 23: Eastern and western elevations of the proposed dwellings.

Figure 24: Northern (rear) elevation of the proposed dwellings.

Planning Controls - Greater Bendigo Planning Scheme

Why is a permit needed?

Clause	Permit Trigger
Clause 32.08-3 General Residential Zone	A planning permit is required to subdivide the land.
Clause 32.08-6 General Residential Zone	A planning permit is required to construct two or more dwellings on a lot.

The following clauses are relevant in the consideration of this proposal:
Municipal Planning Strategy

- Clause 02.03-1 Settlement
- Clause 02.03-2 Environmental risks and amenity
- Clause 02.03-5 Built environment and heritage
- Clause 02.03-6 Housing

Planning Policy Framework

- Clause 11.01-1S Settlement
- Clause 11.01-1R Settlement – Loddon Mallee South
- Clause 11.01-L-01 Settlement – Greater Bendigo
- Clause 11.02-1S Supply of urban land
- Clause 13.02-1S Bushfire planning
- Clause 13.04-1S Contaminated and potentially contaminated land
- Clause 15.01-1S Urban design
- Clause 15.01-1L-01 Landscaping – Greater Bendigo
- Clause 15.01-2S Building design
- Clause 15.01-2L Environmentally sustainable development - Greater Bendigo
- Clause 15.01-3S Subdivision design
- Clause 15.01-4S Healthy neighbourhoods
- Clause 15.01-5S Neighbourhood character
- Clause 16.01-1S Housing supply
- Clause 16.01-2S Housing affordability

Other Provisions

- Clause 32.08 General Residential Zone
- Clause 52.06 Car parking
- Clause 53.01 Public Open Space Contribution and Subdivision
- Clause 55 Two or more Dwellings on a lot and Residential Buildings
- Clause 56 Residential Subdivision

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan Mir wimbul 2021-2025

Outcome 2 – Healthy, liveable spaces and places

Secondary Council Plan Reference(s)

Goal 7 – Sustainable population growth is planned for

Consultation/Communication

Referrals

The following authorities and internal departments have been consulted on the proposal:

Referral	Comment
Coliban Water	No objection subject to standard conditions requiring the connection of water and sewer services, requiring assets to be protected with an easement, requiring the sewer to be upgraded and to require a contribution for new additional connections.
Downer	No referral response was received. Standard conditions will be included on the permit.
Powercor	No objection subject to standard conditions requiring each lot to be provided with an electricity connection.
Traffic	No objection subject to standard conditions relating to construction
Drainage	No objection subject to standard conditions requiring detailed drainage plans to be provided and the construction of infrastructure to occur.

Public Notification

The application was advertised by way of notice on the site and letters to adjoining and nearby owners and occupiers.

As a result of advertising, five objections were received, with the grounds of objection being:

- Access (inappropriate sight lines, safety issues resulting from crest in the hill).
- Headlights of vehicles existing the site at night will shine directly into the dwellings on the other side of Lester Street.
- The proposal will cause traffic congestion.
- Insufficient car parking to be provided and no visitor spaces are proposed.
- The proposal will result in increased residential noise emitting from the site.
- The existing residents rent the property and display poor behaviour and the real estate agents do not resolve the issue. More neighbours who rent will create more problems and affect the amenity and liveability of the area.
- The application material does not detail how the development will be drained.
- The double storey built form and bulk of the development is at odds with the surrounding character and is considered an overdevelopment.
- The density of the development will affect the amenity of the area.
- The development will be visible from the streetscape and adjoining properties.
- The proposal will overlook into secluded private open space areas resulting in a loss of privacy.
- The development will overshadow dwellings and private open space areas.

- The plans provided do not reflect the existing boundary fencing.
- The construction has the potential to cause land slippage and affect the boundary fence structure.

These grounds of objection have been addressed throughout the assessment below.

Figure 25: Aerial image of the subject site showing the location of objectors' properties.

Planning Assessment

Whether the proposal is consistent with Planning Scheme policy regarding housing, design and infill residential development

Clause 11.01-1R Settlement – Loddon Mallee South identifies that Bendigo is the major regional city for the Loddon Mallee South region. Strategies at Clause 11.01-1L-01 (Settlement – Greater Bendigo) include directing growth to areas within the Bendigo Urban Growth Boundary. The site is located within the Urban Growth Boundary, approximately 900 metres to the north-west of the Eaglehawk Town Centre and close to a range of facilities, services and transport options (including Canterbury Park, the Eaglehawk Activity Centre and the Eaglehawk Train Station).

The objective of **Clause 11.01-1L-02 10 Minute neighbourhoods – Greater Bendigo** is to develop a network of attractive neighbourhoods that allow most people to access local facilities and services within 10 minute walking or cycling from their home. The site has

excellent access to services which encourages active forms of transport, and a bus stop is located within 270 metres to the east of the site on Kirkwood Road.

Clause 02.03-1 Settlement of the Municipal Planning Strategy identifies that the population of the municipality is projected to increase by over 2000 per year over the next 20 years. An additional 1000 new dwellings per year will be required to accommodate this growth.

The proposal is consistent with the objective of **Clause 11.02-1S Supply of urban land** which is to ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses. The proposal will assist in providing urban land within a well serviced location to assist in meeting the forecasted demand.

Clause 15.01-3S Subdivision design seeks to ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods. Strategies include providing a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.

The proposed subdivision will assist in achieving the objectives of these clauses as the proposed lots will add to the overall available vacant lots and provide a range of lot sizes within the Eaglehawk area, in a location which is within the Urban Growth Boundary.

The planning scheme contains a number of policies relating to neighbourhood character. **Clause 15.01-5S Neighbourhood character** contains the objective to recognise, support and protect neighbourhood character, cultural identity, and sense of place. Strategies to achieve the objective include:

- *Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.*
- *Ensure the preferred neighbourhood character is consistent with medium and higher density housing outcomes in areas identified for increased housing.*
- *Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by respecting the:*
  - *Pattern of local urban structure and subdivision.*
  - *Underlying natural landscape character and significant vegetation.*
  - *Neighbourhood character values and built form that reflect community identity.*

The proposal is consistent with **Clause 15.01-5L-01 Neighbourhood character – Greater Bendigo**, and this is discussed in greater detail below.

The proposed development is consistent with **Clause 16.01-1S Housing supply** which seeks to facilitate well-located, integrated and diverse housing that meets community needs. Strategies to achieve this objective include:

- *Increasing the proportion of housing in designated locations in established urban areas (including under-utilised urban land) and reduce the share of new dwellings in greenfield, fringe and dispersed development areas.*
- *Encouraging higher density housing development on sites that are well located in relation to jobs, services and public transport.*
- *Identifying opportunities for increased residential densities to help consolidate urban areas.*
- *Facilitating diverse housing that offers choice and meets changing household needs by widening housing diversity through a mix of housing types.*

Policy through **Clause 02.03-6 Housing** seeks to facilitate a wide diversity of housing typologies to suit all household types, needs and incomes and make best use of land and environmental resources within locations appropriate for residential development.

The proposal is in accordance with planning policy objectives in terms of being an appropriate location for housing and infill residential development and is located within a 10 minute neighbourhood. The proposal provides two new four bedroom dwellings that meets the City's policy direction of providing diverse housing choice and contributes towards the goal of creating a compact urban area.

Given the policy support from a strategic housing policy perspective for additional dwellings in this location, attention should be drawn to the specifics of this proposal and whether it is acceptable having regard to the site context and the applicable planning controls and policies. This is discussed below.

Whether the proposal is consistent with the provisions of the General Residential Zone

The subject site is located within the General Residential Zone and is not affected by any planning scheme overlay. The purpose of the General Residential Zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To encourage development that respects the neighbourhood character of the area.*
- *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

The site is appropriately zoned for residential development and as outlined above, is strategically located in proximity to facilities and services. The application proposes a more diverse form of housing (in the form of two new two storey dwellings), than that which is currently found in the immediate area. As outlined above, the area is experiencing a level of change and it is expected that this change will occur in accordance with planning policy objectives for infill residential development.

When considering character, it should be noted that the site is not located within a Residential Character Precinct (relating to the local character policies) or a Neighbourhood Character Overlay. As such, more general and broader planning principles regarding considerations of character should be applied. In considering a two-storey design, proposals are required to respond to the existing and preferred character as opposed to replicate it.

The proposal presents an acceptable character response as follows:

- The proposal will facilitate a subdivision layout that is consistent with lot sizes within the surrounding area.
- The proposal will provide for acceptable spacing between buildings, including on the subject site and adjoining properties.
- The infill development is considered to be in keeping with the preferred and existing character of the area, which includes a mixture of single detached dwellings and unit development.
- The streetscape plan provided indicates that there will be minimal impact on the streetscape when viewing the development from Lester Street as the existing single storey dwelling will be retained at the front of the site, with the separation provided to the double storey development at the rear of the site.
- The proposal includes a skillion roof form to reduce the overall height of the development.
- The upper floor of both dwellings has been recessed to assist in reducing the bulk of the development and to provide a greater separation distance to the side boundaries.
- A variety of cladding materials have been selected to assist in minimising the visual impact of the development.
- Vehicle access will be consolidated into one common property driveway to provide an outcome that recognises and complements the character of the area.

Overall, the design response has implemented measures to reduce the bulk and dominance of the development and provides a sympathetic response that complements the existing and preferred neighbourhood character and is consistent with the pattern of surrounding development.

The proposal complies with the mandatory Minimum Garden Area requirements of the General Residential Zone.

The subdivision will result in an increase in the use of nearby existing public open space and that it is therefore reasonable to seek a public open space contribution. Due to the adopted Public Open Space Contributions Background Report, it is considered reasonable to request the full 5% public open space contribution.

<u>Compliance with ResCode and whether the impacts on neighbours as a result of the development are acceptable</u>

A key consideration is whether the proposal achieves a residential subdivision and development outcome that appropriately responds to the site and its context and whether the proposal would result in unreasonable amenity impacts for surrounding properties and future residents.

It is a requirement of Clauses 55 and Clause 56 that a development/subdivision must meet all of the objectives of the clause and should also meet all of the standards. The proposal is considered to be compliant with all objectives and standards, with the inclusion of some minor changes to the plans requested via permit condition.

The proposal is found to be generally in accordance with relevant objectives and standards of Clause 55. An assessment of the key objectives and standards of clause 55 where further discussion is required, or those which are relevant to the objectors' concerns, is provided below.

- *Clause 55.02-1 Neighbourhood character objectives (Standard B1)*

  The objectives are *to ensure that the design respects the existing neighbourhood character or contributes to a preferred neighbourhood character* and *to ensure that development responds to the features of the site and the surrounding area.*

  As outlined earlier in this report, the design response is considered acceptable to the neighbourhood and the site.

- *Clause 55.03-2 Building height objective (Standard B7)*

  The objective is *to ensure that the height of buildings respects the existing or preferred neighbourhood character.*

  Concerns were raised by objectors in regard to the height of the proposed dwellings. The dwellings will have a maximum height of 7.64 metres which is considerably less than the maximum allowable height of 9 metres, thereby complying with the standard.

  The design response allows for a graduated height across the development with the existing single storey dwelling to be retained at the front of the site and the two double storey dwellings constructed to the rear. The double storey built form is also setback a substantial distance from the title boundaries.

- *Clause 55.03-10 Parking location objectives (Standard B15)*

  The objectives are *to provide convenient parking for resident and visitor vehicles* and *to protect residents from vehicular noise within developments.*

Each dwelling will be provided with two covered car parking spaces accessed via the common property driveway, in accordance with Planning Scheme requirements.

The habitable room window for the living area of dwelling 2 is located within 1.5 metres of the accessway. In order to achieve compliance with Standard B15, a condition will be included on the permit requiring amended plans to be provided. The proposal could be amended to either increase the window sill height of the living room window for dwelling 2 to a height of 1.4 metres above the accessway, or reduce the size of the window to meet the requirement of a 1.5 metre setback.

- *Clause 55.04-5 Overshadowing open space objective (Standard B21)*

  The objective is *to ensure buildings do not significantly overshadow existing areas of secluded private open space*.

  The application has been accompanied by shadow diagrams that show the extent of overshadowing. The standard requires the secluded private open space of adjoining properties to receive a minimum of five hours of sunlight between 9am and 3pm on 22 September.

  The extent of overshadowing from the new dwellings complies with this standard. The extent of overshadowing will be less than the impact of shadowing from the existing boundary fencings at 22 September (i.e. no increase in overshadowing impact from existing conditions).

  A key concern raised by the objectors was the extent of overshadowing on adjoining properties and at the consultation meeting it was requested that shadow diagrams be provided at the winter solstice. The applicant provided shadow diagrams at the winter solstice as requested

  The shadow diagrams provided for the winter solstice show a significant amount of overshadowing on the adjoining property at 6 Lester Street to the south from the proposed development, particularly between 9am and 11am. Whilst the extent of overshadowing appears significant at the winter solstice, the Planning Scheme requires the extent of overshadowing to be considered in regard to the extent modelled at 22 September, which results in minimal overshadowing. The concerns raised by objectors in relating to the winter solstice are outside the scope of consideration.

- *Clause 55.04-6 Overlooking objective (Standard B22)*

  The objective is *to limit views into existing secluded private open space and habitable room windows*.

The standard requires habitable room windows and balconies that are within a 9 metre horizontal distance to be designed to avoid direct views into the secluded private open space of an existing dwelling. Overlooking can be preventing by introducing measures such as providing obscure glazing, increasing window sill height, or by including a visual barrier between the dwelling and adjoining secluded private open space.

The habitable room windows of Dwelling 3 on the northern (rear) elevation and Dwellings 2 and 3 on the eastern elevation have been designed with a sill height of 1.7 metres above the finished floor level to prevent overlooking.

Habitable room windows with a low sill height and balconies are located on the southern side of the development and have the potential to overlook into the secluded private open space of the property at 6 Lester Street.

The development has been setback 6.17 metres from the southern boundary and the 1.8 metre high boundary fencing proposed is of an appropriate height to act as a visual barrier to prevent overlooking. Whilst it is acknowledged that there may be some potential for overlooking to occur, the extent of overlooking is not considered unreasonable or to affect the amenity of the adjoining property as defined by the standard. Due to the setback of the habitable room windows and the height of the boundary fence, the proposal is compliant with Standard B22.

- *Clause 55.04-8 Noise impacts objectives (Standard B24)*

  The objectives are *to contain noise sources in developments that may affect existing dwellings* and *to protect residents from external noise.*

  The location of services that emit noise such as air conditioner units have not been indicated on the site plan. In order to ensure that the servicing does not adversely impact residents of the site or neighbours, a permit condition will require any refrigeration, air-conditioning, heating and the like to be located away from habitable room windows.

- *Clause 55.05-6 Storage objective (Standard B30)*

  The objective is *to provide adequate storage facilities for each dwelling.*

  This standard requires all dwellings to be provided with convenient access to at least 6 cubic metres of externally accessible, secure storage space.

  Both of the proposed dwellings will be provided with 6 cubic metres of secure storage in the attached garages. It is noted that dwelling 1 has not been provided with secure storage. A condition will be included on the plan to require an amended site plan to be

provided that includes storage for Dwelling 1. The site has the ability to accommodate the storage.

- *Clause 56 Residential subdivision*

  The proposal has been assessed against the relevant objectives and standards of Clause 56 and has been found to generally comply.

Has potential land contamination been appropriately considered?

Clause 13 Environmental risks and amenity requires planning to strengthen the resilience and safety of communities by adopting a best practice environmental management and risk management approach. The potential for land contamination was raised with the applicant due to a known history of mining and the presence of mine shafts within the surrounding area. Whilst the land is currently used for residential purposes, the proposal would result in an intensification of land use and development, and consideration must be given to whether this is appropriate.

A Preliminary Environmental Site Assessment was provided at the City's request, which was undertaken by a suitably qualified environmental consultant. The findings of the report were as follows:

- Arsenic was the only contaminant found within the soil sampling that was determined to exist above the permissible residential health limit. The arsenic concentrations have been intensified by the historic mining activity and deemed representative of the soil quality of that area of Bendigo.
- Despite the findings of arsenic concentration existing in the site's soil, the assessment concludes that the site is suitable for residential use subject to a Soil Management Plan being prepared and implemented prior to the construction commencing. The assessment recommends that the Soil Management Plan include the following:
  - Soil excavation and removal requirements, limiting future exposure and reuse of affected materials over any remaining permeable landscaping surrounding all future developments, (during / post construction stages).
  - The further chemical testing / classification requirements of any excavated and / or remnant soil (spoil) material during any future construction stage involving excavation, where the stockpiling and further testing of the material is required in accordance with full EPA requirements prior to being removed from the allotment (ie: EPA Pub 1828.2, March 2021).
  - The importation and use of controlled clean fill materials to overlie all remaining permeable landscaping surrounding the future development localities and disturbed soil surface areas.
  - The incorporation of a full landscape type design (removing the direct contact exposure pathways between future users of the site and any contaminated landscape);

- The incorporation of encapsulating private open spaces and driveways / accesses of the site via hardstand (involving concrete, asphalt, paving, etc);

Based on the assessment, it is considered that the land can be appropriately remediated to allow for residential use of site, subject to a condition on the permit requiring a Soil Management Plan to be submitted for approval prior to the commencement of the development.

Conclusion

The site is well located to take advantage of existing infrastructure, facilities, services, and transport options. The proposal is consistent with Planning Scheme policy regarding infill residential development and subdivision and will provide for a higher density development within the urban growth boundary. Acceptable character and amenity outcomes can be achieved.

Overall, the proposal is generally in accordance with the relevant Planning Scheme provisions and as such it can be concluded that the proposal presents an acceptable outcome for infill development. It is recommended that a Notice of Decision to Grant a Permit be issued with conditions.

Options

Council, acting as the responsible authority for administering the Planning Scheme, may resolve to: grant a permit, grant a permit with conditions, or refuse to grant a permit.

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Proposed Notice of Decision Conditions

1. MODIFIED PLAN REQUIRED
   Before the 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. The plans must be generally in accordance with the plans submitted with the application but modified to show:
   (a) The living room window of Dwelling 2 amended to comply with Standard B15 of Clause 55.03-10 by increasing the setback of the habitable room window to 1.5 metres from the accessway. This setback can be reduced to 1 metre if the window sill height is increased to 1.4 metres above the accessway.
   (b) 6 cubic metres of externally accessible, secure storage space provided for

Dwelling 1 in accordance with Standard B30 of Clause 55.05-6.
(c) An amended Landscape Plan in accordance with the requirements of Condition 3.
(d) A Soil Management Plan in accordance with the requirements of Condition 15.

2. NO ALTERATION TO LAYOUT
The development permitted by this permit as shown on the endorsed plans or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the responsible authority.

3. AMENDED LANSCAPE PLAN
Before the development starts, a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions.

The plan must show:
(a) A survey (including botanical names) of all existing vegetation to be retained and/or removed.
(b) Details of surface finishes of pathways and driveways.
(c) Planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
(d) The planting schedule updated to reflect the additional planting proposed along the southern title boundary as per the most recent version of the Site Plan dated 13 December 2022.

All species selected must be to the satisfaction of the responsible authority.

4. LANDSCAPING MAINTENANCE
The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

5. COMPLETION OF LANDSCAPING
Before the occupation of the development starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.

6. GENERAL EXTERIOR TREATMENT
The exterior treatment of the building permitted by this permit including all exterior decoration, materials, finishes and colours must be to the satisfaction of the responsible authority. The exterior treatment of the building must be maintained to the satisfaction of the responsible authority.

7. CONSTRUCTION PHASE
All activities associated with the construction of the development permitted by this permit must be carried out to the satisfaction of the responsible authority and all care must be taken to minimise the effect of such activities on the amenity of the locality.

8. REFRIGERATION AND AIR-CONDITIONING EQUIPMENT
Any equipment required for refrigeration, air-conditioning, heating and the like must be suitably insulated for the purpose of reducing noise emissions and must be located so as to not be highly visible from the street to the satisfaction of the responsible authority.

9. FENCING OF SITE
The fences as shown on the endorsed plans must be erected and maintained to the satisfaction of the responsible authority.

10. DETAILED DRAINAGE
Prior to certification of the subdivision or commencement of works (whichever comes first), 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 will form part of the permit.

The plans must be drawn to scale with dimensions. The plans must include:
- Underground drainage;
- Stormwater quality;
- A point of discharge for each lot;
- Stormwater detention;
- Allowable discharge: Q10% = 14l/s.

11. CONSTRUCTION OF WORKS
Prior to the issue of Statement of Compliance or completion of the dwelling (whichever comes first), road works, drainage and other civil works must be constructed in accordance with the City of Greater Bendigo Infrastructure Design Manual and to the satisfaction of the Responsible Authority and must include:
- Underground drainage;
- Paved footpath;
- Kerb and channel including associated pavement works.

12. SECTION 173 AGREEMENT
If an onsite detention or water quality system is required then, prior to the issue of Statement of Compliance, the applicant/owner must enter into an Agreement under Section 173 of the Planning and Environment Act 1987.
- The owner will maintain each on-site treatment system and/or detention system

and not modify without prior written approval from the responsible authority.

- The owner shall allow duly authorised officers of the responsible authority to inspect the systems at mutually agreed times.
- The owner will pay for all costs associated with the construction and maintenance of each on-site treatment and detention system.

13. ACCESSWAY REQUIREMENTS

Prior to the occupation of the development and the issue of statement of compliance, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be constructed to meet the following requirements and standards:

- The driveway between the property boundary and the kerb must be constructed in accordance with the Infrastructure Design Manual SD 240 Single Residential Driveway.
- Driveways must be 1 metre clear of power poles, stormwater and service pits.
- The subdivision/development must ensure sight lines, for pedestrian safety, at the exit driveway comply with Clause 52.06-9.
- Sight distance at the access driveway must comply with AS/NZS 2890.1:2004 Fig 3.2.
- Suitable bollard lighting must be provided. (Clause 55.03-7)

14. USE OF CAR PARKING AREAS

Areas set aside for the parking and movement of vehicles as shown on the endorsed plan must be made available for such use and must not be used for any other purpose.

15. SOIL MANAGEMENT PLAN

Prior to the commencement of the development, a Soil Management Plan must be submitted to and approved by the responsible authority. The plan must address the findings of the Preliminary Environmental Site Assessment prepared by Geotechnical Testing Services that was submitted with the permit application, and in particular must provide:

(a) Soil excavation and removal requirements, limiting future exposure and reuse of affected materials over any remaining permeable landspaces surrounding all future developments, (during / post construction stages).

(b) The further chemical testing / classification requirements of any excavated and/or remnant soil (spoil) material during any future construction stage involving excavation, where the stockpiling and further testing of the material is required in accordance with full EPA requirements prior to being removed from the allotment (ie: EPA Pub 1828.2, March 2021).

(c) The importation and use of controlled clean fill materials to overlie all remaining permeable landspaces surrounding the future development localities & disturbed soil surface areas.

(d) The incorporation of a full landscape type design (removing the direct contact

exposure pathways between future users of the site and any contaminated landspace).

(e) The incorporation of encapsulating private open spaces and driveways / accesses of the site via hardstand (involving concrete / asphalt, paving, etc).

Once approved, the recommendations of the Plan must be implemented (including activities before, during and post construction) to the satisfaction of the responsible authority.

16. CITY OF GREATER BENDIGO ASSETS

Before the development starts, the owner or developer must submit to the responsible authority a written report and photos of any prior damage to public infrastructure. Listed in the report must be the condition of kerb & channel, footpath, seal, street lights, signs and other public infrastructure fronting the property and abutting at least two properties either side of the development. Unless identified with the written report, any damage to infrastructure post construction will be attributed to the development. The owner or developer of the subject land must pay for any damage caused to any public infrastructure caused as a result of the development or use permitted by this permit.

17. NO MUD ON ROADS

In the event of mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, appropriate measures must be implemented to minimise the problem to the satisfaction of the responsible authority.

18. PUBLIC OPEN SPACE CONTRIBUTION

The applicant or owner must pay to the City of Greater Bendigo an amount equivalent to 5% of land in the subdivision.

This payment must be made before a Statement of Compliance is issued and may be varied under Section 19 of the Subdivision Act 1988.

19. COLIBAN WATER

(a) The owner is required to provide reticulated water and sewerage services to each of the lots within the subdivision and comply with any requirements arising from any effect of the proposed development on Coliban Water assets. Services are to be provided in accordance with our specifications.

(b) All Coliban Water assets within the subdivision, both existing and proposed, are to be protected by an easement in favour of Coliban Region Water Corporation.

(c) Existing DN100 EW sewer main is required to be upgraded to DN150 form the existing SMH009974 to the rear of the development property.

(d) Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must make payment to Coliban Water of New Customer Contributions (NCCs). These contributions are

based upon the number of additional allotments connected (or to be connected) to Coliban Water's water, sewer or recycled water networks. A quote will be supplied to the owner on the referral of the Certified plan of subdivision. All Coliban Water assets with in the subdivision, both existing and proposed, are to be protected by an easement in favour of Coliban Region Water Corporation.

20. POWERCOR

(a) The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to the Distributor in accordance with Section 8 of that Act.
(b) The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards.
(c) Notes: Extension, augmentation or rearrangement of the Distributor's electrical assets may be required to make such supplies available, with the cost of such works generally borne by the applicant.
(d) The applicant shall ensure that existing and proposed buildings and electrical installations on the subject land are compliant with the Victorian Service and Installation Rules (VSIR).
(e) Notes: Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.

21. DOWNER

The plan of subdivision submitted for certification must be referred to the gas service provider in accordance with section 8 of the Subdivision Act 1988.

22. TELECOMMUNICATIONS

(a) The owner of the land must enter into an agreement with:
    - A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time.
    - 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.
(b) Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
    - A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time.
    - A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any

standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

23. COMPLETION OF DEVELOPMENT

Before a Statement of Compliance is issued for the subdivision:

- The dwellings approved under this permit must be constructed to a state of practical completion to the satisfaction of the responsible authority; or
- The owner must enter into an agreement under Section 173 of the Planning & Environment Act 1987 that covenants that the lots created by the subdivision will only be developed in accordance with the plans endorsed under this permit. The agreement will end upon completion of the development shown on the endorsed plans.

24. EXPIRY OF THE PERMIT - SUBDIVISION AND DWELLING

This permit will expire if:

(a) The plan of subdivision is not certified within two years from the date of this permit; or

(b) The subdivision is not completed within five years from the date of certification of the plan of subdivision; or

(c) Construction of the approved dwellings is not completed within 7 years from the date of this permit.

The responsible authority may extend the time for certification of the plan, or for the completion of the dwelling, if a request is made in writing before the permit expires or thereafter, within the period allowed by section 69 of the Planning and Environment Act 1987.

Engineering Note

CONSENT FOR WORK ON ROAD RESERVES

The applicant must comply with:

(a) The Road Management Act 2004,

(b) Road Management (Works and Infrastructure) Regulations 2005, and

(c) Road Management (General) Regulations 2005

with respect to any requirements to notify the coordinating authority and/or seek consent from the coordinating authority to undertake “works” (as defined in the Act) in, over or under the road reserve. The responsible authority in the inclusion of this note on this planning permit is not deemed to have been notified of, or to have given consent, to undertake any works within the road reserve as proposed in this permit.

Attachments

1. CONFIDENTIAL REDACTED - Objections - 8 Lester Street, Eaglehawk [**16.3.1** - 9 pages]

16.4. Lot 2 Drummonds Lane DERRINAL 3523 - Use and Development of the Land for a Dwelling and Facilities Associated with Horse Husbandry and Dog Breeding

Author:	Beth Lavery, Senior Statutory Planner
Responsible Director:	Steve Hamilton, Director Strategy and Growth

Summary/Purpose

Application No:	DU/553/2022
Application Documents:	https://epathway.bendigo.vic.gov.au/ePathway/Production/Web/GeneralEnquiry/ExternalRequestBroker.aspx?Module=EGELAP&Class=P&Type=PLNADV&Applicationid=1122755
Applicant:	Stonehenge Constructions Aust Pty Ltd
Land:	Lot 2 Drummonds Lane, DERRINAL 3523
Zoning:	Rural Conservation Zone
Overlays:	Environmental Significance Overlay 3
No. of objections:	7
Consultation meeting:	Consultation was undertaken in the form of a written response prepared by the applicant in response to objections, which was then circulated to all objectors with a right of reply. No objections were withdrawn following this consultation process.
Key considerations:	• Whether the proposal is an acceptable planning outcome in terms of the requirements of the Greater Bendigo Planning Scheme, including the relevant planning controls and planning policy. • Whether the proposed mix of uses is appropriate, and whether any adverse amenity impacts resulting from the proposed uses can be appropriately mitigated. • Whether the proposal has adequately considered the matter of the Covenant registered on Title.
Conclusion:	Having considered the proposal against the requirements of the Greater Bendigo Planning Scheme, the proposal represents an appropriate outcome in terms of the objectives of the Rural Conservation Zone and Environmental Significance Overlay. The scale of the proposal and mix of uses is acceptable and any adverse amenity impacts can be adequately mitigated. Approval is recommended.

Recommended Motion

Pursuant to section 61 of the Planning and Environment Act (1987), Council issue a Notice of Decision to Grant a Permit for use and development of the land for a dwelling and facilities associated with horse husbandry and dog breeding at Lot 2 Drummonds Lane, DERRINAL 3523 subject to the conditions at the end of this report.

Background Information

Planning application DR/954/2020, seeking permission for use and development of land for a dwelling in association with horse husbandry and dog breeding, was considered by Council at its meeting on 16 August 2021, where it was resolved, against officer recommendation, to refuse to grant a permit on the following grounds:

1. *The proposal is inconsistent with state and local planning policy, as well as the objectives and decision guidelines of the Rural Conservation Zone and Environmental Significance Overlay, and has the potential to result in adverse environmental impacts affecting the water supply catchment.*
2. *The scale of the proposed use and development is inconsistent with the objectives and decision guidelines of the Rural Conservation Zone and will result in adverse amenity impacts to surrounding landowners and occupiers by way of noise generation and increased traffic to the site.*
3. *The proposed development does not constitute an orderly planning outcome for the area pursuant to Clause 65 of the Greater Bendigo Planning Scheme*

The applicant subsequently appealed this decision to VCAT, with the matter being heard on 9, 10 and 11 February 2022 and 6 April 2022. The outcome of this hearing was that the decision of the responsible authority was affirmed, and no permit was granted.

It is important to note, however, that this decision did not find that the proposed mix of uses and development were inconsistent with the requirements of Greater Bendigo Planning Scheme nor did it consider it likely to result in unreasonable impacts to amenity and the environment that could not be appropriately mitigated. Rather, it related to the matter of a covenant on the land. An excerpt of the decision of Members Templar and Harty states as follows (para 11, *Stonehenge Constructions Aust Pty Ltd v Greater Bendigo CC [2022] VCAT 584*):

> *"Our findings are that the proposal breaches the restriction in the covenant registered on title and we are therefore unable to grant a permit. Otherwise, we would have found the proposal to be generally acceptable in response to each of the permit triggers, although there are some aspects that require further detail."*

To not grant a permit on the basis of the matter of the covenant on Title was a somewhat interesting decision of the Tribunal, given that the covenant did include a secondary consent mechanism for the responsible authority to provide written consent to vary the covenant. The reasons for doing so are detailed within the decision at paragraphs 72 – 79. Essentially their decision rested upon the uncertainty of such process, the likely delays in resolving such, and that it was not the Tribunal's role to sit the proceeding in abeyance while the matter was resolved by the parties – noting the Tribunal's function is rather to make decisions in a timely and efficient manner.

The details of the covenant itself also warrants further discussion. Covenant PS834665T is registered on the Title of the land, and states that:

> *"The registered proprietor or proprietors of lot 1 and lot 2 on this plan must not construct or allow to be constructed any building that is within a 100m minimum setback from the top bank of* any *designated waterway without the written consent of the responsible authority'*."

This restriction originated from the subdivision of the subject land from the adjoining property at 211 Drummonds Lane, and a condition from the North Central Catchment Management Authority on the permit which allowed this subdivision. The intention of the restriction (confirmed by the North Central Catchment Management Authority) was to ensure that there was no development nearby to the southernmost waterways on the land, a tributary of Forest Creek, and not to act as a broad restriction in relation to any waterways on the land.

The previous application (DR/954/2020) did not include any commentary on the covenant given that there was to be no development nearby to this southern waterway and as such considered there was to be no contravention of the covenant – this being both the opinion and interpretation of both the applicant and assessing officer at the time. This was also the interpretation held by both parties' legal representatives during the VCAT proceeding.

During the VCAT Hearing process it transpired that the waterway shown on mapping in the north western corner of the allotment was in fact a designated waterway under the Water Act, despite it not being obvious as a waterway on the ground and it not being the intention of the restriction in the first instance, and as such, the restrictions of the Covenant would indeed apply and are what ultimately led to the refusal of the application as one of the buildings was to be sited within 100m of this waterway.

As noted above, the Covenant does include a mechanism to be varied by written consent of the responsible authority, and following the refusal of the previous application at the direction of VCAT, and prior to the submission of the current application currently under consideration, the applicant sought written consent to construct a building within 100m of this waterway (noting that the consent only applied to the north western waterway, and not the waterway/s located nearby to the southern boundary of the land). This consent was subsequently granted. As such, it is considered that the matter of the Covenant has now been appropriately addressed, however it is discussed in further detail later within this report.

The current application is essentially unchanged from the previous application (DR/954/2020), however has incorporated a series of acoustic measures and additional information to address matters of noise from the dog kennels and has addressed the above matters relating to the location of all waterways on the land and the positioning of all buildings proximate to such.

Report

Subject Site and Surrounds

The subject land is an irregularly shaped, generally cleared and undulating parcel with a total area of 42.10 ha. Located on the southern side of Drummonds Lane, which runs east-west between McIvor Highway and the Northern Highway, the parcel has a maximum depth of 1,183m and a frontage of 390m to Drummonds Lane. Two obvious waterways traverse the southern portion of the land, with a third waterway located in the north western corner of the allotment. Refer to Figures 1 and 2 showing the subject land and surrounds and the location of the waterways.

The site is surrounded by a mix of larger farming parcels, along with some smaller rural living/lifestyle allotments. Generally, the smaller rural residential allotments are located to the east of the site nearby to the Northern Highway, while larger farmed parcels are located to the north, south and west.

Immediately surrounding the site are the following properties:

- North of the subject land is a large parcel of farming land which forms part of a larger land holding.
- To the east is a parcel of 41ha known as 211 Drummonds Lane, which contains a single dwelling and associated outbuildings, which are positioned in the north west corner of the allotment. The property contains scattered vegetation and two dams.
- Immediately south of the land is a parcel of 26.2ha which contains a single dwelling and associated outbuildings, scattered vegetation and dams; and
- West of the land a parcel of ~70ha which is known as 342 Coppermine Road and contains a dwelling and associated outbuildings and farm shedding, located in the southern portion of the allotment. This parcel is also generally cleared and contains a number of dams.

The township of Heathcote is located approximately 7.5km to the south east of the land, Lake Eppalock 5km to the south west, while Bendigo is located 20km to the north west

Figure 1: Location map showing subject site. Objectors' properties marked with a star.

Figure 2: Location map showing subject site and waterways on the land marked in blue.

Proposal

The application proposes the use and development of the land for a single storey dwelling and facilities associated with use of the land for horse husbandry and dog breeding. A new internal driveway is proposed from Drummonds Lane to provide access to the dwelling and associated buildings. Each of these elements is discussed further below:

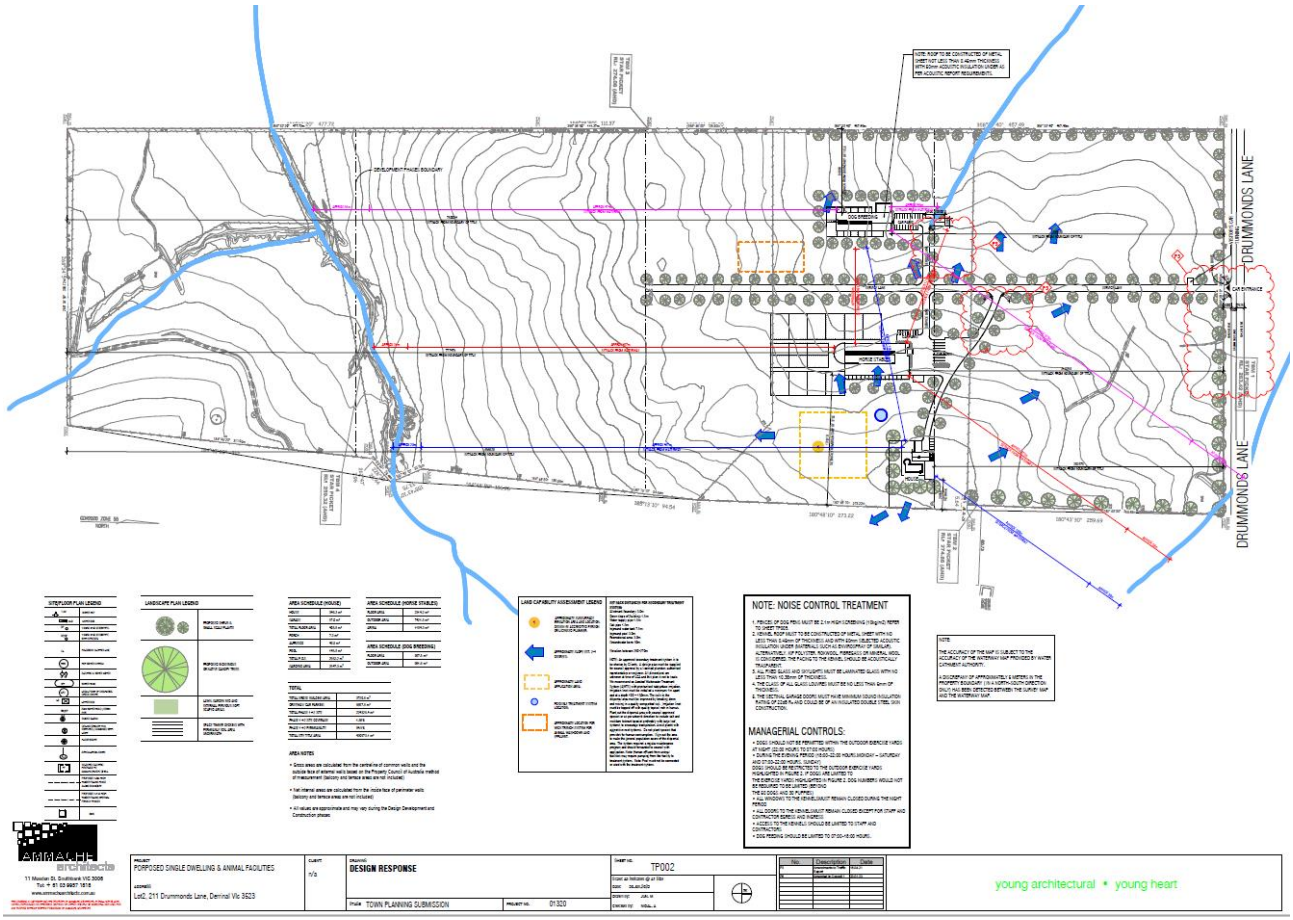


Figure 3: Overall site plan.

Dwelling

It is proposed to construct a single storey dwelling on the land, to be located 293 metres from Drummonds Lane and 30 metres from the eastern boundary, essentially positioned within the north eastern corner of the allotment. The dwelling will comprise:

- Five bedrooms
- Three bathrooms
- Home office/study
- Open kitchen/living/dining/lounge area including second kitchen and pantry.
- Laundry
- Additional powder room
- Triple garage
- Externally accessible showers (x 2)
- Alfresco
- Swimming pool and decking
- Additional parking areas for visitors (4 spaces)

The dwelling is to be constructed of a combination of face brickwork (red), acrylic render (to Dulux Luck colour), precast concrete panel (Dulux Limed White), timber cladding

(Dulux Tea) and a Colorbond roof Monument. The living area, including roof, will also incorporate clear glazing.

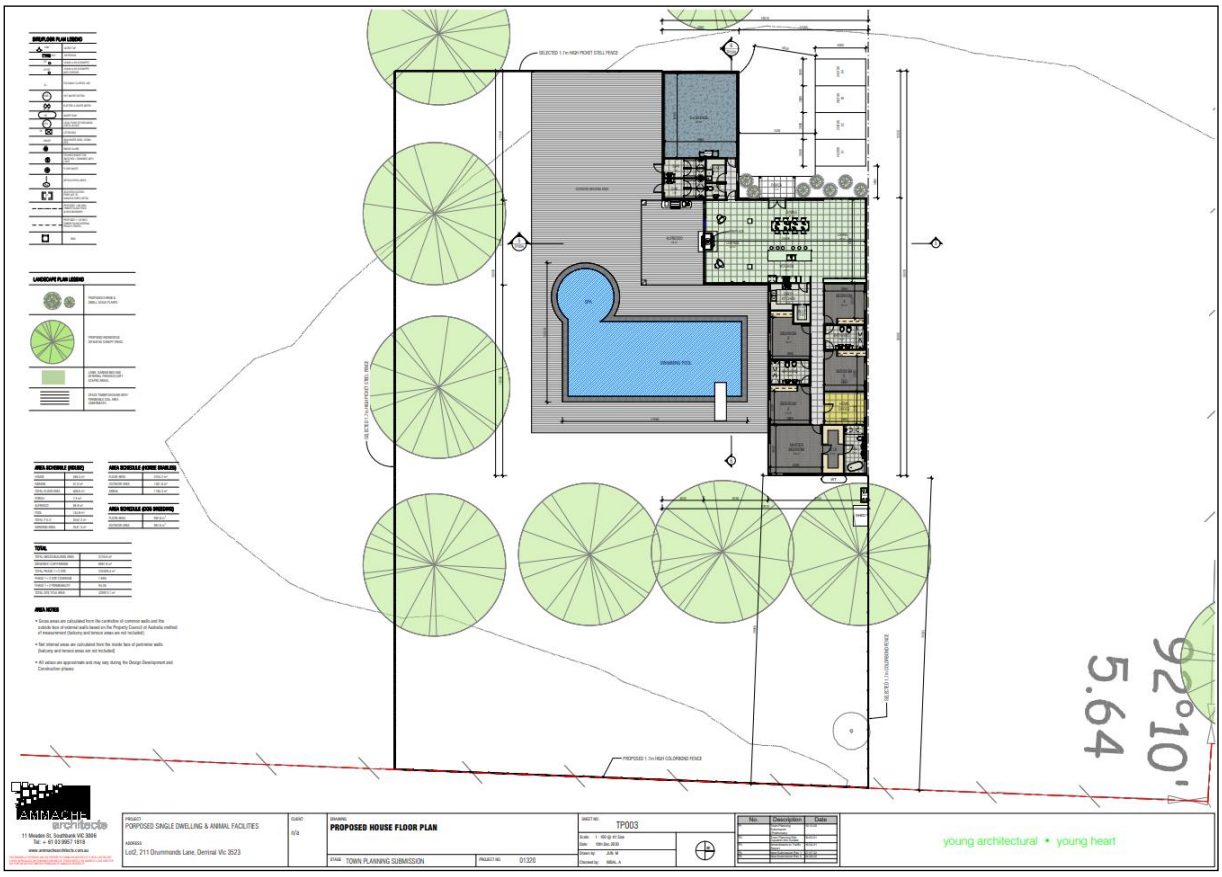


Figure 4: Site and floor plan of proposed dwelling.

Figure 5: Elevation plans and schedule of materials for proposed dwelling

Figure 6: Proposed 3D render of dwelling – northern elevation

Figure 7: Proposed 3D render of dwelling – southern elevation

Horse Husbandry (Stables)

This element of the proposal includes the use of the land for horse training and stables, and the construction of a horse stable building, which can be defined within the Planning Scheme as 'horse husbandry'.

One large, stabled building is proposed which will include:

- A large arena
- 24 horse stalls
- Washing facilities
- Grooming areas
- Grain and hay storage
- Track room
- Toilet facilities
- Laundry
- Kitchen
- Lounge area, including decking adjoining arena area.
- Office/reception area

Post and rail farm fencing is proposed surrounding the building, including areas for the penning of horses outside of the stable building.

The palette of materials for the proposed building is similar to that of the proposed dwelling and will be constructed of red recycled brick face brickwork, acrylic render, precast concrete panel with a combination of Colorbond and glazed roofing. Visitor car parking is also included nearby to the building, with 18 spaces proposed.

The building will be sited 318 metres from Drummond Lane, 131 metres from the eastern boundary and approximately 50 metres to the west of the proposed dwelling.

This facility will be used for the purpose of keeping, training and caring for horses, as well as storing associated equipment. It is not proposed to be used in a commercial capacity, such as for events.

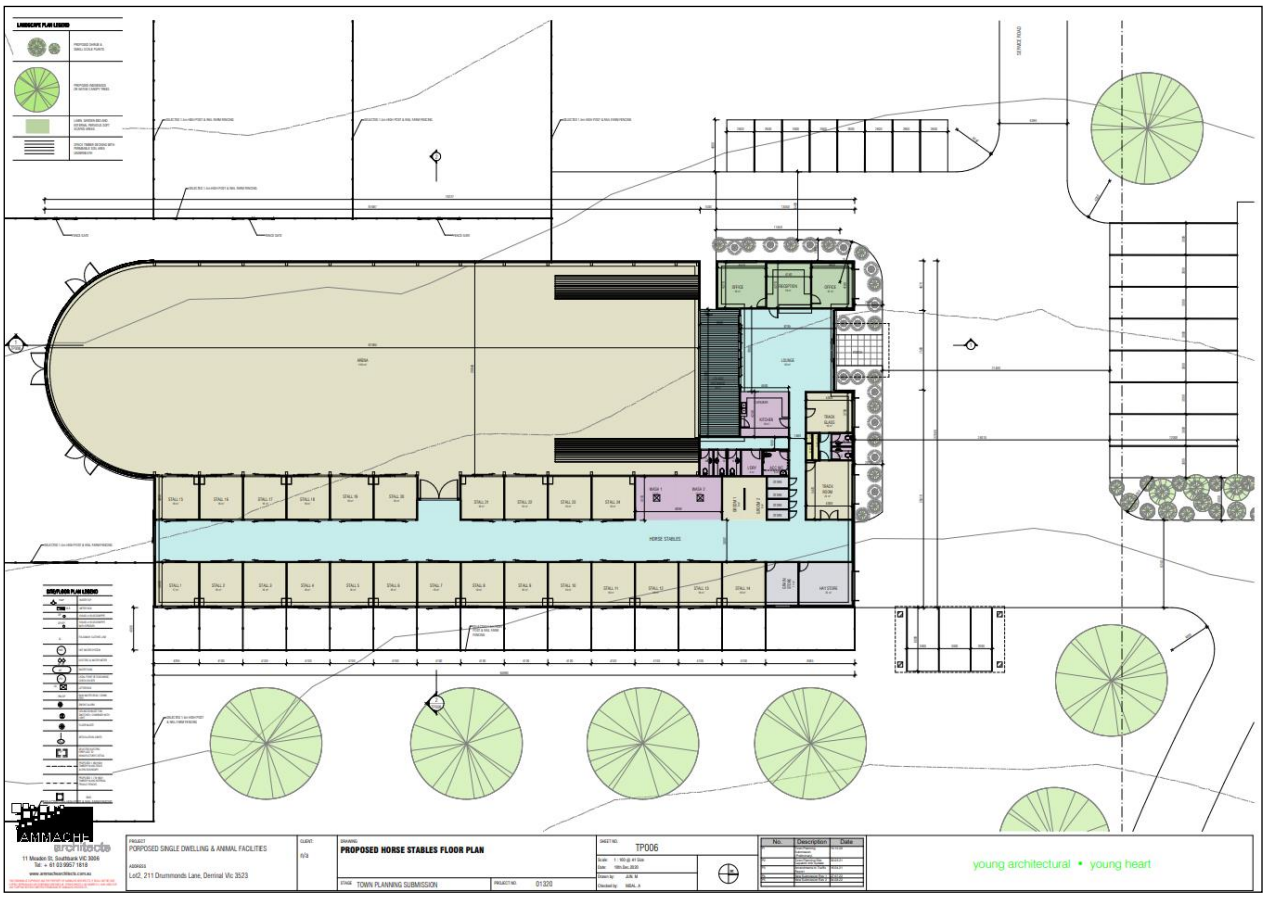


Figure 8: Site and floor plan of proposed stables

Figure 9: Elevation plans of proposed stables

Figure 10: Proposed 3D render of stables – northern elevation

Dog Breeding

This component of the proposal is for the use and development of the land for a dog breeding facility (defined as 'domestic animal husbandry' within the Planning Scheme).

This facility will comprise a single building, including:

- Dog pen areas (29 in total)
- Outdoor exercise areas
- Indoor big dogs exercise area
- Dog wash

- Small dog training area
- Food/storage area
- Toilet facilities
- Laundry
- Staff room
- Office/reception area
- Waiting area

A 2.1m high acoustic screening fence is proposed around the perimeter of the facility, along with 21 car spaces.

Again, the building will be constructed of similar materials proposed for both the dwelling and horse stables, including red recycled brick face brickwork, precast concrete panels and a Colorbond roof.

The building will be sited 336 metres from Drummonds Lane, 84 metres from the western boundary and approximately 100 metres from the horse husbandry/stable building.

The application plans include notations relating to noise control treatment measures required and managerial measures specifically relating to the dog breeding facility. These measures have been included following the recommendations of the expert advice heard during the VCAT proceedings referred to earlier within this report (*Stonehenge Constructions Aust Pty Ltd v Greater Bendigo CC [2022] VCAT 584*)).

The facility will be used for the breeding and training of up to 50 dogs (excluding puppies under the age of 16 weeks old).

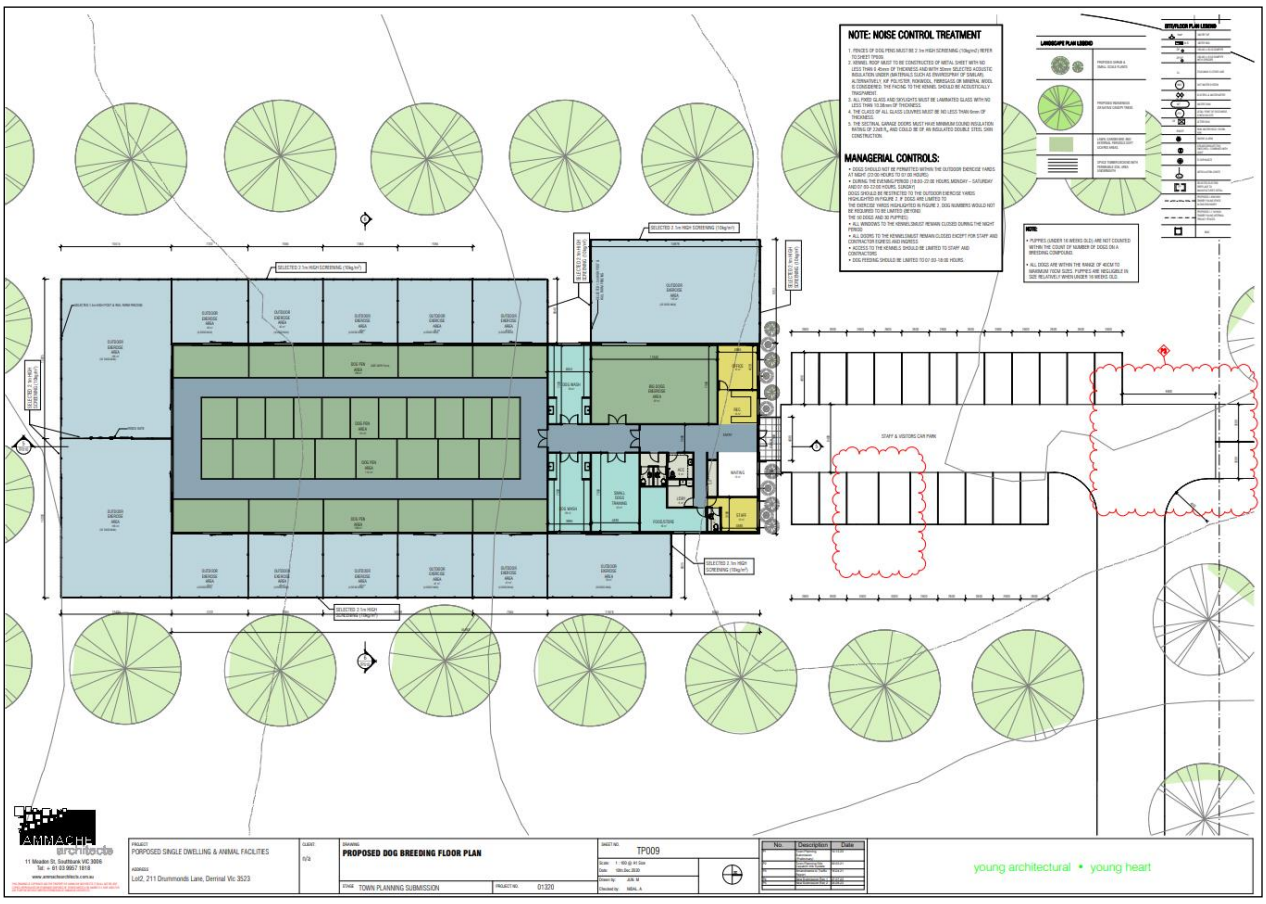


Figure 11: Site and floor plan of proposed dog breeding facility

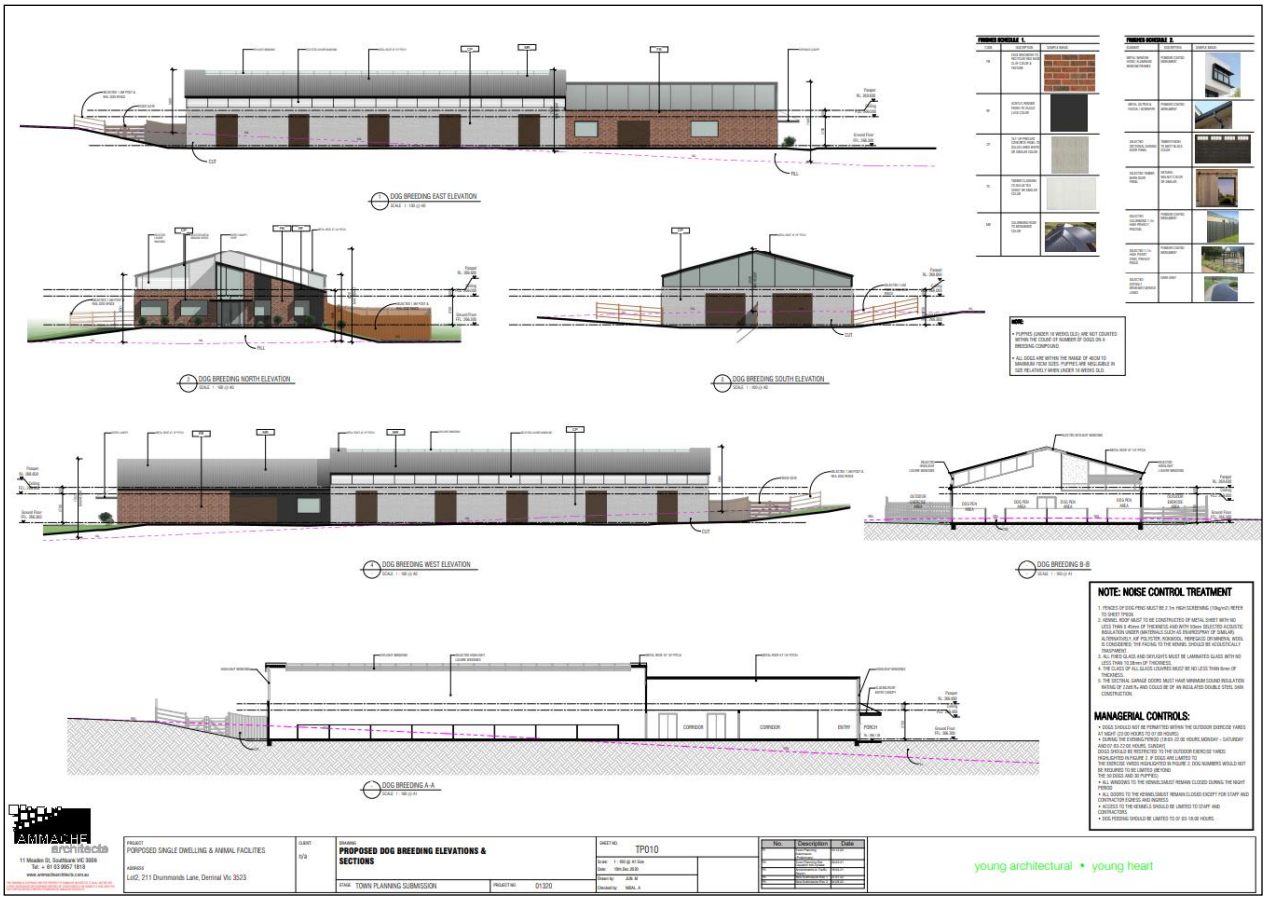


Figure 12: Elevation plans and schedule of materials for proposed dog breeding facility.

Figure 13: Proposed 3D render of dog breeding facility– northern elevation

Figure 14: Proposed 3D render of dog breeding facility (birds eye view)

Landscaping is proposed along the internal accessways, along boundaries and surrounding each of the buildings.

Given the topography of the land, some minor earthworks will be required in order to construct the buildings and works.

Although a future dam is indicated on some of the plans it does not form part of the current application.

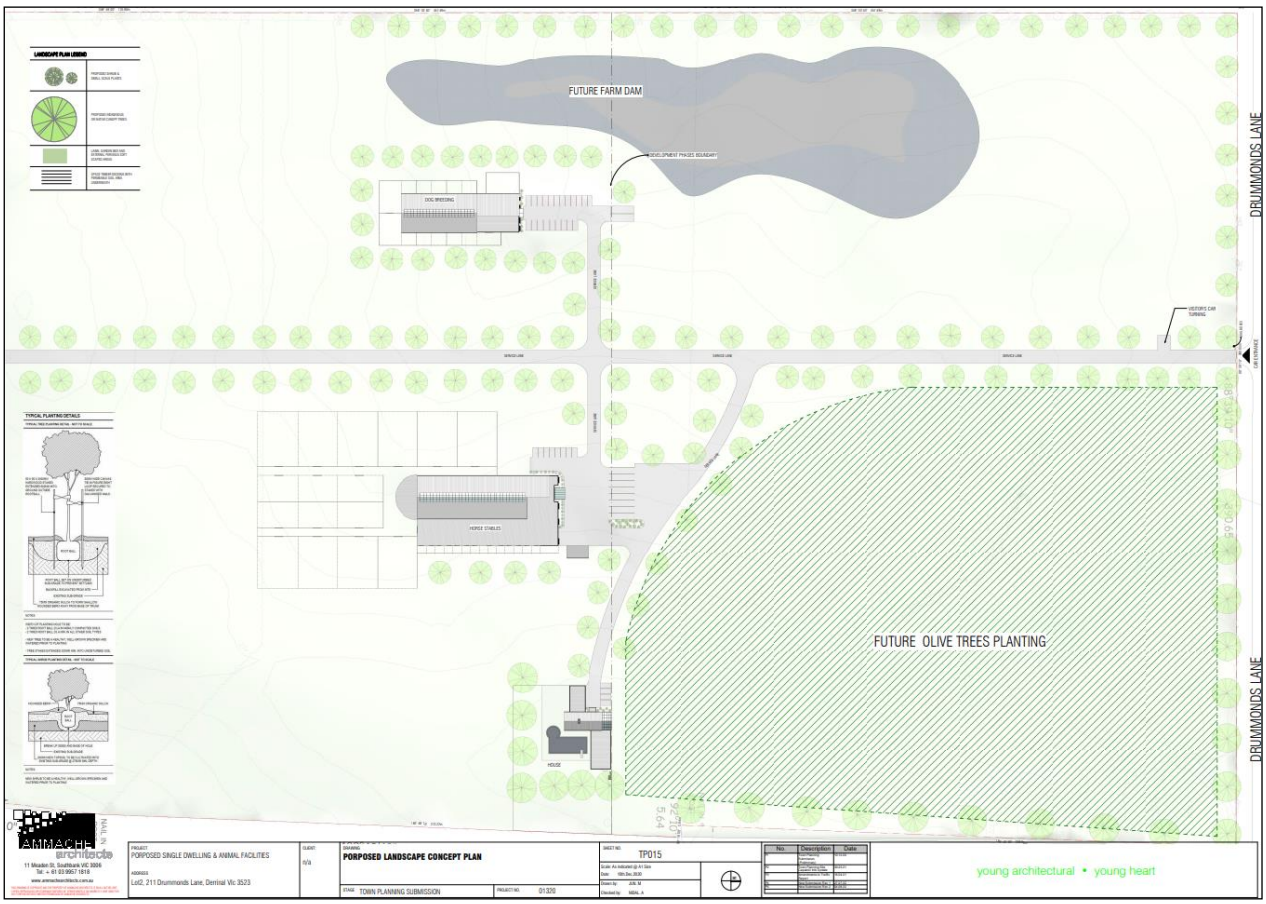


Figure 15: Proposed landscaping plan

Setbacks from waterways

The distance of each of the buildings from declared waterways is detailed below and shown on the overall site plan at Figure 3 earlier within this report.

Dwelling

- 189 metres from the waterway located in northwestern corner of adjacent property at 211 Drummonds Lane
- 218 metres from the waterway located in northwestern corner of subject land
- 487 metres from the waterway located in southern portion of subject land.

Horse Stable

- 271 metres from the waterway located in northwestern corner of adjacent property at 211 Drummonds Lane
- 121 metres from the waterway located in northwestern corner of subject land
- 437 metres from the waterway located in southern portion of subject land.

Dog Breeding Facility

- 370 metres from the waterway located in northwestern corner of adjacent property at 211 Drummonds Lane
- 46 metres from the waterway located in northwestern corner of subject land
- 474 metres from the waterway located in southern portion of subject land.

Planning Controls - Greater Bendigo Planning Scheme

The following clauses are relevant in the consideration of this proposal:

A planning permit is triggered pursuant to the following clauses within the Greater Bendigo Planning Scheme:

- Clause 35.06-2 states that use of the land for a dwelling, horse husbandry (agriculture) and dog breeding (domestic animal husbandry) are section 2 uses requiring a permit within the Rural Conservation Zone.
- Clause 35.06-5 states that a permit is required to construct a building or construct or carry out works associated with a section 2 use and within 100m of a waterway within the Rural Conservation Zone.
- Clause 42.01-2 states that a permit is required to construct a building or construct or carry out works within the Environmental Significance Overlay (Schedule 3) as the land is not connected to sewer.

The following clauses are relevant in the consideration of this proposal:

<u>Municipal Planning Strategy</u>

- 02.03-2 – Environment and landscape values
- 02.03-3 – Environmental risks and amenity
- 02.03-4 – Natural resource management

<u>Planning Policy Framework</u>

- 12.05-2S – Landscapes
- 13.02-1S – Bushfire planning
- 13.04-2S – Erosion and landslip
- 13.05-1S – Noise management
- 13.07-1S – Land use compatibility
- 14.01-1S – Protection of agricultural land
- 14.01-1L – Protection of agricultural land – Greater Bendigo
- 14.01-2L-02 – Domestic animal husbandry, racing dog husbandry and animal training – Greater Bendigo
- 14.02-1S – Catchment planning and management
- 14.02-2S – Water quality
- 15.01-2S – Building design

Other Provisions

- 52.06 – Car parking
- 53.02 – Bushfire planning
- 65 – Decision guidelines

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025

Outcome 2 – Healthy, liveable spaces and places

Secondary Council Plan Reference(s)

Goal 7 – Sustainable population growth is planned for.

Consultation/Communication

Referrals

The following authorities and internal departments have been consulted on the proposal:

Referral	Comment
Coliban Water	No objection, subject to the following conditions: 1. Prior to the commencement of the construction of buildings or other works, the Land Capability Assessment, 1100-260820-Ocl, prepared by The 4 Spheres Pty Ltd, and dated 20 October 2020, must be endorsed under the permit. 2. The disposal area, and any recommendations for fencing or the prevention of trafficable access to the disposal area, which are set out in the Land Capability Assessment, must be shown on the site plans that form part of the permit. 3. The wastewater treatment system and disposal area must be installed, and, at all times, must be operated and managed, in accordance with the endorsed Land Capability Assessment and the council-issued septic tank permit.
Goulburn Murray Water	No objection, subject to the following conditions: 1. All construction and ongoing activities must be in

Referral	Comment
	accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991). 2. No buildings are to be constructed within 30 metres of a waterway. 3. A 30 metre wide buffer strip of native vegetation must be established and maintained either side of the waterway that traverses the southern area of the subject land. Stock must be prevented from having access to this area. 4. All domestic wastewater from the dwelling, dog kennels and horse stables must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must be an EPA approved system, installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Conformity. 5. The wastewater disposal area must be located at setback distances of at least 60m from the nearest waterway or dam, 20 metres from any bores and 40 metres from any drainage lines. 6. The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed. 7. No faecal waste material from the dogs or horses or any stormwater containing faecal matter is to be discharged to any waterways or dams on waterways. 8. Solid faecal waste must be collected from the dog kennels and horse stables and either composted on site or transported off-site to the satisfaction of council's Environmental Health Department. 9. Any on-site disposal system for wastewater or faecal waste material from the pens/kennels must be located at least 60m from the nearest waterway or dam on a waterway.

Referral	Comment
Environmental Health	No objection, considers the proposal to be generally suitable and requests the following notations on any permit: • Before a building permit is issued for the dwelling and any outbuildings containing bathroom and/or kitchen facilities a Permit to Install an Onsite Wastewater Management System (or if development is staged multiple applications) is required to be issued by Council. • Based on the proposed location of the buildings more than one onsite wastewater management system may be required. • Earthworks, landscape works, and the use of vehicles and machinery are restricted to areas outside the Land Application Area. Compaction and disruption of the soil may compromise operation of the Onsite Wastewater Management System. • Wastewater from the proposed swimming pool shall not be disposed of into or nearby the Onsite Wastewater Management System infrastructure. • Wash down water from the kennels and stables should be disposed of in a manner that prevents environmental or health hazards occurring and so that it is contained within the lot boundaries. • All solid animal faecal material must be collected and stored in a manner that does not cause odour or offence until it is removed from the site, or managed on-site to the satisfaction of Council's Environmental Health Officer. Also recommends the inclusion of a condition requiring the submission of an Operational and Management Plan.

Public Notification

The application was advertised by way of notice on the site and letters to adjoining and nearby owners and occupiers.

As a result of advertising, seven (7) objections were received, with the grounds of objection being summarised as follows:

- Traffic congestion along Drummonds Lane and surrounding roads, and adverse impact to the roadways.
- Concerns about the ongoing management of Drummonds Lane and increased risk of accidents.
- Adverse amenity impacts from increased traffic noise and operation of site.
- Adverse amenity impacts from the dog breeding facility in terms of noise from dogs.
- The proposal is not in keeping with the current quiet and peaceful area.
- Impacts on visual amenity of the area – buildings will be largely visible and will adversely impact the natural landscape. Surrounding dwellings will have direct views to the development.
- Impacts on wildlife.
- Concerns around the classification of the development – being a puppy farm not a dog breeding facility.
- Concerns about the lack of information provided regarding the type of dogs to be bred, and whether there are risks to surrounding livestock.
- Inaccuracies in the acoustic assessment in terms of distances and whether all conditions (i.e. wind) have been taken into consideration.
- Damage to revegetation required as part of subdivision of the land.
- Insufficient information provided with regard to the management of wastewater (including animal and human waste).
- Concerns regarding the scale of the proposed development being excessive (horse husbandry and dog breeding facility) – number of car parks, internal toilets and other areas indicate large numbers of visitors.
- Potential for animals to escape beyond property boundaries.
- Current (boundary) fencing may be inadequate and concerns regarding requirements for upgrading of such to fall on neighbouring properties. Current fencing has already been damaged.
- Current horses on site not attended to appropriately.
- Potential for proposal to undermine land management and regeneration efforts being undertaken on adjacent properties and the need for ongoing monitoring of water quality and management of erosion on site.

The objections are discussed further below within the planning assessment.

Consultation was undertaken in the form of a written response prepared by the applicant, which was then circulated to all objectors with a right of reply.

No objections were withdrawn following this consultation process.

Planning Assessment

What did VCAT say regarding the previous application?

As outlined earlier within this report, the current proposal is the second iteration of planning application DR/954/2020, which was ultimately refused by VCAT (*Stonehenge Constructions Aust Pty Ltd v Greater Bendigo CC [2022] VCAT 584*).

Key excerpts of the decision handed down by Members Templar and Harty include:

- *We find that so long as the matters relating to environmental impacts and amenity impacts are acceptable, the proposed uses would be acceptable* (para 99).

- *In principle, we do not have any concerns with the proposed dog breeding and horse husbandry uses, subject to wastewater, erosion and noise acceptability.*

  These two uses otherwise have a level of compatibility with the context of the surrounding area being generally used for farming purposes that we are comfortable with. They are also located away from other existing and sensitive uses on adjoining land that might impact these proposed uses themselves.

  We therefore find that the proposed animal husbandry uses will be an acceptable outcome, subject to acceptable environmental impacts and noise considerations and design and siting (paras111-113)

- *We find that the proposal will not contribute to risk of adverse environmental impact on the Lake Eppalock water supply catchment or diminution of the quality of the drinking water supply associated with Lake Eppalock (*para 124).

- *Generally, based on the plans before us, we find the proposed treatment of human and animal wastewater acceptable. We have some reservations over the absence of where animal wastewater would be collected and treated before disposal by irrigation. However, we acknowledge that the applicant can address this with any future permit application* (para 145).

- *Regarding management of the use and the land, we find that what is proposed highlights the need for a land management plan and operational management plan to be provided to allay council's concerns over uncertainty of how the proposal will be conducted and the site managed to improve its environmental condition* (para 159).

- *The buildings are well spaced apart from each other and are well set back from most boundaries. The dwelling is located on the higher part of the site and the other buildings are large and will be visible in the landscape. We find the colour scheme and*

materials for the dwelling are generally acceptable, with the use of recycled red based clay face brickwork and darker tones to parts of the walls and roof.

The horse stables/arena is a relatively large building and whilst it sits slightly lower in the topography, is also higher. It is also proposed to be clad with precast concrete panels which will give the building more prominence in the landscape. This is also the case for the dog breeding building.

We do not have any in principle concerns with these two buildings from a built form perspective, however, further thought with respect to colours, particularly colours that will effectively highlight the buildings within the rural landscape, and materials in the context of how the building sits within the landscape should be given with any future application (paras 174-176).

- *We are not persuaded that the proposal will have any unacceptable amenity impacts to nearby properties. This is our finding in the context of the zoning of the review site as well as the zoning of nearby land, noting all land within a significant radius of the review site is either in the RCZ or Farming Zone. Both are rural zones where amenity impacts to existing dwellings is not the primary purpose of those provisions* (para 177).

- *We accept Mr Leo's findings that subject to his recommended noise control and management measures, the proposed dog breeding use will satisfy the noise limits identified through the Noise Protocol.*

  We have no counter evidence to assist us in our findings. Hence, we consider the proposal achieves an acceptable outcome given the noise modelling and adjustments to noise levels generated by the proposal and the location of the proposal within the RCZ, and in a location that has and is used for agricultural activity and is not directly adjoining nearby rural residential areas.

  We find the proposal will not unreasonably impact local amenity because of noise from the proposed dog breeding use.

  We would add that we do not consider noise from the horse husbandry use to be one at odds with the rural character of this area (paras 203-206).

In summary, the Tribunal was generally comfortable with the proposal put before it, with the only failings being related to the level of information provided surrounding ongoing land management, particularly with regard to the erosion on the site, as well as the matter of the Covenant which ultimately led to the refusal of the application.

<u>Is the current application consistent with the requirements of Covenant PS834665T which is registered on Title?</u>

As noted earlier within this report, Covenant PS834665T is registered on the Title of the land and provides for the following:

NOTICE OF RESTRICTION

UPON REGISTRATION OF THIS PLAN, THE FOLLOWING RESTRICTION WILL BE CREATED;

DESCRIPTION OF RESTRICTION

THE REGISTERED PROPRIETOR OR PROPRIETORS OF LOT 1 & 2 ON THIS PLAN MUST NOT, CONSTRUCT OR ALLOW TO BE CONSTRUCTED ANY BUILDING THAT IS WITHIN A 100m MINIMUM SETBACK FROM THE TOP OF BANK OF ANY DESIGNATED WATERWAY WITHOUT THE WRITTEN CONSENT OF THE RESPONSIBLE AUTHORITY.

LAND TO BE BURDENED: LOT 1 & 2.
LAND TO BENEFIT: LOTS ON THIS PLAN.

This Covenant refers to **all** designated waterways, both on and proximate to the land. A designated waterway is one which has been declared under the *Water Act 1989*, and may refer to a named or unnamed, permanent or seasonal waterway and may range in size from a river to a natural depression.

As discovered through the VCAT hearing in *Stonehenge Constructions Aust Pty Ltd v Greater Bendigo CC [2022] VCAT 584*, the site contains both larger obvious waterways in the southern portion of the lot, as well a depression in the top north west corner of the lot which has been declared a waterway. A (declared) waterway is also present in the adjoining lot to the east, nearby to the north eastern corner of the subject land.

The restriction provides for variation to this requirement, through the inclusion of the wording '…*without the written consent of the responsible authority'*.

Details regarding the setbacks of all buildings from all waterways has been provided earlier within this report. Only one building – the dog breeding facility – is within the prescribed 100 metres of a waterway, being set back only 46 metres from the waterway in the north western part of the allotment.

Prior to submitting the current application, the applicant sought approval via secondary consent from the responsible authority (the City) to construct a building within the 100 metres that the restriction seeks to prevent. This written consent was provided on 29 June 2022, stating as follows:

> *There are two designated waterways on the land which for the purpose of this letter providing written consent are referred to as being the southern and northern waterways (please refer to the attached plan).*
>
> *Written consent is granted for a building to be sited within 100m of the northern waterway on the lot, however no building is permitted within 100m of the southern waterway on the lot.*

Figure 15: Map provided with written consent, denoting northern and southern waterways.

As such, the siting of the dog breeding facility within 100 metres of the northern waterway is considered acceptable in terms of the requirements of the Covenant, being that the written consent has now been granted.

It is also worth noting again that the intent of this restriction, when the North Central Catchment Management Authority required its inclusion at the time of subdivision of this parcel of land, was not to restrict any development proximate to this northern waterway and instead only the southern waterway/s.

Are the proposed mix of uses acceptable in terms of the planning controls affecting the land?

Regardless of the findings of the Tribunal relating to the previous application which have been detailed above, the application currently under consideration must still be considered afresh and on its merits.

The land is zoned Rural Conservation Zone and is also affected by an Environmental Significance Overlay – Schedule 3.

The Rural Conservation Zone seeks to ensure that the natural environment be protected and enhanced, encourages use and development of land which is consistent with sustainable land management and capability practices, and to provide for agricultural uses

which conserve the environmental and landscape values of the area. Schedule 2 to the Rural Conservation Zone sets out a number of values that the Zone has been applied in recognition of. Of particular relevance to this application are the following values:

- The need to protect the water supply catchment of Lake Eppalock;
- The need to preserve the flora, fauna and landscape values of the area; and
- The need to minimise land degradation including salinity and erosion.

The balance of values set out in the Schedule relate to vegetation management and retention, which is not particularly relevant given the site is generally cleared agricultural land.

All three proposed land uses are discretionary uses within the Rural Conservation Zone, requiring a planning permit.

There has been little argument that a dwelling on the land is an appropriate land use in terms of the purpose and objectives of the Zone, with most conjecture about the appropriateness of the dog breeding facility, and to a lesser extent the horse stable building. The proposed dwelling will result in improved environmental management of the site, particularly those areas which are currently significantly degraded by erosion.

Further, a dwelling is considered appropriate in this context, particularly given the animal husbandry uses proposed, where there will be a genuine need for overnight monitoring and management of the site. There are a number of other dwellings surrounding the land and the insertion of another into the landscape is considered acceptable. The siting, bulk and form of the dwelling is considered appropriate.

While the scale of the horse stable building with its large internal arena is somewhat atypical, the keeping of horses, and as such associated infrastructure, is not a foreign element within a rural landscape and is considered broadly acceptable in conjunction with appropriate land management practices, and not at odds with the purpose and intention of the Zone. The presence of erosion on the site is acknowledged and noted, and this is an area which will require some attention (which will be addressed via conditions). Areas subject to significant erosion should not be made available for horse grazing.

The proposed dog breeding facility is not a typical feature in a rural landscape, and as such, has attracted the most concern from adjoining and nearby land owners, particularly through noise generation and traffic. Both of these elements are discussed further later within this report, however are considered broadly acceptable and not at odds with the intentions of the Rural Conservation Zone. The issue of the water supply catchment is discussed further below, within the discussion relating to the Environmental Significance Overlay.

The impact of the built form of the dog breeding building on the overall landscape is considered acceptable and unlikely to be unreasonably dominant or out of character with

the rural feel of the area given the siting, simple forms, height of the building and proposed landscaping.

The site is also affected by Schedule 3 to the Environmental Significance Overlay, which has the following statement of environmental significance:

> *Lake Eppalock is a major water storage and recreational facility located within the Campaspe River catchment. It is a major source of water for irrigation, stock and domestic, environmental flows and vital urban water supplies for towns within the municipality and beyond. The reservoir supplies 100 per cent of Heathcote's potable water supply and in some years may supply up to 100 per cent of Bendigo's supply.*

The objective of the Overlay, therefore, is to ensure the protection and maintenance of water quality and water yield within the Eppalock Water Supply Catchment.

Despite being within this Overlay, the subject land is not in fact physically located within the Eppalock Water Supply Catchment boundary, as shown in the excerpt below. Instead, the site contributes to the Campaspe River downstream of Lake Eppalock, which is not a declared water supply catchment.

Figure 16: Map indicating extent of Designated Water Supply Catchment.

The expert evidence tendered by Dr Deere to the Tribunal for *Stonehenge Constructions Aust Pty Ltd v Greater Bendigo CC [2022] VCAT 584* reaches the following conclusion:

> *"In my opinion the construction and operation of the development, in accordance with the conditions set out by the Council and the two water authorities, would not constitute a significant risk of adverse environmental impacts affecting the water supply catchment. Some of these conditions could mean that approval of the development would improve the water supply catchment. Therefore, I do not find grounds to reject the development due to its potential to result in adverse environmental impacts affecting the water supply catchment."*

Based on the above, it is considered unlikely that the proposal will have adverse environmental impact on the Lake Eppalock water supply catchment or result in any

compromise of the quality of the drinking water supply associated with Lake Eppalock and therefore is consistent with the requirements of the Environmental Significance Overlay.

Will there be any adverse amenity impacts to adjoining landowners, or can these be appropriately mitigated?

The bulk of objections relate to the perceived threats to amenity from the development through increased traffic and noise from the site, and that such threats are inconsistent with the currently quiet and scenic rural landscape of the area.

Expert acoustic evidence was provided during the VCAT hearing for *Stonehenge Constructions Aust Pty Ltd v Greater Bendigo CC [2022] VCAT 584*, which modelled estimated noise emittance from the site (particularly in relation to the dog breeding use). The modelled noise levels are based on sound power for large dogs and are also based on a number of recommended noise control treatments for the dog breeding facility, including:

- The external dog pens should include 2.1 m high screening (minimum 10 kg/m2).
- The kennel roof should be constructed of a minimum 0.45 mm thick sheet metal with 50 mm thick acoustic insulation below. Materials such Envirospray or similar will be acceptable. Alternatively, if polyester, rockwool, fibreglass or mineral wool is considered, the facing to the kennel should be acoustically transparent (i.e., not sisalation or similar).
- The fixed glass and skylights should be a minimum of 10.38 mm thick laminated glass.
- The glass louvres should be a minimum 6 mm thick glass.
- External barn type doors should be a minimum 45 mm thick timber.
- The sectional garage doors should have a minimum sound insulation rating of 22 dB Rw and could be of an insulated double steel skin construction.

Additionally, some management controls are also recommended:

- Dogs should not be permitted within the outdoor exercise yards at night (2200 hours to 0700 hours).
- During the evening period (1800-2200 hours, Monday – Saturday and 0700-2200 hours, Sunday) dogs should be restricted to the outdoor exercise yards highlighted in Figure 12. If dogs are limited to the exercise yards highlighted in Figure 12, dog numbers would not be required to be limited (beyond the 50 dogs and 30 puppies).
- All windows to the kennels must remain closed during the night period.
- All doors to the kennels must remain closed except for staff and contractor egress and ingress.
- Access to the kennels should be limited to staff and contractors.
- Dog feeding should be limited to 0700-1800 hours.

In combination, these proposed construction and management requirements result in noise limits which are in accordance with the requirements set out within the Environment Protection Authority (EPA) *Noise Limit and Assessment Protocol for the Control of Noise*

from Commercial, Industrial and Trade Premises and Entertainment Venues, Publication 1826.4 May 2021 (Noise Protocol) which is incorporated in the Environment Protection Regulations 2021.

Members Templar and Harty provided the following remarks in their findings:

> *"We accept Mr Leo's findings that subject to his recommended noise control and management measures, the proposed dog breeding use will satisfy the noise limits identified through the Noise Protocol* (para 203)*.*
>
> *We find the proposal will not unreasonably impact local amenity because of noise from the proposed dog breeding use* (para 205)*.*
>
> *We would add that we do not consider noise from the horse husbandry use to be one at odds with the rural character of this area" (*para 206).

As such, it is considered that the proposal will not result in unacceptable amenity impacts to surrounding landowners and occupiers in terms of noise, as these can be appropriately mitigated through design and management.

Traffic impacts arising from additional vehicular movements to and from the site and the amenity impacts of such was another recurring theme within the objections received.

It is acknowledged that there will be additional vehicles utilising Drummonds Lane as a result of this development. Two traffic assessments have been undertaken - one during the course of the previous application and one being tendered as expert evidence at the Tribunal. Both of these assessments estimate that additional traffic to the site along Drummonds Lane will be in the vicinity of 56-58 additional vehicle movements per day, with existing vehicle movement sitting at around 30-48 vehicles (with existing vehicle counts being estimated through two separate surveys).Based on these estimations, the proposal will therefore likely result in double the amount of traffic seeking to use Drummonds Lane on a daily basis.

Drummonds Lane is an unsealed local road which is managed by the City and comprises a single traffic lane with a trafficable width ranging from 4.5 metres to 5.5 metres. The AustRoads Guide to Road Design provides guidance on rural road widths and the capacities of such roads in terms of traffic movement. The Guide recommends that single lane carriageway roads (such as Drummonds Lane) only be used when traffic volumes are less than 150 vehicles per day. As the anticipated vehicle movements will sit below this maximum vehicle number recommended, it is considered that the capacity of the roadway to absorb this additional traffic will not be exceeded.

The VCAT findings reflect this position, noting that proposed additional traffic is satisfactory, and not likely to result in unacceptable amenity outcomes. Further, it is noted

that surrounding land is zoned Rural Conservation Zone and Farming Zone, and not for Rural Living. The presence of larger farming vehicles, such as trucks, tractors and other machinery, would therefore not be an uncommon element in the landscape.

The following remarks are made by the Tribunal:

> *"…Insofar as there may be a conflict between the traffic to be generated by the proposed uses and existing dwellings in rural living areas along likely traffic routes, primacy in our view, must be given to the proposed uses being compatible with the zoning of the land, which we have already found to be acceptable, rather than whether dwellings in rural zones should be given priority* (para 217).
>
> *For these reasons, we find that the traffic impacts as a result of the proposal will be acceptable"* (para 218).

Remaining objector concerns

Aside from the amenity impacts outlined above, remaining objector concerns relate to inadequate land and property management, concerns relating to the scale of the development and allegations of 'puppy farming'. Each of these is discussed further below.

- *That the proposed dog breeding constitutes 'puppy farming'*

The *Domestic Animals Amendment (Puppy Farm and Pet Shops) Act 2017* is the relevant legislation governing the breeding of domestic animals, including dogs. Where a breeder has more than 10 fertile female dogs, Commercial Dog Breeder approval is required. Breeders must first be registered as a domestic animal business with their local council, after which time they can apply to the Minister for Agriculture to obtain commercial dog breeder approval.

All commercial dog breeding businesses will be subject to audits and inspection by departmental authorised officers, must comply with the *Code of Practice for the Operation of Breeding and Rearing Businesses (2014*) and requirements set by the *Domestic Animals Act* and supporting regulations.

An application to the Minister for Agriculture must include:

- A three-year business plan that includes the number of current and proposed employees, their roles and qualifications as well as the number of current and proposed dogs and breeds.
- Education and training policy for staff and volunteers.
- Health management plan for each breed of dog.
- Retirement plan for each dog.
- Exercise, enrichment, socialisation and handling policy.

- An agreement with a veterinary practitioner to provide veterinary services to the business.
- Responsible pet ownership information, complaints procedures, returns procedure, and sales guarantee policy.

Once approved, commercial dog breeders must follow certain procedures and meet certain requirements for ongoing compliance. An annual report must be submitted to the Minister for Agriculture each year and include a range of information for the reporting period including:

- The number of breeding and non-breeding dogs on the premises, including breed and sex of each dog.
- The number of litters of puppies born.
- The number of puppies sold, including the breed of the puppies.
- The number of relevant fertile female dogs and all other dogs retired.
- The number of relevant fertile female dogs and all other dogs sold.
- The number of relevant fertile female dogs and all other dogs that were euthanised, or died of other causes, and the reason for the euthanasia or death.
- The number of puppies returned under the sale guarantee.
- Details of the number of new staff commenced and evidence of their qualifications.
- A document that contains a summary of each complaint received regarding business practices, staff members and puppies, including a summary of the responses to those complaints.
- Details of any disease outbreaks and response to the outbreak.
- The specified dog details for each dog kept on the premises.
- The details of any changes to any information provided in the business plan and attachments provided in the application.
- A copy of an agreement with a veterinary practitioner to provide veterinary services to the business if the provider has changed since giving information previously.
- A copy of the current certificate of public liability insurance for the breeding domestic animal business.

Commercial dog breeder approvals are valid for 12 months for the initial application and three years for renewals.

As indicated above, the process to become a registered commercial dog breeder is an arduous process which requires approval on an ongoing basis, to ensure that animal welfare is appropriately maintained. This process is in addition to the planning approval which assesses the suitability of the proposed land use in relation to the Planning Scheme (which is being assessed as part of this application for planning permit), and separate registration with the City.

Based on extent of ‘red tape’ associated with becoming a commercial dog breeding business and maintaining this registration, it is reasonable to assume that there are a

number of checks and balances required throughout the process to ensure that an operation does not descend into what is colloquially known as ‘puppy farming’.

- *Concerns the proposed (dog breeding and horse husbandry) uses extend beyond which is stated in the application material and that the uses constitute intensive farming*

Concern has been raised that the proposed dog breeding and horse husbandry uses appear as though they may transform into a more intensive commercial venture than which is stated in the application material. This is based in part on the number of car parks, toilets and the large arena area evident on the plans. While the scale of the proposed buildings and the combination of uses is somewhat atypical, the applicant states that the facilities are not intended to be used publicly (such as to hold events). Facilities in the buildings and the associated car parking, will be for staff and any visitors to the site. This can be further controlled via condition of the permit to ensure that any transformation of use does not occur.

In terms of whether the (dog breeding and horse husbandry) uses themselves constitute intensive farming, Clause 73.03 provides the following definitions:

Land Use Term	***Definition***
Domestic Animal Husbandry	*Land used to keep, breed, board or train domestic animals.* *Includes:* *Dog breeding*
Horse Husbandry	*Land used to keep, breed, board or train horses.* *Includes:* *Horse stables.*
Intensive Animal Production	*Land used for animal production where the animals’ food is imported from outside the immediate building, enclosure, paddock or pen.* *It does not include:* *An abattoir or sale yard; or* *Grazing animal production, pig farm, poultry farm or poultry hatchery.*

It is clear looking at these land use definitions, which both specifically refer to the proposed land uses (i.e. dog breeding and horse stables), that the land use terms have been appropriately applied in this instance. The definition of intensive animal production is

seeking to capture land uses such as feedlots and the like and is not intended to refer to the proposed uses, regardless of the scale.

- *Impacts to flora and fauna*

The land is generally devoid of vegetation. While the development the land may displace some wildlife once the land is occupied, given the size of the allotment and the landscape in general, it is not seen to be a significant or unacceptable risk.

- *Impacts on land management and regeneration efforts on adjoining land and management of erosion on site*

Conditions will be included on the permit which require a management plan to address the erosion evident on the southern waterways. This condition will not only require the preparation of a plan which outlines proposed measures to address the significant erosion, but will also include requirements regarding the implementation and ongoing maintenance of land management techniques to address the erosion. Appropriate management in this regard will likely work in symphony with land management and regeneration efforts on surrounding properties.

- *Fencing*

Fencing law in Victoria is governed by the *Fences Amendment Act 2014*, which amends the *Fences Act 1968*. This legislation requires that generally owners of adjoining land must contribute in equal shares to a dividing fence. The standard of fencing that must be contributed to is a 'sufficient dividing fence', with the term 'sufficient' needing to give regard to the following matters:

a) The existing dividing fence (if any);
b) The purposes for which the owners of the adjoining lands use or intend the lands to be used;
c) The reasonable privacy concerns of the owners of the adjoining lands;
d) The types of dividing fences used in the locality;
e) Any policy or code relating to dividing fences adopted by the municipal council of the area in which the adjoining lands are situated;
f) Any relevant planning instruments relating to the adjoining lands or to the locality in which the lands are situated;
g) Any relevant building laws relating to the adjoining lands and the carrying out of fencing works and any subsidiary works;
h) The existence of any agreements or covenants that are relevant to the adjoining lands;
i) The duties (if any) of an owner of land under the Catchment and Land Protection Act 1994 to control pest animals;
j) The need for a dividing fence, having regard to any existing waterway or obstruction (whether natural or manmade) that is on, or forms, the common boundary between adjoining lands

If different standards of dividing fencing are required for different purposes (eg different land uses), a ‘sufficient dividing fence’ would be the lesser standard of fence. For fencing which is required at a greater standard, the owner of the land requiring a fence greater than the standard for a ‘sufficient dividing fence’ would be liable for the entire cost of the fencing works and any subsidiary works so far as they exceed the standard for a sufficient dividing fence.

Applying this to the proposal at hand, if new boundary fences are required to facilitate the land uses approved as part of this proposal, the applicant should bear the costs of replacement fencing if it were to extend beyond typical farm fencing.

There are no planning controls which dictate the type of fencing required, so the matter of fencing (and any disputes arising from fencing replacement) is a civil matter which would require resolution outside of the planning process.

- *Wastewater management and disposal*

Concerns have been raised regarding how water, and wastewater, will be managed on the site for all of the uses, particularly in regard to how this may impact adjoining landowners.

A Geotechnical investigation and Land Capability Assessment has been prepared for the site, along with expert evidence provided in this regard during the Tribunal proceedings in *Stonehenge Constructions Aust Pty Ltd v Greater Bendigo CC [2022] VCAT 584.*

Both the Land Capability Assessment and evidence reviewed the site and its condition, along with the anticipated wastewater and waste to be generated through the proposal and makes recommendations on how this be managed to ensure both water quality is maintained and impacts on the environment minimised.

The City’s Environmental Health team, along with Goulburn Murray Water and Coliban Water as referral authorities, have reviewed the proposal and raise no objection, subject to conditions being included on the permit in this regard. In addition, the applicant will be required to apply for a Permit to Install an Onsite Wastewater Management System for the site, at which time these elements will be further reviewed.

The *Environment Protection Act 2017* which seeks to ensure the protection of the environment and prevent harm to public health and the environment from pollution and waste will further assist in ensuring that the use of the land is environmentally appropriate on an ongoing basis.

Consistency with planning policy.

Policy relevant to the assessment of this application includes those relating to the protection and conservation of areas of environmental significance (02.03-2 – Environment and landscape values, 02.03-3 – Environmental risks and amenity and 12 – Environment an landscape values), preservation of rural character (15.01-6S), noise (13.05-1S – Noise management), land use compatibility (13.07-1S) and rural residential development (02.03-6 and 16.01-3S).

It is considered the proposal is consistent with this relevant planning policy in that sufficient evidence has been provided to demonstrate that capability of the land will not be exceeded and will not result in unacceptable impacts to the environment (or water catchment), that the mix of uses and the development itself is appropriate in terms of the context of the site and surrounds, threats to amenity have been appropriately identified and can be mitigated, and a dwelling on the site is appropriate.

Clause 14.01-2L-02 relates to 'Domestic animal husbandry, Racing dog husbandry and Animal training – Greater Bendigo' and applies to all applications to use and develop land for domestic animal husbandry, racing dog husbandry and animal training, and seeks to ensure good design and appropriate siting of such establishments.

The policy requires consideration of the following, as relevant:

Whether the site is located 500 metres from a dwelling on another lot, or from a residential zone.	While there are dwellings within 500 metres from the location of the proposed dog breeding building, impacts to amenity have been considered in the proposed design of the building and noise attenuation measures which will be required. Additionally, appropriate management conditions will be also required (detailed in a Operational Management Plan) which will further ensure amenity is appropriately protected.
Providing an area capable of containing the proposed scale of development on the site.	The site is of generous proportions and capable of containing the purpose built development.
Providing on site an adequate area for storage for the materials associated with the use to keep them out of the public view.	There will be areas within the buildings to store materials associated with the use to ensure that they are not visible from the public realm. Additionally, the building will be suitably set back and screened from property boundaries and the road.
Screening the development to minimise visual intrusion to the public view.	As above, the proposed facility will be landscaped to minimise visual intrusion into the landscape.

Assessing the maximum number of animals kept on the site (not including animals less than 6 months old) on the basis of: • The manner in which they should be contained. • The size of the parcel of land. • Treatment/disposal of waste. • Noise and odour attenuation. • Proximity of watercourses. • Land capability.	A maximum of 50 adult dogs is proposed to be kept on site. The facility has been purpose built to accommodate this maximum number of dogs. Waste disposal, noise and odour attenuation and land capability have been considered at length elsewhere within this report. The proposed building will be appropriately set back from watercourses.
Siting animal keeping facilities (kennels, associated buildings, dog runs and the like) a minimum of 30 metres from any road (whether or not such road forms the frontage) and a minimum distance of 10 metres from any dwelling on the land.	The siting of the proposed building achieves and exceeds these required set backs.
Landscaping and screening of the site to minimise amenity impacts.	Landscaping is proposed throughout the site,and surrounding the proposed dog breeding facility, to reduce amenity impacts.
Preventing a nuisance or disturbance to nearby properties from noise or smell by considering: • The choice of construction materials used. • The times and methods of exercising and feeding. • How animal feed is stored to ensure it is vermin proof.	Construction requirements to reduce amenity impacts have been identified on the plans and will be further enforced through inclusion of conditions on the permit and the preparation of an Operational Management Plan. Feeding and exercise times, and storage of feed will also form part of the permit conditions and management plan.
Constructing feed rooms and treatment rooms to have impervious walls and floors.	As above, this will be enforced through permit condition and within the Operational Management Plan.
Prevailing wind direction and the likely travel of odour and amenity impact to adjacent properties.	Emanation of significant odour is not expected from the site, and appropriate management of the site should ensure this does not occur.
Providing for the regular washed down and maintenance of all animal keeping facilities so they are kept in a clean and hygienic manner.	This will be required and enforced through permit conditions and the Operational Management Plan.
Providing for all animal waste, manure and wash down water to be treated and disposed of either within the boundaries of the site or in an alternative manner that has no negative impact on the catchment.	Again, this will be required and enforced through permit conditions and the Operational Management Plan. The ability of the site to appropriately contain all waste without impact to the catchment has been considered as part of this application and discussed elsewhere within this report.

Can any bushfire risk be appropriately mitigated?

While the land is not affected by a Bushfire Management Overlay, Clause 13.02-1S (Bushfire planning) of the Greater Bendigo Planning Scheme still requires that this policy be applied to all planning and decision making relating to land that is within a designated bushfire prone area, as the subject land is.

When assessing an application, planning must:

- Consider the risk of bushfire to people, property and community infrastructure;
- Require the implementation of appropriate bushfire protection measures to address identified bushfire risk; and
- Ensure new development can implement bushfire protection measures without unacceptable biodiversity impacts.

A Bushfire Risk Assessment has been undertaken which considers the bushfire risk to the site and provides for minimum construction requirements to mitigate bushfire risk. The site is generally devoid of trees and contains grassland, meaning that grassfire would present the biggest bushfire risk to the site.

The assessment identifies that all buildings should be constructed to BAL.12.5 with an area of 22 metres of defendable space around each structure, however it is also recommended that a greater area of defendable space be provided given that in the event of fire, animals will also likely require evacuation, not only humans. A Bushfire Emergency Management Plan should be prepared for the site to assist in planning for this scenario.

The access proposed to facilitate the development will be capable of providing access for emergency vehicles as required. Water tanks with a volume of 10,000L should be provided for both the dwelling and dog breeding facility, while a larger volume of 40,000L should be provided for the horse stable building.

On the whole it is considered that bushfire risk to the site can be appropriately mitigated and will not result in unacceptable risk to life and property, in accordance with the purpose and objectives of the policy.

Planning legal principles with reference to repeat applications

There are numerous Tribunal cases dealing with repeat appeals and the factors which should be taken into account when considering such applications. One such decision is *Batsis Nominees Pty Ltd v Hobsons Bay CC [2009] VCAT 928 (25 May 2009*). That decision outlines four factors/principles that should be considered as justifying a departure from an earlier determination. Unless a compelling case can be made about one or more of these factors, then there is no reasonable justification for departing from the basic findings in the previous application. The factors/principles are listed and responded to in turn:

Principle: *Significant or material changes to the application itself which address the primary reasons for the previous proposal being refused.*
Assessment: The only changes to the application which was previously considered and the current application relate to evidence tendered at the VCAT hearing which have now been incorporated into the current application, and the matter of the Covenant which has been discussed earlier within this report. The application for review was essentially refused at VCAT due to the proposal contravening the covenant applicable to the land. This has now been addressed via the provision of secondary consent from the responsible authority for the applicant to locate a building within 100m of a waterway.
Principle: *Significant or material changes in the circumstances of the land or its surrounds.*
Assessment: There have been no significant or material changes in the circumstances of the land or its surrounds.
Principle: *Significant or material changes in planning controls and policy.* .
Assessment: There have been no significant or material changes in planning controls and policy since the previous application were made. While Amendment C256 was approved in early 2022 this was a relatively policy neutral amendment which did not significantly affect planning policy relevant to the assessment of this application. Current Clause 14.01-2L-02 (Domestic animal husbandry, racing dog husbandry and animal training – Greater Bendigo) if anything has distilled the policy guidance previously contained within Clause 22.07 (Animal keeping and animal training policy).
Principle: *Significant or material changes in the interpretation of the facts or law relevant to the Tribunal's consideration.*
Assessment: There has been no significant or material changes in the interpretation of the facts or law relevant to the Tribunal's consideration.

Given that there has been a material change to the application which addresses the reason the application had previously been refused, being the consent to depart from the requirements of the covenant registered on the Title of the land, it is considered there is indeed sufficient justification to depart from the basic findings of the previous application.

Conclusion

Having considered the proposal against the requirements of the Greater Bendigo Planning Scheme, the proposal represents an appropriate outcome in terms of the objectives of the Rural Conservation Zone and Environmental Significance Overlay. The scale of the proposal and mix of use is acceptable and any adverse amenity impacts can be adequately mitigated. Approval is recommended.

Options

Council, acting as the responsible authority for administering the Planning Scheme, may resolve to: grant a permit, grant a permit with conditions, or refuse to grant a permit.

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Proposed Notice of Decision Conditions

1. PLAN REQUIRED
   Before the use and/or development starts, 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.
   (a) Waste Management Plan in accordance with Condition 14;
   (b) Operations Management Plan in accordance with Condition 22;
   (c) Land Management Plan in accordance with Condition 24.

2. NO LAYOUT ALTERATION
   The use and/or development permitted by this permit as shown on the endorsed plan(s) and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the responsible authority.

3. GENERAL DRAINAGE – BUILDINGS & HOUSES
   The proposed building(s) and works must be drained to the satisfaction of the City of Greater Bendigo as the responsible drainage authority.

4. INTERNAL DRIVEWAY AND ACCESS
   Prior to the commencement of any construction, internal driveways must be

constructed to an all weather standard to accommodate emergency vehicles, and the new entrance from Drummonds Lane must be constructed in accordance with the Infrastructure Design Manual.

5. USE OF CAR PARKING AREAS
Areas set aside for the parking and movement of vehicles as shown on the endorsed plan must be made available for such use and must not be used for any other purpose.

6. ELECTRICITY SUPPLY
The dwelling must be connected to a reticulated electricity supply or have an alternative energy source to the satisfaction of the responsible authority.

7. LANDSCAPING WORKS
Before the occupation of the development or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.

8. LANDSCAPING MAINTENANCE
The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

9. NUMBER OF ANIMALS
No more than 50 dogs and 30 horses are to be kept on the subject land at any time, including those belonging to the operator under this permit.

Any stallions to be kept on the land in association with the horse husbandry use must be appropriately paddocked and managed at all times to the satisfaction of the responsible authority.

10. DOG EXERCISE AREA
Any portion of the land where dogs are to be exercised must be enclosed with a chain wire mesh fence 2.1 metres high or other fencing approved by the responsible authority. Such fencing must be provided prior to the commencement of the use permitted by this permit and maintained to the satisfaction of the responsible authority.

11. KENNEL FLOOR
The floor or the ground under the kennels must be constructed of an impervious material to assist with cleaning and drainage and where possible drained to appropriate floor waste gully to collect wash down water. Such wash down water would be best treated through an appropriate septic waste system.

12. SECURITY
The kennel buildings must be able to be securely locked.

13. FENCING
An external perimeter fence of at least 2.1 metres high must be established around the dog breeding facility to prevent the escape of animals.

14. WASTE MANAGEMENT PLAN
Prior to the commencement of the use and development, a Waste Management Plan must be provided to the satisfaction of the responsible authority which must include but is not limited to the following matters:
(a) Collection and disposal of waste.
(b) Treatment of untreated animal waste which must not be stored on site and must be disposed of to the satisfaction of the responsible authority.
(c) Solid animal waste must be separated from liquid animal waste.

15. KENNEL AND HORSE BREEDING FACILITIES WASHDOWN
The kennels and horse breeding facilities must be regularly washed down and maintained in a hygienic manner to the satisfaction of the responsible authority.

16. WASTE WATER
All washdown water, waste water or water, effluent or polluted drainage which has been in contact with dog or horse excrement or putrescible matter must not be allowed to discharge beyond the boundaries of the subject land or directly or indirectly into any watercourse.

The kennels and horse breeding facility must be drained to the satisfaction of the responsible authority. This includes providing plans and documentation of cut-off drains which are constructed to direct stormwater around the kennels facility including the runs and the horse breeding facility, and the waste water disposal fields to the satisfaction of the responsible authority.

17. FEED STORAGE
All feed shall be stored in vermin proof containers.

18. NOISE EMISSIONS
Noise emissions from the site at all times must generally comply with Environment Protection Authority’s guidelines.

The recommended management conditions and acoustic treatments contained within the Noise Impact Assessment and report prepared by Clarity Acoustics dated 24 January 2022 must be carried out to the satisfaction of the responsible authority.

19. ACOUSTIC TESTS

Within 3 months after the issue of this permit, the permit holder must have carried out by a suitably qualified acoustic consultant to the satisfaction of the responsible authority, a series of noise tests (measured at appropriate locations). The results of the noise tests should confirm that the use is being conducted in a manner so that noise emissions do not exceed EPA requirements, and are consistent with the recommendations set out in the Noise Impact Assessment and report prepared by Clarity Acoustics dated 24 January 2022. A copy of the results of the tests and any recommendations arising there from must be provided to the responsible authority and any recommendations must be carried out to the satisfaction of the responsible authority and the EPA.

20. PUBLIC EVENTS

The land must not be used for displays or exhibitions attended by members of the public or for meetings or exhibitions organised by a bona fide organisation or the like without the further approval of the responsible authority.

21. AMENITY

The amenity of the area must not be detrimentally affected by the use or development, though the:

(a) Transport of materials, goods or commodities to or from the land.
(b) Appearance of any buildings, works or materials.
(c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil,
(d) Presence of vermin.

22. OPERATIONS MANAGEMENT PLAN

Prior to the commencement of the use and development the permit holder must lodge an Operations Management Plan to the satisfaction of the responsible authority. The Operations Management Plan must outline the general conduct of the dog breeding and horse breeding enterprises including but not limited to:

(a) Animal and farm management operations and systems;
(b) Measures to limit dust, odour, bushfire risk and visitor hours;
(c) Measures to limit the escape of noise from the kennels, particularly at night time;
(d) An Incident Register (for complaints or incidents arising out of the conduct of the business) and measures taken to remediate the issue;
(e) Standard measures for disposal of faeces, waster water and other material derived from the kennels' and horse breeding operation;
(f) Measures for exercising dogs within the runs, and outside the runs with appropriate supervision;
(g) Maintenance of drainage and waste treatment equipment and infrastructure.

Once the Operations Management Plan has been endorsed by the responsible authority it shall form part of the permit and must be complied with to the satisfaction of the responsible authority.

23. HOURS OF OPERATION

The following practices within the dog breeding enterprise are limited to:

(a) Feeding:
Between 7.00am to 6.00pm on any day

(b) Exercise yards:
Dogs are allowed to be in the exercise yards only between the hours of 8am to 6pm on any day.

Visitors are permitted to visit the subject land during operating hours between sunrise and sunset noting that this does not apply to visitors of the dwelling.

24. LAND MANAGEMENT PLAN

Prior to the commencement of use and development the permit holder must lodge a Land Management Plan to the satisfaction of the responsible authority. The Land Management Plan must address the existing erosion adjoining the southern waterway and provide details including but not limited to:

(a) Stocking rates for the horse husbandry use;
(b) Proposed pasture and grazing management for the horse husbandry use;
(c) Erosion management measures such as fencing and replanting along the southern waterway;
(d) Measures to restrict access through the buffer replanting adjacent to the southern waterway.

Once the Land Management Plan has been endorsed by the responsible authority it shall form part of the permit and must be complied with to the satisfaction of the responsible authority.

25. COLIBAN WATER

(a) Prior to the commencement of the construction of buildings or other works, the Land Capability Assessment, 1100-260820-Ocl, prepared by The 4 Spheres Pty Ltd, and dated 20 October 2020, must be endorsed under the permit.
(b) The disposal area, and any recommendations for fencing or the prevention of trafficable access to the disposal area, which are set out in the Land Capability Assessment, must be shown on the site plans that form part of the permit.
(c) The wastewater treatment system and disposal area must be installed, and, at all times, must be operated and managed, in accordance with the endorsed Land Capability Assessment and the council-issued septic tank permit.

26. GOULBURN MURRAY WATER

(a) All construction and ongoing activities must be in accordance with sediment

control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).

(b) No buildings are to be constructed within 30 metres of a waterway.

(c) A 30 metre wide buffer strip of native vegetation must be established and maintained either side of the waterway that traverses the southern area of the subject land. Stock must be prevented from having access to this area.

(d) All domestic wastewater from the dwelling, dog kennels and horse stables must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must be an EPA approved system, installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Conformity.

(e) The wastewater disposal area must be located at setback distances of at least 60m from the nearest waterway or dam, 20 metres from any bores and 40 metres from any drainage lines.

(f) The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.

(g) No faecal waste material from the dogs or horses or any stormwater containing faecal matter is to be discharged to any waterways or dams on waterways.

(h) Solid faecal waste must be collected from the dog kennels and horse stables and either composted on site or transported off-site to the satisfaction of council's Environmental Health Department.

(i) Any on-site disposal system for wastewater or faecal waste material from the pens/kennels must be located at least 60m from the nearest waterway or dam on a waterway.

27. SECTION 173 AGREEMENT

Prior to the commencement of use, the applicant must enter into a Section 173 Agreement under the Planning and Environment Act 1987.

Such agreement must covenant that erosion management measures outlined in the Land Management Plan required by Condition 25 and the requirements referred to in Condition 26 (c) are undertaken on an ongoing basis.

The applicant must meet all costs associated with drafting and execution of the Agreement, including those incurred by the responsible authority.

28. EXPIRY OF PERMIT

This permit will expire if:

(a) The development is not commenced within two (2) years from the date of this permit;

(b) The development is not completed within four (4) years from the date of this

permit; or

(c) The uses have not commenced within five(5) years from the date of this permit. These times may be extended, on written request to the responsible authority, before or within 6 months after the expiry of this permit where the development has not yet started or 12 months where the development has commenced.

Attachments

1. Minutes for Council Meeting - Monday, 16 August 2021 - DR-954-2020 [**16.4.1** - 25 pages]
2. P 11376 2021 Stonehenge Constructions Aust Pty Ltd v Greater Bendigo CC [**16.4.2** - 41 pages]
3. Written consent regarding covenant Lot 2 Drummonds Lane Derrinal [**16.4.3** - 2 pages]
4. CONFIDENTIAL REDACTED - Objections to DU-553-2022 [**16.4.4** - 34 pages]

16.5. Lot 2 Drummonds Lane, Derrinal 3523 - Use and Development of Land for a Dwelling in Association with Horse Husbandry and Dog Breeding

Author	Beth Lavery, Statutory Planner
Responsible Director	Andrew Cooney, Acting Director Strategy and Growth

Summary/Purpose

Application details:	Use and development of land for a dwelling in association with horse husbandry and dog breeding
Application No:	DR/954/2020
Application Documents:	Application Documents
Applicant:	Stonehenge Constructions Aus Pty Ltd
Land:	Lot 2 Drummonds Lane, DERRINAL 3523
Zoning:	Rural Conservation Zone
Overlays:	Environmental Significance Overlay 3
No. of objections:	8
Consultation meeting:	The applicant provided a written response to objections, which was circulated to all objectors.
Key considerations:	• Is the proposal appropriate in terms of the purpose and objectives of the Rural Conservation Zone and Environmental Significance Overlay? • Is the scale of the proposal acceptable? • Will the proposal result in unacceptable impacts to amenity? • Can the threats to amenity be appropriately managed?
Conclusion:	While the proposed use and development is somewhat atypical in the elements it comprises, an assessment of the merits of the application against relevant planning policy and the objectives of the Rural Conservation Zone and Environmental Significance Overlay reveal that the proposal is an acceptable response to the site in planning terms, and that any potential adverse amenity impacts can be appropriately mitigated. Approval of the application is recommended.

Document Set ID: 4620020
Version: 1, Version Date: 09/09/2021

RECOMMENDATION

Pursuant to section 61 of the Planning and Environment Act (1987), Council issue a Notice of Decision to Grant a Permit for use and development of land for a dwelling in association with horse husbandry and dog breeding at Lot 2 Drummonds Lane, DERRINAL 3523 subject to the conditions at the end of this report.

RESOLUTION

Moved: Cr David Fagg
Seconded: Cr Margaret O'Rourke

That the recommendation be adopted.

THE MOTION WAS LOST

MOTION:

Moved: Cr Julie Sloan
Seconded: Cr Greg Penna

Pursuant to section 61 of the Planning and Environment Act (1987), Council issue a Notice of Decision to Refuse to Grant a Permit for the use and development of land for a dwelling in association with horse husbandry and dog breeding at Lot 2 Drummonds Lane DERRINAL 3523 on the following grounds

1. The proposal is inconsistent with state and local planning policy, as well as the objectives and decision guidelines of the Rural Conservation Zone and Environmental Significance Overlay, and has the potential to result in adverse environmental impacts affecting the water supply catchment.
2. The scale of the proposed use and development is inconsistent with the objectives and decision guidelines of the Rural Conservation Zone and will result in adverse amenity impacts to surrounding landowners and occupiers by way of noise generation and increased traffic to the site.
3. The proposed development does not constitute an orderly planning outcome for the area pursuant to Clause 65 of the Greater Bendigo Planning Scheme.

CARRIED

Policy Context

Community Plan Reference:

City of Greater Bendigo Community Plan 2017-2021:

- Goal 4 Presentation and managing growth
- Goal 6 Embracing our culture and heritage

Document Set ID: 4620027
Version: 1, Version Date: 09/09/2021

Attachments

1. Planning Assessment Report

Document Set ID: 4620027
Version: 1, Version Date: 09/09/2021

Attachment 1 - DR 954 2020 Drummonds Lane Planning Assessment Report

PLANNING ASSESSMENT REPORT

Report

Subject Site and Surrounds

The subject land is an irregularly shaped, generally cleared and undulating parcel with a total area of 42.10 ha. Located on the southern side of Drummonds Lane, which runs east-west between McIvor Highway and the Northern Highway, the parcel has a maximum depth of 1,183m and a frontage of 390m to Drummonds Lane. Two waterways traverse the southern portion of the land.

The site is surrounded by a mix of larger farming parcels, along with some smaller rural living/lifestyle allotments. Generally, the smaller rural residential allotments are located to the east of the site nearby to the Northern Highway, while larger farmed parcels are located to the north, south and west.

Immediately surrounding the site are the following properties:

- Located **North** of the subject land is a large parcel of farming land which forms part of a larger land holding;
- To the **East** is a parcel of 41ha known as 211 Drummonds Lane, which contains a single dwelling and associated outbuildings, which are positioned in the north west corner of the allotment. The property contains scattered vegetation and two dams;
- Immediately **South** of the land is a parcel of 26.2ha which contains a single dwelling and associated outbuildings, scattered vegetation and dams; and
- **West** of the land a parcel of ~70ha which is known as 342 Coppermine Road, and contains a dwelling and associated outbuildings and farm shedding, located in the southern portion of the allotment. This parcel is also generally cleared and contains a number of dams.

The township of Heathcote is located approximately 7.5km to the south east of the land, Lake Eppalock 5km to the south west, while Bendigo is located 20km to the north west.

Document Set ID: 4620027
Version: 1, Version Date: 09/09/2021

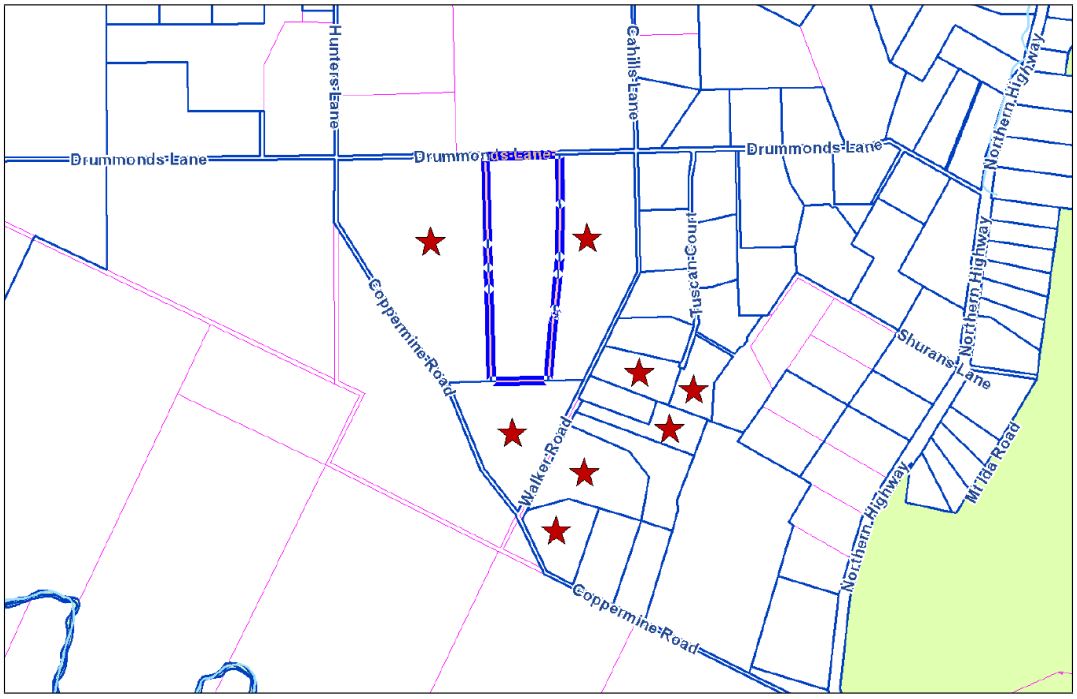


Figure 1: Location map showing subject site. Objector's properties marked with a star.

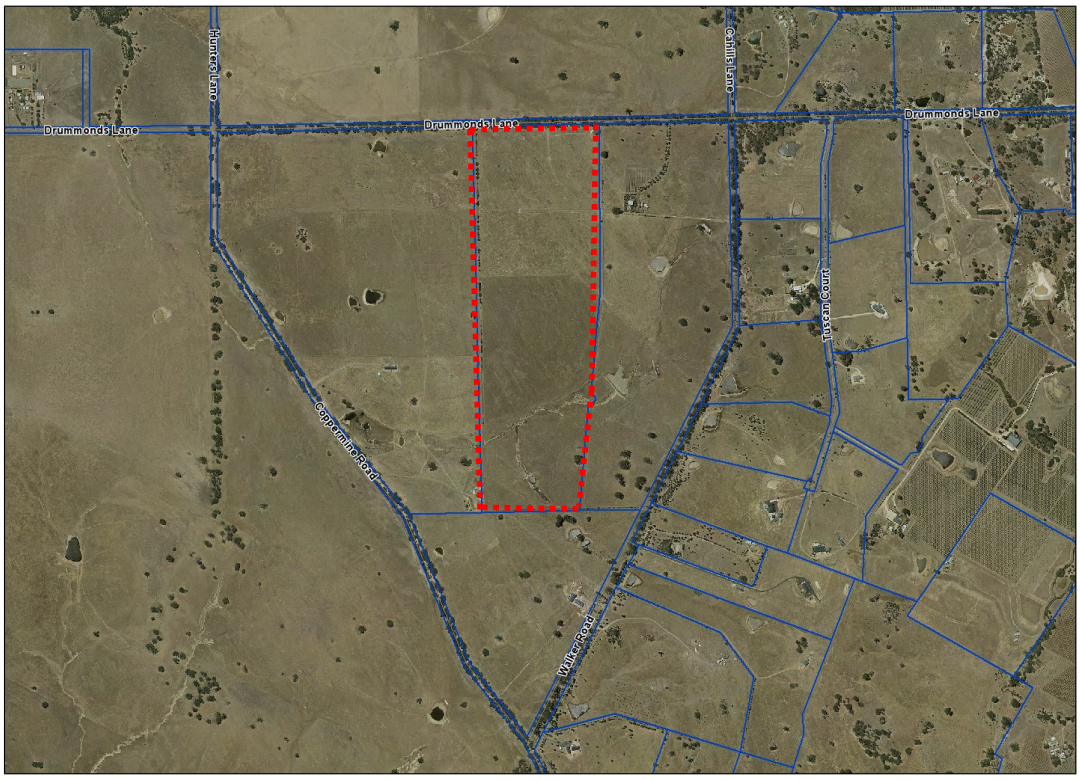


Figure 2: Aerial photo showing subject site.

Document Set ID: 4620020
Version: 1, Version Date: 09/09/2021

Proposal

The application proposes the construction of a dwelling on the land, in conjunction with the use and development of the land for horse husbandry and dog breeding. A new internal driveway is proposed from Drummonds Lane to provide access to the dwelling and other buildings. Each of these elements is discussed below:

Dwelling

It is proposed to construct a single storey dwelling on the land, which will comprise five bedrooms, three bathrooms, study, laundry, open plan living/kitchen/dining areas along with a triple garage. An alfresco area, swimming pool and decking is also proposed. The proposed dwelling will be located 293m from Drummonds Lane and 30m from the eastern boundary, essentially within the north eastern corner of the allotment.

Horse husbandry

This element will involve the use of the land for horse training and stables (defined within the planning scheme as 'horse husbandry'), and will see the construction of a horse stable building to be used in conjunction with the keeping, training and caring for horses, as well as the storage of equipment associated with this use. The building will comprise a main arena, 24 horse stalls, as well as communal open areas. The building will be setback 318m from Drummonds Lane and 132m from the eastern boundary and will be located 50m from the proposed dwelling described above.

Dog breeding

It is proposed to construct a third building, which will be used for dog breeding and training ('Domestic animal husbandry'). This building will include 27 dog pens with external exercise areas, areas for dog washing, an office and additional exercise areas. No more than 50 dogs would be accommodated on the premises at any one time. This building will be set back 336m from Drummonds Lane and 84m from the western boundary.

Access and car parking

A new internal driveway is proposed centrally on the allotment, which will provide access to each of the new buildings. Car parking spaces are also proposed surrounding the horse husbandry and dog breeding facilities.

Landscaping is proposed along the internal accessways, as well as around the proposed buildings and along the property frontage and boundaries.

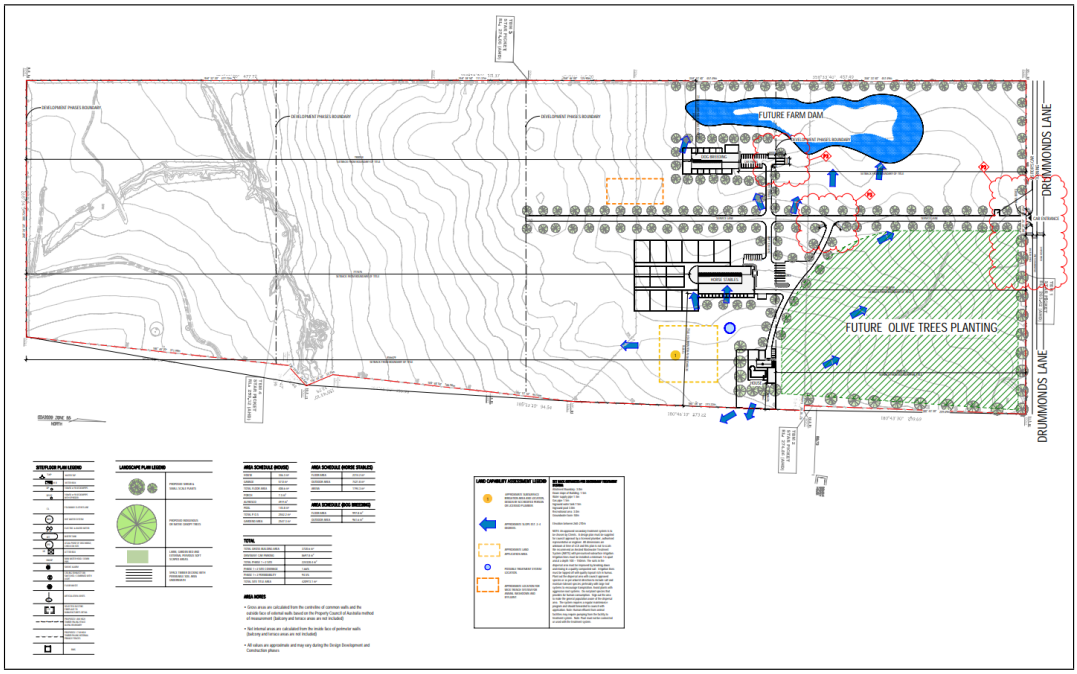


Figure 3: Proposed overall site plan.

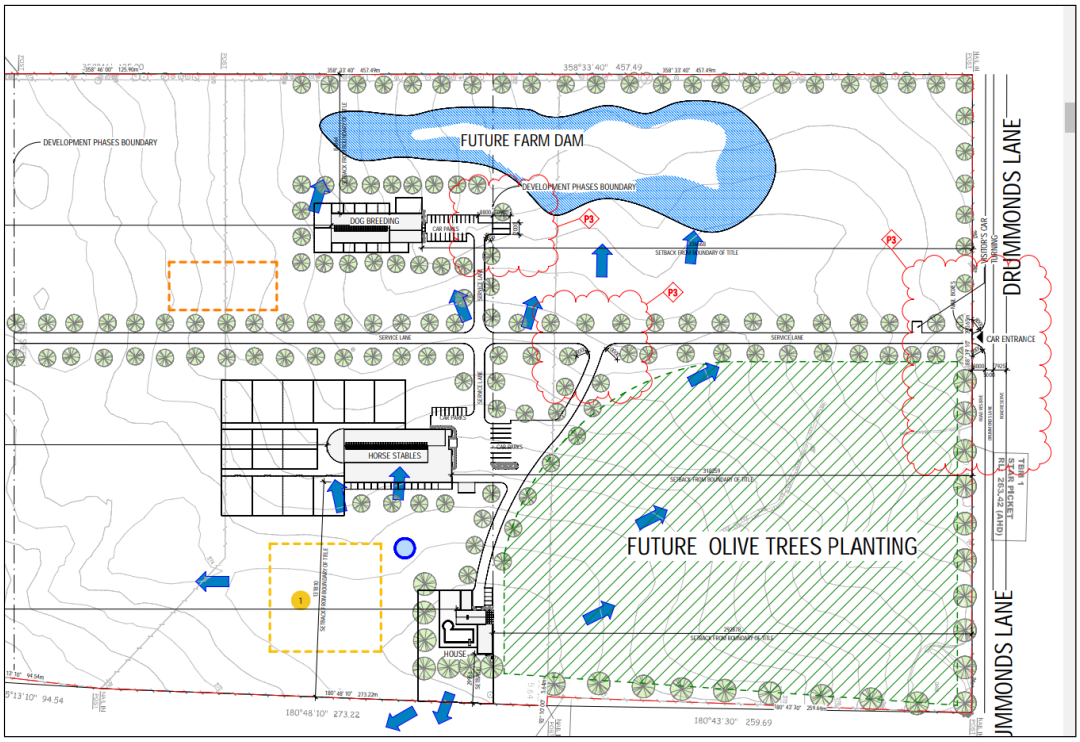


Figure 4: Proposed site plan.

Document Set ID: 4620020
Version: 1, Version Date: 09/09/2021

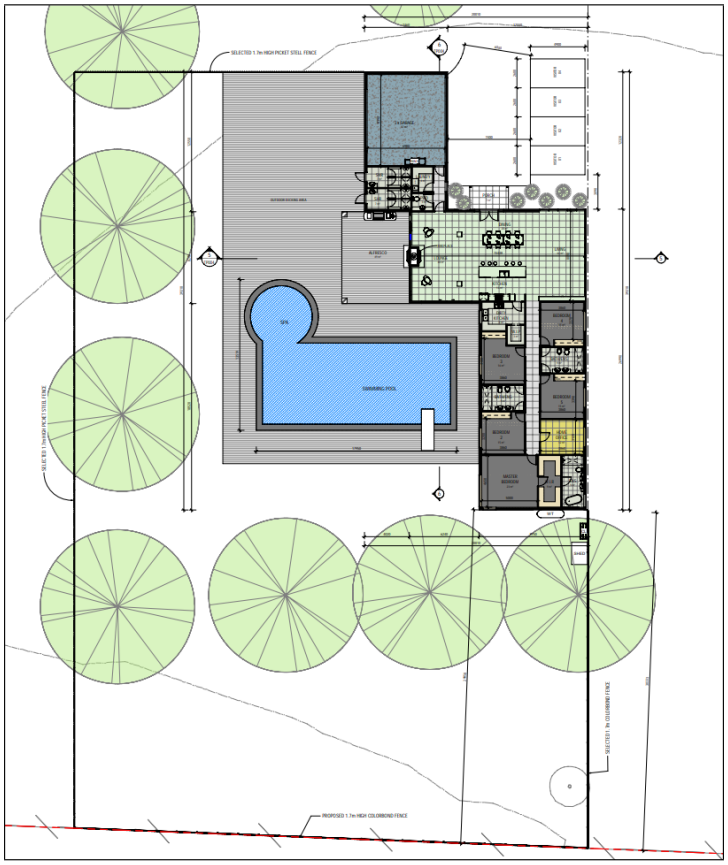


Figure 5: Proposed floor plan - dwelling.

Figure 6: Proposed elevation plans - dwelling

Document Set ID: 4620020
Version: 1, Version Date: 09/09/2021

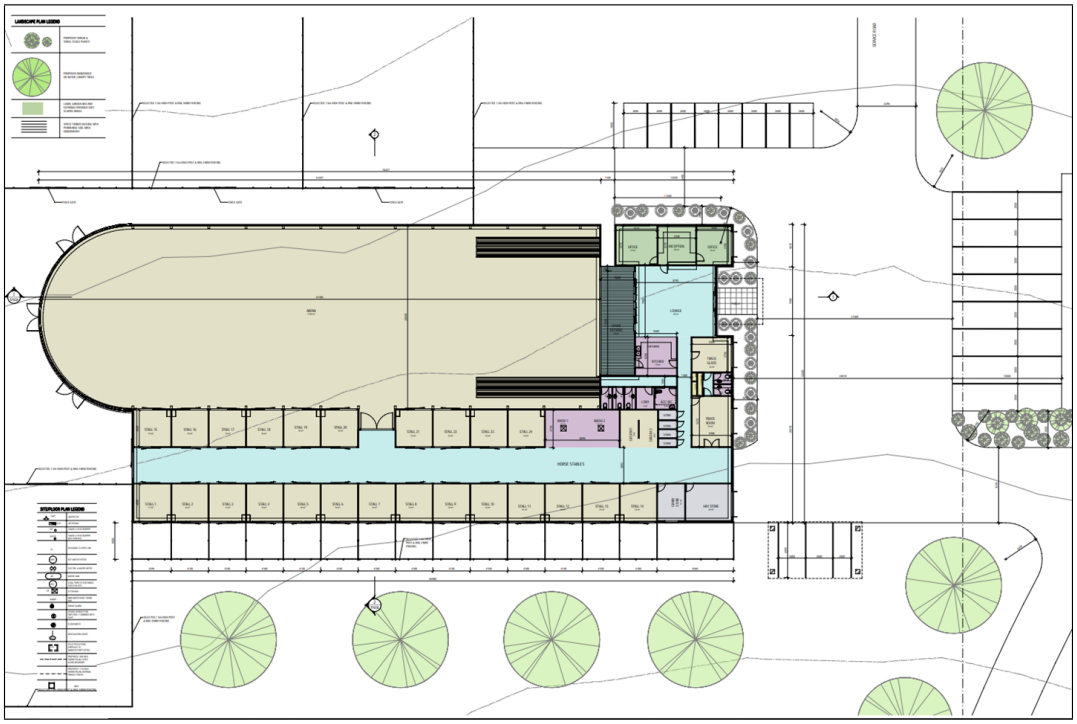


Figure 7: Proposed floor plan – horse husbandry building.

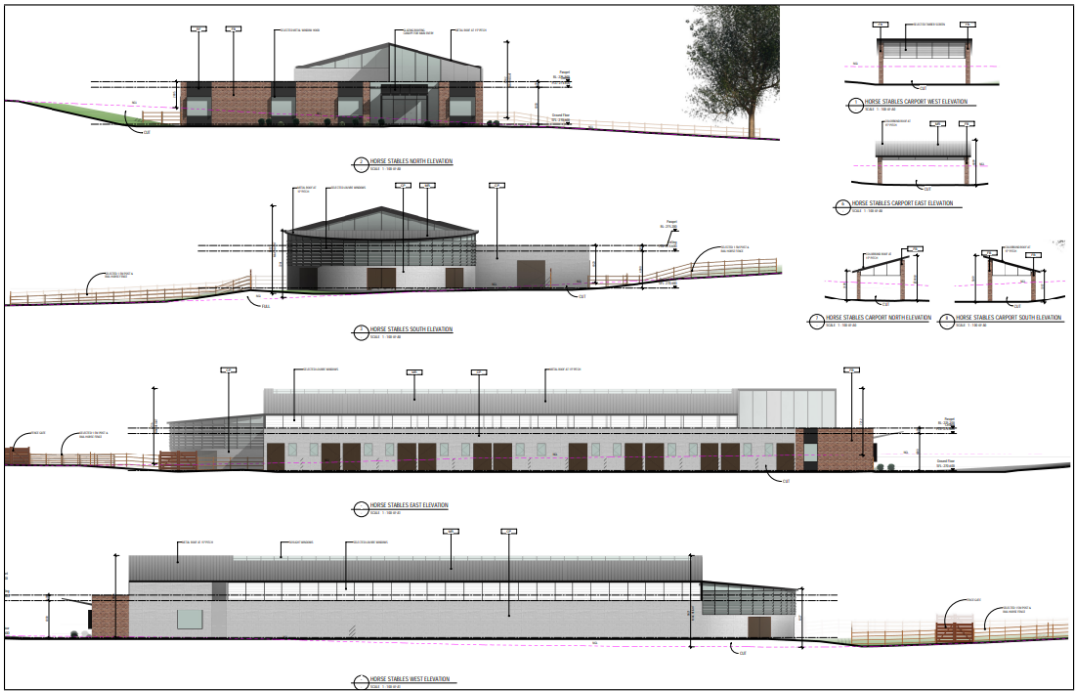


Figure 8: Proposed elevation plans – horse husbandry building.

Document Set ID: 4620020
Version: 1, Version Date: 09/09/2021

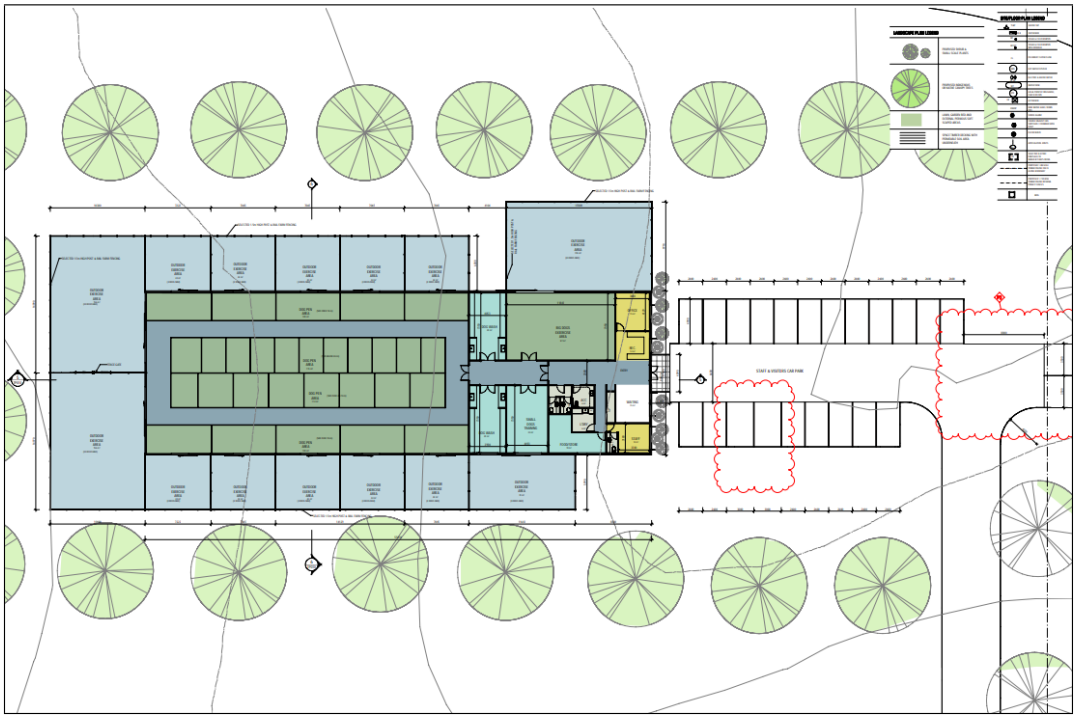


Figure 9: Proposed floor plan – dog breeding building.

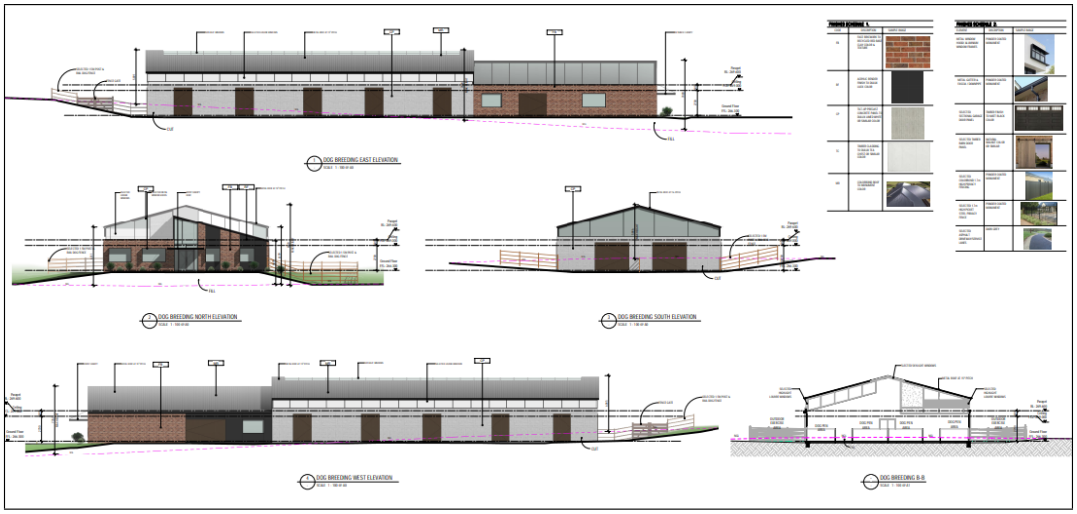


Figure 10: Proposed elevation plans – dog breeding building.

Document Set ID: 4620020
Version: 1, Version Date: 09/09/2021

Figure 11: Proposed landscape plan.

Planning Controls - Greater Bendigo Planning Scheme

A planning permit is required for the proposal pursuant to the following clauses within the Greater Bendigo Planning Scheme:

- 35.06 -1 - Use of land for a dwelling in the Rural Conservation Zone
- 35.06-1 – Use of land for domestic animal husbandry within the Rural Conservation Zone (dog breeding)
- 36.06-1 – Use of land for horse husbandry within the Rural Conservation Zone
- 35.06-5 – Construct a building or carry out works associated with a Section 2 Use within the Rural Conservation Zone
- 42.01-2 – Construct a building or carry out works within the Environmental Significance Overlay (Schedule 3)

The following clauses are relevant in the consideration of this proposal:

<u>State Planning Policy Framework</u>

- 11.01-1S – Settlement
- 12.05-2S – Landscapes
- 13.02-1S – Bushfire planning
- 13.05-1S – Noise abatement
- 13.07-1S – Land use compatibility
- 14.01-1S – Protection of agricultural land
- 14.01-2S – Sustainable agricultural land use
- 14.02-1S – Catchment planning and management

- 14.02-2S – Water quality
- 15.01-2S – Building design
- 15.01-6S – Design for rural areas
- 16.01-3S – Rural residential development

Municipal Strategic Statement

- 21.05-12 – Rural living
- 21.08-1 – Natural resource management
- 21.08-2 – Wastewater

Local Planning Policies

- 22.02- Rural dwellings policy
- 22.04 – Salinity and erosion risk policy
- 22.07 – Animal keeping and animal training policy

Other Provisions

- 35.06 – Rural Conservation Zone
- 42.01 – Environmental Significance Overlay
- 65.01 – Decision guidelines - approval of an application or plan

Consultation/Communication

Referrals

The following authorities and internal departments have been consulted on the proposal:

Referral	Comment
Traffic Engineer	No objection
Environmental Health	Conditional consent
Goulburn Murray Water	Conditional consent
Coliban Water	Conditional consent

Public Notification

The application was advertised by way of a sign on the site and letters to adjoining and owners and occupiers. Following advertising, 8 objections were received, with the grounds of objection summarised as follows:

- Incorrect applicant/owner details;
- Noise and amenity impacts from dog breeding facility to surrounding properties;
- Number of car parking spaces excessive for proposed use;
- Capacity of Drummond Road to handle extra traffic generated by the proposed use and potential safety impacts;

- Inconsistency with Rural Conservation Zone objectives, particularly protection and enhancement of the natural environment;
- Proposed land use inconsistent with surrounding agricultural and residential uses and will impact upon rural ambience and lifestyle;
- Concerns with intensity of proposed use;
- Concerns about ability for wastewater to be appropriately managed;
- Inconsistency with Animal Keeping and Animal Training policy;
- Commercial venture that is not appropriate in a rural area;
- Concerns about number of dogs proposed on site, puppy farming;
- Lack of notice;
- Potential loss of native vegetation if Drummonds Lane requires upgrading;
- Impact on local wildlife;
- Concerns about proposed horse husbandry building and arena, and potential for it to be a facility for public use/events;
- Inadequate room for dogs to be appropriately exercised;
- Potential for stallions to be kept on the property which will impact upon other horses in the area.

Broadly, the objections centre on the appropriateness and scale of both of the proposed animal husbandry uses on the land, potential impacts to amenity through noise and increased traffic generation and impacts to the rural environment including wildlife.

None of the objections raised concern with the dwelling component of the proposal.

The objections are discussed further within the planning assessment below.

Planning Assessment

Is the proposal appropriate in terms of the purpose and objectives of the Rural Conservation Zone and Environmental Significance Overlay?

The purpose of the Rural Conservation Zone includes protecting and enhancing the natural environment; encouraging use and development of land which is consistent with sustainable land management and land capability practices and recognises the conservation values and environmental sensitivity of the locality; and conserving and enhancing the character of open rural landscapes.

Within Greater Bendigo, the Rural Conservation Zone has been applied to all land in the Lake Eppalock catchment, as well as other areas within the municipality on land abutting national parks, in recognition of the following values:

- The need to protect the water supply catchment of Lake Eppalock;
- The need to preserve the flora, fauna and landscape values of the land in the zone;
- The need to protect significant vegetation cover on land in the zone;

- The need to protect existing vegetation on privately-owned land adjoining vegetated public land; and
- The need to minimise land degradation including salinity and erosion.

Within the Rural Conservation Zone, all elements of the proposal (use and development of the land for the dwelling, horse husbandry and dog breeding) require planning approval, given the restrictive nature of the planning control.

In a similar vein, the Environmental Significance Overlay seeks to identify areas where the development of land may be affected by environmental constraints, and to ensure that development is compatible with the identified environmental values. Schedule 3 to this Overlay refers to the Eppalock Declared Water Supply Catchment and has an environmental objective to ensure the protection and maintenance of water quality and water yield within the Eppalock Water Supply Catchment Area.

In terms of the subject land and the proposed use and development, a key consideration is therefore whether there will be any adverse impacts to the water supply catchment if the proposal is to proceed.

To support the proposal, the applicant has undertaken a Land Capability Assessment and other geotechnical reports which explore whether the site has the ability to contain the development, retain all wastewater within the lot boundaries and cause no detriment to the water catchment. These reports, which consider both the waste to be generated from the dwelling and the management of waste from animals, conclude that the proposal is acceptable in land capability terms, which the City's Environmental Health Team have confirmed.

In addition, in order to assist with determining whether land use and development may have unreasonable impact, applications within the Environmental Significance Overlay (Schedule 3) are required to be referred to both Coliban Water and Goulburn Murray Water for comment. In this instance both authorities have provided conditional consent to the proposal, requiring ongoing conditions to be included on any permit issued to ensure that the use and development of the land will not have undue impact on the catchment in perpetuity.

So while the proposal appears appropriate in terms of land capability and impacts to the Water Supply Catchment, the question of whether it is an appropriate response in terms of the conservation of environmentally sensitive landscapes remains.

The pattern of development of the nearby area includes a mix of larger allotments – like the subject land – interspersed with smaller parcels, with those further east of the land (on land zoned Farming Zone) being subdivided into to smaller rural residential style allotments. The subject land is essentially on the boundary between Rural Conservation Zone and Farming Zone. With the rural residential allotments proximate to the land, the presence of a number of dwellings and buildings within the landscape are common.

The proposed buildings are have been designed to minimise impact on the landscape in terms of form, bulk and material choice. In addition, the proposed buildings will be set back from Drummonds Lane so as to limit visibility from the roadway and the public realm.

Landscaping is proposed around each of the new buildings to further reduce any visual impacts of the buildings on the landscape.

Revegetation of parts of the land will be required by conditions from Goulburn Murray Water to ensure that the potential for any land degradation resulting from the proposal, such as salinity or erosion is managed and reduced.

Is the scale of the proposed animal husbandry component of the application acceptable?

Many of the objections received raise concern that the use and development as proposed is beyond that which would typically be associated with the use of land for domestic purposes, and instead appears to be a commercial venture. The objections further suggest that any commercial venture is inappropriate in a rural setting.

It is acknowledged that both the horse husbandry and dog breeding buildings are of a reasonable scale and include the capacity for people other than the property owners to visit, use or be involved in each of the facilities.

The application notes that others will be involved in the day to day running of both, however no other extension of the use beyond this involvement is proposed. In short, it is not proposed that members of public will attend the site for events or the like.

The keeping of animals such as horses is not a foreign element in the nearby landscape, and although a permit is required for the use due to the Rural Conservation Zone, provided the use can be managed appropriately so as to limit the impact on the environment, is not considered unreasonable. It is also not unusual to have infrastructure such as stables and arenas to support such uses within a rural landscape. While the scale of the proposed building may exceed what is typically present in such a setting, this does not automatically render it inappropriate.

In terms of dog breeding on the land, this is a less typical element within a rural landscape. A maximum of 50 dogs (including puppies) are proposed to be contained on site at any one time in association with the proposed use. A number of the objections received to the application suggest that the facility seems akin to a 'puppy farm', which can be described as '*an intensive dog breeding facility that is operated under inadequate conditions that fail to meet the dogs' behavioural, social and/or physiological needs'* (Source: RSPCA Australia).

The introduction of the *Domestic Animals Amendment (Puppy Farms and Pet Shops Act 2017* (an amendment to the *Domestic Animals Act 1994)* has addressed the problem of puppy farming within Victoria and has included a number of controls such as limiting the number of fertile female dogs breeders can keep, and requiring commercial dog breeders (with commercial dog breeding being defined as the keeping of between 11-50 fertile female dogs) to apply for approval to the Minister of Agriculture, and receive ongoing renewals of the approval. Any application for a commercial dog breeding business must include information such as:

- A three-year business plan that includes the number of current and proposed employees, their roles and qualifications as well as the number of current and proposed dogs and breeds;
- Education and training policy for staff and volunteers;

Document Set ID: 4620427
Version: 1, Version Date: 19/08/2021

- Health management plan for each breed of dog;
- Retirement plan for each dog;
- Exercise, enrichment, socialisation and handling policy;
- An agreement with a veterinary practitioner to provide veterinary services to the business; and
- Responsible pet ownership information, complaints procedures, returns procedure, and sales guarantee policy.

As such, gaining approval for such an enterprise is a rigorous process and one that is ongoing and requires significant commitment, with the welfare of the dogs the top priority.

Based on the above, given the extensive approvals and information required to support such a facility beyond any planning permit, it is reasonably assumed that the proposal will not be a 'puppy farming' enterprise in any way. The facilities to be provided to support the dog breeding use appear to designate appropriate areas for the care of the animals, both indoor and outdoors. The facility will be purpose built for dog breeding and will incorporate features to ensure appropriate care for the animals, as well as including noise attenuation design elements to reduce adverse amenity impacts beyond the site.

The applicant has the benefit of being able to construct a facility to meet the extensive requirements involved for this proposed use, rather than to retrofit an existing site and has already made considerable investment in doing so through the application material which has been prepared to support the application to date.

The contentious elements of the proposal, such as the number of animals, or the potential for either or both of the buildings to be used in a commercial capacity, can be conditioned within any permit issued to ensure that the use does not stray from what is stated in the application material.

The impact of the built form of the buildings on the overall landscape is considered acceptable and unlikely to be unreasonably dominant or out of character with the rural feel of the area given the siting, simple forms, height of the buildings and proposed landscaping around each.

Will the proposal result in unacceptable impacts to amenity, and can these threats be appropriately managed so as to ensure that the amenity of the area is not compromised?

The most significant threats to the amenity of the locality from the proposal are that from noise pollution and increased traffic generation along Drummonds Lane. Both of these elements are discussed below.

- *Noise impacts*

In response to the objections which listed noise pollution as a potential adverse impact of the proposed land uses, the applicant provided a Noise Impact Assessment to further explore this element. While *Noise from industry and trade premises in regional Victoria (NIRV)* would normally apply to the site, Clause 22.07 of the Greater Bendigo Planning Scheme (Animal Keeping and Animal Training Policy) sets out that noise originating from animal keeping establishments should comply with *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (*SEPP N-1*).*

The Noise Impact Assessment:

- Established noise limits for the day, evening, and night-time periods for general operation during the week based on the SEPP N-1 criteria
- Conducted an assessment of likely noise emissions from the proposed kennels when animals are located indoors for the night-time period. That is; noise transmission through windows, walls, ceiling/roof and entry doors including doors to the outdoor exercise areas.
- Conducted an assessment of likely noise emissions from dogs within the outdoor exercise areas for the day and evening time period during the week and a period of use on Saturdays and Sundays.
- Provided details of acoustic treatment, operational and management controls to ensure that the acoustic criteria established in the assessment are maintained.

The report has explored possible 'worse case scenarios' for acoustic emissions from the site and ultimately concludes that noise generation from the site will not exceed legislative requirements.

As noted above, the report also outlines a number of recommended management conditions and acoustic treatments, which can be required by condition of any permit issued. A condition requiring further acoustic testing following commencement of the use is also proposed so as to ensure that the recommendations have been complied with, and that the site is operating within the parameters set out within the submitted noise assessment.

- *Increased traffic generation along Drummonds Lane and the capacity of the roadway to absorb this additional traffic*

A Transport Report was prepared in support of the application and in response to objections, and includes an assessment of traffic generation expected to be associated with the proposal. Peak traffic movement to and from the site is expected to occur during the morning and evening periods, with the total amount of daily traffic movement along Drummonds Lane resulting from the proposal estimated to be in the vicinity of 58 vehicles per day (comprising the occupants of the dwelling, any staff associated with the animal husbandry uses, general visitors and contractors). A survey submitted as part of this assessment indicates that current vehicle movements along Drummond Lane are approximately 48 vehicles per day, therefore traffic volume along Drummonds Lane is expected to increase to up to 106 vehicle movements per day.

While this is undoubtedly an increase in vehicle movements, the majority of this additional vehicle movement will be in the 'peak' times (7am-8am and 4pm-5pm), comprising approximately 14 vehicle movements during these windows, with the remainder scattered throughout the day.

Drummonds Lane is an unsealed rural road managed by the City, which comprises a single traffic lane with a width of approximately 3.7m and 1m wide gravel shoulders. The single width of the road requires any passing of vehicles to occur by utilising the gravel shoulders on either side of the road, which is typical of a rural road.

AustRoads Guide to Road Design provides guidance on rural road widths and the capacities of such roads in terms of traffic movement. The Guide recommends that single lane carriageway roads (such as Drummonds Lane) only be used when traffic volumes are less than 150 vehicles per day, and where the terrain is open.

As noted above, the proposed development will see an estimated increase of up to 106 vehicle movements per day. This additional traffic sits comfortably under the recommended 150 vehicles per day recommended within the AustRoads Guide, and as such, it is not considered likely that the proposal will exceed the capacity of Drummonds Lane.

In terms of amenity impacts to be felt through additional traffic along the roadway, while it is acknowledged that there will be an increase of traffic compared to current conditions, the movement of vehicles will remain relatively infrequent and is not uncommon within the rural landscape.

Consistency with planning policy

Of key relevance in the assessment of this application are policies surrounding the protection and conservation of areas of environmental significance and which may be environmentally sensitive (such as water supply catchments), preservation of rural character and rural residential development.

It is considered that the proposal is consistent with relevant policy insofar as there will be no adverse impacts to the water supply catchment and the environment in general, the proposal will not exceed the capability of the land to contain such development, and the proposed buildings and works have been designed sensitively and are able to be sited to ensure minimal intrusion onto the rural landscape.

The proposal is also consistent with policy surrounding dwellings in a rural setting, as it will not fragment agricultural land, will introduce an animal husbandry use on the land that is able to be appropriately managed, and will not result in adverse outcomes in terms of environmental values of the land.

The Animal Keeping and Animal Training policy at Clause 22.07 of the Planning Scheme includes objectives to ensure that use and development of land for this purpose does not impact negatively upon the environment; to protect the amenity of nearby residents; and to ensure good design and appropriate siting of such facilities. The policy sets out a number of requirements which seek to ensure that the above objectives are met. The proposal has been assessed against the relevant requirements of this policy as follows.

- *The site should be located 500 metres from a dwelling on another lot (a report undertaken by an acoustic consultant shall be submitted where all development is within 500 metres of an adjoining dwelling which demonstrates compliance with State Environment Protection Policy No. N-1.*

  There will be dwellings located within 500m of the proposed animal husbandry buildings, however an acoustic report has been provided which demonstrates compliance with State Environment Protection Policy N-1. The measures outlined within this report will form part of the conditions of any permit issued, to ensure that there are no adverse impacts from the proposal in terms of noise pollution.

Document Set ID: 4620427
Version: 1, Version Date: 09/09/2021

- *The site should have an area capable of containing the development and an adequate area for storage and screening*

  The site is over 40ha in area and as such has the capacity to contain the development, as well as appropriate screening of all buildings. The site also has the capacity to contain all wastewater and other general waste to be generated by the proposal.

- *The maximum number of animals kept on the site (not including animals less than 6 months old) should be assessed on the basis of the manner in which they will be contained, size of the parcel of land, treatment/disposal of waste, noise and odour attenuation, proximity of watercourses and land capability*

  No more than 30 horses and 50 dogs are proposed to be kept on the premises at any one time. The proposed buildings have been designed to accommodate this (maximum) number of animals accordingly. The information supplied in support of the application demonstrates that the site has the capacity to accommodate the proposed use and development appropriately in terms of land capability.

- *A management program and report assessing all environmental and amenity issues must be compiled by a qualified person and lodged as supporting information*

  Reports outlining the proposed treatment of all waste from the site, as well as acoustic measures required have been submitted in support of the application.

- *Animal keeping facilities should be set back a minimum of 30 metres from any road and setback a minimum distance of 10 metres from any dwelling on the land*

  The proposed setbacks for all buildings, including the dwelling, are in excess of these requirements with the horse husbandry and dog breeding buildings set back 318m and 336m respectively from Drummonds Lane, and the horse husbandry building 50m from the proposed dwelling.

- *Landscaping and screening of the site should be undertaken to the satisfaction of the responsible authority*

  A landscaping plan has been provided which indicates screening along the internal accessway and around each of the proposed buildings, along with screening along the property boundary. It is considered that this proposed landscaping will provide adequate screening of the site.

- *All animal keeping facilities should be constructed of materials and/or components that prevent noise disturbance to adjoining or nearby properties by animals kept therein*

  The proposed animal husbandry buildings will incorporate noise attenuation measures, as recommended as part of the noise assessment submitted in support of the application.

- *Noise originating from animal keeping establishments should comply with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No N-1*

The applicant has provided a Noise Assessment Report which demonstrates that the proposal will be able to operate within the noise limits specified within the above policy.

- *All animal keeping facilities should be regularly washed down and maintained in a clean and hygienic manner to the satisfaction of the responsible authority*

  This requirement can be included as a condition on any permit issued.

- *All animal waste, manure and wash down water should be treated and disposed of within the boundaries of the site or in an alternative manner that has no negative impact on the catchment*

  A geotechnical report regarding the treatment and dispersal of animal liquid wastewater has also been supplied, which outlines wastewater management requirements and demonstrates that this can occur fully within the lot boundaries. Further, conditions from Coliban Water and Goulburn Murray Water will also ensure that the proposal does not adversely impact the water catchment.

- *All feed rooms and treatment rooms should be constructed to have impervious walls and floors*

  This can be required by condition of any permit issued.

- *All animal feed should be stored in vermin proof containers*

  This can be required by condition of any permit issued.

- *An area should be set aside for visitor parking (where required) and such an area should be drained, treated and maintained to the satisfaction of the responsible authority to minimise the emission of dust from the site.*

  Both the horse husbandry and dog breeding buildings incorporate areas for visitor parking. The proposal also includes the construction of a new internal accessway, which will be required to be sealed in order to reduce any dust emissions from the site.

- *The use, including the times and methods of exercising and feeding should be at all times be conducted to the satisfaction of the responsible authority so as to prevent nuisance or disturbance to nearby properties by reason of noise, smell or otherwise.*

  This can be controlled via a condition of any permit issued.

- *The land should not be used for displays or exhibitions attended by members of the public or for meetings or exhibition organised by a bona fide organisation or the like without the further approval of the responsible authority*

  The application does not propose to use the site for public events in any form. A condition will be included on any permit issued to this effect.

- *Once operational, the animal keeping/animal training establishment should comply with the relevant Code of Practice issued by Agriculture Victoria*

  As outlined earlier within this report, the dog breeding component of the proposal will be required to seek approval for Commercial Dog Breeding from the Minister of

Agriculture. The proposal will also be required to comply with the Code of Practice for the Welfare of Horses.

Remaining objector concerns

- *Incorrect applicant/owner details*

An adjoining neighbour raised concern about the application material referring to the subject land as 211 Drummonds Lane. This confusion has come about as the subject land does not currently have a street address, and rather is known only as Lot 2 Drummonds Lane, having been sold off from 211 Drummonds Lane in recent times. It is expected that if a permit is to issue, once a dwelling and the associated development is constructed on the land, that a formal street number will be allocated to the property. That the application refers to the correct parcel of land – Lot 2 – will be clear on any permit issued.

- *Number of car parking spaces excessive for proposed use*

The proposed dwelling and two buildings provide for a number of car parking spaces to be supplied for each. The Planning Scheme does not specify any minimum car parking requirements for animal husbandry, and as such, any car parking must be to the satisfaction of the responsible authority. Providing additional parking does not equate to a commercial use of the land and as discussed earlier within the report, this can be controlled via condition to ensure that the use does not transform beyond what may be approved. The car parking is considered acceptable and not a cause for concern.

- *Concerns about ability for wastewater to be appropriately managed*

A Land Capability Assessment and various geotechnical reports have been provided to demonstrate the site's ability to contain waste generated by the proposal. The City's Environmental Health Officers have reviewed the application and supporting material, and along with Coliban Water and Goulburn Murray Water, have provided conditional consent to the proposal. A number of conditions will be included on any permit issued to ensure that the site handles and treats waste and wastewater in an appropriate manner on an ongoing basis. Recent legislation introduced to assist with the protection of the environment and prevent harm to public health and the environment from pollution and waste (the *Environment Protection Act 2017)* will further assist in ensuring that the use of the land is environmentally appropriate.

- *Lack of notice*

As required by Section 52(1)(a) of the *Planning and Environment Act 1987*, notice of the application was given to the owners and occupiers of allotments adjoining the subject land. A sign was also placed on site. Whilst direct notice was not provided beyond those immediately adjoining the land, it is considered that the notice of the application was in accordance with Act and therefore acceptable, and that the sign displayed on the site would inform any other nearby property owners of the application.

- *Potential loss of native vegetation if Drummonds Lane requires upgrading*

No removal of native vegetation is proposed as part of the application and an upgrade to Drummonds Lane is also not required.

Document Set ID: 4620020
Version: 1, Version Date: 09/09/2021

- *Impact on local wildlife*

While the development of a now vacant parcel of land may displace some wildlife once the land is occupied, given the size of the allotment and the landscape in general, it is not seen to be a significant or unacceptable risk.

- *Potential for stallions to be kept on property which will impact upon other horses in the area*

The application does not make clear whether any stallions are to be kept on the property at any time, and it is noted that stallions are a difficult animal to manage. In order to ensure that there are no impacts to adjoining horse owners from the potential for a stallion to be kept on the property, a condition can be included on any permit issued to restrict the possibility of this occurring.

Conclusion

While the proposal contains elements which are not necessarily typical in a rural landscape, the use and development of the land as outlined is consistent with the objectives and requirements of both the Rural Conservation Zone and Environmental Significance Overlay, as well as relevant planning policy, and that the threats to amenity which many of the objections to the application outline are able to be appropriately mitigated to ensure that there are no adverse impacts to nearby land owners and occupiers. Approval of the application is therefore recommended.

Options

Council, acting as the responsible authority for administering the Planning Scheme, may resolve to: grant a permit, grant a permit with conditions, or refuse to grant a permit.

Proposed Notice of Decision Conditions

1. MODIFIED PLAN REQUIRED
   Before the use and/or development start(s), amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:
   (a) Revised plans to show 1.8m high fencing around outdoor dog exercise areas and 1.8m high perimeter fencing around dog breeding building around in accordance with condition 10 and 13

2. NO LAYOUT ALTERATION
   The use and/or development permitted by this permit as shown on the endorsed plan*(s)* and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the responsible authority.

3. GENERAL DRAINAGE – BUILDINGS & HOUSES
   The proposed building(s) and works must be drained to the satisfaction of the City of Greater Bendigo as the responsible drainage authority.

Document Set ID: 4620427
Version: 1, Version Date: 09/09/2021

4. INTERNAL DRIVEWAY AND ACCESS
   Prior to the commencement of any construction, internal driveways must be constructed to an all weather standard to accommodate emergency vehicles, and the new entrance from Drummonds Lane must be constructed in accordance with the Infrastructure Design Manual.

5. USE OF CAR PARKING AREAS
   Areas set aside for the parking and movement of vehicles as shown on the endorsed plan must be made available for such use and must not be used for any other purpose.

6. ELECTRICITY SUPPLY
   The dwelling must be connected to a reticulated electricity supply or have an alternative energy source to the satisfaction of the responsible authority.

7. LANDSCAPING WORKS
   Before the *occupation of the development* or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.

8. LANDSCAPING MAINTENANCE
   The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, *including that any dead, diseased or damaged plants are to be replaced.*

9. NUMBER OF ANIMALS
   No more than 50 dogs and 30 horses are to be kept on the subject land at any time, including those belonging to the operator under this permit.

   Any stallions to be kept on the land in association with the horse husbandry use must be appropriately paddocked and managed at all times to the satisfaction of the responsible authority.

10. DOG EXERCISE AREA
    Any portion of the land where dogs are to be exercised must be enclosed with a chain wire mesh fence 1.8 metres high or other fencing approved by the responsible authority. Such fencing must be provided prior to the commencement of the use permitted by this permit and maintained to the satisfaction of the responsible authority.

11. KENNEL FLOOR
    The floor or the ground under the kennels must be constructed of an impervious material to assist with cleaning and drainage and where possible drained to appropriate floor waste gully to collect wash down water. Such wash down water would be best treated through an appropriate septic waste system.

12. SECURITY
    The kennel buildings must be able to be securely locked.

13. FENCING
    An external perimeter fence of at least 1.8 metres high must be established around the dog breeding facility to prevent the escape of animals.

14. WASTE REMOVAL
    Untreated animal waste must not be stored on site and must be disposed of to the satisfaction of the responsible authority.

Document Set ID: 4620427
Version: 1, Version Date: 19/08/2021

Solid animal waste must be separated from liquid animal waste.

15. KENNEL WASHDOWN
The kennels must be regularly washed down and maintained in a hygienic manner to the satisfaction of the responsible authority.

16. WASTE WATER
All washdown water, waste water or water, effluent or polluted drainage which has been in contact with dog excrement or putrescible matter must not be allowed to discharge beyond the boundaries of the subject land or directly or indirectly into any watercourse.

17. FEED STORAGE
All feed shall be stored in vermin proof containers.

18. NOISE EMISSIONS
Noise emissions from the site at all times must generally comply with Environment Protection Authority's guidelines.

The recommended management conditions and acoustic treatments contained within the Noise Impact Assessment prepared by Acoustic Logic, Revision 1, dated 19 May 2021 must be carried out to the satisfaction of the responsible authority.

19. ACOUSTIC TESTS
Within 3 months of the dog breeding use commencing, the permit holder must have carried out by a suitably qualified acoustic consultant to the satisfaction of the responsible authority, a series of noise tests (measured at appropriate locations). The results of the noise tests should confirm that the use is being conducted in a manner so that noise emissions do not exceed EPA requirements, and are consistent with the recommendations set out in the Noise Impact Assessment prepared by Acoustic Logic, Revision 1, dated 19 May 2021. A copy of the results of the tests and any recommendations arising there from must be provided to the responsible authority and any recommendations must be carried out to the satisfaction of the responsible authority and the EPA.

20. PUBLIC EVENTS
The land should not be used for displays or exhibitions attended by members of the public or for meetings or exhibitions organised by a bona fide organisation or the like without the further approval of the responsible authority.

21. AMENITY
The use of the land, including the times and methods of exercising and feeding of animals should be at all times be conducted to the satisfaction of the responsible authority so as to prevent nuisance or disturbance to nearby properties by reason of noise, smell or otherwise.

22. COLIBAN WATER
(a) Prior to the commencement of the construction of buildings or other works, the Land Capability Assessment, 1100-260820-Ocl, prepared by The 4 Spheres Pty Ltd, and dated 20 October 2020, must be endorsed under the permit.
(b) The disposal area, and any recommendations for fencing or the prevention of trafficable access to the disposal area, which are set out in the Land Capability Assessment, must be shown on the site plans that form part of the permit.
(c) The wastewater treatment system and disposal area must be installed, and, at all times, must be operated and managed, in accordance with the endorsed Land Capability Assessment and the council-issued septic tank permit.

Document Set ID: 4620427
Version: 1, Version Date: 09/09/2021

23. GOULBURN MURRAY WATER
    (a) All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
    (b) No buildings are to be constructed within 30 metres of a waterway.
    (c) A 30 metre wide buffer strip of native vegetation must be established and maintained either side of the waterway that traverses the southern area of the subject land. Stock must be prevented from having access to this area.
    (d) All domestic wastewater from the dwelling, dog kennels and horse stables must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must be an EPA approved system, installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Conformity.
    (e) The wastewater disposal area must be located at setback distances of at least 60m from the nearest waterway or dam, 20 metres from any bores and 40 metres from any drainage lines.
    (f) The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.
    (g) No faecal waste material from the dogs or horses or any stormwater containing faecal matter is to be discharged to any waterways or dams on waterways.
    (h) Solid faecal waste must be collected from the dog kennels and horse stables and either composted on site or transported off-site to the satisfaction of council's Environmental Health Department.
    (i) Any on-site disposal system for wastewater or faecal waste material from the pens/kennels must be located at least 60m from the nearest waterway or dam on a waterway.

24. EXPIRY OF PERMIT
    This permit will expire if the development permitted by the this permit is not completed within 2 years from the date hereof. The time within which the development must be completed may be extended, on written request to the responsible authority, before or within 6 months after the expiry of this permit where the development has not yet started or 12 months where the development has commenced.

Environmental Health Notes –

- Before a building permit is issued for the dwelling a Permit to Install an Onsite Wastewater Management System must be issued by Council.
- Wastewater from the proposed swimming pool shall not be disposed of into or nearby the Onsite Wastewater Management System infrastructure.
- It is recommended that composting is undertaken in accordance with EPA Publication Designing, constructing and operating composting facilities Publication 1588.1* June 2017

Document Set ID: 4620027
Version: 1, Version Date: 09/09/2021

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P11376/2021
PERMIT APPLICATION NO. DR/954/2020

CATCHWORDS

Section 77 *Planning and Environment Act 1987;* Greater Bendigo Planning Scheme; Rural Conservation Zone; Environmental Significance Overlay; Dwelling; Horse Husbandry; Dog Breeding; Whether restriction in covenant breached; Environmental Impacts; Erosion; Amenity Impacts; Noise; Traffic.

APPLICANT	Stonehenge Constructions Aust Pty Ltd
RESPONSIBLE AUTHORITY	Greater Bendigo City Council
REFERRAL AUTHORITY	Coliban Region Water Corporation Goulburn Murray Water Corporation
SUBJECT LAND	Lot 2 PS834665, Drummonds Lane, DERRINAL VIC 3523.
WHERE HELD	Melbourne
HEARING TYPE	Hearing
DATE OF HEARING	9, 10 & 11 February 2022 and 6 April 2022[1]
DATE OF ORDER	25 May 2022
CITATION	Stonehenge Constructions Aust Pty Ltd v Greater Bendigo CC [2022] VCAT 584

ORDER

No permit granted

1 In application P11376/2021 the decision of the responsible authority is affirmed.

2 In planning permit application DR/954/2020 no permit is granted.

Joel Templar
Member

Christopher Harty
Member

[1] Following the discovery of a restriction in a covenant subsequent to the merits hearing in February 2022, a further hearing was conducted on 6 April 2022 to hear submissions about whether the proposal breached the restriction in the applicable covenant.

APPEARANCES[2]

For Stonehenge Constructions Aust Pty Ltd	Ms Serena Armstrong, barrister by direct access. Evidence from the following witnesses: • Mr John Glossop, town planner of Glossop Town Planning. • Dr Daniel Deere, water consultant of Water Futures Pty Ltd. • Mr Ross Leo, acoustic engineer of Clarity Acoustics. • Ms Hilary Marshall, traffic engineer of Ratio Consultants.
For Greater Bendigo City Council	Mr Matthew Beazley, lawyer of Russell Kennedy lawyers.
For Coliban Region Water Corporation	No appearance.
For Goulburn Murray Water Corporation	No appearance.

[2] All appearances were via an online platform.

INFORMATION

Description of proposal	Use and development of the land for a dwelling in association with horse husbandry and dog breeding.
Nature of proceeding	Application under section 77 of the *Planning and Environment Act 1987* – to review the refusal to grant a permit.
Planning scheme	Greater Bendigo Planning Scheme
Zone and overlays	Rural Conservation Zone Environmental Significance Overlay Schedule 3
Permit requirements	Clause 35.06-1 - to use land for a dwelling. The dwelling must be the only dwelling on the lot and meet the requirements of Clause 35.06-2. Clause 35.06-1 - to use land for domestic animal husbandry (dog breeding). Clause 35.06-1 - to use land for horse husbandry. Clause 35.06-5 - to construct a building or construct or carry out works associated with a use in Section 2 of Clause 35.06-1. Clause 42.01 - to construct a building or construct or carry out works under Clause 3.0 of Schedule 3 as the site is unsewered.
Land description	The review site is located on the southern side of Drummonds Lane in Derrinal, approximately 2.5 kilometres west of the Northern Highway. The site is roughly rectangular in shape although tapers slightly at the southern end. It has a width of approximately 390 metres to Drummonds Lane and a maximum length of 1.172 kilometres along the eastern boundary and is approximately 42 hectares in area.
Tribunal inspection	22 February 2022

REASONS[3]

WHAT IS THIS PROCEEDING ABOUT?

1 This proceeding concerns the review by the applicant of the council's decision to refuse to grant a permit for the proposal. The council refused the proposal at a council meeting where officers recommended approval, subject to conditions.

2 As part of the permit application process, the proposal was advertised and a total of eight objections was received. Objections were received from both land owners on either side of the review site. However, none of the objectors is a party to this proceeding.

3 The council's grounds of refusal broadly relate to:

- Inconsistency between the proposal and relevant planning scheme provisions and policy;
- Adverse impacts to the water supply catchment;
- Scale of the proposed uses and development with the Rural Conservation Zone (RCZ);
- Adverse amenity impacts from noise and traffic; and
- Orderly planning.

4 The council pursued these grounds although it conceded that the review site was not physically within the Eppalock hydrological catchment which the Environmental Significance Overlay Schedule 3 (ESO3) specifically relates to, but was within the Campaspe River catchment and therefore water quality and impact matters were still relevant. The council also submitted that there was a substantial amount of information lacking and that matters arising from this lack of information could not be merely addressed through conditions. These included:

- Waste management, particularly relating to both the horse husbandry and dog breeding operations.
- Operational management.
- Stocking density.
- Soil and erosion management associated with the horse husbandry.
- Water usage and supply.

5 The council said the applicant is reliant on getting a permit and then addressing those matters through permit conditions and that doing so does not amount to orderly planning.

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[3] The submissions and any evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

6 The applicant refuted the grounds of the council and called evidence in the fields of town planning, water quality, acoustics and traffic engineering. All witnesses supported the proposal but some concessions were made and conditions were also recommended.

7 Following the merits hearing in February 2022, the Tribunal discovered a covenant that neither party brought to the attention of the Tribunal, either prior to, or during the hearing. Upon discovery, it was apparent that the restriction registered under the covenant may be breached by the proposal. Therefore, the Tribunal scheduled a practice day hearing in order that this issue could be thoroughly explored.

8 Further, the purpose of the practice day hearing was also to enable the parties to address the Tribunal with respect to:

- planning scheme amendment C256, which was gazetted following the conclusion of the merits hearing; and
- the extent and severity of erosion of the waterways in the southern portion of the site. The Tribunal inspected the review site following the conclusion of the merits hearing and at that inspection, it was apparent that the condition of those waterways was worse than what the Tribunal was aware of from the material and evidence produced for and at the hearing.

9 At the practice day hearing, the parties addressed the Tribunal both in written and verbal submissions with respect to all three further issues. At the conclusion of that hearing, both parties advised that they were satisfied that the Tribunal was in a position to make a decision on all matters.

10 In this case, we find the key issues to be addressed are as follows:

- Does the proposal breach the restriction registered on title?
- Will the proposal have an unacceptable environmental impact?
- Are the proposed uses acceptable?
- Are the proposed buildings and works acceptable?
- Will there be any unacceptable amenity impacts?

11 Our findings are that the proposal breaches the restriction in the covenant registered on title and we are therefore unable to grant a permit. Otherwise, we would have found the proposal to be generally acceptable in response to each of the permit triggers, although there are some aspects that require further detail.

12 We set out our reasons below.

PHYSICAL CONTEXT

Review Site

13 The review site is located approximately 7.5 kilometres north-west of the township of Heathcote and 36 kilometres east of the city centre of Bendigo. It is located in an area that is generally used for farming either on large or smaller scales. Dwellings are scattered throughout, with a higher concentration of dwellings just to the east within what appears to be a conclave of smaller lots but located in the Farming Zone.

14 The review site is currently vacant of any buildings and is generally comprised of fenced paddocks sown to pasture. An existing gated access is located approximately halfway along the frontage and this access is proposed to be used for access to the site as part of the proposal.

15 There are some scattered small to medium sized trees along the western boundary and scattered vegetation along the northern part of the eastern boundary. There is also one large eucalyptus tree towards the south-eastern corner.

16 Three dams are located on the site. The first is located in the far north-east corner and appears to be fed from the adjoining site to the east. The second is located close to the western boundary, approximately 270 metres from the front boundary and is fed from a depression running in a south-east to north-west direction across the review site. This dam appears to have been recently constructed as it does not appear in any aerial photography tendered to the Tribunal. The third is a more longitudinal shaped dam close to the southern boundary which appears to be largely fed from the site adjoining to the south. This third dam is also upstream of two waterways that lie in the southern portion of the site.

Figure 1: Aerial image of the review site.[4]

17 The topography can be described as generally undulating, rising up gently from Drummonds Lane towards a mildly sloped ridge running generally in an east-west alignment across the centre of the site, approximately 290 metres from the front boundary. Further west, the land starts to fall away into a mild depression and gully running from the south-east to the north-west and flows to the second dam towards the western boundary.

18 Travelling further to the south, the land falls away again towards two waterways in the southern portion of the site. The first traverses the site in an east-west direction, with another intersecting waterway further to the south flowing in a south to north direction. On the southern side of the east-west waterway, the review site is relatively flat, with a slight rise towards the south-east corner and contains a large eucalyptus tree.

[4] Source: Mr Glossop's evidence, page 31. Note the second dam is absent from this image as it appears to have been constructed recently.

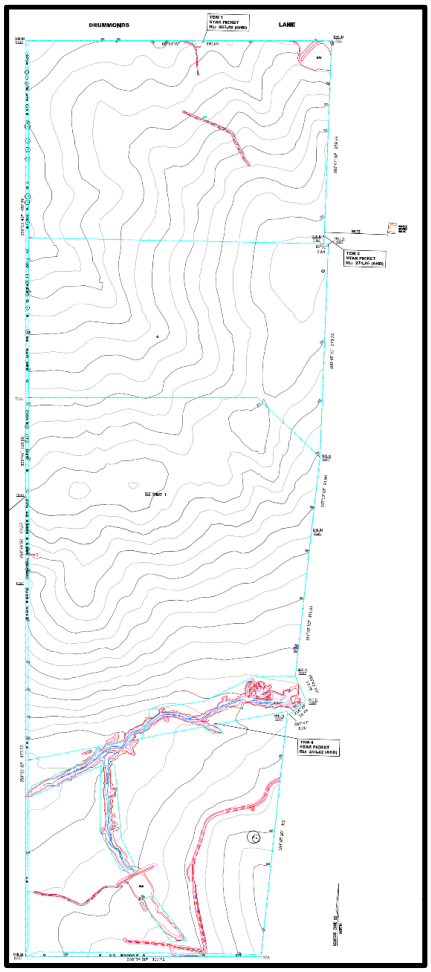

Figure 2: Feature and level survey of the review site.[5]

19 The two waterways in the southern portion are described as ephemeral by Dr Deere and he further describes the general area as being in poor environmental condition, with little vegetation other than pasture grasses.

20 There is evidence that some riparian planting has been undertaken along these waterways although this is sparse and has had varied success, with most specimens appearing not to have advanced much at all.

21 Upon inspection, the condition of the waterways, especially the most upstream parts of the east-west waterway, is noted as being in particularly poor condition and with severe erosion in parts, with a height difference between the bed of the waterway and top of the banks being approximately 1.5 metres, or perhaps higher in some locations with near vertical banks in many parts.

[5] Source: substituted plans, and noted as being drawn on 10 December 2020, 'Existing Site Plan'. Note the second dam is absent from this plan as it appears to have been constructed recently.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

22 The map extracted below from VicPlan[6] with the site boundary in red, shows the waterways that affect the site in thin blue lines.

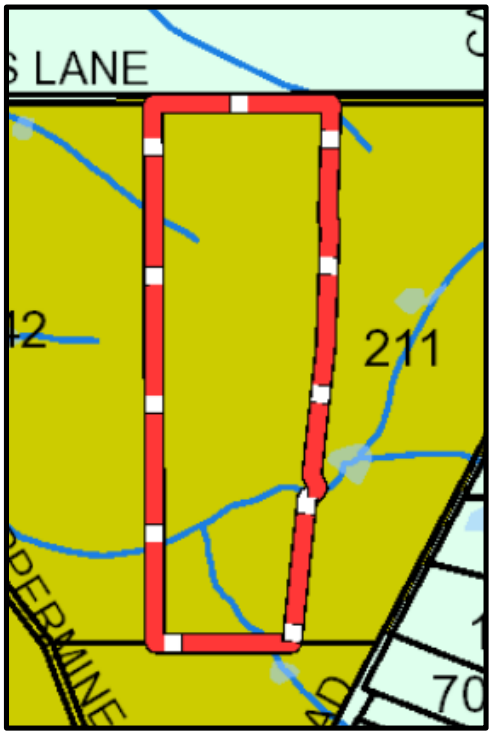

Figure 3: Zoning map with waterways.

Surrounding area

23 The surrounding area is generally used for broad acre farming. There are vast tracts of land that are cleared of remnant vegetation, although some exists along fences and much remains along roadsides.

24 Dwellings are scattered throughout and are visible but they are not the dominant features of the landscape. Pasture and trees dominate with buildings visible but not frequent incursions.

25 The topography is flat to gently undulating for the most part, with high ranges beyond to the south and south-east in the Heathcote-Graytown National Park and the One Eye State Forest.

26 Drummonds Lane is a gravel road running in an east-west alignment between the Northern Highway to the east and the McIvor Highway to the west. It is approximately 4.5 metres wide near the review site and two cars can pass, although at a reduced speed.

27 The review site has abuttals to other private land to the east, south and north.

[6] https://mapshare.vic.gov.au/vicplan/, 3 May 2022.

28 To the east is a similarly sized and shaped parcel of land from which the review site was recently subdivided. This parcel supports a double storey dwelling located approximately 250 metres from the Drummonds Lane frontage and 80 metres from the common boundary with the review site. This dwelling is relatively prominent and clearly visible from the northern half of the review site.

29 To the south is another, relatively large (approximately 26 hectares), triangular shaped parcel of land that also supports a dwelling and outbuildings. This property is accessed from Walkers Road and also has a long frontage to Coppermine Road to its west. The dwelling is set back approximately 280 metres from the common boundary with the review site, with a large outbuilding on its north-western side, partially blocking visibility of the dwelling from some parts of the review site.

30 To the west is an approximately 70 hectare parcel which also supports a dwelling. The dwelling is located approximately 260 metres west of the review site and is largely obscured because of the topography from many parts of the review site, particularly those where the dwelling, horse breeding and dog breeding buildings are proposed. The site slopes downwards towards the south-west in parts, particularly the western half, with the northern half being slightly undulating.

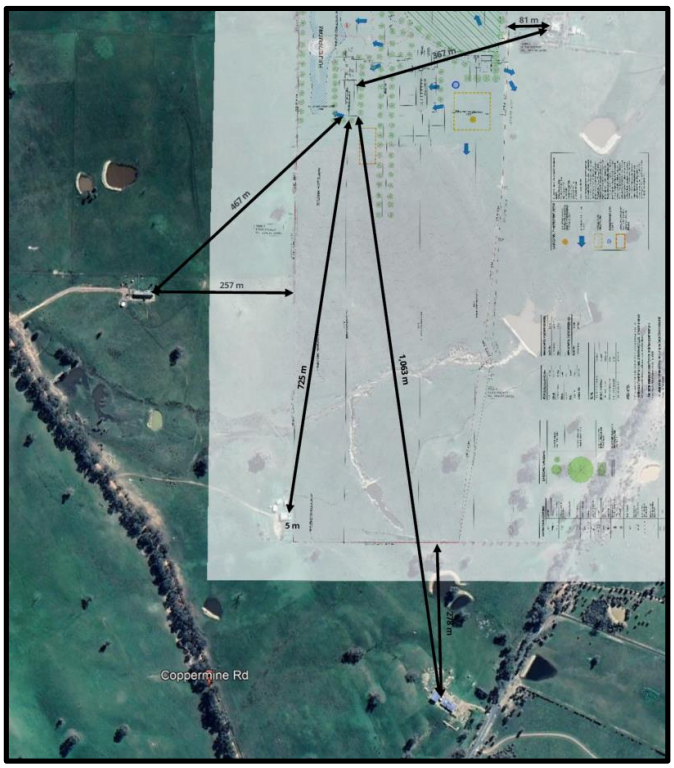

Figure 4: Image prepared by Mr Leo at the direction of the Tribunal during the hearing. Image shows distances between existing dwellings on adjoining sites and the review site, as well as distances between those dwellings and the proposed dog breeding building.

THE PROPOSAL

31 The proposal involves the use and development of the land for:

a. A dwelling.

b. Horse husbandry.

c. Dog breeding.

32 There will be similarities between the three proposed buildings in terms of design and materials and finishes.

33 The proposed horse stables and dog breeding building are located within the depression that runs to the second dam, along the western boundary.

34 Access to all three components is proposed from the existing gated access point along the frontage with a new single accessway running in a north-south alignment. Approximately 230 metres into the site, a dedicated accessway for the dwelling is proposed and branches off towards the east. The main accessway continues for another 70 metres where various branches extend to the horse and dog breeding buildings. The main accessway continues southwards between the dog and horse breeding facilities for another 280 metres before it terminates.

35 A total of 48 car parking spaces are proposed on the site, with each proposed use hosting a proportion of these.

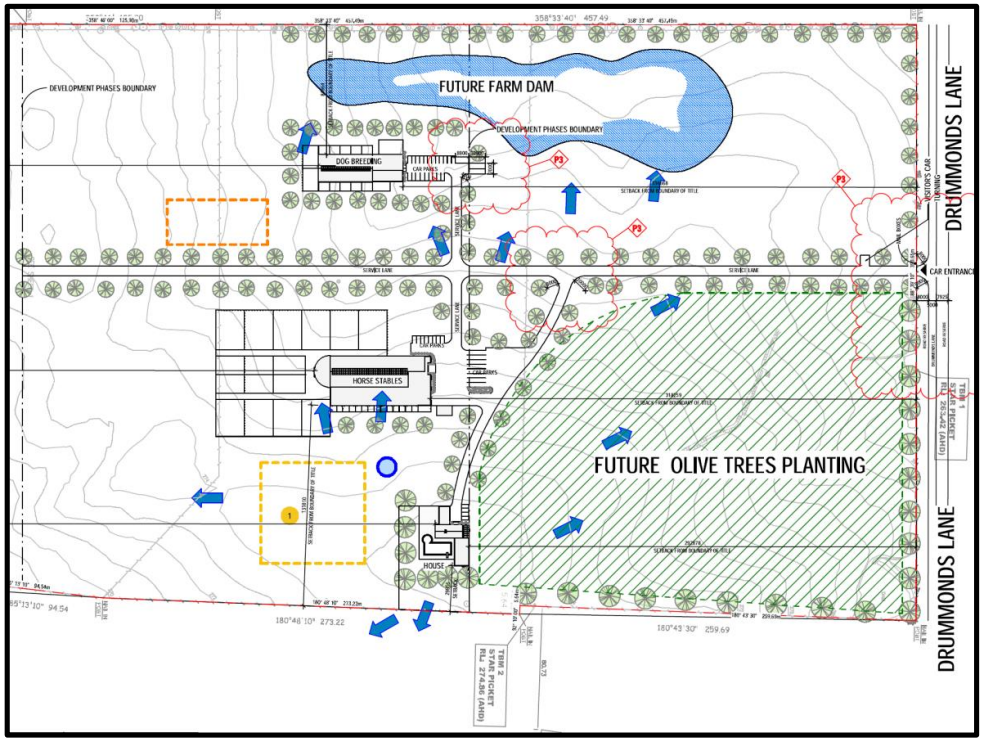

Figure 5: Partial site plan showing northern half of the site.

36 The design response plan also shows a 'future farm dam' along the eastern boundary, closer to the north-western corner and a 'future olive trees planting' area in the north-western corner. There are also various annotations on this plan for 'development phases boundary' which are remnant from previous versions of the plans. None of these form part of the proposal before us and so we would have included a condition to delete any reference to them had we been in a position to grant a permit.

Dwelling

37 The dwelling is proposed to be set back approximately 292 metres from Drummonds Lane and 30 metres from the eastern boundary. It will be the eastern most of the three buildings proposed. It is proposed to be approximately 466 square metres in area, with a pool. It will be single storey in scale, with a primarily flat roof form up to 4.71 metres in height, although it has a pitched section with a maximum overall height of 7.6 metres. It is to be constructed of face brickwork and timber cladding with a coloured corrugated iron roof.

Figure 6: North elevation of the dwelling

38 A solid steel fence to 1.7 metres is proposed between the north-eastern corner of the dwelling and the eastern boundary, and then continues southwards along the eastern boundary for approximately 46 metres. A steel picket fence to 1.7 metres is proposed along the eastern and southern sides, also then extending to the eastern boundary.

39 In addition to the triple garage proposed, four uncovered car parking spaces are proposed to the north of the garage.

40 A swimming pool and outdoor decking area are also provided to the rear of the dwelling.

Dog Breeding

41 The dog breeding component will be set back approximately 336 metres from Drummonds Lane and 85 metres from the western boundary. The dog breeding use is proposed to have up to 50 adult dogs on site at any one time.

42 A single storey building (maximum building height of 7.48 metres) is proposed to accommodate this use together with attached enclosed outdoor exercise areas. Various sized dog pens are provided within the building, together with indoor exercise areas, associated dog related areas and office

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

facilities. The front section of the building will house the offices, staff rooms, storage, dog wash rooms and training and indoor exercise areas. The rear section will accommodate dog pens.

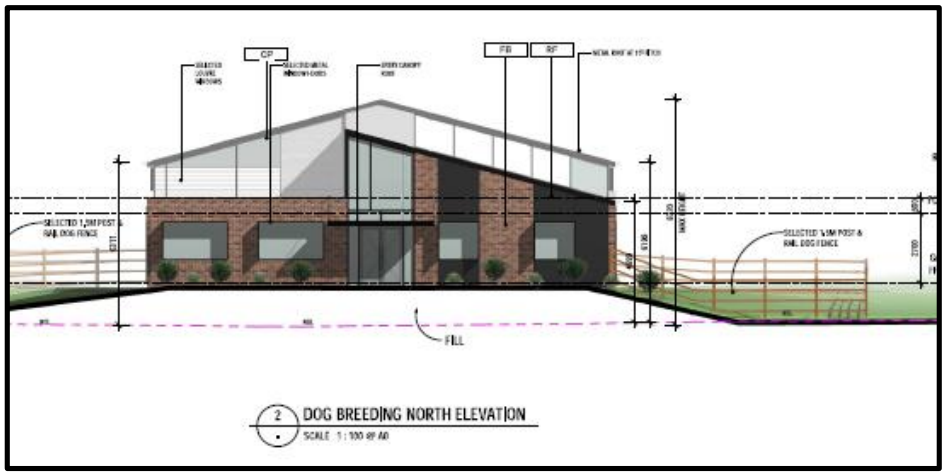

Figure 7: North elevation of the dog breeding building

Figure 8: East elevation of the dog breeding building

43 Car parking car spaces are proposed at the front of the building including extended length spaces to accommodate combination car and trailers.

44 Like the proposed dwelling, this building will mainly be constructed in face brickwork to the north elevation, however, painted rendered sections are also proposed at various locations.

45 Along the side and rear elevations, precast concrete panels are proposed to be utilised. The roof is to be partly flat and partly clerestory form over the front section and pitched gable over the rear, dog pen section. Colorbond cladding is proposed as the roof material.

46 The use is to operate by being managed by both residents of the proposed dwelling as well as other staff. The specific breed of dogs to be bred has not been determined. To this end, Mr Leo's evidence was based on a 'worst case' scenario in terms of noise to be generated from dogs barking.

47 Visitation by prospective purchasers of dogs is proposed to be by appointment only and this includes purchasers meeting puppies before the age of 8 weeks as well as collection of the puppies from 8 weeks of age and older.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

Horse husbandry

48 The horse husbandry component of the proposal will be located more centrally within the review site approximately 318 metres from Drummonds Lane and in between the proposed dwelling and horse husbandry building. It is proposed have up to 30 horses on site at any one time with both horse training and horse breeding proposed.

49 A single storey building (maximum building height of 9.87 metres) is proposed to accommodate this land use in part, with horses also grazing over the land. The proposed building is comprised of a 1,194 square metre arena, 24 individual horse stalls, office and visitor facilities, as well as general amenities. An open-sided carport is proposed at the north-west corner of the main building. Car spaces are provided to the front of this building including extended length car spaces to accommodate combination vehicle with attached horse trailers and horse trucks.

Figure 9: North elevation of the horse husbandry building

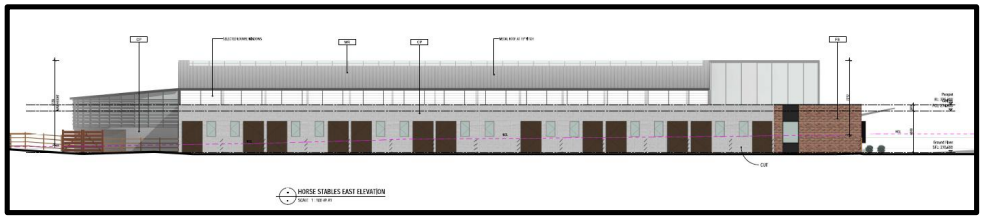

Figure 10: East elevation of the horse husbandry building

50 Similar to the other proposed buildings, this building will be constructed using face brickwork with render features to the north elevation, and precast concrete panels to the sides and rear. Similar to the dog breeding building, the roof form will vary with a gabled Colourbond clad roof over the arena area and much of the office and visitor facilities. A flat and clerestorey roof form will cover the remainder of the office and visitor facilities.

51 No events are proposed as part of this use, such as competitions and shows and any sales and the like will be via appointment only.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

DOES THE PROPOSAL BREACH THE RESTRICTION REGISTERED ON TITLE?

52 A restrictive covenant is registered on title through instrument PS834665T. The restriction within this covenant is as follows:

> NOTICE OF RESTRICTION
>
> UPON REGISTRATION OF THIS PLAN, THE FOLLOWING RESTRICTION WILL BE CREATED:
>
> DESCRIPTION OF RESTRICTION
>
> THE REGISTERED PROPRIETOR OR PROPRIETORS OF LOT 1 & 2 ON THIS PLAN MUST NOT, CONSTRUCT OR ALLOW TO BE CONSTRUCTED ANY BUILDING THAT IS WITHIN A 100m MINIMUM SETBACK FROM THE TOP OF BANK OF ANY DESIGNATED WATERWAY WITHOUT THE WRITTEN CONSENT OF THE RESPONSIBLE AUTHORITY.
>
> LAND TO BE BURDENED: LOT 1 & 2.
> LAND TO BENEFIT: LOTS ON THIS PLAN.

53 Section 61(4) of the *Planning and Environment Act 1987* states:

> If the grant of a permit would authorise anything which would result in a breach of a registered restrictive covenant, the responsible authority must refuse to grant the permit unless a permit has been issued, or a decision made to grant a permit, to allow the removal or variation of the covenant.

54 There are a number of waterways on the review site and one is within 100 metres of both the dog breeding building and horse breeding building, to the north-west of both.

55 The council and the applicant both submitted information and correspondence from the North Central Catchment Management Authority (NCCMA), which was the authority that required the covenant to be registered on title as part of the previous subdivision. This correspondence was to the effect that it was only the southern waterway that was intended to be captured by the restriction. However, the restriction as it appears on the title reflects the permit condition sought by the NCCMA[7] and does not make this distinction. The permit condition by the NCCMA is extracted below:

> Prior to certification a suitable restriction must be placed on title that stipulates all buildings must be setback a minimum of 100 metres from the top of bank of any designated waterway.

56 There was no dispute between the parties that the waterway to the north-west of the buildings in question is a designated waterway for the purposes of the restriction. This was confirmed by material supplied by the council, including the government gazette designating those waterways as Forest Creek, which is a tributary of the Campaspe River under section 188 of the *Water Act 1989*.

57 Council submitted that as it stands, the application would breach the restriction given buildings are proposed to be located within 100 metres of Forest Creek and therefore no permit can be granted. At the practice day

[7] In its referral response to the previous subdivision application, dated 9 January 2019.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

hearing, the council was unable to give any certainty with respect to the timing of when consent might be forthcoming from the council if that was sought under the consent mechanism in the restriction and suggested that at least two months would be required. We presume this is due to internal council processes and possibly to put the matter to a council meeting. Nonetheless, there is no certainty that council would provide its consent in any case.

58 The applicant submitted that there would be no breach if the buildings are more than 100 metres from the top bank of a designated waterway or the responsible authority gives written consent under the consent provision in the restriction to a reduction in this setback. It argued that the consent mechanism within the restriction enabled the consent of the responsible authority to be obtained such that no breach would occur and that this could occur at any time, including after the grant of a permit. It also said that issuing a permit would not in itself result in the breach even without that consent but that in that circumstance, the breach would only occur once construction of the said buildings had commenced.

59 The applicant relied on the decision in *Costa*[8] to support these arguments. In that case, the relevant part of the covenant was extracted into that decision and reads as follows:

> that no building other than a dwelling house shall be erected on the said land the plans and specifications of which shall be first submitted to and approved by the said Land Mortgage Bank of Victoria Limited, it successors and transferees …

60 In that case, it was found that the applicant (Mr Costa) was such a successor and his approval was required. However, it was also found that although the applicant in that case had not, at the time of the hearing, provided his consent, and had declared at the hearing that he would not do so in the future, the Tribunal found that this did not discount him potentially changing his mind at some point in the future.

61 *Costa* also refers to *Reid*[9] which was a similar case to *Costa* involving a covenant. Paragraph 63 of *Costa* sets out the facts of *Reid*:

> 63 The restrictive covenant in the Reid/Skinner case contained a number of specifications. It allowed "private dwelling houses" (plural) but requires them to be of brick or stone with roofs of slate or tiles and that they cost not less than £750 exclusive of architect's fees. It further requires that:
>
> > "the plan whereof has been first submitted to and approved by the said Kate Lynch and James Byrne their heirs, executors, administrators or trustees respectively".

[8] *Costa v Glen Eira CC* [2005] VCAT 2719.
[9] *Reid v Boroondara CC and Skinner* [2004] VCAT 1797.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

62 In *Reid* the then President of the Tribunal was required to make a legal ruling. He found that the necessary questions to ask were:

- what would the grant of a permit authorise; and
- whether doing so would result in a breach of the registered restrictive covenant.

63 The then President's findings on those matters were that the construction of a house would be the thing authorised and that whether that would result in a breach of the covenant would depend on whether, and if so when, the beneficiaries of the covenant would approve the plans for the house. Further, he found that the grant of a permit in that case of itself would not authorise a breach of the covenant as the approval by the beneficiaries could occur at any time, even after the grant of a permit. In that case, the breach would only occur at the time the building commenced construction if approval of the beneficiaries had not been provided.

64 In our view, there is a clear distinction between the restriction that is before us, and those which were before the Tribunal in *Costa* and *Reid*.

65 In *Costa*, the relevant parts of the covenant in question contained a 'contingency' restriction, whereby *at all times*, the permission of the successors in title was required. In our case, the restriction does not have the same 'contingency'. In our case, the restriction nominates a defined setback distance, which would be breached if a permit was granted allowing a building to be located within that defined setback without the consent of council.

66 It appears to us that the applicant sought to define the consent mechanism in the restriction before us as such a contingency when in fact, it is different.

67 Those 'contingencies' were separate and discrete restrictions that needed to be overcome in those cases. In our case, no such permission is required as part of the restrictions themselves, the covenant just provides a consent mechanism to potentially overcome the actual restrictions. That is a very different provision than what existed in the *Costa* and *Reid* cases.

68 Further, in *Costa* and *Reid*, permission was required by a third party, whereas in our case, the consent mechanism can only be authorised by the council. No consent under the restriction has been granted by the council in our case.

69 The key question therefore in our case is whether the permit sought would authorise anything that would result in a breach of the restriction. If the answer to that question is yes, then section 61(4) of the Act prohibits the grant of a permit.

70 The applicant submitted that there would be no breach if the buildings were more than 100 metres from the top bank of a designated waterway. In this case, the granting of a permit would authorise a building within 100 metres of the top bank of a designated waterway and therefore, would authorise

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

something that would result in a breach of a registered restrictive covenant. We are therefore prevented from granting a permit pursuant to section 61(4) of the Act.

71 Whether the condition required by the NCCMA on the previous subdivision permit and the restriction itself was intended to apply only to the waterway in the southern part of the site is irrelevant. In our view, the construction of the restriction is not so ambiguous that any purposive approach to the interpretation of the restriction need be undertaken.

72 The applicant suggested ways in which any dispute about whether a breach would occur could be resolved. This included procedural orders and time for the applicant to seek council's consent or for conditions to be included on a permit to require the buildings to be set back further from the waterway in question.

73 We are not persuaded that either option is appropriate in these circumstances.

74 Firstly, requiring conditions for greater setbacks from the waterway potentially exacerbate other issues already in dispute, such as noise and runoff.

75 Greater setbacks are likely to mean:

- the buildings will be closer to the southern waterway for which the council raised concerns about effluent runoff.
- the location of the buildings may be closer to the dwelling on the adjoining lot to the south-west.
- the noise modelling of Mr Leo would potentially be altered and the noise transference trajectory to sensitive receptors may be different, with different intervening circumstances (such as topographical features which currently interrupt a direct noise travel path) and distances. These factors either individually or collectively can affect noise transference, which were not canvassed at the hearing.

76 Secondly, seeking the council's consent under the restriction or other avenue for resolution of the covenant is an uncertain process. Uncertain as to outcome and uncertain as to time. It is not the function of the Tribunal to either act in the role of processing a planning permit application, or sit the proceeding in abeyance whilst awaiting separate processes. The function of the Tribunal is to make decisions in a timely and efficient manner. What the applicant has suggested would not fit well with this function.

77 Further, this is a matter that should have been addressed and resolved well before the matter came before the Tribunal. The covenant was on the title to the land when the permit application was lodged with the council. The planning assessment by Ratio Consultants dated 14 December 2020 states

> "There are no easements, covenants or other restrictions registered on title which may affect this proposal."

78 The council officer's report makes no mention of the covenant, nor does the Practice Note 2 material filed with the Tribunal by the council. None of the submissions by either party or evidence of the applicant mention the existence of the covenant and the matter was not addressed during the course of the merits hearing.

79 The fact that this matter has only arisen after the conclusion of the merits hearing, and as a result of the Tribunal's discovery of the restriction (as opposed to it being brought the attention of the Tribunal by the parties before or during the hearing as it ought to have been), leads us to this undesirable position of having to dismiss the application for review. This is unfortunate when there was a reasonable prospect of a permit being granted (subject to runoff matters) on the merits.

80 However, we have set out our findings on the merits nonetheless as it may prove beneficial to the parties to do so, should the applicant wish to address the issue of the covenant, particularly in the context of our findings on the merits below.

ARE THE PROPOSED USES ACCEPTABLE?

81 All of the proposed uses are section 2, permit required, and therefore discretionary uses in the RCZ.

82 The RCZ head provision has a number of purposes, which the council said relate to protecting and enhancing the natural environment, encouraging use and development of land which is consistent with sustainable land management and land capability practices, recognising the conservation values and environmental sensitivity of the locality, and conserving and enhancing the character of open rural landscapes.

83 One of the purposes is also:

> To conserve the values specified in a schedule to this zone.

84 The conservation values identified in the Schedule to the RCZ are:

> The Rural Conservation Zone has been applied to areas within the municipality located close to Lake Eppalock, Whipstick State Park, Lyell Forest, Axe Creek, Harcourt North, the Junortoun area and to smaller isolated vegetated sites. These areas are characterised by significant vegetation cover. The zone has been applied in recognition of the following values:
>
> - The need to protect the water supply catchment of Lake Eppalock.
> - The need to preserve the flora, fauna and landscape values of the land in the zone.
> - The need to protect significant vegetation cover on land in the zone.
> - The need to protect existing vegetation on privately-owned land adjoining vegetated public land.

- The need to minimise land degradation including salinity and erosion.
- The need to provide for rural living in the Junortoun area which conserves and permanently maintains significant box-ironbark forests.

85 Compatibility with and whether the proposal will have an adverse impact on, nearby land uses are also set out in the decision guidelines of the RCZ.

86 The review site sits outside of the Lake Eppalock catchment, despite the application of the ESO3 (Eppalock Declared Water Supply Catchment) to the whole of the site. As described above, there is almost no vegetation to speak of on the site that one would imagine the RCZ schedule seeks to protect and certainly none in the location of the proposed buildings and immediate surrounds.

87 There was also no reference made at the hearing, including in the submissions from the parties, that there are any landscape values of the review site that warrant a stricter approach and analysis to the assessment of the proposal.

88 There is obvious evidence of existing, and in some locations severe, erosion and this is one aspect of the proposal that warrants further analysis, which again is set out in a following section.

89 The RCZ includes mandatory requirements for the use of land for a dwelling including matters relating to access, wastewater treatment and containment, water supply and electricity supply. However, it was not submitted that the proposed dwelling could not comply with these requirements as they relate to the proposed dwelling.

90 In fact, the council did not make any submissions opposing the proposed dwelling in respect of either the use or development of land for that purpose.

91 Council's submissions were focussed on there being doubt about the site being able to accommodate and sustain the proposal, largely due to uncertainty regarding wastewater generation, particularly from the animal husbandry components, as well as water supply management and potential for further soil erosion from the horse husbandry use.

92 The site is not connected to reticulated water but will require a significant amount for both animal breeding operations, including for consumption by the animals, as well as washing down of the facilities. This may be harvested from the site, including the new buildings but may also need to be imported from off-site.

93 It was also submitted that there was also uncertainty regarding proposed erosion management given the site is already subject to erosion along the waterways, and that it is proposed that the horses will graze across the site.

94 Further, it was submitted that pasture management, stocking density and grazing patterns were unknown and that the absence of an Operational Management Plan in light of those issues was unacceptable and would not result in an orderly planning outcome in accordance with the decision guidelines at clause 65.01.

95 The submissions from the council clearly raise issues of impact from the two animal husbandry uses, as opposed to any other issue with those uses. The council's submissions are clear and concise as to the issues in dispute. These relate to:

- whether the proposed uses will have any unacceptable environmental impacts, including wastewater management and erosion management; and
- whether the proposed uses will have any adverse amenity impacts from noise and traffic.

96 We deal with the amenity impact matters of noise and traffic in separate sections below.

97 The RCZ, including through the purpose and decision guidelines, seeks outcomes that, in this case, protect and enhance the natural environment, promote sustainable land management and land capability, and conserving and enhancing the character of the rural landscape.

98 Compatibility with and whether the proposal will have an adverse impact on nearby land uses are also set out in the decision guidelines.

99 We find that so long as the matters relating to environmental impacts and amenity impacts are acceptable, the proposed uses would be acceptable.

Dwelling

100 The council did not raise any concerns with the dwelling use in principle.

101 There is an absence of any particular environmental constraints on the parts of the site to be used for the dwelling, including the dwelling and immediate curtilage and the access driveway. We find that the proposed dwelling will be an acceptable use on the land given it will be compatible with surrounding land uses and will not compromise the purposes of the RCZ or the conservation values identified in the RCZ schedule. This is subject to it meeting the requirements of 35.06-2 which we find can be comfortably accommodated in this case via a condition on any permit granted, and subject to its design and siting being appropriate. Design and siting is discussed further in a following section.

102 The dwelling will be located well away from existing waterways, including the more eroded waterways in the southern portion of the site and will not require the removal of any native vegetation.

103 Clause 14.01-1L relates to agricultural land in Greater Bendigo and includes a strategy to avoid the construction of a dwelling unless required to

support a genuinely economically viable agricultural use of the land that requires permanent and continuous care, supervision or security.

104 Mr Glossop's evidence was that the proposed dwelling is necessary in order to conduct the two animal breeding operations on the site and to that end, agreed that some form of nexus between the animal breeding operations and the dwelling should be made. He posited that the occupation of the dwelling, once constructed, could be restricted until such time as the horse and dog breeding buildings have commenced construction or until those other uses had commenced. Such options were not countered by the applicant in closing submissions.

105 Based on Mr Glossop's evidence, we find that the use of the land for a dwelling will support the proposed horse husbandry and dog breeding uses. We were advised the applicant specialises in breeding Arabian horses, and in combination with the need to care for dog and puppies, we accept that the dwelling will be needed to ensure the animals are appropriately supervised and cared for.

106 We also accept that, based on Mr Glossop's evidence, some form of condition to require a link in one way or another between the dwelling and animal husbandry uses would have been warranted had we been able to grant a permit. There may also be benefits of a dwelling being established on this property also, relating to the reparation and ongoing management of the riparian areas in the southern portion of the site which is discussed in the following section in more detail.

Horse husbandry and Dog breeding

107 The key issues raised by the council in respect of compatibility of the dog breeding and horse husbandry uses was in the context of environmental and noise concerns. Given those issues are addressed in separate sections below, in this section, we discuss briefly the other aspects of the uses.

108 One of the purposes of the RCZ is:

> To provide for agricultural use consistent with the conservation of environmental and landscape values of the area.

109 The conservation values have been set out earlier and relate to environmental matters. Based on the above purpose, if agricultural uses can be provided that do not compromise the environmental and landscape values of the area, then on face value, this lends towards a favourable outcome.

110 Horse husbandry and dog breeding are nested under 'Animal husbandry' and the broader umbrella land use term 'Agriculture' under clause 73.04-2 of the planning scheme and so, are agricultural uses insofar as the planning scheme is concerned.

111 In principle, we do not have any concerns with the proposed dog breeding and horse husbandry uses, subject to wastewater, erosion and noise acceptability.

112 These two uses otherwise have a level of compatibility with the context of the surrounding area being generally used for farming purposes that we are comfortable with. They are also located away from other existing and sensitive uses[10] on adjoining land that might impact these proposed uses themselves.

113 We therefore find that the proposed animal husbandry uses will be an acceptable outcome, subject to acceptable environmental impacts and noise considerations and design and siting.

WILL THE PROPOSAL HAVE AN UNACCEPTABLE ENVIRONMENTAL IMPACT?

114 Despite finding that no permit is to be granted, we provide our reasons on environmental impacts based on the decisions plans that are before us for completeness, and irrespective of any council permission required under the covenant restriction. Of course, if the applicant determines to re-submit a fresh permit application and relocates buildings to comply with the covenant restriction, that will require a fresh assessment as part of that application process and thus may make our reasons that follow, somewhat redundant.

115 We note council's concerns about the uncertainty of the proposal and lack of information about waste management and soil erosion management. Council was particularly concerned about wastewater from the horse husbandry and dog breeding operations and how it would be managed including how much water may be required and where it would be sourced. Regarding soil erosion, council was concerned about how stocking rates from the horse husbandry use would pose a risk to aggravating soil erosion.

116 Environmental impacts relate to the following issues:

- The risk the proposal poses to the Lake Eppalock water supply catchment.
- Water quality generally.
- Soil erosion management.

117 Aside from these issues, we do not consider the proposal offers any detrimental ecological impacts because of the lack of native vegetation on the site.

[10] There are no uses on nearby land, other than dwellings, that might create a conflict between uses as far as we were made aware through pre-filed material, evidence and submissions and from our own observations on site.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

Lake Eppalock water supply catchment

118 Additional to the protection of the water supply catchment of Lake Eppalock under the RCZ, the site is affected by the ESO3, which has a similar focus. The statement of environmental significance and environmental objective to be achieved under the ESO3 are:

> **Statement of environmental significance**
>
> Lake Eppalock is a major water storage and recreational facility located within the Campaspe River catchment. It is a major source of water for irrigation, stock and domestic, environmental flows and vital urban water supplies for towns within the municipality and beyond. The reservoir supplies 100 per cent of Heathcote's potable water supply and in some years may supply up to 100 per cent of Bendigo's supply.
>
> **Environmental objective to be achieved**
>
> To ensure the protection and maintenance of water quality and water yield within the Eppalock Water Supply Catchment Area as listed under Section 5 of the Catchment and Land Protection Act 1994.

119 A permit is required for buildings and works under the ESO3 because the site is unsewered and proposes to generate wastewater.

120 We acknowledge that all parties agreed the site is located outside of the Lake Eppalock water supply catchment.

121 This was confirmed in the evidence of Dr Deere that, although the extent of coverage of the ESO3 includes the site, it is much larger than the size of the designated water supply catchment of Lake Eppalock. Dr Deere's evidence was that the site is not physically within the hydrological catchment of Lake Eppalock. Runoff from the site flows into the Campaspe River catchment downstream of Lake Eppalock.

122 The evidence of Dr Deere was that the nearest boundary of the site to the catchment watershed boundary was around 70 metres to the north-east and the proposed development was approximately 700 metres to the north of the catchment boundary. His evidence was that there is no significant potential for adverse environmental impacts affecting the Lake Eppalock water supply catchment arising from the proposal.

Figure 11: Declared drinking water supply catchment, shown in green, that the site is outside of the hydrological catchment of Lake Eppalock.

123 The relevance of this fact is that much of the influence of the ESO3 regarding environmental impacts on ensuring the protection and maintenance of water quality and water yield within the Lake Eppalock water supply catchment falls away.

124 We find that the proposal will not contribute to risk of adverse environmental impact on the Lake Eppalock water supply catchment or diminution of the quality of the drinking water supply associated with Lake Eppalock.

Water quality

125 Despite our findings regarding Lake Eppalock specifically, we are also cognisant of the effects the proposal may have regarding water quality generally and with reference to the Campaspe River catchment downstream of Lake Eppalock as it flows to the Murray River and enters that waterway at Echuca.

126 We note Dr Deere's evidence that the Campaspe River downstream of Lake Eppalock is not a declared water supply catchment and that, from a drinking water perspective, the specific requirements of ESO3 relating to Lake Eppalock are not directly applicable.

127 However, one of the application requirements under the ESO3 includes a land capability assessment. Of relevance, the proposal is supported by the following Land Capability Assessment reports (LCAs):

- The 4 Spheres, Land Capability Assessment Report for (lot 2) 211 Drummond Lane, Derrinal 3523. 1100-260820-Ocl: October 2020, 20 October 2020.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

- The 4 Spheres, Land Capability Assessment (LCA) at Lot 2, 211 Drummonds Lane, Derrinal 3523– Geotechnical Investigation. Our reference 1100-260820-Ocl (Amendment.1), 29 April 2021

128 The key risks of the proposal relate to wastewater flows from the dwelling and animal wastes in terms of both solid and liquid wastes including wastewater from wash down activity with the dog breeding and horse husbandry development and stormwater runoff generally.

129 We note that the parties did not raise concerns regarding wastewater treatment and management associated with the dwelling. Neither Coliban Water or Goulburn Murray Water offered any objections to the proposal, including that of the dwelling, dog breeding and horse husbandry uses.

130 However, council was concerned with what effect the amount of water used for the animal facilities would have on the environment. This includes whether water was proposed to be sourced from on-site or externally transported onto the site and the influence on the quantity of water that may be available to generate wastewater volumes requiring treatment and disposal and the capacity of the proposal to manage wastewater volumes.

131 In addition, with respect to the location of the human and animal wastewater treatment and disposal areas, we note differences between what is shown on the plans and in the LCAs. The site plan included earlier in our reasons show a treatment system located between the dwelling and horse husbandry building with a disposal area for treated human wastewater located south behind the dwelling and a wick trench system[11] for animal washdown and effluent located between the horse husbandry and dog breeding buildings. The plans, unlike the LCAs do not show where any treatment or holding tank for animal wastewater is proposed to be located.

132 In contrast, the LCAs show separate plans for separated human and animal wastewater treatment systems and disposal areas.

133 We are concerned with the lack of consistency shown in the application material with regards to separate human and animal wastewater treatment and disposal systems, which we consider requires further information to address the uncertainty expressed by council.

Human wastes

134 The LCAs estimated that the total wastewater from the dwelling in addition to human wastewater expected from the dog breeding and horse husbandry uses would equate to approximately 1,714 L/day. This estimated comprised 1,050 L/day for the proposed five bedroom plus study dwelling based on around 150 L/person/day using a reliable source of water supply such as groundwater or potentially reduced to 120 L/person/day if rooftop rainwater

[11] In simple terms a wick trench system is a sub-surface trench lined with a needle punched geotextile fabric that acts as a wick to distribute effluent over a transpiration bed adjacent to the trench. It provides a larger surface area for evapotranspiration and greater filtration capacity than a standard absorption trench.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

was sourced as the potable water supply. With the 6 toilets at the horse husbandry use and 4 toilets at the dog breeding use, an additional 664 L/day would be expected (based on an average of 4.43 people at 150 L/person/day).

135 Both the LCAs and Dr Deere acknowledged that there was some uncertainty in the number of people and frequency of use of toilet facilities of both animal facilities. Likewise, the wastewater amounts are conservative given the unknown source of potable water supply with the more reliable water source such as groundwater having the potential for higher quantities compared to rainwater sources.

136 We note the LCAs stress that the swimming pool associated with the dwelling must not be plumbed into the wastewater systems and that human and animal wastes must be separately handled and treated. The LCAs also recommend that, given the uncertain frequency of use of the toilets within the animal facilities, it is prudent to monitor the outflow of the human effluent with an inline flow meter and make any treatment upgrades as necessary.

137 With respect to the human wastewater treatment system, the plans propose to have a secondary treatment system located centrally between the dwelling and horse husbandry facility with connections between them and the dog breeding facility for managing human wastewater. The LCAs recommend that for the separate human and animal treatment options, transport of wastewater will require a pumping system to move the material uphill to the location of the respective treatment systems.

138 The evidence of Dr Deere is that the treated wastewater be disposed of via a sub-surface drip irrigation system over an approximately 1,300 square metre irrigation area adjacent to the proposed dwelling close to the highest point on the site where development is proposed.

139 Relevantly, we note that council's environmental health officers offered no objection to the proposal subject to conditions, that together with the responses from Coliban Water and Goulburn Murray Water indicate that the proposed means of managing human wastewater was acceptable.

Animal wastes

140 Regarding animal wastes, Dr Deere's evidence was that it was helpful for the LCAs to address animal wastes in terms of both solid and liquid wastes and how they should be managed.

141 The following animal waste calculations are based on 50 dogs and 30 horses being kept on-site:

- Kennel washdown will consist of pressure washdown estimated at 12 L/dog equalling 600 L/day.
- Each dog will be washed and dog laundry done once per week at 20 L/dog equalling 1,000 L/week or 142 L/day.

- Estimated washdown wastewater for cleaning using pressure washdown is estimated at 12 L/horse stable with 24 stables equalling 288 L/day.
- Estimated washdown for horses at 30 - 60 L/horse and on an average of 2 horses washed per day equalling 120 L/day.
- Estimated urine quantities averaged at 15.6 L/day (26 horses x 15.6L) equalling 405 L/Day.

142 The total estimated animal liquid wastewater from animal related tasks will be 1,555 L/day.

143 Dr Deere considered whether the amount of animal wastewater was an under-estimate, particularly for washing down horses. However, his evidence was that, given the site is not serviced by a reticulated water supply, the use of water for such purposes will need to be carefully managed utilising 'waterwise' principles. This, combined with the separation of liquid and solid wastes, should minimise any under-estimation of wastewater volumes and hence, avoid system failures that could result in effluent overflows into local waterways.

144 The proposal is to apply the animal wastewater via a sub-surface drip irrigation system (wick system) over an area of approximately 1,100 square metres. The plans show this area located behind and between the horse husbandry and dog breeding buildings. The LCAs show this area spread out in lineal strips over a wider area associated with irrigation of plantings along roads and boundaries.

Tribunal findings on water quality

145 Generally, based on the plans before us, we find the proposed treatment of human and animal wastewater acceptable. We have some reservations over the absence of where animal wastewater would be collected and treated before disposal by irrigation. However, we acknowledge that the applicant can address this with any future permit application.

146 We note and accept the evidence of Dr Deere that wastewater from horses and dogs does not have as high a risk from pathogens as that from livestock such as cattle and sheep. We also accept that, based on the plans before us, the treatment and disposal areas for both human and animal wastewater are located on high ground that is distant from waterways where such effluent can begin to impact water quality.

147 Clause 02.03-9 recognises the importance of managing wastewater disposal on unsewered land with minimal environmental impact. Similarly, Clause 14.01-2L-02 relating to dog breeding makes provision for the regular washing down and maintenance of all animal keeping facilities so they are kept in a clean and hygienic manner while also providing for all animal waste, manure and wash down water to be treated and disposed of either

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

within the boundaries of the site or in an alternative manner that has no negative impact on the catchment.

148 The proposal seeks to separate animal solid and liquid wastes (animal wastewater) and to then also separate human from animal wastewater. It is proposed to manually collect solid wastes from both the horse stalls and dog pens and exercise yards and either transport the material for disposal off-site or compost for on-site disposal to boost soil condition. For 30 adult horses and 50 adult dogs, we consider this approach a sustainable and acceptable means of managing solid animal wastes which is not expected to have significant impacts on the environment.

149 We consider that irrespective of the source of potable water supply, whether it is sourced from rooftop rainwater, groundwater or transported to the site, the quantities of wastewater from humans and animals are reasonable. The volumes, even if under-estimated, can be managed on the basis of monitoring as suggested in the LCAs and confirmed in Dr Deere's evidence and the management of the volume of wastewater can be adjusted. We consider that, as the site is over 40 hectares and combined with the distances to the southern waterway and intervening grassland areas, is not expected to have significant risk of impact on water quality of the area.

150 Another water quality issue relates to stormwater and how any runoff will be managed. We were initially concerned that with sealed road surfaces running through the site, there would be large volumes of stormwater to be collected, treated, and managed. However, it was confirmed during the evidence of Dr Deere that, the roads/tracks running through the site will not be sealed but will be constructed as all-weather gravel or crushed rock surfaced areas. This means surface absorption of stormwater on-site and in-situ will be able to occur. We consider this acceptable in managing stormwater on the site and not adversely impacting water quality.

Soil erosion management

151 The site does not exhibit soil erosion damage apart from the southern waterway, which has severe gully erosion.

152 We were somewhat surprised when we inspected the site to see the extent of erosion. We note that the permit for the earlier subdivision[12] which created the subject lot included conditions requiring a land management plan that details the provision of a buffer around the southern waterway comprising fencing to exclude stock and native revegetation. This permit only required a land management plan to be submitted prior to certification but did not require the works to be undertaken at all, let alone prior to statement of compliance being issued.

153 We found during our inspection that there has been an attempt, albeit unsuccessful, to provide some fencing and planting, which has failed. Noting this, we acknowledge that the site is not currently stocked, apart

[12] DS/771/2018.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

from some horses and any use from an agricultural perspective has been associated with hay baling.

154 In this case, given the applicant submitted, and relied on evidence that went to the benefits of riparian buffer planting, exclusion fencing and animal management around the waterway areas and the ability for this to be monitored on a more regular basis if a dwelling is present on the land, we find that much more robust conditions should be included on any permit and some form of monitoring by authorities would also be necessary to ensure that riparian works and planting achieve the intended outcomes, particularly given the current poor condition of the waterways in the southern portion of the site.

155 In relation to soil erosion risk, council was concerned that the stocking rate associated with the horse husbandry use may aggravate soil erosion impacts on the site and particularly the southern waterway.

156 The evidence of Dr Deere was that the site at 42 hectares would potentially be capable of accommodating between 25 and 80 horses. He considered that with approximately 30 adult horses plus foals, the stocking rate would be within that range. It is noted that with the exclusion of the southern waterway and its buffer of 30 metres either side, would further reduce the available area.

157 Dr Deere considered the management of horses on the site was a matter for the applicant. However, we accept his evidence that subject to careful pasture and grazing management, the risks of overgrazing and soil erosion should be adequately mitigated. The site is relatively flat and offers no special challenges to supporting horses. The numbers of horses are considered manageable, and we acknowledge that not all 30 adult horses and foals would be outside of the horse husbandry building and on the balance of the site at the one time.

158 The area south of the southern waterway is proposed to be used for horse access, which will require crossing of the southern waterway. We understand that a crossing point is available which can be carefully managed to avoid impacts on either the waterway or with respect to erosion risk.

159 Regarding management of the use and the land, we find that what is proposed highlights the need for a land management plan and operational management plan to be provided to allay council's concerns over uncertainty of how the proposal will be conducted and the site managed to improve its environmental condition. This is an issue raised under the purposes and decision guidelines in the RCZ. The absence of such plans in the permit application materials is a shortcoming given the environmental focus of the RCZ.

160 In its referral response to the proposal, Goulburn Murray Water have requested a condition requiring a 30-metre-wide buffer strip of native

vegetation to be established and maintained either side of the southern waterway with stock access prevented. We consider this condition an appropriate continuation from the subdivision permit requirement. However, we find that such a requirement should be encapsulated within a land management plan that should be included in a section 173 Agreement that gives it force and effect into the future and obliges current and future owners of the site to ensure the improvement of the waterways environmental condition. In our view, the severity of the erosion associated with the southern waterway requires a high level of ongoing management to improve the environmental condition of the waterway and repair the damage from erosion, which will take time.

161 Although the condition of the waterways is worse than what we had understood, we are not concerned that this changes anything substantive from our perspective. The riparian buffer will still apply, and it just may require more planting of riparian vegetation than what we had originally thought might be necessary. Some re-grading may even be required, to reduce the angle of the banks to reduce potential for continued erosion along with additional stabilisation works supported by an ongoing revegetation. Although the waterway is ephemeral in flow, we noted an upstream dam on the adjoining property to the east, which may now be providing a moderating influence over water flows and any erosive effects on the waterway. We consider it would be prudent for the applicant to engage with the local catchment management authority for advice in the preparation of any land management plan that should accompany any future permit application.

162 We state for completeness, that any changes arising from compliance with the covenant restriction such as moving the dog breeding and horse husbandry building further south may have implications regarding the location and buffering of human and animal wastewater treatment and disposal areas and potential impacts and would need to be re-assessed as part of any fresh permit application.

ARE THE PROPOSED BUILDINGS AND WORKS ACCEPTABLE?

163 The council raised no specific concerns with respect to the siting and design of the proposed buildings and works, other than with respect to proximity to waterways from a wastewater perspective as already discussed above.

164 The proposal includes the three main buildings associated with each of the three uses. Associated works include new accessways, car parking areas, excavation for each building, wastewater treatment areas and fencing.

165 The surrounding landscape is ‘dotted’ with buildings, including dwellings and farm buildings. Whilst they are visible, none appear to be dominating.

166 The conservation values identified in the RCZ schedule are related to environmental impacts, rather than on landscape features. The head provision of the RCZ however, does require the siting, design, height, bulk

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

and materials and colours to be taken into consideration, as well as the minimisation of impacts on the character and appearance of the area.

167 The proposed buildings are relatively well spaced apart and although the horse stables/arena and the dog breeding buildings are quite large in area, and the horse stables are relatively tall, we do not find that they will have an unacceptable impact on the surrounding landscape.

168 The highest point of the land where the dog breeding building will be located is approximately 268 metres AHD and the horse stables/arena is 271 metres AHD.

169 The land continues to rise further south of these buildings to approximately 274 metres AHD.

170 The dwelling will be located on the highest part of the land, which is also a relatively high point in the more immediate context. However, there is also the backdrop of the Heathcote-Graytown National Park to the east and south-east, as well as the One Eye State Forest to the south, both of which contain ranges that elevate much higher than the review site and its surrounds and are a dominating feature in these fields of view.

171 The horse stables/arena and dog breeding building will be on lower elevations of the site, as the topography falls away to the west, with the horse stables also cut into the land by approximately 2 metres giving it a maximum height from natural ground level at the north elevation of 8.12 metres and 9.45 metres to the south elevation. Materials to be used are face brickwork, painted concrete and coloured steel roofing. Along the southern, eastern and western elevations, large tracts of louvred windows are proposed.

172 The dog breeding building proposes cut and fill, with the cut occurring in the southern half and fill in the northern half. The proposed roof form is to be a mix of pitched and skillion, with a raised section over the dog pen area. This building also sits at a lower point of the front half of the site and proposes similar design detail and materials to the horse stables/arena. It will have a maximum height of 8.72 metres to the north elevation, although this is to the raised section which sits further to the south than the northern façade. The southern elevation will have a maximum height of 5.85 metres from natural ground level.

173 With the topography to the south of the dog breeding building rising above the height of the building itself, this means that from the south, the dog breeding building would be almost completely screened by the topography and the horse stables/arena would be partially screened, with approximately 6 metres of the southern elevation visible from the south. The opposite view from the north would result in these buildings being ‘backdropped’ by the rise in the land to the south, as well as the surrounding ranges much further afield.

174 The buildings are well spaced apart from each other and are well set back from most boundaries. The dwelling is located on the higher part of the site and the other buildings are large and will be visible in the landscape. We find the colour scheme and materials for the dwelling are generally acceptable, with the use of recycled red based clay face brickwork and darker tones to parts of the walls and roof.

175 The horse stables/arena is a relatively large building and whilst it sits slightly lower in the topography, is also higher. It is also proposed to be clad with precast concrete panels which will give the building more prominence in the landscape. This is also the case for the dog breeding building.

176 We do not have any in principle concerns with these two buildings from a built form perspective, however, further thought with respect to colours, particularly colours that will effectively highlight the buildings within the rural landscape, and materials in the context of how the building sits within the landscape should be given with any future application.

WILL THERE BE ANY UNACCEPTABLE AMENITY IMPACTS?

177 We are not persuaded that the proposal will have any unacceptable amenity impacts to nearby properties. This is our finding in the context of the zoning of the review site as well as the zoning of nearby land, noting all land within a significant radius of the review site is either in the RCZ or Farming Zone. Both are rural zones where amenity impacts to existing dwellings is not the primary purpose of those provisions.

178 The council also submitted that the planning scheme[13] recognises rural living as a legitimate use and therefore, other policy must be read in the context of the planning scheme recognising rural living as a legitimate use.

179 The purpose of the RCZ head provision does not make any specific reference to off-site amenity considerations. It does seek to implement to Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF) and the MPS and PPF both refer to ensuring amenity is not adversely affected. The decision guidelines of the RCZ are also silent with respect to considerations of the amenity of nearby dwellings.

180 Considering it is the RCZ which triggers a permit for the uses that will generate the most increase in traffic to the site, the relevant policy and decision guidelines must be read in the context of what the RCZ seeks to achieve and protecting the amenity of surrounding dwellings is not the primary objective of the RCZ. However, that is not to say amenity impacts are not matters we are unable to consider.

181 There are various references in policy to ensuring amenity of existing residents is protected.[14]

[13] Now at clause 02.03-6 following amendment C236.
[14] Such as clauses 11, 02.03-4 and 13.07-1S.

182 Clause 14.01-2S includes the following strategy:

> Ensure that the use and development of land for animal keeping or training is appropriately located and does not detrimentally impact the environment, the operation of surrounding land uses and the amenity of the surrounding area.

183 Clause 65.01 also requires decision makers to consider the effect of a proposal on the amenity of the area.

184 In the context of the zoning of the review site and nearby land, we give policy relating to agricultural and environmental outcomes more weight than amenity of nearby dwellings.

Noise

185 Noise associated with the dog breeding use has been raised by council as a potential impact on amenity. Noise is addressed in the planning scheme generally under Clause 13.05-1S which seeks to assist the control of noise effects on sensitive land uses. Dwellings that are closest to the site are considered sensitive land uses. The strategy under this clause refers to using a range of building design techniques and land use separation to manage adverse impacts on amenity.

186 More specifically, in relation to the dog breeding use, Clause 14.01-2L-02 looks to ensure good design and appropriate siting of establishments such as dog breeding facilities and includes policy guidance to consider as relevant whether the site is located 500 metres from a dwelling on another lot.

187 It should be acknowledged that this policy was formerly a local policy (Clause 22.07) that included reference to council applying a criterium that a site used for animal keeping should be located 500 metres from a dwelling on another lot. At the hearing, council argued that the proposed dog breeding use was inconsistent with this policy, as it was at the time under Clause 22.07. This was due to the location of the dog breeding building being within 500 metres to two nearby dwellings.

188 The dog breeding building was found to be 467 metres to the nearest dwelling to the south-west at 342 Coppermine Road[15], 1,063 metres to the nearest dwelling to the south at 49 Walkers Road and 367 metres to the nearest dwelling to the east at 211 Drummonds Lane.

189 Council opined that the proposal was not acceptable because two of the nearest dwellings were within 500 metres of the site and would not satisfy the requirements of the policy.

190 Since the hearing the planning scheme has been amended (Amendment C256), to update it to be consistent with the new structure of planning schemes by integrating local policy content into the PPF. The Amendment

[15] Noting this was corrected in the evidence of Mr Leo following discovery that his initial assessment had incorrectly identified the dwelling to the south-west of the site.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

also reflected the findings of the Greater Bendigo Planning Scheme Review, 2019.

191 We afforded the parties an opportunity post-hearing to address us on the changes to the planning scheme with respect to the proposal.

192 Unfortunately, the change from converting policy under the previous Clause 22.07 to the current Clause 14.01-2L-02 has changed the emphasis of the 500 metres buffer policy from what was tantamount to a policy direction to a policy guideline consideration. This is a very different position compared to that which council had argued with at the hearing and to which it did not make comment post-hearing.

193 More generally, we note that the policy under Clause 14.01-2L-02 is a local policy that applies across the municipality, and albeit does not differentiate between zones, should be applied flexibly and appropriately to the circumstances of the case, which in this instance includes the RCZ, one of the rural zones where amenity and its protection is not highlighted in the purposes or decision guidelines of the zone. Notwithstanding, the RCZ does call up the policy framework of the planning scheme.

194 We have had the benefit of the acoustic evidence from Mr Leo which is relied on by the applicant.

195 Mr Leo has used the Environment Protection Authority (EPA*) Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues, Publication 1826.4 May 2021* (Noise Protocol) which is incorporated in the *Environment Protection Regulations 2021*.

196 The Noise Protocol establishes a method for determining noise limits based on land use zoning, which are listed in Table 1.

Table 1: Noise Protocol noise limits dB

Period	**Noise Limit, L_{eff}**
Day – 7.00am – 6.00pm	45
Evening – 6.00pm – 11.00pm	38
Night – 11.00pm – 7.00am	33

197 Mr Leo has undertaken modelling to determine the relevant noise levels estimated to be generated by the proposal based on a measured sound power for large dogs[16], as a conservative measure, and adjusted for noise character such as tonality, intermittency, and impulsiveness for each of the three nearest dwellings for the day, evening, and night periods (refer to Table 2).

[16] A sound power level of 96dB L_{Aeq} per adult dog and 90dB L_{Aeq} per puppy (dog under 6 weeks of age).

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198 His modelled noise levels have included a combined adjustment of + 5.5 dB for intermittency and tonality, but not for impulsiveness.

Council argued that an adjustment should have been included for impulsiveness, which would potentially have exceeded noise limits. We note Mr Leo's response that noise from dogs barking will create a tonal sound and that intermittency occurs through dogs barking at intervals with one and then others joining in creating what he described as a babble of noise. Impulsiveness is usually associated with a sudden, loud noise or bang, which Mr Leo described is like the sound of a hammer, which is not like that from the barking of dogs. We accept the evidence of Mr Leo in this regard and consider the adjustments made to the modelled noise levels appropriate.

199 The modelled noise levels from the proposed dog breeding use are based on the following recommended noise control treatments associated with the dog breeding building:

- The external dog pens should include 2.1 m high screening (minimum 10 kg/m2) as outlined in Figure 12.
- The kennel roof should be constructed of a minimum 0.45 mm thick sheet metal with 50 mm thick acoustic insulation below. Materials such Envirospray or similar will be acceptable. Alternatively, if polyester, rockwool, fibreglass or mineral wool is considered, the facing to the kennel should be acoustically transparent (i.e., not sisalation or similar)
- The fixed glass and skylights should be a minimum of 10.38 mm thick laminated glass.
- The glass louvres should be a minimum 6 mm thick glass.
- External barn type doors should be a minimum 45 mm thick timber.
- The sectional garage doors should have a minimum sound insulation rating of 22 dB Rw and could be of an insulated double steel skin construction.

200 Mr Leo also added the following recommended management controls with regards to his modelled noise levels:

- Dogs should not be permitted within the outdoor exercise yards at night (2200 hours to 0700 hours)
- During the evening period (1800-2200 hours, Monday – Saturday and 0700-2200 hours, Sunday) dogs should be restricted to the outdoor exercise yards highlighted in Figure 12. If dogs are limited to the exercise yards highlighted in Figure 12, dog numbers would not be required to be limited (beyond the 50 dogs and 30 puppies).
- All windows to the kennels must remain closed during the night period.

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- All doors to the kennels must remain closed except for staff and contractor egress and ingress.
- Access to the kennels should be limited to staff and contractors.
- Dog feeding should be limited to 0700-1800 hours.

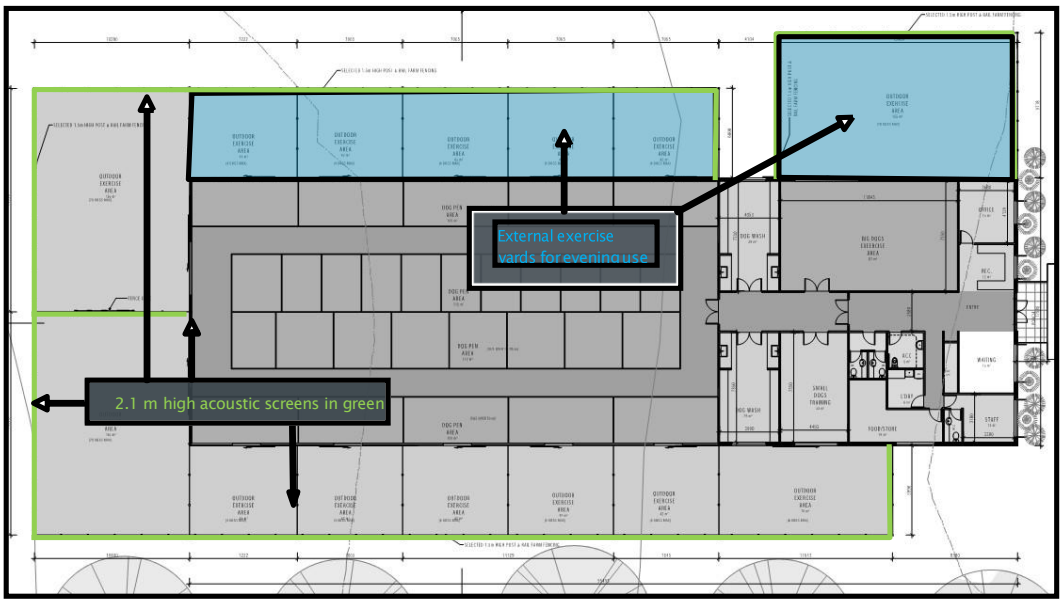

Figure 12: Updated extent of acoustic screening and revised external exercise yard for evening use recommended in the acoustic evidence of Mr Leo.

Table 2: Noise Levels from dog breeding building, dB L_{eff}

Receiver	**Effective noise level (including character adjustment)**	**Noise Limit**	**Compliance**
Day			
211 Drummond Lane	44	45	Yes
49 Walker Road	35	45	Yes
342 Coppermine Road	40	45	Yes
Evening			
211 Drummond Lane	35	38	Yes
49 Walker Road	32	38	Yes
342 Coppermine Road	38	38	Yes

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL · VCAT

Night			
211 Drummond Lane	32	33	Yes
49 Walker Road	21	33	Yes
342 Coppermine Road	27	33	Yes

201 As can be seen with the modelled noise level in Table 2, that, subject to Mr Leo's recommended noise control mitigation and management measures, the proposed dog breeding use is compliant with the noise limits imposed under the Noise Protocol.

202 Mr Leo's evidence was that, based on the plans before us, the proposal would benefit from the avoidance of a direct line of sight between the dog breeding building and the dwelling at 342 Coppermine Road to the south-west because of the hill between the buildings. This would effectively disrupt sound travel between them and thus assist with achieving compliance with the noise limits. A similar outcome may also be achieved for the dwelling at 211 Drummond Lane to the east due to the proposed horse husbandry building.

203 We accept Mr Leo's findings that subject to his recommended noise control and management measures, the proposed dog breeding use will satisfy the noise limits identified through the Noise Protocol.

204 We have no counter evidence to assist us in our findings. Hence, we consider the proposal achieves an acceptable outcome given the noise modelling and adjustments to noise levels generated by the proposal and the location of the proposal within the RCZ, and in a location that has and is used for agricultural activity and is not directly adjoining nearby rural residential areas.

205 We find the proposal will not unreasonably impact local amenity because of noise from the proposed dog breeding use.

206 We would add that we do not consider noise from the horse husbandry use to be one at odds with the rural character of this area.[17]

207 We state for completeness, that any changes arising from compliance with the covenant restriction such as moving the dog breeding and horse husbandry building further south may have implications regarding noise impacts and would need to be re-assessed as part of any fresh permit application.

[17] Also noting Mr Leo's reference to Regulation 117(1)(c)(x) under the *Environment Protection Regulations 2021* that noise from livestock on farms or saleyards must not be taken into account when assessing the emission of noise levels from commercial, industrial and trade premises unless it is noise considered to fall within the definition of 'unreasonable noise' under the *Environment Protection Act 2017*.

Traffic

208 The council raised concerns with the potential impact that increased traffic associated with the proposal would have on the surrounding properties. The council said that there are a number of smaller rural residential style allotments in the vicinity of the site and that such properties, as well as adjoining properties will be directly affected. Traffic impacts said to be the primary impact drivers in this sense were related to the horse husbandry and dog breeding components of the proposal, including what the council said were unknowns with respect to the importing of materials on to the site, including water.

209 The evidence of Ms Marshall was that the proposal is likely to generate 56 vehicles per day associated with all three uses. This accounts for her evidence that the dwelling would comprise 8 of those and the remainder spread between the horse and dog breeding uses.

210 Ms Marshall accepted that the increase in traffic as a result of this proposal was likely to result in a significant proportional increase over the existing volume of traffic that Drummonds Lane currently experiences. However, she said that the existing volumes of traffic were low, and in overall terms, the volume increase was still relatively low despite the large proportional increase (53% in her opinion).

211 Ms Marshall also acknowledged that the types of vehicles accessing the site might be different than just cars, and would include trucks and tractors but was comfortable that this already occurred and that the dimensions and traffic volumes of Drummonds Lane could accommodate such vehicles.

212 The inputs into Ms Marshall's evidence were partly reliant on instructions of the client through the applicant's instructors and based on some of her own assumptions. She had also reviewed the traffic engineering report that accompanied the permit application but came to some differing conclusions than it did.

213 The permit application was also referred to council's traffic engineer who did not object to the proposal although we are unsure if this considered the impact of increased traffic on amenity. However, the officers report did consider the impact on amenity of the surrounding area and concluded:

> In terms of amenity impacts to be felt through additional traffic along the roadway, while it is acknowledged that there will be an increase of traffic compared to current conditions, the movement of vehicles will remain relatively infrequent and is not uncommon within the rural landscape.

214 We find that impacts associated with increased traffic, including trucks and other larger vehicles, will not result in any unacceptable amenity outcomes for surrounding properties. This finding is in the context of the site, its physical context and that of the surrounding area, as well as the applicable provisions and policy. The site is located in a rural area, with policy that

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encourages agricultural uses (albeit provisionally) and where it is expected that agricultural uses might establish and therefore generate associated traffic.

215 The proposed access to the site is located centrally along the frontage, with internal accessways well separated from adjoining boundaries and adjoining dwellings. The closest dwelling to the internal accessways is approximately 250 metres to the east, with the next nearest dwellings considerably more distant than that. There are also no dwellings along Drummonds Lane in close proximity to the entry to the site.

216 There are dwellings along Drummonds Lane to the east and along other roads that are likely to be used to access the site. However, the broader area is a farming area despite the RCZ zoning, where it is likely that vehicles associated with farming activities, including trucks, tractors and other machinery are not uncommon.

217 To the extent that there are rural living areas close-by, these are located within either the RCZ or the Farming Zone and not in designated areas zoned for rural living, such as the Rural Living Zone or Low Density Residential Zone. Insofar as there may be a conflict between the traffic to be generated by the proposed uses and existing dwellings in rural living areas along likely traffic routes, primacy in our view, must be given to the proposed uses being compatible with the zoning of the land, which we have already found to be acceptable, rather than whether dwellings in rural zones should be given priority.

218 For these reasons, we find that the traffic impacts as a result of the proposal will be acceptable.

ARE THERE ANY OTHER ISSUES?

219 The site is included within a Bushfire Prone Area (BPA) accordingly, bushfire risk is a relevant issue. Clause 13.02-1S relates to bushfire planning and is required to be applied where land is within a designated BPA.

220 The policy requires bushfire risk to be considered for use and development in a BPA where accommodation is proposed. We are aware that Clause 71.02-3 requires us to also prioritise the protection of human life over all other policy considerations in bushfire affected areas. Policy at Clause 13.02-1S is relevant and we note that for areas within the BPA, the risk of bushfire to people and property should be considered and that the implementation of appropriate bushfire protection measures to address the identified bushfire risk should be required. This includes not only building construction standards, but also defendable space.

221 We found that bushfire risk had not been considered by the applicant or council. The site does not contain stands of native vegetation. Although there are linear sections of vegetation along boundaries and the roadside, it is clear to us that the most significant bushfire risk is from grassland fires.

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given the extent of pasture on the site and on adjoining properties. Grassland fires pose a risk because of land slope and the threat from fast moving grassfires.

222 We questioned council, the applicant and Mr Glossop with regards to bushfire risk. Generally, their response was that the site is not at significant risk from bushfire given the opportunity to provide for defendable space around the proposed dwelling and the ability to evacuate if required.

223 We acknowledge that although the risk from grassfires can be high, the proposed dwelling can provide for adequate defendable space and is to be constructed to an appropriate BAL level[18] of construction commensurate with bushfire risk. We also note that alternative means of access is available for any evacuation to the nearest safe place which would be Heathcote.

224 Bushfire risk is not a major issue in our view however, we observe that the relevant information to consider and confirm the level of risk was lacking in the application and material before us. We would anticipate that this oversight would be addressed with any fresh permit application. This should include information regarding a response to water supply for fire-fighting purposes and operational aspects relating to evacuation.

CONCLUSION

225 For the reasons given above, the decision of the responsible authority is affirmed. No permit is granted.

Joel Templar
Member

Christopher Harty
Member

[18] Such as BAL12.5 for grassland fire risk as submitted by the applicant.

CITY OF GREATER BENDIGO

Reference: DS/771/2018
Enquiries to: Beth Lavery

29 June, 2022

Stonehenge Constructions Aus Pty Ltd
c/- Ratio Consultants Pty Ltd
8 Gwynne St
CREMORNE VIC 3121

Dear Sir/Madam

Request for written consent to variation of requirements of restrictive covenant (waterway setback on PS834665T)
Lot 2 Drummonds Lane, DERRINAL 3523

I refer to your request dated 10 June 2022 seeking written consent from the responsible authority to vary the setback requirement set out in Covenant PS834665T, registered on the Title of the above land.

Discretion to approve this request is possible owing to the wording of the above restriction which states: *The registered proprietor of lot 1 & 2 on this plan must not construct or allow to be constructed any building that is within a 100 metre setback from the top bank of any designated waterway without the written consent of the responsible authority*.

There are two designated waterways on the land which for the purpose of this letter providing written consent are referred to as being the southern and northern waterways (please refer to the attached plan).

Written consent is granted for a building to be sited within 100m of the northern waterway on the lot, however no building is permitted within 100m of the southern waterway on the lot.

If you have any further queries in this matter please contact Beth Lavery on 5434 6408 or email b.lavery@bendigo.vic.gov.au.

Yours sincerely

Ross Douglas
Manager Planning

Greater Bendigo City Council
Address: 15 Hopetoun Street, Bendigo
Postal Address: PO Box 733, Bendigo Vic 3552
T: (03) 5434 6000
E: requests@bendigo.vic.gov.au
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A.B.N. 74 149 638 164

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Document Set ID: 4781196
Version: 1, Version Date: 18/08/2022

16.5. 9 Schoder Street, STRATHDALE 3550 - Use and Development of the Land for Service Industry (Motor Vehicle Servicing)

Author:	Stephen Rowley, Consultant Planner
Responsible Director:	Steve Hamilton, Director Strategy and Growth

Summary/Purpose

Application No:	DI/866/2021
Application Documents:	https://epathway.bendigo.vic.gov.au/ePathway/Production/Web/GeneralEnquiry/EnquiryDetailView.aspx?Id=1036485
Applicant:	Lifespace Design
Land:	9 Schoder Street, STRATHDALE 3550
Zoning:	Industrial 3 Zone
Overlays:	Nil
No. of objections:	8 (3 withdrawn, 5 remaining)
Consultation meeting:	14 April 2022
Key considerations:	• Whether the use and its associated amenity impacts are appropriate having regard to the context of the site and surrounding area. • Whether the design of the proposed development (including acoustic fencing and signage) is appropriate. • Whether the traffic and carparking arrangements are appropriate. • Whether the removal of native vegetation is appropriate. • Objector concerns.
Conclusion:	The proposal is consistent with the relevant planning policy framework regarding industrial land use and development, signage, the provision of car parking and the protection of native vegetation and the proposal is unlikely to result in any unreasonable impacts on amenity. It is recommended that a Notice of Decision to Grant a Permit be issued with conditions.

Recommended Motion

Pursuant to section 61 of the *Planning and Environment Act 1987*, Council issue a Notice of Decision to Grant a Permit for use and development of the land for service industry (motor vehicle servicing), display signage, reduction of car parking requirements, and removal of native vegetation at 9 Schoder Street, STRATHDALE 3550 subject to the conditions at the end of this report.

Background Information

The application was lodged on 14 October 2021. The application has been subject to extensive discussion to resolve questions of detail arising in relation to submitted information, notably with regards to acoustic attenuation, both before and after the public notice process.

Report

Subject Site and Surrounds

The subject site is located at 9 Schoder Street, Strathdale and is formally referred to as Lot 22 on PS 736971. The site is located at the southern end of Schoder Street, an industrial street running south of Strickland Road.

The site is currently vacant, and is an irregularly shaped lot with an area of 6,690 square metres. The site is predominantly cleared, with the exception of two native trees which are located in proximity to the eastern boundary of the site. The site has a gentle slope downwards from west to east.

The site is located within the Industrial 3 Zone and is not affected by any overlays. The surrounding area is characterised by a mix of industrial, commercial and residential land use and development. This is due to the industrial area in which the site is located bordering onto residential land in both the General Residential Zone and Low Density Residential Zone.

The site is adjoined by the following:

- To the north and east are established industrial properties with an array of light industrial uses. The property immediately to the north is a warehouse and showroom for kitchen supplies.
- To the south the site abuts properties in Northmoor Drive and Northmoor Road that are within the General Residential Zone. Two have direct rear abuttal onto this site. There are also nearby houses to the southeast that front Calibre Close. The properties to the south are developed with houses with their rear private open space at the north end of their land, adjacent to the subject site.
- To the south-west are other vacant lots, part of the future stages of this industrial subdivision.
- To the north west is Schoder Street. Schoder Street is currently constructed to the front of the property; it turns west at this point but is not yet constructed in that direction. This means that this site effectively faces the end of the street, with a narrow frontage to the street of 24.82 metres.

Figure 1: Location map showing subject site. Remaining objectors' properties marked with a star.

Figure 2: View of the site from Schoder Street (photograph taken 24 January 2023).

Proposal

The application proposes the use and development of the land for service industry (motor vehicle servicing), display signage, reduction of car parking requirements and removal of native vegetation as follows.

The use of the land will involve mechanical servicing, including of large vehicles such as cement mixers and dump trucks. It is estimated that this will involve up to 30 vehicles per day. The servicing will not include smash repairs or panel beating.

The proposed hours of operation are 7:00am to 5:30pm Monday to Friday. Mechanical work will generally be undertaken within the proposed new building, with the outside areas to be used only for the holding of vehicles, for car parking and for occasional incidental tasks that cannot be completed inside (the applicant cites removal of a cement mixer's bowl as an example). An external wash bay (for washing vehicles) is proposed to be located along the eastern boundary.

The proposed development involves the construction of a new workshop building with the following characteristics:

- A 1,229 square metre (36m x 40m) building with a height of 9.1 metres.
- The ground floor will comprise primarily of the main workshop space, with a showroom, offices and amenities located within the north-west corner.
- The upper floor (mezzanine) will comprise of additional offices and amenities located within the north-west corner.
- The building will be constructed of a combination of tilt up concrete panel and Colorbond (Monument colour), with a low-pitched roof.
- 8 car parking spaces are provided in the front setback and another 19 behind the building.
- Bicycle parking is provided in the main workshop space.
- A 4.5m high acoustic fence to the south of the car parking and vehicle circulation / holding space (in proximity to the southern boundary which will wrap around the edges of the south-eastern and south-western boundaries).
- A 10m wide landscape buffer, located south of the acoustic fence, between the fence and the adjoining properties to the south.

A 7.7 square metre (3.66m x 2.1m) floodlit business identification sign is proposed to be displayed near the front boundary, fronting Schoder Street. The sign will include the business name and contact details.

Native vegetation, in the form of two scattered trees, is proposed to be removed to facilitate the proposal. The trees are located in proximity to the eastern property boundary and are the last remaining native vegetation on the site.

27 car spaces, as noted above, are proposed to be provided, with the proposal seeking a reduction of 14 car spaces.

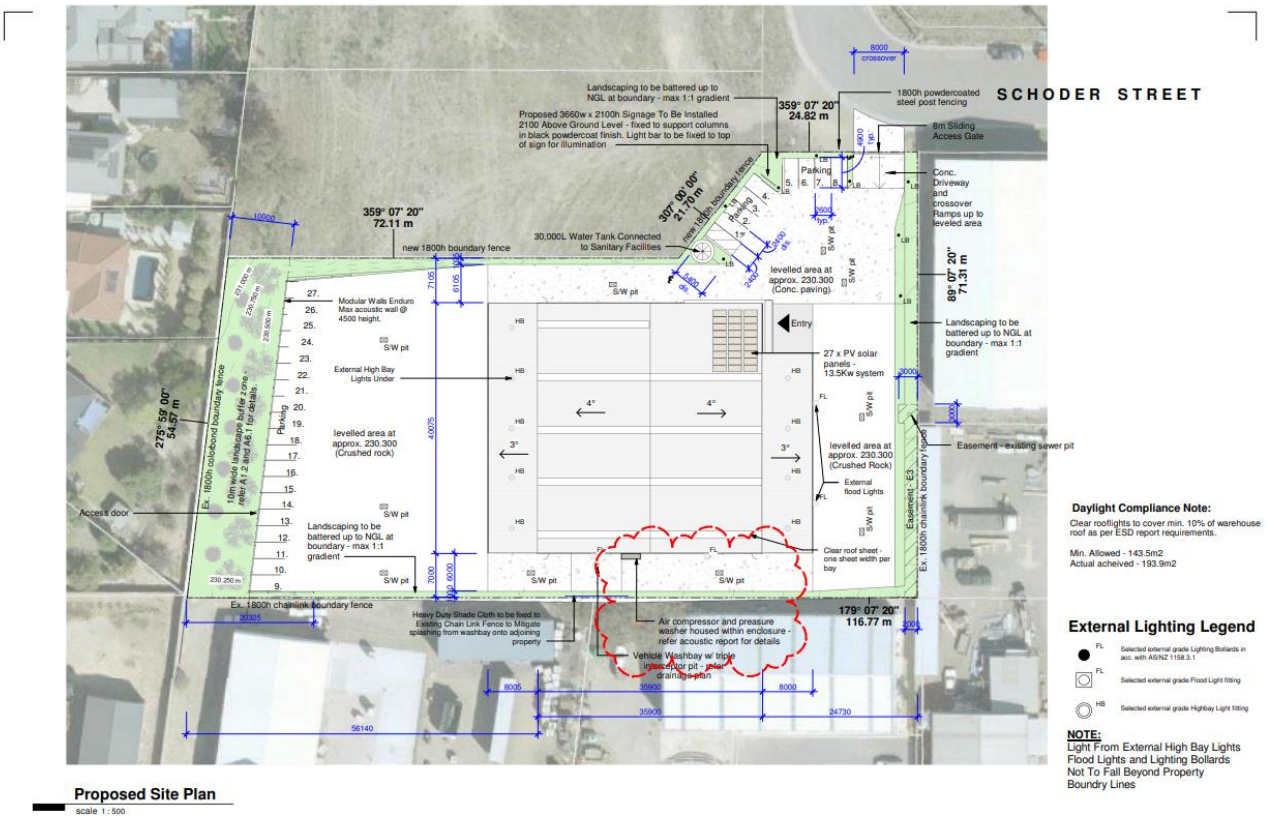


Figure 3: Proposed Site Plan.

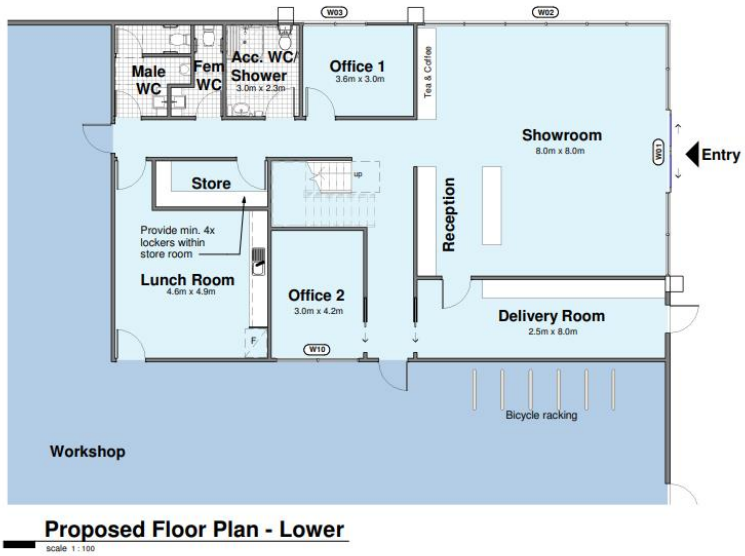


Figure 4: Proposed Ground Floor Plan.

Figure 5: Proposed First Floor Plan (mezzanine).

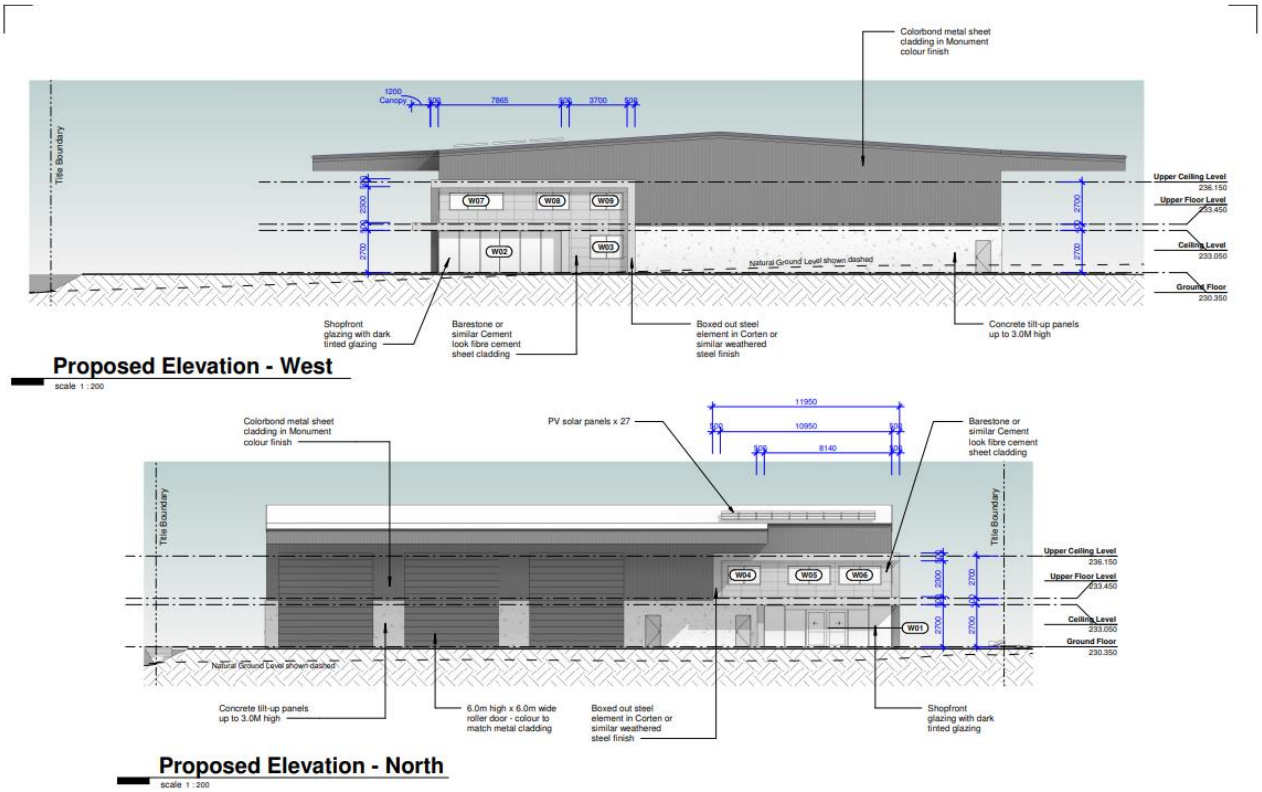


Figure 6: Proposed Elevation Plans.

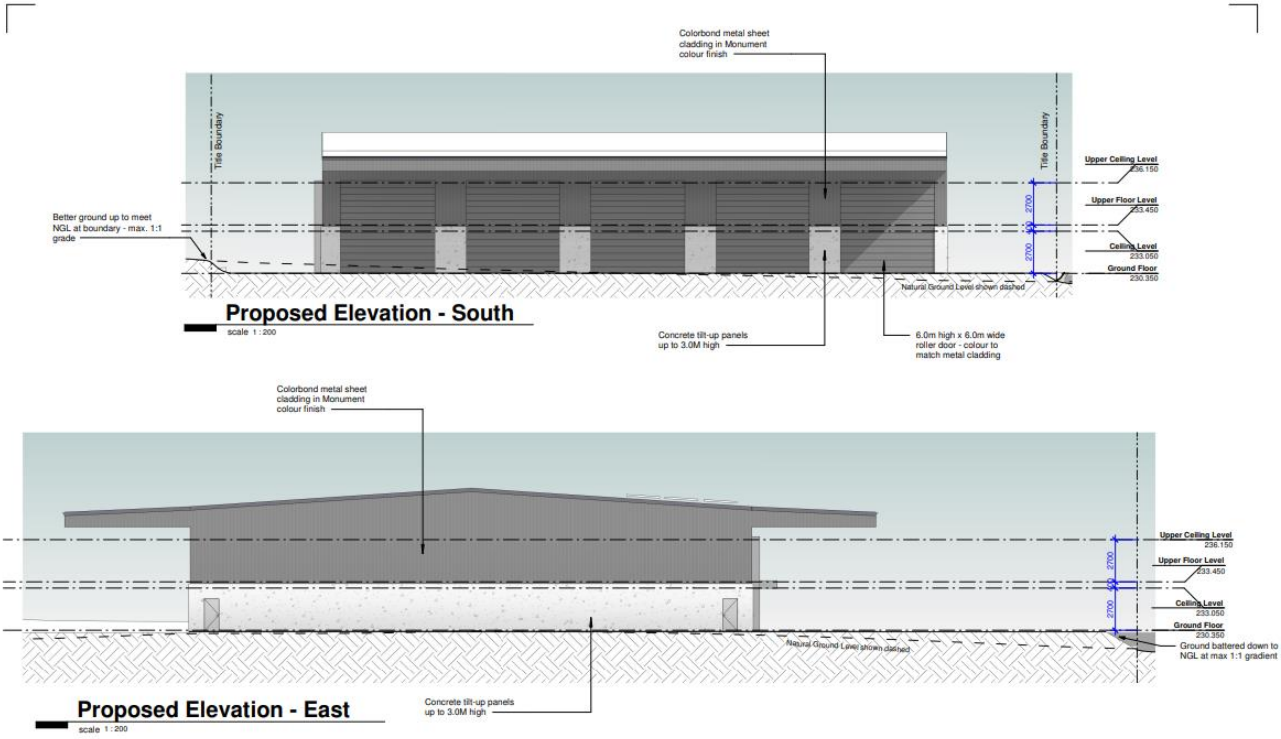


Figure 7: Proposed Elevation Plans.

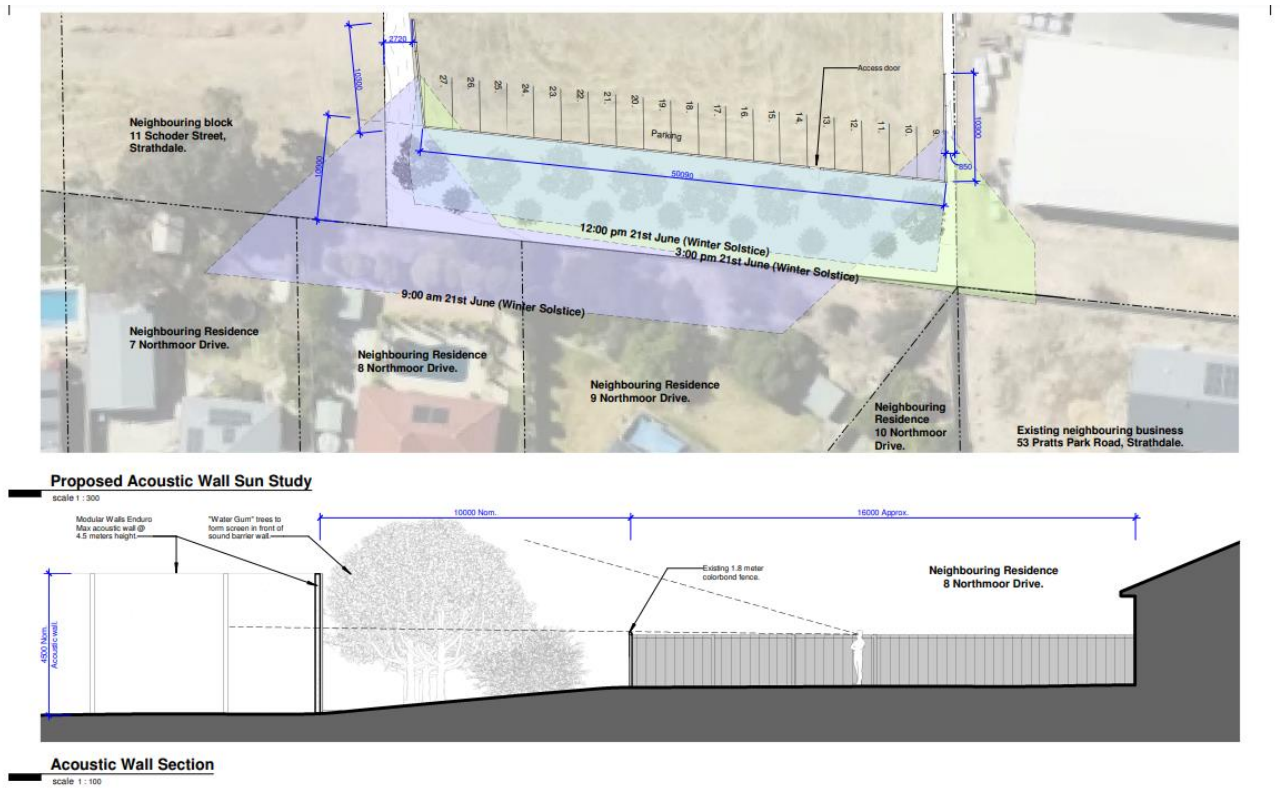


Figure 8: Proposed Elevation Plans.

Planning Controls - Greater Bendigo Planning Scheme

Why is a permit needed?

Clause	Permit Trigger
Clause 33.03-1 Industrial 3 Zone	A planning permit is required to use the land for a service industry (motor repairs) requires a permit as the land is less than 30 metres from a residential zone and includes an activity listed in Clause 53.10 (automotive body, paint and interior repair) for which the threshold distance is not met.
Clause 33.03-4 Industrial 3 Zone	A planning permit is required to construct a building and to carry out works.
Clause 52.05 Signs	A planning permit is required to display a floodlit business identification sign.
Clause 52.06 Car Parking	A planning permit is required to reduce the required number of car parking spaces.
Clause 52.17 Native vegetation	A planning permit is required to remove, destroy or lop native vegetation.

The following clauses are relevant in the consideration of this proposal:

Municipal Planning Strategy

Clause 02.03-2 Environment and landscape values
Clause 02.03-3 Environmental Risks and Amenity
Clause 02.03-4 Natural resource management
Clause 02.03-5 Built environment and heritage
Clause 02.03-7 Economic Development

Planning Policy Framework

Clause 12.01 -1S Protection of biodiversity
Clause 12.01-1L Protection of biodiversity – Greater Bendigo
Clause 12.01-2S Native vegetation management
Clause 13.05-1S Noise Management
Clause 13.07 -1S Land Use Compatibility
Clause 15.01-1S Urban Design
Clause 15.01-1L-01 Landscaping – Greater Bendigo
Clause 15.01-1L-02 Urban Design in Industrial Areas – Greater Bendigo
Clause 15.01-1L-03 Signs
Clause 15.01-2S Building Design
Clause 15.01-2L Environmentally Sustainable Development – Greater Bendigo
Clause 17.01-1L Diversified economy – Greater Bendigo
Clause 17.03-1L Industrial land supply – Greater Bendigo
Clause 17.03-2S Sustainable Industry

Other Provisions

Clause 33.03	Industrial 3 Zone
Clause 52.05	Signs
Clause 52.06	Car Parking
Clause 52.17	Native vegetation

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025

Outcome 2 – Healthy, liveable spaces and places

Secondary Council Plan Reference(s)

Goal 7 – Sustainable population growth is planned for

Consultation/Communication

Referrals

The following authorities and internal departments have been consulted on the proposal:

Referral	Comment
Environment Protection Authority.	**No objection** subject to notes being included on the permit. The EPA also provided comments regarding the suitability of the variation to the threshold distance, and recommendations.
Environmental Health	**No objection** - and requested that consideration be given to the inclusion of permit conditions relating to hours of operation and acoustic testing.
Environmentally Sustainable Development Officer	**No objection** subject to standard conditions requiring works to be undertaken in accordance with the approved Sustainability Management Plan, and for notations relating to ESD measures to be included on the plans.
Engineering - Traffic	**No objection** subject to standard conditions regarding construction requirements for the car park and accessways.

Referral	Comment
Engineering - Drainage	**No objection** subject to standard conditions regarding the requirement to provide drainage plans, the construction of works and consent for works within the road reserve.

Public Notification

The application was advertised by way of notice on the site and letters to adjoining and nearby owners and occupiers.

As a result of advertising, 8 objections were received. Following receipt of additional information and circulation to objectors, 3 of these were with withdrawn, leaving a total of 5 objections (from 4 different properties).

The grounds of objection are as follows:

- Impact from noise (including concerns about vehicle movements, outdoor activities including washing of vehicles, forklift operation, and concerns with the adequacy of submitted acoustic information).
- Impact from light pollution.
- Impact from vibrations.
- Hours of operation.
- Dust from unsealed accessways.

The issues predominantly relate to the intensity of the proposed land use and its appropriateness in this location adjacent to houses. The objections are discussed in greater detail below.

A consultation meeting was held on 14 April 2022, which was attended by the applicant, one objector and Ward Councillors The above issues were discussed, with no resolution reached within the meeting.

Planning Assessment

Is the use and its associated amenity impacts appropriate in this location?

The site is located within the Industrial 3 Zone which has the following identified purposes:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for industries and associated uses in specific areas where special consideration of the nature and impacts of industrial uses is required or to avoid inter-industry conflict.*

- *To provide a buffer between the Industrial 1 Zone or Industrial 2 Zone and local communities, which allows for industries and associated uses compatible with the nearby community.*
- *To allow limited retail opportunities including convenience shops, small scale supermarkets and associated shops in appropriate locations.*
- *To ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses.*

The Industrial 3 Zone is used for less intensive forms of industry than other industrial zones which generally include more intensive industrial uses, and provides a buffer between other industrial zones and non-industrial land use and development.

This buffer role means that the zone needs to be understood as intended for industrial purposes, but one in which care should be taken to ensure that uses are compatible with adjoining uses and appropriately managed. As outlined above, the site directly adjoins residential properties to the south.

The proposed land use (motor vehicle repairs) is a form of service Industry. This use does not need a permit in the zone where various conditions are met; in this case, however, a permit is required as the following two conditions are not met:

- The land is within 30 metres of a residential zone.
- The land is less than the threshold distance from the zone listed in Clause 53.10 (Uses and activities with potential adverse impacts) for “automotive body, paint and interior repair.”

The threshold distance has been applied due to the potential range of activities that may occur within the general servicing of vehicles and the broad terminology used within Clause 53.10. However, the general characterisation of the use as described by the applicant is focused on *servicing* of vehicles rather than *repair*, and does not include activities such as panel beating which are more impactful due to the potential for increased noise and emission of fumes. It is considered that the term service industry should be further confined in the permit description as relating specifically to motor vehicle servicing, given that this is what the applicant is seeking approval for.

Given that the site is located within an industrial area, it is not considered that the proposal will result in any adverse impacts on adjoining and surrounding industrial and commercial land use and development. The Decision Guidelines of the Industrial 3 Zone require consideration to be given to potential impacts on nearby residential areas, including noise levels, air-borne emissions, traffic and light spill.

The key noise sources are considered to be machinery and equipment, the wash bay and its associated compressor; as well as vehicle movements including forklifts and the circulation / idling of the large vehicles being serviced.

An Acoustic Report, prepared by Audiometric & Acoustic Services, who are suitably qualified acoustic consultants, was provided as part of the application (at the City's request). The Report assessed the proposed operations, the relevant legislation and guidelines (including the allowable noise limits at different times of the day), the location of noise sensitive areas, the existing acoustic environment and noise modelling. The business is currently operating from another site, so the Acoustic Consultant was able to test existing equipment (truck component wash equipment, impact guns, air compressors, angle grinders, forklifts etc.) to determine the relevant noise levels.

The Acoustic Report contains the following recommendations which are required to be implemented in order to achieve compliance with the relevant noise policy:

Area	Mitigation Measure
Restrictions to operations	Operations must not extend into the 'night' period as defined by the EP Regulations. The following are recommended as a conservative approach: • The proposed forklift must have a broadband reverse alarm. A reverse 'beeper' is not recommended. Electric forklifts are suggested should the client wish to reduce forklift noise further. • The pressure washer should only be used during the 'day' period.
Acoustic Barrier	An acoustic Barrier should be constructed 4.5 metres in height at the rear of the yard as per Figure 9. This should have a minimum surface density of 20 kg/m2. Example constructions are as follows. • One layer of 8.5 mm James Hardie Hardie Fine Texture Cladding to either side of a minimum 90 mm timber frame with minimum 11 kg/m3 R1.5 fibrous batts to the cavity. Note the installation may require paint / render and a suitable capping for weather protection. • Modular Walls – EnduroMax 75 mm impact resistant panel with >30kg/m2 surface density. • One layer of 9 mm Exotec compressed fibre cement sheet direct fixed to either side of a minimum 90 mm frame. Or any other equivalent that can achieve a surface density greater than 20 kg/m^2.

Area	Mitigation Measure
Compressor Enclosure	The proposed compressor enclosure should be enclosed on the south and east side with a roof and having the north side open. The west side should make use of the proposed building with no gaps between the enclosure and the proposed building. The construction must be with materials achieving a minimum surface density of 12.5 kg/m^2. All joins should be sealed with a non-setting mastic. The compressor and enclosure should be located as per Figure 9. Locating this further north will have little effect on the effective noise levels.
Compressor	The proposed compressor should be rated by the manufacture to have an SPL < 90 dB at 1m. Any relocation or changes to the enclosure or higher SPL than modelled would trigger an acoustic review.

Conditions will be included on the permit to ensure that these mitigations measures are complied with during the operation of the site.

The Report concluded that subject to the recommendations outlined above, the noise levels resulting from the proposal could comply with the relevant Environment Protection policy and regulations.

The application was referred to the Environment Protection Authority (EPA) due to the site being located less than 30 metres from land within a residential zone. The EPA noted various measures proposed to reduce the impact of these activities, such as:

- Limitation of mechanical works and servicing to within the workshop.
- Artificial light to be emitted only out of the north side of the building.
- An extra wide 10m landscaping buffer.
- Limitation of loud works to within business hours.

The EPA were satisfied the various management measures proposed were reasonable to minimise environmental and amenity impacts to the surrounding residential area.

In addition to these measures noted by the EPA and acknowledging that the EPA referral took place prior to the Acoustic Report being provided, the proposal includes the construction of a 4.5m high acoustic fence to the south of the building and its service areas.

The application documentation initially made reference to some activities occurring in the evening and this was a factor mentioned in several objections. The City sought clarification

on the matter and the most recent Planning Report seeks hours of operation of 7:00am to 5:30pm Monday to Friday. These hours of operation will be included as a condition on the permit, which will limit the impact of the activities to within reasonable parameters. This is consistent with the recommendations of the Acoustic Report.

As noted, the application was also referred internally to the City's Environmental Health team. The consideration of the matter involved various revisions of, and clarifications to, the supporting material including the Acoustic Report. In addition to the EPA, the City's Environmental Health team are also satisfied that the proposal will not result in any adverse amenity impacts regarding noise. To ensure that modelled noise levels are achieved as indicated, a condition will be included on the permit that allows for additional assessment of actual operations should noise levels from the site be deemed by the City to be exceeding legislative requirements and causing nuisance to adjoining landowners.

In relation to potential dust emissions, the proposal currently shows crushed rock for much of the rear car parking and circulation space behind the building frontage. Whilst this has advantages in terms of permeability, given both the size and frequency of vehicles using this space and the proximity to residential properties, it is considered that this area should be sealed to reduce the possibility of nuisance due to dust. This mitigation measure was also suggested in the EPA referral response.

Subject to all the above requirements which will be conditioned on the permit, it is considered that the proposal achieves the desired balance of supporting industrial land use and development within an appropriate zone, and producing an appropriate amenity outcome consistent with the area's nature as a buffer industrial precinct.

Is the design of the proposed development appropriate?

Planning policy through Clauses 15.01-1S and 15.01-2S seeks to ensure that industrial development achieve a high standard of industrial design through improved access, parking, site layout, landscaping and building design.

The City's local industrial design policy at Clause 15.01-1L-02 requires consideration to be given to the *City of Greater Bendigo Good Design Guide for Industry (City of Greater Bendigo, 1997)* which provides detailed site layout and built form guidelines for industrial buildings.

The proposal is consistent with the design measures outline in the Good Design Guide, with the following points noted in particular:

- Setbacks, site layout and scale are consistent with the established forms along the street and appropriate site storage and vehicle holding spaces within and behind the buildings.

- A combination of materials assists to break up the built form and colours are appropriately muted (with the main wall material being Monument Colorbond).
- The main entrance of the building is orientated towards Schoder Street and would be clearly identifiable.
- Landscaping is appropriately provided, with an appropriate emphasis on landscape screening to the south.

A key element of the proposed management of potential noise impacts is the 4.5m high acoustic fence along the southern edge of the vehicle circulation area. This will be located 10m from the shared boundary to the south, minimising the sense of bulk as perceived from these residential properties. The landscaping between the wall and the dwellings to the south will also filter and ameliorate the views to the wall. The setback also means there will be minimal shadow impact from this wall; even at times when shadows would reach the adjoining properties, these would fall within shadows from the existing fencing. The appearance of the acoustic fence would not differ substantially from the appearance of the wall of an industrial or commercial style building and is considered to be an acceptable design response to address noise impacts.

It is important that the landscaping south of this fence is well maintained on an ongoing basis. This will be a condition of permit. The acoustic fence includes a door to allow access to this space, to ensure ongoing maintenance of the landscape area.

A Sustainable Management Plan was submitted and subject to clarification of some detailed matters via condition, the proposal was supported by the City's Environmentally Sustainable Design (ESD) Officer and is in accordance with the requirements of Clause 15.01-2L – Environmentally Sustainable Design – Greater Bendigo and Clause 53.18 – Stormwater Management in Urban Development.

Is the proposed signage appropriate?

The proposed sign is a freestanding sign facing Schoder Street. It only needs a permit due to the illumination (floodlighting) proposed. The illumination proposed is a light bar fixed to the top of the sign. The light bar will be directed downwards and towards the sign, minimising light spill impacts from the illumination. This is considered an appropriate lighting approach.

The sign is facing an industrial subdivision. An illuminated sign of this size is considered appropriate in this context and is consistent with the policy guidance at Clause 15.01-1L-03 and 52.05, noting in particular its lack of visibility from residential areas or other sensitive precincts, and the consolidation of signage onto one reasonably sized sign structure.

Are the proposed traffic and car parking arrangements acceptable?

The use of the land for a service industry is nested under the broader land use category of industry. The required car parking rate for industry as identified in Table 1 to Clause 52.06 is 2.9 space per 100 square metres of net floor area, which results in a requirement of 41 car spaces.

The application seeks a reduction of 14 car spaces, with 27 car spaces provided on site. The standard rate is based on floor space, which means that a use such as this that has a large floor area to accommodate servicing of large vehicles generates a disproportionately high parking rate. The provision of 27 spaces is considered ample for the reasonable staff needs and the (relatively limited) number of visitors and customers to be expected. 8 car spaces are located in proximity to the entrance of the site which will allow for sufficient customer parking in proximity to the entrance of the building. The remainder of the car spaces which are to be utilised by staff and the parking of vehicles awaiting servicing, are appropriately located to the rear.

The proposed vehicle circulation spaces are appropriately designed and functional. The additional traffic demands will fall well within the capacity of Schoder Street and the local road network beyond. The application was referred to the City's Traffic Engineers who supported the proposal. Standard permit conditions will ensure that the crossover, internal accessway and parking area are constructed in accordance with City requirements.

Have objector issues been appropriately addressed?

The objector issues relate to the anticipated amenity impacts such as noise, dust and the hours of operation. These issues are addressed in the preceding consideration.

Objectors also raised concerns about light spill. It is not considered that there will be unreasonable light spill with the principal lighting being at the front of the building, away from residential properties. The lack of evening activity limits the need for lighting on the rear side of the shed, and the illuminated signage will be on the north. A condition will be included on the permit requiring any external lighting to be baffled to ensure that light spill does not occur onto adjoining properties.

Conclusion

The proposal is consistent with the relevant planning policy framework regarding industrial land use and development, signage, the provision of car parking and the protection of native vegetation and the proposal is unlikely to result in any unreasonable impacts on amenity. The proposal presents a balanced planning outcome and should be supported.

It is recommended that a Notice of Decision to Grant a Permit be issued with conditions.

Options

Council, acting as the responsible authority for administering the Planning Scheme, may resolve to: grant a permit, grant a permit with conditions, or refuse to grant a permit.

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Proposed Notice of Decision Conditions

1. MODIFIED PLAN REQUIRED
   Before the use and/or development start(s), amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions.

   The plans must be generally in accordance with the amended plans prepared by Life Space Design& Drafting (Ref 21022, dated 11/8/2022), but further modified to show:
   (a) Details of the enclosure for the wash bay in accordance with the approved Acoustic Report (as referenced in Condition 12).
   (b) The entry/exit, the internal roadway, parking areas and vehicle holding space at the rear of the building sealed with an appropriate treatment to the satisfaction of the responsible authority to prevent emission of dust.
   (c) Parking bays and aisle widths to comply with Clause 52.06-9 Table 2.
   (d) Notations on plans to reflect the following:
      i. Heating and cooling systems within 1 star, or Coefficient of Performance (COP) and Energy Efficiency Ratios (EER) not less than 85% or better than the most efficient capacity unit available
      ii. Hot water heating units within 1 star or 85% or better that the most efficient equivalent capacity unit available
      iii. Water Efficiency Labelling Scheme (WELS) star ratings
         a. Taps minimum 5 star
         b. Showers 3 Star
         c. Toilets 4 star
         d. Dishwasher 4 Stars
         e. Washing machine 3 Stars
      iv. Exposed floors and ceilings forming part of the building envelope to conditioned spaces to achieve a minimum 10% improvement in NCC insulation levels (total R- value upwards and downwards)
      v. Rainwater tank for the proposed building will be connected to toilets
      vi. The level of CO2 concentrations the ventilation system is designed to maintain, and monitor must not exceed a maximum 800ppm.

(e) Plans showing the exact location and design of the sign, along with full details of external lighting. Notation on the plans to reflect any requirements of the revised STORM report required to satisfy condition 24.
(f) The number of bicycle spaces clearly notated on plans to accord with requirements of Clause 52.34-5 of the Greater Bendigo Planning Scheme.
(g) An amended Landscape Plan in accordance with the requirements of Condition 3.

In addition to the above amendments to the submitted plans, the following documentation is required to be prepared to the satisfaction of the responsible authority. When approved, the document will be endorsed and will form then form part of the permit.
(a) Native Vegetation Removal Report prepared in accordance with the requirements of the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) for the removal of the two native trees within the eastern boundary of the site.

2. NO LAYOUT ALTERATION
The use and/or development permitted by this permit as shown on the endorsed plans and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the responsible authority.

3. LANDSCAPE PLAN REQUIRED
Before the development starts, a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions.

The landscaping plan must be generally in accordance with the landscape concept plan dated 11 August 2022 prepared by LIFE space design & drafting (Ref: 21022, A1.2).

The plan must show:
(a) A survey (including botanical names) of all existing vegetation to be retained and/or removed
(b) Details of surface finishes of pathways and driveways
(c) Planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
(d) All landscaping to comprise of drought tolerant species, of a suitable scale/variety to break up the area of hard surfaces.
(e) The inclusion of a minimum of two canopy trees.
(f) The Landscape Buffer must include:
    i. Vegetation as shown in the landscape concept plan.
    ii. Additional native vegetation canopy tree planting with a height exceeding the

acoustic wall.

iii. Details of how the Acoustic Wall will be screened to at least 75% within 5 years of the construction of the wall, including any additional native vegetation planting required to achieve this.

iv. Details of maintenance requirements, showing that landscaping has low maintenance requirements, and details of how maintenance will be undertaken.

All species selected must be to the satisfaction of the responsible authority.

4. COMPLETION OF LANDSCAPING
Before the *use/occupation of the development* starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.

5. LANDSCAPING MAINTENANCE
The landscaping shown on the endorsed plans (including that which is located within the landscape buffer must be maintained to the satisfaction of the responsible authority, *including that any dead, diseased or damaged plants are to be replaced.*

6. HOURS OF OPERATION
Except with the prior written consent of the responsible authority, the use permitted by this permit must operate only between the following times:
(a) Monday to Friday 7:00am to 5:30pm

7. MAXIMUM NUMBER OF VEHICLES
No more than 30 vehicles are to be serviced per day in associated with the approved use.

8. VEHICLES TO BE SERVICED INSIDE THE BUILDING
Vehicles are not to be serviced outside the building, with the exception of limited operations that are unable to reasonably be undertaken inside the building.

9. VEHICLE WASHING
All vehicle washing must only be carried out within the wash bay provided for this purpose, as shown on the endorsed plans

10. NO PANEL BEATING OR SPRAY PAINTING
Panel beating and spray painting must not be carried out on the subject land and vehicle wrecks or parts thereof must not be stored on the land except with the prior written consent of the responsible authority.

11. AMENITY OF THE LOCALITY
The use permitted by this permit must not, in the opinion of the responsible authority, adversely affect the amenity of the locality by reason of the processes carried on; the transportation of materials, goods or commodities to or from the subject land; the appearance of any buildings, works or materials; the emission of noise, artificial light, vibration, smell, fumes, smoke vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil; the presence of vermin, or otherwise.

12. ACOUSTIC TREATMENT
Prior to the commencement of the use, all noise mitigation measures (including acoustic fencing and enclosures) must be constructed in accordance with the acoustic report endorsed as part of this permit. The design and construction details must be compliant with requirements detailed in submitted Acoustic Report prepared by Audiometric & Acoustic Services (22006.2, dated 12 October 2022) and summarized at Section 10 of the report, to the satisfaction of the responsible authority as shown in the endorsed plans.

The use must operate in accordance with the recommendations of the acoustic report on an ongoing basis.

13. EXTERNAL STORAGE
Goods, equipment or machinery must not be stored or left exposed outside a building so as to be visible from any public road or thoroughfare.

14. PUBLIC ADDRESS SYSTEMS
Any form of public address system used on the subject land must only be audible within a building on the land.

15. OUTDOOR LIGHTING
Outdoor lighting (including the illumination for the approved sign), where provided, must be designed, baffled and located to the satisfaction of the responsible authority such that no direct light is emitted outside the boundaries of the subject land.

16. ACOUSTIC ASSESSMENT
Should the Responsible Authority understand the operation resulting from the development is likely to have been generating negative noise impacts, the owner and/or occupier of the land is to submit within 30 days an Acoustic Report, to the satisfaction of the Responsible Authority, containing amongst other things:
(a) Noise measurements and acoustic assessment demonstrating noise generated is to be no greater than the applicable noise limits as per current legislation, guidelines and best practices; and
(b) Any measures considered necessary to achieve this.

17. SIGNS NOT TO BE ALTERED
The location and details of the sign(s), and any supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the responsible authority.

18. EXTERNAL SIGN ILLUMINATION
External sign lighting must be designed, baffled and located to the satisfaction of the responsible authority such that no direct light is emitted outside the boundaries of the subject land.

19. MAINTENANCE OF SIGN
The sign(s) permitted by this permit must be maintained in good condition to the satisfaction of the responsible authority.

20. CAR PARK AND ACCESSWAY CONSTRUCTION
Before the occupation of the development, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be constructed to meet the following requirements and standards:
(a) Properly formed to such levels that they can be used in accordance with the plans.
(b) Surfaced with an all-weather-seal coat.
(c) Drained.
(d) Line marked to indicate each car space and all access lanes.
(e) Provided with public lighting.
(f) Clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the responsible authority.
(g) Accessible parking bays, where required by the BCA, must be provided in accordance with AS/NZ 2890.6-2009, section 2 and must be signed in accordance with AS/NZ 1742.11-1999 and line marked in accordance with AS/NZ 2890.6-2009, section 3.
(h) Provided with appropriate signage for one-way traffic. e.g. one way; no entry; left only.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.

21. CARPARK MAINTENANCE
Areas set aside for the parking of vehicles together with the aisles and drives must be properly formed to such levels that they can be utilised in accordance with the endorsed plan and must be drained and provided with an impervious all weather seal coat. The areas must be constructed, drained and maintained in a continuously useable condition to the satisfaction of the responsible authority.

22. DETAILED DRAINAGE PLANS
Prior to the commencement of works, 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 will form part of the permit. The plans must be drawn to scale with dimensions. The plans must include:

(a) Underground drainage;
(b) A point of discharge;
(c) Water quality.

23. CONSTRUCTION OF WORKS

Road works, drainage and other civil works must be constructed in accordance with the City of Greater Bendigo Infrastructure Design Manual and plans and specifications approved by the responsible authority and must include:

(a) Underground drainage.

24. STORM REPORT

Prior to the commencement of any works, a revised STORM report must be submitted to the responsible authority to reflect extent of sealed surface. Where 100% water quality measures are not achieved onsite, an agreement is to be reached for any shortfall in water quality measures to be performed on council land.

25. SUSTAINABILITY MANAGEMENT PLAN

(a) All works must be undertaken in accordance with the endorsed SDA (BESS report and STORM report) and associated endorsed documents to the satisfaction of the responsible authority. No alterations to the SMP and associated reports may occur without the prior written consent of the responsible authority.
(b) Prior to the commencement of occupation, a report must be submitted to the responsible authority. The report must be to the satisfaction of the responsible authority confirming that all measures specified in the SMP and associated reports have been implemented in accordance with the approved plans. Photographic evidence of measures implemented included insulation levels, mechanical plant, etc are required.

26. NOTIFICATION OF PERMIT CONDITIONS – NATIVE VEGETATION

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

27. OFFSET REQUIREMENT – NATIVE VEGETATION

To offset the removal of the area of native vegetation detailed within the endorsed NVR report required by condition 1, the permit holder must secure a native vegetation offset, in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (DELWP 2017) as specified below:

General offset

A general offset of general habitat units as detailed within the endorsed NVR report:

- Located within the North Central Catchment Management Authority boundary or Greater Bendigo municipal district
- With a minimum strategic biodiversity score of at least that which is detailed within the endorsed NVR report

The offset(s) secured must provide protection of at least the number of large trees detailed within the endorsed NVR report required by Condition 1.

28. OFFSET EVIDENCE AND TIMING – NATIVE VEGETATION

Before any native vegetation is removed, evidence that the required offset has been secured must be provided to the satisfaction of responsible authority. This evidence is one or both of the following:

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

A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit.

Within 30 days of endorsement of the offset evidence by the responsible authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.

29. EXPIRY – COMPLETION AND COMMENCEMENT

This permit will expire if the development permitted by this permit is not completed and the use permitted by this permit is not commenced within 2 years from the date hereof or if the use is discontinued for a period of 2 years. The time within which the development must be completed and the use must commence may, on written request made before or within 12 months after the expiry of the permit, be extended by the responsible authority.

City of Greater Bendigo Engineering Note

A Works within Road Reserves permit must be obtained from the City of Greater Bendigo Engineering Department prior to any work commencing in the road reserve.

<u>Consent for work on road reserves</u>

The applicant must comply with:

(a) The Road Management Act 2004,
(b) Road Management (Works and Infrastructure) Regulations 2005, and
(c) Road Management (General) Regulations 2005

with respect to any requirements to notify the Coordinating Authority and/or seek consent from the Coordinating Authority to undertake “works” (as defined in the Act) in, over or under the road reserve. The responsible authority in the inclusion of this condition on this planning permit is not deemed to have been notified of, or to have given consent, to undertake any works within the road reserve as proposed in this permit.

Environment Protection Act Notes:
Noise emissions from the land shall comply with EPA Publication 1826 – Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues at all times.

The amended Environment Protection Act 2017 came into effect on 1 July 2021. The amended Environment Protection Act 2017 imposes new duties on individuals and/or businesses undertaking the activity permitted by this permit. If your business engages in activities that may give rise to a risk to human health or the environment from pollution or waste, you must understand those risks and take action to minimise them as far as reasonably practicable.

This permit is not an EPA permission/approval. Before the use or development authorised under this permit starts, the permit holder must ensure that any obligations or duties that arise under the Environment Protection Act 2017 are met. This may include obtaining an EPA permission, approval or exemption, in accordance with the Environment Protection Regulations 2021.

Attachments

1. CONFIDENTIAL REDACTED - Objections - 9 Schoder Street, Strathdale [**16.5.1** - 29 pages]

16.6. 12 Whipstick Road, EAGLEHAWK 3556 - Development of Community Care Accommodation

Author:	Carol Lok, Consultant Planner
Responsible Director:	Steve Hamilton, Director Strategy and Growth

Summary/Purpose

Application No:	DR/305/2022
Application Documents:	https://epathway.bendigo.vic.gov.au/ePathway/Production/Web/GeneralEnquiry/ExternalRequestBroker.aspx?Module=EGELAP&Class=P&Type=PLNADV&Applicationid=1091156
Applicant:	JemPLAN Pty Ltd
Land:	12 Whipstick Road, EAGLEHAWK 3556
Zoning:	General Residential Zone
Overlays:	Bushfire Management Overlay; and Design and Development Overlay (Schedule 6)
No. of objections:	5
Consultation meeting:	No consultation meeting was held, however an opportunity for objectors to revise their grounds of objection was provided following significant changes to the planning scheme which occurred after the application was advertised.
Key considerations:	• What is the ambit of discretion in relation to the permit trigger? • What are the relevant matters for consideration falling from those limited relevant matters? • Would the proposal be acceptable in consideration of the relevant matters?
Conclusion:	The proposal, on balance, is an acceptable outcome with regards to the relevant Planning Scheme provisions and is recommended for approval.

Recommended Motion

Pursuant to section 61 of the Planning and Environment Act (1987), Council issue a Notice of Decision to Grant a Permit for development of community care accommodation at 12 Whipstick Road, EAGLEHAWK 3556 subject to the conditions at the end of this report.

Background Information

The planning permit application was first lodged with the City on 23 May 2022 for the *use and development of community care accommodation*.

The applicant had worked extensively with the City's Statutory Planning Officers to address ResCode and neighbourhood character related issues, in the course of the initial stages of assessment between June to September 2022.

In October 2022, the application with the amended plans was advertised by way of notice on the site and letters to adjoining and nearby owners and occupiers. As a result of advertising, five objections (including a petition) were received.

On 4 November 2022, the Minister for Planning approved Amendment VC226 which, amongst other things, made changes to the Victoria Planning Provisions (VPP) and all planning schemes to support community care accommodation. More specifically, Clause 52.22 of the Scheme was amended to exempt the need for community care accommodation funded by or carried out by a registered National Disability Insurance Scheme (NDIS) provider, from requiring a use and development planning permit in residential zones.

Considering the planning provision changes, written confirmation was provided by the applicant on 25 November 2022, to demonstrate compliance of the proposal with the new exemption requirements of Clause 52.22 of the Scheme.

The above sequence of events has significant implications for the planning permit application, particularly in terms of the relevant matters for consideration and the ambit of discretion available to the responsible authority (in this case Council) in respect to the proposal. These will be discussed in detail later in this report.

To ensure that the submitters were notified of the latest planning provisions changes, an email was sent to all the submitters on 16 December 2022 and a three-week period of informal consultation was provided, allowing the submitters to amend their original objections if needed. As a result of the informal consultation, a written response was received from one of the submitters, confirming no amendments to his original objection and elaborating his concerns on traffic-related matters. Further details relating to issues raised in all objections will be discussed later in this report.

Report

Subject Site and Surrounds

The subject site is located on the eastern side of Whipstick Road, between Moon Street and Hodgson Street in Eaglehawk.

The site is generally rectangular in shape, with a frontage to Whipstick Road of 35.75m, a depth of approximately 49.3m and an area of 1,735 square metres.

The site is vacant, with buildings recently demolished. There were some mature trees on site, but the site has recently been cleared of vegetation (a planning permit was not required for the removal of vegetation).

Vehicular access to the site is via two unsealed vehicle crossings off Whipstick Road at the northern and southern sides of the frontage.

The site falls from the northeast corner to a low point at the southeast corner and also falls towards the frontage at the south west corner.

The site is not affected by any easements, covenants, or Section 173 agreements.

The subject site lies at the northern edge of the urban area of Eaglehawk just before the urban landscape transitions into the wooded landscape of the Bendigo Regional Park.

Immediately adjacent and opposite the site is a variety of single storey weatherboard and brick dwellings of varying scales and form. Specifically:

- To the north is 14 Whipstick Road which features a single storey brick dwelling with a 6.4 m setback to Whipstick Road and an approximately 3m setback from the northern boundary of the subject site at its closest point.
- To the south is 10 Whipstick Road which features a single storey brick dwelling on a 3,800m lot, setback well into the site at over 39m, with a large formalised front garden and access way leading up to the dwelling. The dwelling itself is setback approximately 8.3m from the southern boundary of the subject site. The site is heavily vegetated on its northern and eastern boundaries behind high Colorbond fences.
- To the east is 4-6 Manderson Street which features a single storey dwelling with a setback 5m from the eastern boundary of the subject site, with access to the site off Manderson Street.
- To the west of the site, on the opposite side of Whipstick Road, are 7-9 Whipstick Road and 14 Pine Street. Each of these properties is developed with a single storey weatherboard dwelling. The one at 7-9 Whipstick Road is setback approximately 16m into the site behind trees, whereas the one at 14 Pine Street faces the Pine Street frontage and is setback at least 100m from the subject site.

Bendigo Regional Park is in close proximity to the subject site, with the properties at 14 Whipstick Road and 4-6 Manderson Street sitting between the subject site and the forested area to the north.

Whipstick Road is a two way bitumen sealed road, with a road reserve of approximately 30m including a reservation of approximately 17m width that accommodates a powerline easement that runs parallel to the road.

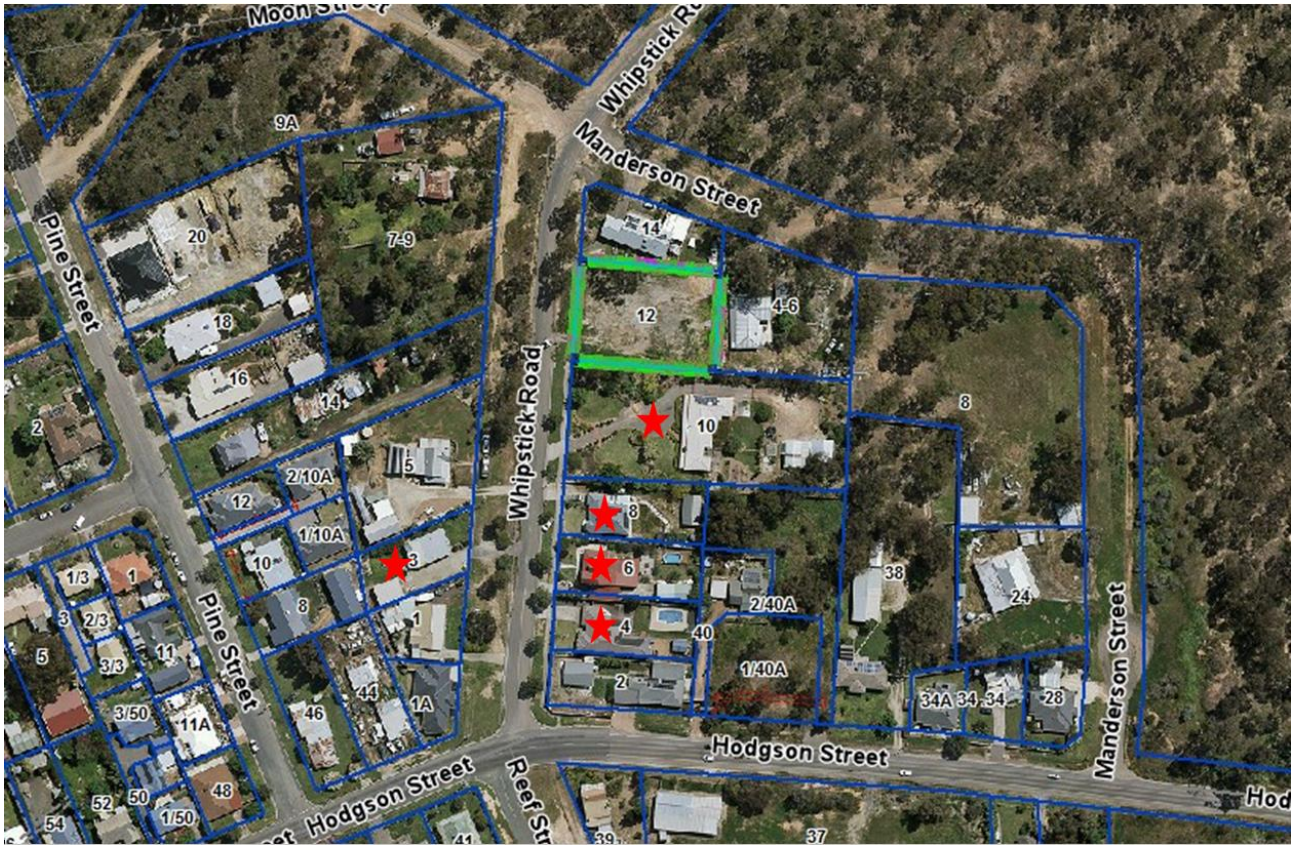


Figure 1: Location map showing subject site. Objectors' properties marked with a star.

Proposal

It is proposed to construct two single-storey buildings for community care accommodation, comprising five residential units which are to be occupied by clients who are eligible to live in Specialist Disability Accommodation (SDA) under the National Disability Insurance Scheme (NDIS).

Note: Community care accommodation is defined under Clause 73.03 of the Greater Bendigo Scheme as "*land used to provide accommodation and care services. It includes permanent, temporary, and emergency accommodation. It may include supervisory staff and support services for residents and visitors*".

Key characteristics of the proposal are as follows:

- Each of the five community care units includes a bedroom and amenities for a resident. A dedicated private open space area of at least 30 square metres is also provided for each unit. In addition, a shared private open space area of more than 500 square metres is also proposed.
- Between the five community care units, three overnight living quarters are provided for carers, with each quarter providing a bedroom, a bathroom and an office. Within the large building, a dedicated office for the operator and a common room are also proposed.

- The proposed buildings are setback at least 7.63m from the Whipstick Road frontage, 3.5m from the side (to 14 Whipstick Road) and 5m from the rear title boundary.
- Total building area is 654.2m^2 with a site coverage of 37.7% and a permeable/garden area of 39.9%.
- The buildings are proposed to be in brick construction with Colorbond roofing.
- Car parking facilities in the form of two double garages, three tandem car spaces at the front of each garage and two on site car spaces are proposed on site. A maximum of nine cars can be accommodated on site at any one time.
- Modifications to the two existing crossovers are proposed, to correspond to the entry / exit points associated with the new buildings.
- As submitted by the applicant, the number of people on site at any one time would be eight to nine persons, being five residents and three to four carers. Occasionally, additional support staff of up to four persons may be on site depending on the needs of the residents.
- No removal of street trees would be required.

A bushfire management plan (BMP) has been submitted as part of the application, showing the bushfire protection measures that are proposed to be implemented as part of the development.

Figure 2: Three dimensional perspectives of the development viewed from Whipstick Road. Location map

Figure 3: Three dimensional perspectives viewed from Whipstick Road and adjoining land.

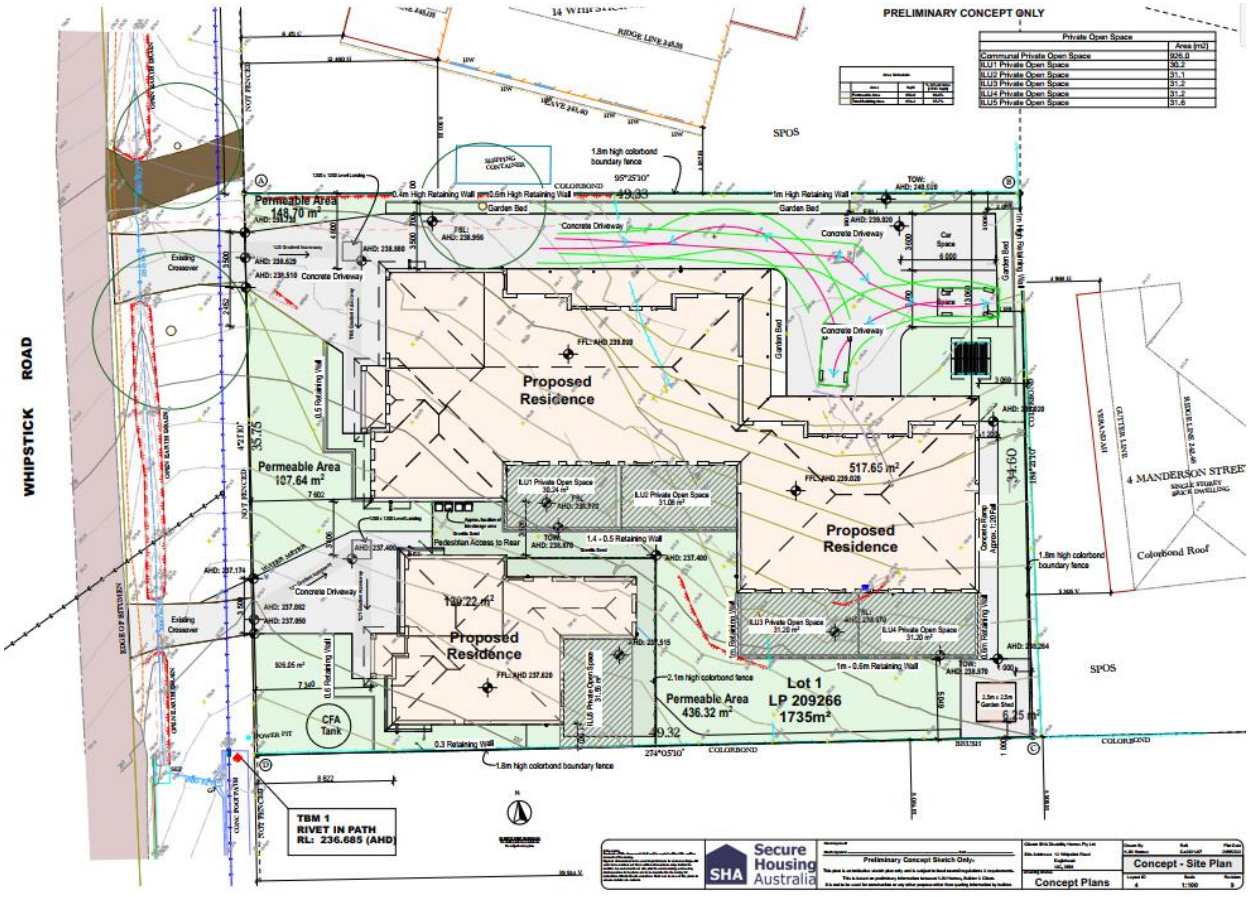


Figure 4: Site plan.

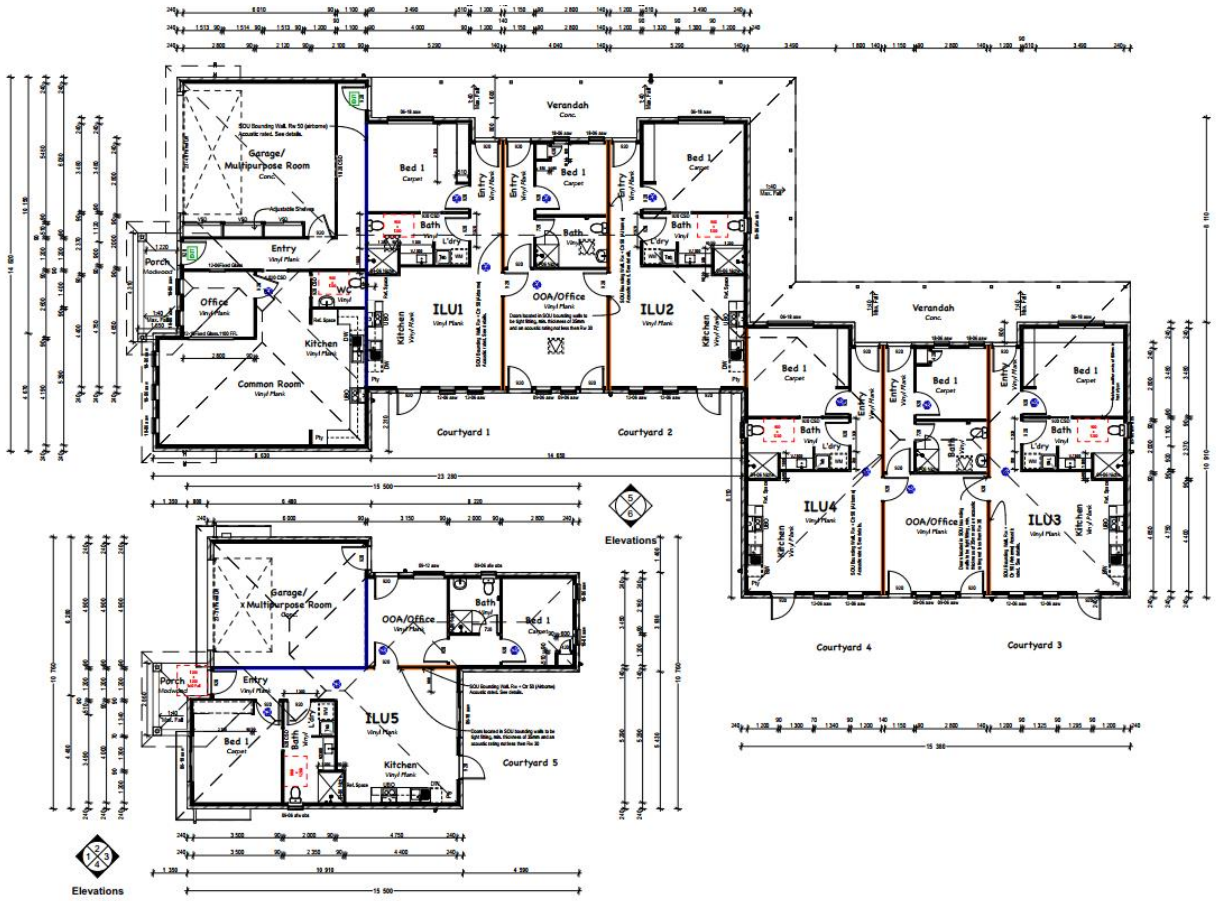


Figure 5: Floor plans.

Figure 6: Elevation plans.

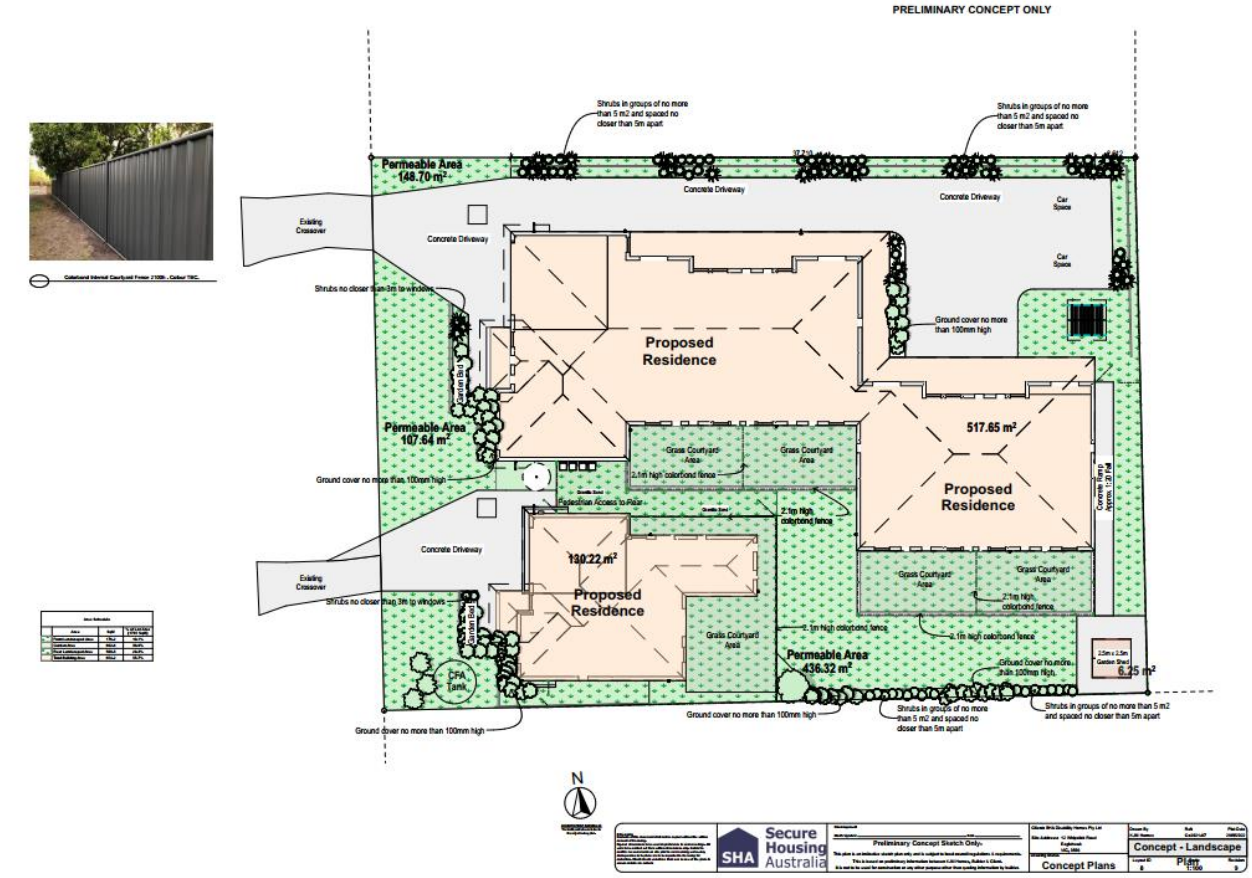


Figure 7: Landscape Plan.

Planning Controls - Greater Bendigo Planning Scheme

The following clauses are relevant in the consideration of this proposal:

Municipal Planning Strategy

- 02.02 Vision
- 02.03-1 Settlement
- 02.03-2 Environment and landscape vales
- 02.03-3 Environmental risk and amenity
- 02.04 Strategic framework plans

Planning Policy Framework

- 12.05-2L Urban Forest interface – Greater Bendigo
- 13.02 Bushfire
- 16.01-4S Community care accommodation

Other Provisions

- 32.08 General residential zone
- 43.02 Design and development overlay – Schedule 6 Urban-forest Interface (DDO6)
- 44.06 Bushfire management overlay (BMO)
- 52.22 Community care accommodation
- 53.02 Bushfire planning
- 65 Decision guidelines
- 73 Meaning of terms

Why is a permit needed?

A planning permit is required for the proposal pursuant to the following clauses within the Greater Bendigo Planning Scheme:

- 43.02-2 (BMO) & 44.06-2 (DDO6) buildings and works associated with community care accommodation.

Notes:

- Due to recent changes to Clause 52.22 (Community care community) of the Scheme as detailed in the background section of this report, there is no planning permit trigger for the use or development of the proposal under the General Residential Zone.
- Community care accommodation is nested under the broader land use term of accommodation and residential building in accordance with the nesting diagram at Clause 73.04 of the Scheme.

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025

Outcome 2 – Healthy, liveable spaces and places

Secondary Council Plan Reference(s)

Goal 7 – Sustainable population growth is planned for.

Consultation/Communication

Referrals

The following authorities and internal departments have been consulted on the proposal:

Referral	Comment
Country Fire Authority	No objection, subject to conditions relating to endorsement of the submitted Bushfire Management Plan and preparation of a site-specific bushfire plan
Engineering - Traffic	No objection and found that the proposed car parking arrangement is generally satisfactory. The vehicle crossings will need to be modified in accordance with the Infrastructure Design Manual.
Engineering - Drainage	No objection subject to standard drainage related conditions

Public Notification

The application was advertised by way of notice on the site and letters to adjoining owners and occupiers.

As a result of advertising, five objections (including a petition) were received.

No formal consultation process was undertaken at the request of the applicant.

The objections are discussed further within the planning assessment section below.

Planning Assessment

What is the ambit of discretion in relation to the permit trigger? What are the relevant matters for consideration?

As discussed earlier in this report, a planning permit is only required for the development component of the proposal, triggered under the BMO and DDO6 provisions of the Scheme. This means that the ambit of the planning discretion in this instance is confined to considerations of the proposal with respect to bushfire risk and urban-forest interface.

While there is nothing in the Scheme which expressly confines the matters which may be relevant in exercising a planning discretion, the principle that a discretion cannot be exercised for a purpose other than that for which it is granted is a long-standing principle established in the Supreme Court decisions of *National Trust of Australia (Victoria) v Australian Temperance and General Mutual Life Assurance Society Limited* [1976] VR 592 and *Boroondara City Council v 1045 Burke Road Pty Ltd* [2015] VSCA 27. This principle is further upheld in a recent VCAT decision of *Brunswick Investment Project Pty Ltd v Moreland CC* [2021] VCAT 1191 (Brunswick Investments).

Justice Michelle Quigley, who was the presiding member in *Brunswick Investments* decision, confirmed that a decision maker may only exercise a discretion for the purpose for which it is conferred. In other words, it is only the statutory requirement for a permit which triggers an exercise of discretion under the *Planning and Environment Act 1987* (Vicroia) and relevant Planning Scheme. Justice Quigley found that extraneous policies unrelated to the permit trigger cannot expand the purpose for which the discretion is to be exercised beyond the realms of the control itself. As relevant, the Tribunal found:

> *"In exercising discretion, the decision maker must only take into account relevant considerations. The ascertainment of what is relevant is primarily deduced from the words of the control itself as it is the starting point to identification of the purpose for which the exercise of discretion is to be undertaken. "*

To determine what matters may be relevant in the exercise of a discretion in this case, it is therefore necessary to consider the purpose of the discretion being exercised, being the BMO and DDO6 provisions.

BMO provisions
The purpose of the BMO is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure that the development of land prioritizes the protection of human life and strengthens community resilience to bushfire.*
- *To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.*
- *To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.*

Three of these points focus on bushfire risk management and ensuring development is only permitted where bushfire risk is minimised. The other identified purpose of the BMO is shared with other zones and overlays in the Scheme and relates to the implementation of broad planning policies set out in the Municipal Planning Strategy and the Planning Policy Framework.

The decision guidelines of the BMO refer broadly to considerations of the Municipal Planning Strategy and the Planning Policy Framework.

DDO6 provisions
The purpose of the DDO is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify areas which are affected by specific requirements relating to the design and built form of new development.*

In this case, the site has been identified as being subject to urban-forest interface requirements.

The DDO6 goes on to identify the relevant design objectives to be achieved as follows:

- *To ensure residential development protects and maintains the environmental values of adjoining forested areas surrounding Bendigo.*
- *To protect ecological values of forested areas, by ensuring that adjacent development does not compromise these values and meets the requirements outlined below.*

(Note: "Forested areas" includes public land (including National or regional park, State Forest, nature conservation reserve, reference area or natural features reserve) and private land that has a very high, high or medium conservation significance as determined by "Victoria's Native Vegetation Management -A Framework for Action".)

Other than the general considerations of the Municipal Planning Strategy and the Planning Policy Framework, most of the decision guidelines of both the head clause and schedule of the DDO6 focus upon protecting ecological values of forested area and the effect of vegetation on the urban-forest interface, including the following decision guidelines:

- *The objectives and requirements of the City of Greater Bendigo Residential Development Strategy, 2004 or other site specific structure plan.*
- *The objectives and requirements of any approved development plan.*
- *The extent to which the plan contributes to a positive environmental outcome for the forested area.*
- *The ability of the lots to provide the opportunity for the retention and planting of canopy vegetation.*
- *The need to encourage building and landscape design in keeping with the forest interface.*
- *Whether a road has been provided at the urban - forest interface.*

- *The effect of the proposed vegetation removal on the character and canopy of the forested area.*
- *The habitat value of the vegetation.*
- *The need for removing the vegetation and the practicality of alternative options which do not require the removal of vegetation.*
- *The requirements of any relevant Native Vegetation Precinct Plan listed in Clause 52.16.*

While the references to the implementation of broader State and local planning policies in the purposes and other parts of the BMO and DDO6 mean that other planning issues may be relevant in decisions under the BMO and DDO6, they do not indicate that the purposes of the BMO and DDO6 are to control non-bushfire or urban-forest interface related planning matters such as land use, neighborhood character, amenity or car parking. There are other planning controls which have those purposes – such as General Residential Zone, Clauses 52.06 (Car Parking) and 55 (ResCode) of the Scheme. The purposes of the BMO and DDO6 are clearly different to those other controls and are the considerations relevant to the determination of the subject planning permit application. The issues of bushfire risk and urban-forest interface will be expounded upon below.

Would the proposal be acceptable in consideration of bushfire risk?

As part of the application, a bushfire management statement that includes a bushfire hazard site assessment, a bushfire hazard landscape assessment, a bushfire management plan (BMP), as well as a general emergency preparedness policy and procedure, has been submitted for consideration.

The submitted BMP sets out the defendable space management standards that apply to the property boundary, where vegetation (and other flammable materials) will be managed in accordance with certain requirements. This includes short cropping grass and removing leaves and vegetation debris at certain times and restrictions regarding the location and separation of canopy trees (if any). The proposed buildings are required to be constructed to BAL-29 at a minimum.

The Country Fire Authority (CFA), as a ‘determining’ referral authority under the Scheme, has assessed the application and found that an appropriate level of fire safety can be achieved through the submitted bushfire management plan, preparation of a site-specific bushfire emergency plan, and other standard permit conditions. There is no objection to the proposal from the CFA.

Based on the CFA’s advice and the assessment of Cityofficers, it is reasonable to consider that the proposed development would be acceptable in terms of bushfire risk. The risk can be mitigated and emergency procedures can be enacted to protect human life, consistent with the objective and strategies of Clause 13.02 (Bushfire Planning) of the Scheme.

Would the proposal be acceptable in consideration of the urban-forest interface issue?

A planning permit is required for the proposal under the DDO6 provisions, as it is for community care accommodation (which is included in the broader land use definitions of residential building and accommodation) in close proximity to the Bendigo Regional Park which is a forested area of conservation values.

If incorporating the width of Manderson Street into consideration, the site is setback approximately 35m from the forest interface, with the properties at 14 Whipstick Street and 4-6 Manderson Street in between it and the forest. In other words, the site does not have a direct interface with the Bendigo Regional Park.

It should be noted that if the proposal was only for a single dwelling on the subject site, a planning permit would not have been required under the DDO6 provisions given the setback of the site from the forest interface.

As already discussed earlier in this report, the DDO6 provisions focus upon protecting ecological values of forested area and the effect of vegetation on the character of the forested areas

Clause 12.05-2L (Urban forest interface – Greater Bendigo) is of also relevance to the proposal. The objective of the Clause is to "*protect the ecological values of forested private and public land around Bendigo from the impacts of urban development and reinforce the urban forest backdrop surrounding and dispersed within the Bendigo Urban Growth Boundary".*

Whilst Clause 12.05-2L of the Scheme only applies to land that abuts forested areas in the General Residential Zone, some of the strategies are useful when considering the urban-forest interface issue associated with the proposal, given the close proximity of the site to the Bendigo Regional Park. The strategies are as follows:

- *Design development to retain existing on-site vegetation and plant additional vegetation where it can be demonstrated that vegetation can be managed in a way that will not cause an increased bushfire risk.*
- *Avoid encroachment of urban development into forest areas.*
- *Avoid residential development in areas with high biodiversity values.*
- *Construct buildings with materials and colours that are sympathetic with the forest.*
- *Avoid increasing risks associated with bushfire through a combination of best practice urban design or land management or both.*

Similar to the DDO6 provisions, Clause 12.05-2L also includes the consideration of retention of vegetation to achieve a positive urban-forest interface outcome. A slight difference between the two is that Clause 12.05-2L also takes into account bushfire risk when deciding whether or not to retain existing, onsite vegetation or plant additional vegetation on land in close proximity to forested areas.

It is disappointing that the applicant has decided to clear the vegetation on site during the planning permit application process and this has resulted in concerns by some of the local residents. However, it should be noted that a planning permit was not required to remove any vegetation from the site, and given the trees were scattered around the site, any new development would result in vegetation removal particularly given the site's location within a Bushfire Management Overlay.

The objectives and policies supporting both the DDO6 and the BMO can be said to be encouraging competing outcomes on the site. However, Clause 13.02-1S (Bushfire Planning) of the Scheme provide clear guidance that, planning authorities and responsible authorities must prioritise the protection of human life over all other policy considerations in bushfire affected areas. In other words, the retention of vegetation as part of the proposal to assist in protecting the network of forested public land and private land, as encouraged under the DDO6 or the local policy was impracticable to start off with.

Having addressed the vegetation issue, the proposal would produce an acceptable outcome in terms of meeting the relevant urban-forest interface related policies and provisions of the Scheme as follows:

- There would be no encroachment of urban development into forest areas.
- The proposed dwellings feature a dark red face brick with grey colour Colorbond roofing. The garage doors are proposed to be in 'Maple' colour. The proposed materials and colours are generally sympathetic with the forested area.
- The subject site is physically separated from the forested area, by a road and two properties, being 14 Whipstick Street and 4-6 Manderson Street. The proposal would not have any direct or visual impact on the forested area.

Consideration of issues raised in objections.

As a result of public notification, five objections (including a petition) were received. The issues raised in the objections are as follows:

(a) Bushfire risk
(b) Vegetation removal
(c) Nature of the use
(d) Cultural heritage considerations
(e) On-site parking
(f) Traffic Generation and Management
(g) Design and siting
(h) Amenity considerations
(i) Advertising process.

The issues of bushfire risk and vegetation removal have already been discussed earlier in this report.

In terms of items (c) to (h), they are matters beyond Council's ambit and scope of relevant considerations in the exercise of discretion for the purpose for which it is conferred. As detailed earlier in this report, the considerations of the proposal are confined to bushfire risk and urban-forest interface related matters. That said, in the initial stages of the application design, siting and amenity considerations (capture in ResCode) were being actively considered and officers are satisfied that compliance is achieved.

With respect to the advertising process, the application was advertised by way of notice on the site and letters to adjoining owners and occupiers. This is a standard process that applies to all planning permit applications of this nature.

Conclusion

The proposal, on balance, is an acceptable outcome with regards to the relevant Planning Scheme provisions and is recommended for approval.

Options

Council, acting as the responsible authority for administering the Planning Scheme, may resolve to grant a permit, grant a permit with conditions, or refuse to grant a permit.

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Proposed Notice of Decision Conditions

1. NO LAYOUT ALTERATION
   The development permitted by this permit as shown on the endorsed plans and/or described in the endorsed documents must not be altered or modified (for any reason) except with the prior written consent of the responsible authority.

2. BUSHFIRE MITIGATION MEASURES
   The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority and the relevant fire authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

3. COUNTRY FIRE AUTHORITY
   The Bushfire Management Statement prepared by JemPLAN Pty Ltd (Version 2, dated 130922) must be endorsed as part of the permit. Once endorsed the plan

must not be altered unless agreed to in writing by CFA and the Responsible Authority

The water supply, access, vegetation management and building and works requirements identified in the Bushfire Management Statement must be implemented and maintained as prescribed.

4. COUNTRY FIRE AUTHORITY

Before the development is occupied or the use commences, a bushfire emergency plan (BEP) must be prepared to the satisfaction of CFA and the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The BEP must clearly describe the emergency management. arrangements that will be implemented to reduce the risk of bushfire and should address the following matters:

- Describe property and business details.
- Identify the purpose of the BEP stating that the plan outlines procedures for:
  - **Closure of premises** on any day with a Fire Danger Rating of Catastrophic
  - **Evacuation** (evacuation from the site to a designated safer off-site location).
  - **Shelter-in-place** (remaining on-site in a designated building).
- Review of the BEP
  - Outline that the plan must be reviewed and updated annually prior to the commencement of the declared Fire Danger Period.
  - Include a Version Control Table.
- Roles & Responsibilities
  - Detail the staff responsibilities for implementing the emergency procedures in the event of a bushfire and the triggers for acting. For example, when the facility will be closed and the circumstances under which guests and patrons will shelter in place or evacuate.
- Emergency contact details
- Bushfire monitoring procedures
  - Details the use of radio, internet and social networks that will assist in monitoring potential threats during the bushfire danger period.
  - Describe and show (include a map) the area to be monitored for potential bushfire activity.

5. DETAILED DRAINAGE

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 will form part of the permit. The plans must be drawn to scale with dimensions. The plans must include:

- Underground drainage;
- A point of discharge.

6. CONSTRUCTION OF WORKS
   Road works, drainage and other civil works must be constructed in accordance with the City of Greater Bendigo Infrastructure Design Manual and plans and specifications approved by the Responsible Authority and must include:
   - Underground drainage.

7. EXPIRY
   This permit will expire if the development permitted by this permit is not completed within 2 years from the date hereof. The time within which the development must be completed may be extended, on written request to the responsible authority, before or within 6 months after the expiry of this permit where the development has not yet started or 12 months where the development has commenced.

ResCode Note
This development has been assessed and approved under the Planning Scheme provisions only (Bushfire Management Overlay & Design and Development Overlay). This approval does not indicate that requirements of Part 5 of the Building Regulations 2018 have been satisfied.

Attachments

1. CONFIDENTIAL REDACTED - Objections, Petition & Applicant's Response - 12 Whipstick Road, Eaglehawk [**16.6.1** - 17 pages]

16.7. C247gben Corrections and Planning Scheme Review Part 2 Implementation

Author:	Rebecca Fisher, Strategic Planner
Responsible Director:	Steve Hamilton, Director Strategy and Growth

Purpose

This report seeks consideration of the submissions received to Planning Scheme Amendment C247gben and recommends that Council request the Minister for Planning appoint an Independent Panel to consider the submissions received.

Recommended Motion

That Council:
1. Note and accept the submissions received as a result of the exhibition of Amendment C247gben, including the one late submission.
2. Adopt the recommendations detailed for each of the submissions in this report.
3. Request the Minister for Planning to appoint an Independent Panel to consider all submissions received for proposed Amendment C247gben.

Executive Summary

The amendment proposes to:
- Implement recommendations of the *Greater Bendigo Planning Scheme Review*, 2019 and to update the Greater Bendigo Planning Scheme to be consistent with the *Ministerial Direction – Form and Content of Planning Schemes*, including updating schedule maps into a consistent GIS format.
- Rezone land which is inappropriately zoned and to correct mapping and ordinance anomalies.
- Remove overlays which are outdated or have been identified by relevant agencies as no longer required.
- Rezone land in accordance with *Greater Bendigo Public Space Plan*, 2019 and *Commercial Land and Activity Centre Strategy*, 2015.

Ten (10) submissions were received, including one late submission. Of the submissions received, five submissions were in support of the Amendment, one submission has been withdrawn, three submissions can be resolved and one submission is outstanding.

The issues raised that have not been resolved are:
- The Design and Development Overlay 10 (DDO10) should be removed from the Greater Bendigo Planning Scheme, and that lot size controls within the DDOs and Development Plan Overlays (DPO) should be relocated to the schedules to the zones.

Background

he *Greater Bendigo Planning Scheme Review* was adopted by Council on 20 March 2019 as required by Section 12B of the *Planning and Environment Act,* 1987*.* The Review found

that although the Planning Scheme is operating well, it has several fundamental policy gaps which are affecting Council's ability to sufficiently guide development within the municipality.

The Planning Scheme Review's recommended changes were extensive. While there has been significant strategic work progressed over the last 10 years, there had not been a full refresh of the Scheme since it was first written in 2000. The Review recommended, among other recommendations, that the zone and overlay schedule audit undertaken as part of the Review, be adopted and implemented, which is the basis for this amendment.

Because of the large amount of work required to implement the Planning Scheme Review and modernise the Planning Scheme, the changes were divided into three separate planning scheme amendments. The first amendment, *C256gben Greater Bendigo Planning Scheme Implementation Part 1* was focussed on translating the Municipal Strategic Statement (MSS) and Local Planning Policy to the new format Municipal Planning Strategy (MPS) and Planning Policy Framework (PPF). Amendment C256gben was gazetted on March 11, 2022.

The next Amendment (C261gben) was Heritage focused. The amendment made changes to the Heritage Overlay schedule and introduced a Heritage Overlay to some individual properties where recent statements of significance had been prepared. It also updated the local Heritage Policy and the *Greater Bendigo Heritage Design Guidelines,* 2015 to include guidance for signs in heritage areas, as well as correcting mapping errors identified over the previous three years. Amendment C261gben was gazetted on May 13, 2022.

Amendment C247gben proposes to make the recommended changes to the zone and overlay schedules within the Greater Bendigo Planning Scheme that can be undertaken without additional strategic work being undertaken. This includes the removal of outdated DDO2 and DPO Schedules 2, 3, 14, 15 and 23 from land that has been developed (where the overlay is no longer relevant). It also proposes to remove the Land Subject to Inundation Overlay (LSIO) from land where the North Central Catchment Management Authority has advised it is no longer required, and the Public Acquisition Overlay (PAO) from land where the Department of Transport and Planning has advised is no longer required.

Amendment C247gben also proposes to correct zoning, overlay and mapping errors identified over the last five years as well as changes to implement the *Greater Bendigo Public Space Plan*, 2019 and the *Commercial Land and Activity Centre Strategy*, 2015. This includes rezoning public space sites identified in the *Greater Bendigo Public Space Plan,* 2019 to the appropriate public land zone and rezoning the Flora Hill Athletics Track purchased by the City from La Trobe University to the Public Park and Recreation Zone (PPRZ). The amendment proposes to rezone land along McIvor Road, Strathdale, which was identified in the *Commercial Land and Activity Centre Strategy,* 2015 as requiring rezoning from Commercial 1 Zone (C1Z) to GRZ. This land is now developed for a

residential use. Details of the Amendment are contained within the Explanatory Report at Attachment 1.

Previous Council decision dates:

18 July 2018	Council resolved to adopt the *Greater Bendigo Public Space Plan.*
20 March 2019	Council resolved to adopt the *Greater Bendigo Planning Scheme Review.*
19 June 2019	Council resolved to re-adopt the *Greater Bendigo Public Space Plan,* 2019 to ensure that changes arising from the Implementation Framework process were reflected.
16 September 2020	Council resolved to request the Minister for Planning to authorise Council to prepare and give notice of Amendment C247 *Greater Bendigo Planning Scheme Review Part 2 Zone and Overlay updates and corrections.*
16 August 2021	Council resolved to endorse the addition of extra zone and overlay changes be included in Amendment C247gben, to request the Minister for Planning to authorise Council to prepare and give notice of Amendment C247 *Greater Bendigo Planning Scheme Review Part 2 Zone and Overlay updates and corrections* and to authorise the Director Strategy and Growth to make minor changes to the Amendment, where the changes do not affect the purpose or intent of the Amendment.

Report

The Amendment was submitted to the Minister for Planning for Authorisation on September 28, 2022. Authorisation to proceed with the Amendment was granted on October 12, 2022, subject to conditions. The conditions were generally administrative in nature and easily met.

It was determined in agreement with the Department of Environment, Land, Water and Planning (now Department of Transport and Planning), and with Director approval, that some rezonings to correct errors on land with identified bushfire risk would be held over to a later date to allow for further consideration be given on the best way to manage the risk. These sites included:

- CA13 Sec 6 Heathcote-North Costerfield Road, Costerfield.
- Part of 6 Watkins Street, Long Gully.
- Part of 16-20 Williams Road, Myers Flat.
- 157 Eickerts Lane, Redcastle.
- Allot. 20B Sec. A, part of 269 Eickerts Lane, Redcastle.
- Part of 260 Millwood Road, Huntly.

The Amendment was placed on public exhibition from 17 November until 19 December 2022, with approximately 1,600 letters sent to landowners impacted through the rezoning of their land and/or the removal of an overlay from their property.

Submissions

Ten (10) submissions were received (see Attachment 2 Combined submissions), including one late submission. Of the submissions received, five submissions were in support of the Amendment, one submission has been withdrawn, three submissions can be resolved, and one submission is outstanding, as follows:

Submission #	Summary of Submission	Outcome
1. Re: Lot 2 Dukes Lane Strathfieldsaye	Letter of support for removal of PAO.	Supports
2. Re: 483 Somerset Park Road Strathfieldsaye	Letter of support for removal of PAO.	Supports
3. VicTrack Re: 61 Panton Street Golden Square & 43A Sandhurst Road California Gully	Supports rezoning and removal of Neighbourhood Character Overlay Schedule 1 at 61 Panton Street Golden Square. Requests removal of rezoning at 43A Sandhurst Road California Gully from amendment.	Resolved – changed as requested
4. Re: Rural Conservation Zone Schedule 4	Requests insertion of land description of “19 Blossett Dve, 22 & 32 Daley Ln & CA1 Springs Rd Sedgwick” into table within schedule.	Resolved – changed as requested
5. Re: Updates to overlay schedules	Requests removal of DDO10 from scheme. Requests removal of all overlays that attempt to control density, with controls moved to zone schedules as warranted.	Unresolved
6. Rezoning from C1Z to GRZ on McIvor Road Strathdale	Requests the rezoning of 201 and 203 McIvor Road be excluded from amendment.	Withdrawn
7. North Central Catchment Management	Supports removal of LSIO as exhibited.	Supports

Submission #	Summary of Submission	Outcome
Authority		
8. Department of Transport	Does not object.	Supports
9. Re: 26 Olympic Parade Kangaroo Flat	Requests removal of rezoning of 26 Olympic Parade Kangaroo Flat from amendment. Requests any future rezoning be of the SUZ9 portion of land to GRZ. Acknowledges that this would need to be part of a future amendment.	Resolved – changed as requested
10. Department of Environment, Land, Water and Planning	Late submission Supports amendment	Supports

The issues raised, which remain unresolved, are both from Submission 5:

- *Requests removal of DDO10 from scheme.*
- *Requests removal of all overlays that attempt to control density, with controls moved to zone schedules as warranted.*

City officer Response:

The schedule to Clause 74.02 Future Strategic Work within the Greater Bendigo Planning Scheme currently includes *"A review of neighbourhood character overlays and policies, and design and development overlays".* This amendment proposes the inclusion of a new action of "*A review of current development plan overlay schedules, particularly: The content and application of DPO4; and References to external documents in DPOs 16, 20, 25 and 29."*

City officers are expecting the review of the DDOs and DPOs to formally begin in early 2023. Part of this review will consider the relevance of, and appropriate tools to, control lot sizes.

The appropriateness of DDO10 will be reviewed as part of the latter stages of strategic work that is currently underway to consider growth opportunities in Maiden Gully.

City Officer Recommendation:

City officers do not support the removal of Overlays post exhibition as requested by this submission. This is not good planning practice, particularly where those Overlays cover extensive areas and their removal could allow for a significant increased density. As mentioned previously the consideration as to the appropriateness of the various schedules to the DDO will be the subject of further strategic work.

As such, this submission remains unresolved, and it is recommended to be referred to an Independent Panel for consideration.

Administrative Correction:

City officers also recommend that Council supports a minor correction to the exhibited Schedule 3 to the Rural Living Zone, to include the requirement for a planning permit where the minimum setback of 30 metres from a boundary is not met. This control is currently contained in the Design and Development Overlay Schedule 2 that is proposed to be removed as a part of this amendment and the information was inadvertently left out of the drafted policy. Its inclusion will not impose any new requirements on landowners and will instead maintain the status quo.

Summary of Recommended Changes to Exhibited Amendment

- Remove proposed rezoning at 43A Sandhurst Road California Gully.
- Insert land description of “19 Blossett Dve, 22 & 32 Daley Ln & CA1 Springs Rd Sedgwick” into table within Rural Conservation Zone, Schedule 4.
- Remove the proposed rezoning of a portion of 26 Olympic Parade Kangaroo Flat from GRZ to SUZ9.
- Update the minimum setback from a boundary to be 30 metres within Rural Living Zone, Schedule 3.

Draft documents showing the recommended changes to the exhibited documents can be found at Attachment 3 Recommended changes.

Next Steps

Subject to the above recommendations being supported and in order to progress this Amendment, a request will need to be made to the Minister for Planning to appoint an Independent Panel to consider the submissions.

Priority/Importance

Timely progression of the amendment is required as per Ministerial Direction No. 15 (the planning scheme amendment process).

Options Considered

Section 29(1) & (2) of the *Planning and Environment Act*, 1987 state that a planning authority may adopt an Amendment or part of an Amendment with or without changes.

Section 23(1) of the *Planning and Environment Act*, 1987 require that in consideration of submissions received in relation to an Amendment, the Council must either:

- Refer the submissions to an Independent Panel appointed by the Minister; or
- Change the Amendment in the manner requested by the submitters and adopt the Amendment with changes; or
- Abandon the Amendment, or part of the Amendment.

Section 22(2) of the *Planning and Environment Act*, 1987 advises that Council has the option of accepting late submissions but must do so if requested by the Minister for Planning.

It is recommended that Council:
1. Accept the late submission.
2. Adopt the recommended changes to the Exhibited Amendment.
3. Request the Minister for Planning to appoint an Independent Panel to consider the submissions.

Timelines

If supported, the request to the Minister for Planning to appoint a Panel will be made by the end of February 2023.

A Directions hearing has been pre-set for the week starting 27 March 2023.

A Panel hearing has been pre-set for the week starting 1 May 2023.

Communications/Engagement

The Strategic Planning team worked closely with the Statutory Planning team to ensure that the proposed schedule updates were fit for purpose and balanced the decision-making implications of the changes with the requirements of the *Ministerial Direction – Form and Content of Planning Schemes.*

Extensive consultation occurred with relevant agencies during the preparation of the Planning Scheme Review. Agencies were also consulted during preparation of this amendment. This includes the Department of Environment, Land, Water and Planning (now Department of Energy, Environment and Climate Change) who support the rezoning of its land to a public zone where appropriate, the Department of Transport (now Department of Transport and Planning) who support the deletion of the PAO along Wellington Street in Strathfieldsaye and the North Central Catchment Management Authority who provided the City with a list of properties, with the supporting mapping, where they are satisfied that flood mitigation works have occurred and as such the LSIO no longer required and should be deleted.

The Amendment was referred to the CFA for comment and followed up on several occasions, but no feedback has been provided.

All relevant agencies were again consulted during the amendment process with the North Central Catchment Management Authority, Department of Transport and Department of Environment, Land, Water and Planning all making submissions in support of the Amendment. No other agencies provided comment on the Amendment.

The Amendment was exhibited for the required minimum of one month, from November 17, 2022, to December 19, 2022, in the following ways:

- Notice was sent to owners and occupiers of properties impacted by a rezoning or the removal of an overlay (approx. 1,600 letters).
- Notice was given to prescribed Ministers.
- Notice was given to all relevant authorities.
- Notice of the Amendment was placed in the Bendigo Advertiser on Wednesday November 16 and Saturday November 19, 2022.
- A media release was sent out by the City on November 17, 2022.
- Access to the Amendment documents was made available on the City's website and the Department of Environment, Land Water and Planning's website.

City staff spoke and corresponded with many landowners and occupiers regarding the specific changes proposed to their properties. Whilst this amendment was generally administrative in nature and made minor changes to correct errors, due to the number of changes proposed there was a large amount of information available online. In most cases, a short phone call clarified the change proposed and any implications on future use and development.

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025
Outcome 2 - Healthy, liveable spaces and places

Secondary Council Plan Reference(s)

Goal 7 - Sustainable population growth is planned for

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Attachments

1. C 247 gben Explanatory Report [**16.7.1** - 28 pages]
2. C 247 gben Combined Submissions [**16.7.2** - 15 pages]
3. C 247 gben Recommended Changes [**16.7.3** - 4 pages]

Planning and Environment Act 1987

GREATER BENDIGO PLANNING SCHEME

AMENDMENT C247GBEN

EXPLANATORY REPORT

Who is the planning authority?

This amendment has been prepared by the Greater Bendigo City Council which is the planning authority for this amendment.

The amendment has been made at the request of the Greater Bendigo City Council.

Land affected by the amendment

The amendment affects land throughout the municipality of Greater Bendigo, particularly land in Ascot, Bendigo, California Gully, Costerfield, East Bendigo, Epsom, Flora Hill, Golden Square, Heathcote, Huntly, Jackass Flat, Kangaroo Flat, Kennington, Lockwood, Lockwood South, Long Gully, Maiden Gully, Mia Mia, North Bendigo, Raywood, Spring Gully, Strathdale, Strathfieldsaye, West Bendigo and White Hills as described below and as shown in the maps referenced in Attachments 1 and 2.

What the amendment does

The amendment proposes to implement recommendations of the *Greater Bendigo Planning Scheme Review,* 2019 and to update the Greater Bendigo Planning Scheme to be consistent with the *Ministerial Direction – Form and Content of Planning Schemes*, including updating schedule maps into a consistent GIS format.

The amendment proposes to rezone land which is inappropriately zoned and to correct mapping and ordinance anomalies.

The amendment proposes to remove overlays which are outdated or have been identified by relevant agencies as no longer required.

The amendment proposes rezoning of land in accordance with *Greater Bendigo Public Space Plan*, 2019 and *Commercial Land and Activity Centre Strategy,* 2015.

Specifically, the Amendment proposes to amend the Greater Bendigo Planning Scheme in the following ways:

Zoning Maps

- Rezone 21,845 square metres of land at CA 20 Sandhurst Street, Raywood from Public Use Zone Schedule 3 (PUZ3) to Township Zone (TZ) as shown on Planning Scheme Map No. 7.
- Rezone 26,550 square metres of land at CA 4A & CA 22E Sec 27 Station Street, Huntly from Low Density Residential Zone (LDRZ) to Public Park and Recreation Zone (PPRZ) as shown on Planning Scheme Map Nos.12 & 16.
- Rezone 4,593 square metres of land at Lot 1 TP951458 Howard Street, Epsom from Farming Zone (FZ) to Public Use Zone Schedule 2 (PUZ2) as shown on Planning Scheme Map No. 15.
- Rezone 2,310 square metres of land at 123-129 Midland Highway, Epsom from PPRZ to Commercial 2 Zone (C2Z) as shown on Planning Scheme Map No. 15.
- Rezone 36 square metres of land at CA 2025 Rosemundy Road, Epsom from C2Z to PPRZ as shown on Planning Scheme Map No. 15.
- Rezone 1,220 square metres of land at CA 2001 Midland Highway, Epsom from C2Z to PPRZ as shown on Planning Scheme Map Nos. 15 & 16.

Authorisation

- Rezone 2,100 square metres of land at Lot 1 TP967530 Midland Highway, Epsom from C2Z to PPRZ as shown on Planning Scheme Map Nos. 15 & 16.
- Rezone 1.6 hectares of land at 164 Ironstone Road, Ascot from General Residential Zone (GRZ) to PPRZ as shown on Planning Scheme Map No. 16.
- Rezone 5.9 hectares of land at 171 Ironstone Road, Ascot from GRZ to PPRZ as shown on Planning Scheme Map No. 16.
- Rezone 2.7 hectares of land at 17 Millewa Drive, Ascot from GRZ to PPRZ as shown on Planning Scheme Map No. 16.
- Rezone land at 13 Yellowgum Drive and Allot. 6A Sec. 8 Parish of Huntly on Station Street, Epsom from GRZ to PPRZ as shown on Planning Scheme Map No. 16.
- Rezone 1,490 square metres of land at Lot 2 Jones Road, Epsom from PPRZ to LDRZ1 as shown on Planning Scheme Map No. 16.
- Rezone 2,223 square metres of land at 453 Midland Highway, Huntly from FZ to LDRZ1 as shown on Planning Scheme Map No. 16.
- Rezone 7,290 square metres of land at 144 Sargeants Road, Huntly from LDRZ to FZ1 as shown on Planning Scheme Map No. 16.
- Rezone 1.6 hectares of land at 35 Murdock Street, California Gully from GRZ to PPRZ as shown on Planning Scheme Map No. 18.
- Rezone 18.97 hectares of land at 12-28 Cunneen Street, Long Gully from part GRZ and part Special Use Zone Schedule 6 (SUZ6) to Public Use Zone Schedule 7 (PUZ7) as shown on Planning Scheme Map No. 18.
- Rezone 1.5 hectares of land at 76 Holdsworth Road, Long Gully from PUZ7 to PPRZ as shown on Planning Scheme Map No. 18.
- Rezone 960 square metres of land at 330 Maiden Gully Road, Maiden Gully from Public Use Zone Schedule 1 (PUZ1) to LDRZ1 as shown on Planning Scheme Map No. 18.
- Rezone 4.7 hectares of land at CA 2087 Derwent Gully Road, West Bendigo from GRZ, Special Use Zone Schedule 4 (SUZ4), PUZ7 and FZ to PCRZ as shown on Planning Scheme Map No. 18.
- Rezone 265 square metres of land at 56 Chapel Street, Bendigo from Special Use Zone Schedule 1 (SUZ1) to GRZ as shown on Planning Scheme Map No. 19.
- Rezone 853 square metres of land at 129 Strickland Road, East Bendigo from TRZ1 to IN1Z as shown on Planning Scheme Map No. 19.
- Rezone 2,800 square metres of land at 36 and 44 Anderson Street, North Bendigo from GRZ to PPRZ as shown on Planning Scheme Map No. 19.
- Rezone 372 square metres of land at 83 Holdsworth Road, North Bendigo from PPRZ to GRZ as shown on Planning Scheme Map No. 19.
- Rezone 19.78 hectares of land at 42-72 Holmes Road, North Bendigo from PPRZ to Special Use Zone Schedule 8 (SUZ8) as shown on Planning Scheme Map No. 19.
- Rezone 627 square metres of land at 37 Herbert Avenue, Strathdale from PUZ1 to GRZ as shown on Planning Scheme Map No. 19.
- Rezone 522 square metres of land at 34 Mill Street, Strathdale from PUZ1 to GRZ as shown on Planning Scheme Map No. 19.
- Rezone 598 square metres of land at 36 Mill Street, Strathdale from PUZ1 to GRZ as shown on Planning Scheme Map Nos. 19.
- Rezone 2.6 hectares of land at 27 Hamelin Street, White Hills from GRZ to PPRZ as shown on Planning Scheme Map No. 19.
- Rezone 7,000 square metres of land at 559 Napier Street, White Hills from GRZ to PPRZ as shown on Planning Scheme Map No. 19.

Authorisation

- Rezone a total area of 223 square metres of land of the Midland Highway (Napier Street) road reserve adjacent to 384-386 and 484-488 Napier Street, White Hills from GRZ to Transport Zone 2 (TRZ2) as shown on Planning Scheme Map No. 19.
- Rezone a combined total area of 2,955 square metres of land at 167, 169, 171, 173, 175 and 177 Crook Street, Strathdale from Commercial 1 Zone (C1Z) to GRZ as shown on Planning Scheme Map No. 20.
- Rezone a combined total area of 5,447 square metres of land at 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34 and 36 Elstead Drive Strathdale from C1Z to GRZ as shown on Planning Scheme Map No. 20.
- Rezone a combined total area of 3,706 square metres of land at 195A & B, 197A, B & C, 199A, B & C, 201 and 203 McIvor Road, Strathdale from C1Z to GRZ as shown on Planning Scheme Map No. 20.
- Rezone 3,554 square metres of land at 205 McIvor Road, Strathdale from C1Z and GRZ to PPRZ as shown on Planning Scheme Map No. 20.
- Rezone 3 hectares of land at 33 Gittins Drive, Strathdale from GRZ and PUZ1 to PPRZ as shown on Planning Scheme Map No. 20.
- Rezone 1 hectare of land at 99 Crook Street, Strathdale from PUZ1 to PPRZ as shown on Planning Scheme Map Nos. 20 & 24.
- Rezone 1,098 square metres of land at 17 Akins Rise, Golden Square from GRZ to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 7,280 square metres of land at 38A Akoonah Drive, Golden Square from GRZ to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 1,472 square metres of land at 10-14 Allpress Drive, Golden Square from GRZ to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 1.15 hectares of land at 24 Elliott Street, Golden Square from GRZ to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 5,987 square metres of land at 24 Gresham Court, Golden Square from GRZ to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 1.6 hectares of land at 2-12 Holly Street, Golden Square from GRZ to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 4,501 square metres of land at 8 Maxwell Drive, Golden Square from GRZ to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 8,006 square metres of land at 70 Norelle Crescent, Golden Square from GRZ to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 860 square metres of land at 61 Panton Street, Golden Square from GRZ to TRZ1 as shown on Planning Scheme Map No. 22.
- Rezone 2,146 square metres of land at Lot 1 TP832622 Brian Street, Kangaroo Flat from Special Use Zone Schedule 9 (SUZ9) to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 6,274 square metres of land at 8 Bronze Drive, Kangaroo Flat from GRZ to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 986 square metres of land at 9 Browning Street, Kangaroo Flat from GRZ to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 1.5 hectares of land at 26-28 Browning Street Kangaroo Flat from PUZ7 to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 1,220 square metres of land at 6-50 Danson Avenue, Kangaroo Flat from GRZ and PUZ7 to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 1.7 hectares of land at 80-92 Lockwood Road, Kangaroo Flat from PUZ7 to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 1,381 square metres of land at 34A Magellan Crescent, Kangaroo Flat from GRZ to PPRZ as shown on Planning Scheme Map No. 22.

Authorisation

- Rezone 5,354 square metres of land at 99-101 Olympic Parade, Kangaroo Flat from GRZ to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 3,043 square metres of land at 72 Queen Street, Kangaroo Flat from GRZ to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 549 square metres of land at 17 Carpenter Street, Kangaroo Flat from PUZ7 to C1Z as shown on Planning Scheme Map No. 22.
- Rezone 68 square metres of land at 2 Lansell Street, Kangaroo Flat from PUZ7 to GRZ as shown on Planning Scheme Map No. 22.
- Rezone 834 square metres of land at 29 Lockwood Road, Kangaroo Flat from Public Use Zone Schedule 6 (PUZ6) to C2Z as shown on Planning Scheme Map No. 22.
- Rezone 800 square metres of land at 39 Neil Street, Kangaroo Flat from PPRZ and GRZ to SUZ4 as shown on Planning Scheme Map No. 22.
- Rezone 1,002 square metres of land at 1 Station Street, Kangaroo Flat from GRZ to SUZ4 as shown on Planning Scheme Map No. 22.
- Rezone 9,035 square metres of land at 1D Station Street, Kangaroo Flat from SUZ4, SUZ6 & SUZ9 to PPRZ as shown on Planning Scheme Map No. 22.
- Rezone 4 hectares of land at 60 Retreat Road, Flora Hill from PUZ2 to PPRZ as shown on Planning Scheme Map No. 23.
- Rezone 601 square metres of land at 20 Drechsler Street, Flora Hill from PUZ1 to GRZ as shown on Planning Scheme Map No. 23.
- Rezone 8,118 square metres of land at 19 Sherwood Drive, Flora Hill from GRZ to PPRZ as shown on Planning Scheme Map No. 23.
- Rezone 5,907 square metres of land at 26 Sherwood Drive, Flora Hill from GRZ to PPRZ as shown on Planning Scheme Map No. 23.
- Rezone 393 square metres of land at 72 Lowndes Street, Kennington from PUZ1 to GRZ as shown on Planning Scheme Map No. 23.
- Rezone 4,136 square metres of land at 84 Marnie Road Kennington from GRZ to PPRZ as shown on Planning Scheme Map No. 23.
- Rezone 772 square metres of land at 9 Annabell Court, Spring Gully from GRZ to PPRZ as shown on Planning Scheme Map No. 23.
- Rezone 836 square metres of land at 4 Eliza Court, Spring Gully from GRZ to PPRZ as shown on Planning Scheme Map No. 23.
- Rezone 3,116 square metres of land at 12 Kristy Drive, Spring Gully from GRZ to PPRZ as shown on Planning Scheme Map No. 23.
- Rezone 1,543 square metres of land at CA 260D Retreat Road, Spring Gully from GRZ to PPRZ as shown on Planning Scheme Map No. 23.
- Rezone 1,433 square metres of land at 19 Figtree Land, Strathdale from GRZ to PPRZ as shown on Planning Scheme Map No. 24.
- Rezone 730 square metres of land at 20 Figtree Lane, Strathdale from GRZ to PPRZ as shown on Planning Scheme Map No. 24.
- Rezone 4,417 square metres of land at 13-17 Landale Drive, Strathdale from GRZ to PPRZ as shown on Planning Scheme Map No. 24.
- Rezone 4,337 square metres of land at 4 Paperbark Court, Strathdale from GRZ to PPRZ as shown on Planning Scheme Map No. 24.
- Rezone 5,050 square metres of land at 7-8 Stephens Court, Strathdale from GRZ to PPRZ as shown on Planning Scheme Map No. 24.
- Rezone 8,548 square metres of land at 4 Wildwood Drive, Strathdale from GRZ to PPRZ as shown on Planning Scheme Map No. 24.

Authorisation

- Rezone 1,365 square metres of land at 44-46 Barnett Drive, Kangaroo Flat from GRZ to PPRZ as shown on Planning Scheme Map No. 26.
- Rezone 171 square metres of land at 8 Cobb Court, Kangaroo Flat from GRZ to PPRZ as shown on Planning Scheme Map No. 26.
- Rezone 6,598 square metres of land at 6 Jerribong Way, Kangaroo Flat from GRZ to PPRZ as shown on Planning Scheme Map No. 26.
- Rezone 8,943 square metres of land at 11 Lee Street, Kangaroo Flat from GRZ to PPRZ as shown on Planning Scheme Map No. 26.
- Rezone 366 square metres of land at 16 Miners Rest, Kangaroo Flat from GRZ to PPRZ as shown on Planning Scheme Map No. 26.
- Rezone 2,917 square metres of land at 15 Stanley Crescent, Kangaroo Flat from PUZ6 to PPRZ as shown on Planning Scheme Map No. 26.
- Rezone 3,612 square metres of land at CA 76 Stanley Crescent Kangaroo Flat from PUZ6 to PPRZ as shown on Planning Scheme Map No. 26.
- Rezone 1.5 hectares of land at 40 Granter Street, Lockwood from GRZ and LDRZ to PCRZ as shown on Planning Scheme Map No. 26.
- Rezone 2,178 square metres of land at CA 14 Sec 6 Bradleys Lane, Costerfield from TZ to PCRZ as shown on Planning Scheme Map No. 38.
- Rezone 2,334 square metres of land at 10 Matheson Road, Mia Mia from PUZ7 to TZ as shown on Planning Scheme Map No. 42.
- Apply the LDRZ1 to land zoned LDRZ:
    - Between Railway Place North and Old Murray Road and between Bagshot Street, Warde Street, Cameron Street and Goornong-Barnadown Road, Goornong as shown on Planning Scheme Map No. 11.
    - North of the Huntly town centre between Midland Highway, Banksia Road, the Bendigo Creek and Pitt Street, Huntly as shown on Planning Scheme Map No. 12.
    - South of the Huntly town centre between Oakridge Drive, Pitson Court, Rennie Street, Tecoma Court, Waratah Road, Aspiring Drive and Cassons Crescent, Huntly as shown on Planning Scheme Map No. 12.
    - Between Watson Street, Buckland Street and St Killian Street, White Hills as shown on Planning Scheme Map No. 15.
    - Between Kennewell Street, Buckland Street and the Bendigo Creek, White Hills as shown on Planning Scheme Map No. 15.
    - At 3-35 Highett Street, Epsom as shown on Planning Scheme Map No. 15.
    - Between the Bendigo Creek and the Epsom-Huntly Recreation Reserve, Epsom as shown on Planning Scheme Map No. 15.
    - East of Midland Highway between Allen Street, Station Street, Sargeants Road and Carsons Crescent, Epsom as shown on Planning Scheme Map No. 16.
    - West of Midland Highway between Jones Road and Buckleys Lane, Epsom as shown on Planning Scheme Map No. 16.
    - West of Midland Highway, lots in Carsons Road, Highett Street and McPherson Streets, Epsom as shown on Planning Scheme Map No. 16.
    - Between Racecourse Road, Fairway Drive and the Huntly-Goornong Channel, Ascot as shown on Planning Scheme Map No. 16.
    - North of Maiden Gully Road and south of Homer Beacon Road, Maiden Gully as shown on Planning Scheme Map No. 17.
    - South of Maiden Gully Road and Patas Road, between Durstons Road and Golf Links Road, Maiden Gully as shown on Planning Scheme Map No. 17.
    - At 137-155 Edwards Road, Maiden Gully as shown on Planning Scheme Map No. 17.

Authorisation

- At 40-58 Pascoe Street, Long Gully as shown on Planning Scheme Map No. 18.
- South of Maiden Gully Road from Durstons Road to Butler Street, Maiden Gully as shown on Planning Scheme Map No. 18.
- North of Maiden Gully Road from Patas Road to Golf Links Road, Maiden Gully as shown on Planning Scheme Map No. 18.
- North of Maiden Gully Road from Albert Street to Batten Street, Maiden Gully as shown on Planning Scheme Map No. 18.
- South of Calder Highway and east of Kronk Street, Maiden Gully as shown on Planning Scheme Map No. 18.
- At 54-60 Derwent Gully Road, West Bendigo as shown on Planning Scheme Map No. 18.
- At 59 Empire Road, West Bendigo as shown on Planning Scheme Map No. 18.
- At 10 Ngaroto Drive, 112-118 and 120-122 Inglis Street and 188, 190, 192, 194, 198-200 Marong Road, West Bendigo and 191 and 193 Marong Road, Golden Square as shown on Planning Scheme Map No. 18.
- At 147-155 Watson Street, Jackass Flat as shown on Planning Scheme Map No. 19.
- At 10-24, 15-25, 40-48, 50 and 52 Cohn Street, 24 and 26 Cowper Street, 191 Holdsworth Road, 9, 22, 26 and 31-35 Latham Street and 99, 101, 103-105 109 and 110 Prouses Road, North Bendigo as shown on Planning Scheme Map No. 19.
- West of St Killian Street and north of John Street and Crane Street and south of Watson Street, White Hills as shown on Planning Scheme Map No. 19.
- Between Scott Street, Kennewell Street and the Bendigo Creek, White Hills as shown on Planning Scheme Map No. 19.
- North of Victa Road and east of Lyons Street and south of Golf Course Road and east of Racecourse Road and west of the Huntly-Goornong Channel and Bendigo Airport Access Road, Ascot as shown on Planning Scheme Map No. 20.
- North of McIvor Highway between Pratts Park Road, Atlas Road and the O'Keefe Rail Trail, Junortoun as shown on Planning Scheme Map No. 20.
- At 2-10 Calibre Close and 15 and 21 Pratts Park Road, Strathdale as shown on Planning Scheme Map No. 20.
- At 336-380 McIvor Road, Junortoun as shown on Planning Scheme Map No. 20.
- South of Wellsford Road between Hoctors Lane and Alexander Road, Junortoun as shown on Planning Scheme Map No. 21.
- At 2 and 3 Coleman Close, 47, 50A, 51, 57, 73, 80. 88. 94, 102, 106 and 108 Kronk Street, Maiden Gully as shown on Planning Scheme Map No. 22.
- At 30 and 32-34 MacCullagh Street, Golden Gully as shown on Planning Scheme Map No. 22.
- South of Ham Street and east of Bunker Street and Bath Lane, Kangaroo Flat as shown on Planning Scheme Map No. 22.
- Between Birds Reef Lane, Kangaroo Gully Road and Sheltons Road, Kangaroo Flat as shown on Planning Scheme Map No. 22.
- Between Golden Gully Road and Diamond Hill Road, Kangaroo Flat as shown on Planning Scheme Map No. 22.
- At 17, 19-29, 31-37, 39 and 41-45 Vains Road and CA1346B Faugh-A-Ballagh Road, 32, 38 and 46-54 Woodward Road, Golden Gully as shown on Planning Scheme Map No. 23.
- North of McIvor Highway between Pratts Park Road, Atlas Road and the O'Keefe Rail Trail, Junortoun as shown on Planning Scheme Map No. 24.
- Between La Valla Court, McIvor Highway, Wilkie Road and Trotting Terrace, Junortoun as shown on Planning Scheme Map No. 24.
- Between Cassinia Drive, Trotting Terrace, Braeside Drive and McIvor Forest Drive, Junortoun as shown on Planning Scheme Map No. 24.

Authorisation

- At 617, 628, 635, 698 and Lot 2 Strathfieldsaye Road, 25, 41, 69, 71 and 89 Osborne Lane, 184 Ryalls Lane, Strathfieldsaye as shown on Planning Scheme Map No. 24.
- Between Hoctors Lane, Splitters Lane, Wilkie Road, Trotting Terrace, the O'Keefe Rail Trail and Bennetts Road, Junortoun as shown on Planning Scheme Map No. 25.
- At Allot. 49, Township of Strathfieldsaye and part of 1108 Wellington Street Strathfieldsaye as shown on Planning Scheme Map No. 25.
- At 40 and 50 Carcoola Drive and 160, 214, 216, 218, 222 and 229 Crusoe Road, Kangaroo Flat as shown on Planning Scheme Map No. 26.
- Between Verdant Court, Bendigo Creek, Cannon Lane, Hamill Street, Granter Street and the Crusoe Reservoir, Kangaroo Flat as shown on Planning Scheme Map No. 26.
- At 91 Birds Reef Lane, 11, 41, 51, 77, Lot 1 and CA 88D Irwin Lane, 8 Hardimans Lane and 17 Dorrington Lane, Kangaroo Flat as shown on Planning Scheme Map No. 26.
- At 56, 61, 70, 78-80, 81, 86, 88, 92, 107, 113, 121, 133, 193, 248 and Lot 1 Kangaroo Gully Road, Kangaroo Flat as shown on Planning Scheme Map No. 26.
- At 5603 and 5648 Calder Highway and 8, 9, 10, 11, 12, 19 and 20 Cherry Tree Lane, Big Hill as shown on Planning Scheme Map No. 26.
- At 192 Hollidays Road, Mandurang as shown on Planning Scheme Map No. 27.
- Between Callinan Lane and Cahills Road, Nankervis Road, Mannix Lane, Hunts Gap Road and O'Halloran Drive, Mandurang as shown on Planning Scheme Map No. 27.
- Between Hunts Gap Road, Hogans Road and Mannix Lane, Mandurang South as shown on Planning Scheme Map No. 29.
- Between Bendigo-Maldon Road, Panorama Road and Lockwood Rises Road, Lockwood South as shown on Planning Scheme Map No. 32.
- At 611, 629, 650, 651, 660, 670, 671, 672, 694, 722, 728 Calder Alternative Highway and 1 and 5 Bendigo-Maldon Road and 872, 879, 897, 899 and Lot 2, Crusoe Road, Lockwood South as shown on Planning Scheme Map No. 32.
- At 40 Heathcote-North Costerfield Road and 1, 4, 5, 6, 8 and 13 Ryans Lane and 2 Barrack Street and 19, 39 and 51 Ambers Street and 81 and 250 Forest Drive, Heathcote as shown as shown on Planning Scheme Map No. 44.
- North of McIvor Highway and Northern Highway, Heathcote as shown as shown on Planning Scheme Map No. 44.
- Between Scullys Lane, Patterson Street and Heathcote-North Costerfield Road, Heathcote as shown as shown on Planning Scheme Map No. 44.
- Between Warren Road, Old Railway Reserve Road and Scotts Crescent, Heathcote as shown as shown on Planning Scheme Map No. 44.
- North of Redesdale Road and west of Armstrong Street, Heathcote as shown as shown on Planning Scheme Map No. 44.
- Between Back Kyneton Road, Hanson Street and Golden Gully Road, Heathcote as shown as shown on Planning Scheme Map No. 44.
- At Parkinson Court, Heathcote as shown as shown on Planning Scheme Map No. 44.
- Between Caldwell Street and Barrack Street, Heathcote as shown as shown on Planning Scheme Map No. 44.
- Between Heathcote-Nagambie Road, Heenans Lane, Warrowtue-Forest Road and Northern Highway, Heathcote as shown as shown on Planning Scheme Map No. 45.
- Between McIvor Highway, Farley Road and the Northern Highway, Heathcote as shown as shown on Planning Scheme Map No. 45.
- Between Golf Links Lane, Codes Lane, Heathcote as shown as shown on Planning Scheme Map No. 45.
- At 31 and 97 Heathcote-Nagambie Road and 20 Forest Drive, Heathcote as shown on Planning Scheme Map No. 45.

Authorisation

- Apply the Low Density Residential Zone Schedule 2 (LDRZ2) to land zoned LDRZ:
  - At 45A, 45B, 45C and 45D Edwards Road, Maiden Gully as shown on Planning Scheme Map No. 17.
- Apply the Low Density Residential Zone Schedule 3 (LDRZ3) to land zoned LDRZ:
  - South of Loddon Valley Highway, Myers Flat as shown on Planning Scheme Map No. 13.
  - At 73 Letherbys Road and 152 Loddon Valley Highway, Sailors Gully as shown on Planning Scheme Map No. 14.
  - Between McCormacks Road, Hopkins Avenue and York Street, Sailors Gully as shown on Planning Scheme Map No. 14.
  - Between Durham Street, McCormacks Road, York Street and Belmont Drive, Eaglehawk as shown on Planning Scheme Map No. 18.
- Apply the Low Density Residential Zone Schedule 4 (LDRZ4) to land zoned LDRZ:
  - Between the Loddon Valley Highway, Dempsey Street and Dalton Street, Woodvale as shown on Planning Scheme Map No. 13.
  - Between the Loddon Valley Highway, Dempsey Street, Conder Street and Sailors Gully Road, Sailors Gully as shown on Planning Scheme Map No. 13.
  - At 177 and 183-189 Loddon Valley Highway, Sailors Gully as shown on Planning Scheme Map No. 13.
  - At 3-9 Coakes Street, Sailors Gully as shown on Planning Scheme Map No. 14.
  - Along Osborne Lane, south of Guys Hill Road, Strathfieldsaye as shown on Planning Scheme Map No. 24.
  - At 29 Emu Creek Road, Strathfieldsaye as shown on Planning Scheme Map No. 25.
  - At 359, 361 385 and 409 Tannery Lane, Strathfieldsaye as shown on Planning Scheme Map No. 28.
  - At Lot 2 Emu Creek Road, Lot 2 McCleans Road and 249 Bakers Lane, Strathfieldsaye as shown on Planning Scheme Map No. 33.
  - To the west, south and east of the township of Axedale as shown on Planning Scheme Map No. 34.
- Apply the Low Density Residential Zone Schedule 5 (LDRZ5) to land zoned LDRZ:
  - At Lot F 1 Charters Way and Lot X Sawmill Road, Huntly as shown on Planning Scheme Map No. 12.
- Apply the Rural Living Zone Schedule 1 (RLZ1) to land zoned RLZ:
  - At 7 Adams Street and 1329, 1331, 1332, 1336, 1339 and 1343 Calder Highway, Marong as shown on Planning Scheme Map No. 6.
  - Between Epsom-Fosterville Road, Midland Highway, Peatlings Road and Bissell Lane, Bagshot as shown on Planning Scheme Map No. 9.
  - Between Sandy Creek- Barnadown Road, Oberins Road, Whatleys Road and Tysons Road, Goornong as shown on Planning Scheme Map No. 9.
  - The south-western corner of Midland Highway and Comer Lane, Goornong as shown on Planning Scheme Map No. 11.
  - Between Sherwood Road and the Midland Highway and 61 and 85 Cruikshank Drive and 279 Huntly-Fosterville Road, Huntly as shown on Planning Scheme Map No. 12.
  - At 88 Andrew Lane, East Bendigo as shown on Planning Scheme Map No. 16.
  - At 277, 279, 300, 315 and CA5B Huntly-Fosterville Road, Huntly as shown on Planning Scheme Map No. 16.
  - To the east of Andrew Lane and to the south of Heinz Street, East Bendigo as shown on Planning Scheme Map No. 20.

Authorisation

- At CA4A and CA35 Maggs Lane and 36 Alexander Road, Longlea and 451,492 and 494 Tresize Track, Wellsford as shown on Planning Scheme Map No. 21.
- At 77 Tannery Lane, Mandurang as shown on Planning Scheme Map No. 23.
- At 2 Trotting Terrace, Junortoun as shown on Planning Scheme Map No. 24.
- North of Tannery Lane, between Mandurang Road and James Cook Drive, Mandurang as shown on Planning Scheme Map No. 24.
- At 5 Axe Creek Road, Axe Creek and 10 and 36 Alexander Road Longlea and Lot 1 Longlea Lane, 3 Lexton Road, Lot 1 Strathfieldsaye Road and 1285 Strathfieldsaye Road, Strathfieldsaye as shown on Planning Scheme Map No. 25.
- Both sides of O'Halloran Drive west of Hunts Gap Road, Mandurang South as shown on Planning Scheme Map No. 26.
- At Mandurang as shown on Planning Scheme Map No. 27.
- West of James Cook Drive, Mandurang as shown on Planning Scheme No. 28.
- At 61 and 83 James Cook Drive, Strathfieldsaye and land south of Schilling Lane and east of James Cook Drive, Emu Creek as shown on Planning Scheme No. 28.
- At Mandurang South and Sedgwick as shown on Planning Scheme Map No. 29.
- Between Conway Road, Sedgwick Road and Broadbent Road, Sedgwick as shown on Planning Scheme Map No. 31.
- At 75 Honeychurch Lane and 11 O'Halloran Drive, Mandurang as shown on Planning Scheme Map No. 31.
- At 28 Catto Street, Lockwood South as shown on Planning Scheme Map No. 32.
- North of McIvor Highway, Longlea and south McIvor Highway to the east of Axe Creek as shown on Planning Scheme Map No. 33.
- The northern and south western periphery of the township of Axedale as shown on Planning Scheme Map No. 34.
- East and west of Axedale-Goornong Road and along the western bank of the Campaspe River, Axedale as shown on Planning Scheme Map No. 35.
- East of Northern Highway and south of Hicks Lane, Ladys Pass and to the south of Heathcote-Costerfield Road and Bradleys Lane, Heathcote as shown on Planning Scheme Map No. 37.
- At 17 Harvey Street and CA 12 Church Street, Costerfield as shown on Planning Scheme Map No. 38.
- East of Leanganook Track, Sedgwick as shown on Planning Scheme Map No. 39.
- East and west of Axe Creek Road and Sutton Grange Road, Sedgwick as shown on Planning Scheme Map No. 40.
- At 321 Heathcote-Redesdale Road, Heathcote as shown on Planning Scheme Map No. 41.
- South-west of the McIvor Highway, High Street and Kilmore Road and north of Spring Flat Road and Ellis Road, Heathcote as shown on Planning Scheme Map No. 44.
- Between Northern Highway, Creek Drive and Patterson Street, Heathcote as shown on Planning Scheme Map No. 44.
- South-west of the McIvor Highway, between One Eye Road and Perrys Lane, Heathcote as shown on Planning Scheme Map No. 45.
- East of Northern Highway and west of Golf Links Lane, Heathcote as shown on Planning Scheme Map No. 45.
- North of Heathcote-Nagambie Road, Heathcote as shown on Planning Scheme Map No. 45.

- Apply the Rural Living Zone Schedule 2 (RLZ2) to land zoned RLZ:
  - Between Trewicks Road, Fire Brigade Tracks, Park Road and Elmore-Minto Road, Elmore as shown on Planning Scheme Planning Scheme Map No. 4.

Authorisation

- Between Spring Flat Road, Ellis Lane, Jacksons Lane and Joes Road, Argyle as shown on Planning Scheme Map No. 44.
- South-east of Heathcote-Nagambie Road and to the south-west of the Northern Highway, Heathcote as shown on Planning Scheme Map No. 45.

- Apply the Rural Living Zone Schedule 3 (RLZ3) to land zoned RLZ:
  - Between the municipal boundary, Wild Cherry Road and Almond Tree Road, Lockwood South as shown on Planning Scheme Map No. 30.
  - Between Bendigo-Maldon Road and Hamiliton Way, Lockwood South as shown on Planning Scheme Map No. 39.
- Apply the Rural Living Zone Schedule 4 (RLZ4) to land zoned RLZ:
  - East of Bennetts Road, Longlea as shown on Planning Scheme Map No. 25.
  - Between Park Road, Mannes Lane, Sinclairs Road, Longlea Lane and Axe Creek Road, Strathfieldsaye as shown on Planning Scheme Map No. 25.
  - Between James Cook Drive, Schilling Lane, Red Tank Road, Hargreaves Road, Axe Creek Road and Bakers Lane, Strathfieldsaye as shown on Planning Scheme Map No. 28.
  - Between McCleans Road, Bakers Lane, Houlahans Lane, Axe Creek Road and Strathfieldsaye Road, Strathfieldsaye as shown on Planning Scheme Map No. 33.
  - East of Bennetts Road, Longlea as shown on Planning Scheme Map No. 33.
- Apply the Rural Living Zone Schedule 5 (RLZ5) to land zoned RLZ:
  - East and west of Calder Alternative Highway, south of Lockwood Road and south of Crusoe Road, Lockwood South as shown on Planning Scheme Map No. 31.
  - South west of Hollands Road and Sutcliff Road and north of Calder Alternative Highway and Crusoe Road, Lockwood South as shown on Planning Scheme Map No. 32.
- Apply the Rural Conservation Zone Schedule 1 (RCZ1) to land zoned RCZ:
  - Part of CA 5 Millwood Road, Kamarooka as shown on Planning Scheme Map No. 1.
  - South of Elmore Raywood Road along Bendigo-Tennyson Road and Millwood Road, Kamarooka as shown on Planning Scheme Map No. 2.
  - South of Palmer Road between Fauna Way, Hartlands Road, Blandford Road and Evans Road, Sebastian and between Evans Road, Dalys Road, Eaglehawk-Neilborough Road and Downie Road, Woodvale as shown on Planning Scheme Map No. 8.
  - Allot. 7 Sec. 15 Parish of Huntly on Adelaide Hills Road, Whipstick and Allot. 2 Sec. 32 Parish of Huntly and 350 and 540 Eaglehawk-Neilborough Road, Woodvale as shown on Planning Scheme Map No. 8.
  - South of Elmore-Raywood Road in the Greater Bendigo National Park along the Bendigo-Tennyson Road, Kamarooka East as shown on Planning Scheme Map No. 9.
  - At 40 Janaway Road and 341 and 376 Bendigo-Pyramid Road, Woodvale and 311 and 313 Bendigo-Pyramid Road, Sailors Gully and 13, 29 and 55 Whipstick Road, Eaglehawk North as shown on Planning Scheme Map No. 14.
  - At 310, 319, 324 and 332 Eaglehawk-Neilborough Road, Whipstick as shown on Planning Scheme Map No. 15.
  - At 13 Sawyer Lane, Kangaroo Flat as shown on Planning Scheme Map No. 22.
  - At 45 Palm Avenue, 19 Frankcliff Avenue and 190-194 Retreat Road, Spring Gully and 309 Edwards Road, Strathfieldsaye as shown on Planning Scheme Map No. 23.
  - At CA 2011 Calder Highway, Big Hill as shown on Planning Scheme Map No. 26.
  - At 263 Sedgwick Road, Sedgwick as shown on Planning Scheme Map No. 28.
  - At CA 2106 Mandurang South Road, Mandurang South and 66 Hogans Road, Sedgwick as shown on Planning Scheme Map No. 29.
  - At 25 Costas Track, Sedgwick as shown on Planning Scheme Map No. 31.

Authorisation

- East of Godfreys Road and Canny Road, Eppalock as shown on Planning Scheme Map No. 33.
- Along the foreshore of Lake Eppalock as shown on Planning Scheme Map No. 35.
- South of McIvor Highway and Knowsley-Eppalock Road, Knowsley as shown on Planning Scheme Map No. 36.
- South-west of Coppermine Road and Northern Highway, Derrinal as shown on Planning Scheme Map No. 37.
- Along North Harcourt Road, Ford Road, Fenton Drive and Bryden Road, Harcourt North as shown on Planning Scheme Map No. 39.
- At 1038 Patons Road, Eppalock and CA 2 Girvan Road and 777 Kellys Road and east of Lyell Road, Kimbolton and north of Pilchers Bridge Nature Conservation Reserve at Rayne Road and Smallholder Road, Kimbolton as shown on Planning Scheme Map No. 40.
- Between the south eastern foreshore of Lake Eppalock, the municipal boundary and the Heathcote-Redesdale Road, Derrinal as shown on Planning Scheme Map No. 41.
- North of Daniels Lane, Mia Mia as shown on Planning Scheme Map No. 42.
- West of the Campaspe River at Redesdale and 1800 Heathcote-Redesdale Road, Mia Mia as shown on planning Scheme Map No. 43.
- At 4377 McIvor Highway, Heathcote and within the Spring Plains Nature Conservation Reserve, Argyle as shown on Planning Scheme Map No. 45.

- Apply the Rural Conservation Zone Schedule 2 (RCZ2) to land zoned RCZ:
  - Between Trotting Terrace, Junortoun Road, Turners Road and Braeside Drive, Junortoun as shown on Planning Scheme Map No. 24.
  - Between Trotting Terrace, Binks Road, Turners Road and Junortoun Road, Junortoun as shown on Planning Scheme Map No. 25.
- Apply the Rural Conservation Zone Schedule 3 (RCZ3) to land zoned RCZ:
  - Between Sinclairs Road, Junortoun Road and Turners Road, Strathfieldsaye as shown on Planning Scheme Map No. 24.
  - Between the O'Keefe Trail, Bennetts Road, Sinclairs Road, Junortoun Road and Turners Road, Junortoun as shown on Planning Scheme Map No. 25.
- Apply the Rural Conservation Zone Schedule 4 (RCZ4) to land zoned RCZ:
  - At 19 Blossett Drive, 22 and 32 Daley Lane and CA 1 Springs Road, Sedgwick as shown on Planning Scheme Map No. 29.
  - Between Pinpandoor Road, Sugarloaf Road and Bill Mollison Drive, Axedale and Part CA 5 Barty Road and 100 Vahland Road, Emu Creek and the land to the east of Abbotts Road and west of Doles Road, Axe Creek as shown on Planning Scheme Map No. 33.
  - At 1-9 Bill Mollison Drive, Axedale as shown on Planning Scheme Map No. 35.
  - At Springs Road, Sedgwick as shown on Planning Scheme No. 39.
  - South of Clancy Road and north of Pilcher Lane, Eppalock as shown on Planning Scheme Map No. 40.
  - Between Tehan Court, Redesdale and Spring Flat Road and McPherson Road, Heathcote as shown on Planning Scheme Map No. 41.
  - At CA 19A Vaughans Lane, CA 20A Travers Lane, 28 Travers Lane, Heathcote as shown on Planning Scheme Map No. 44.
  - Between Vaughans Lane, Spring Flat Road and McPhersons Road, Heathcote as shown on Planning Scheme Map No. 45.
- Apply the FZ1 to land zoned FZ:
  - Between Newton Road, Hartlands Road and Greenhills Road, Neilborough as shown on Planning Scheme Map No. 1.

Authorisation

- Between Settlement Road, Keane Road and Kamarooka Store Road, Drummartin as shown on Planning Scheme Map No. 2.
- Between Settlement Road, the municipal boundary, Scott Road, and Lockington Road, Elmore as shown on Planning Scheme Map No. 3.
- On the periphery of the township of Elmore as shown on Planning Scheme Map No. 4.
- On the periphery of the township of Marong as shown on Planning Scheme Map Nos. 5 and 6.
- On the periphery of the township of Raywood as shown on Planning Scheme Map No. 7.
- South and east of the township of Raywood as shown on Planning Scheme Map No. 8.
- North of Midland Highway between Huntly and Goornong as shown on Planning Scheme Map No. 9.
- Along Axedale-Goornong Road and Elmore-Barnadown Road, Fosterville as shown on Planning Scheme Map No. 10.
- On the periphery of the township of Goornong as shown on Planning Scheme Map No. 11.
- To the north-west, south-west and north-east of the township of Huntly as shown on Planning Scheme Map No. 12.
- At Myers Flat as shown on Planning Scheme Map No. 13.
- East of Whipstick Road, Eaglehawk and north of Janaway Road, Woodvale as shown on Planning Scheme Map No. 14.
- Along Simpsons Road, Watson Street and Bendigo Creek, Epsom as shown on Planning Scheme Map No. 15.
- Along Sargeants Road and Buckleys Lane, Epsom and along Epsom-Barnadown Road, Wellsford as shown on Planning Scheme Map No. 16.
- Along Allies Road and Edwards Road, Maiden Gully as shown on Planning Scheme Map 17.
- North and south of Bracewell Street and west of Goodrich Land and Durstons Road, Maiden Gully as shown on Planning Scheme Map No. 18.
- Along Watson Street, Jackass Flat as shown on Planning Scheme Map No. 19.
- Along Norman Road, Wellsford as shown on Planning Scheme Map No. 21.
- North of the Specimen Hill Channel, Kangaroo Flat and north of Lockwood Road, Kangaroo Flat as shown on Planning Scheme Map No. 22.
- Between Calder Highway, Cherry Tree Lane and Granter Street and between Tuckermans Lane, Calder Highway and the Bendigo-Melbourne Railway Line, Big Hill as shown on Planning Scheme Map No. 26.
- Along Beilharz Road, Ravenswood as shown on Planning Scheme Map No. 29.
- At the south-west municipal boundary at Shelbourne as shown on Planning Scheme Map No. 30.
- North of Fentons Lane and Beilharz Road, Ravenswood and along the Calder Alternative Highway, Marong as shown on Planning Scheme Map No. 31.
- Along Francis Road, Panorama Road, Calder Alternative Highway and Sutcliffe Road, Lockwood South as shown on Planning Scheme Map No. 32.
- North of Fosterville Road, Fosterville as shown on Planning Scheme Map No. 33.
- East of the Campaspe River, Axedale, as shown on Planning Scheme Map No. 34.
- South of Russells Bridge Road, east of the Campaspe River and west of Derrinal-Crosbie Road, Toolleen as shown on Planning Scheme Map No. 35.
- On the periphery of the township of Knowsley as shown on Planning Scheme Map No. 36.
- Along Northern Highway and Heathcote-Rochester Road, Mount Camel and on the periphery of the township of Costerfield as shown on Planning Scheme Map No. 37.

Authorisation

  - On the western periphery of the township of Costerfield as shown on Planning Scheme Map No. 38.
  - North of Hokins Road and along Calder Highway, Ravenswood as shown on Planning Scheme Map No. 39.
  - North of the municipal boundary in Lyal and Myrtle Creek as shown on Planning Scheme Map No. 40.
  - North of the municipal boundary in Mia Mia as shown on Planning Scheme Map No. 41.
  - On the periphery of the township of Mia Mia as shown on Planning Scheme Map No. 42.
  - North of Burkes Lane, Mia Mia as shown on Planning Scheme Map No. 43.
  - At CA 2A McNutts Lane, Heathcote as shown on Planning Scheme Map No. 44.
  - Along Northern Highway, Heathcote-Nagambie Road and Thomas Lane, Heathcote as shown on Planning Scheme Map No. 45.
- Apply the Farming Zone Schedule 2 (FZ2) to land zoned FZ:
  - Between Coppermine Road, Northern Highway, School House Lane and Cahills Lane, Ladys Pass as shown on Planning Scheme Map No. 37.
- Apply the Farming Zone Schedule 3 (FZ3) to land zoned FZ:
  - At the south east corner of Bissell Lane and Sherwood Road, Huntly as shown on Planning Scheme Maps No. 9 and No. 12.

Overlay Maps

- Delete the Environmental Significance Overlay Schedule 5 (ESO5) from land at 40 Whirrakee Parade, Huntly as shown on Planning Scheme Map No. 12ESO.
- Delete the Design and Development Overlay Schedule 2 (DDO2) from land in Lockwood South generally bounded by McGlashans Road to the north, Hokins Road to the south, Almond Tree Road and Bendigo-Maldon Road to the east and Wild Cherry Road to the west as shown on Planning Scheme Map Nos. 30DDO and 39DDO.
- Delete the Development Plan Overlay Schedule 15 (DPO15) from land in Epsom bounded by Burgoyne Street, Caviar Court and Stephenson Street as shown on Planning Scheme Map No. 12DPO.
- Delete the DPO4 from land at CA 4A & CA 22E Sec 27 Station Street, Huntly as shown on Planning Scheme Map Nos. 12DPO and 16DPO.
- Delete the Development Plan Overlay Schedule 23 (DPO23) from land at 10, 11, 12, 13, 14, 15, 16 and 17 Botheras Court and 14 and 16 Rosemundy Road, Epsom as shown on Planning Scheme Map No. 15DPO.
- Delete the Development Plan Overlay Schedule 2 (DPO2) from land in Epsom generally bounded by Tobin Crescent to the north, Cassandra Crescent to the south, Station Street to the east and Midland Highway to the west as shown on the Planning Scheme Map No. 16DPO.
- Delete the DPO2 from land in Epsom generally bounded by Ironstone Road to the north, McConnachie Court to the south, Millewa Drive and Creekview Place to the east and Myrtle Road to the west as shown on Planning Scheme Map No. 16DPO.
- Delete the Development Plan Overlay Schedule 3 (DPO3) from land in Epsom generally bounded by publicly-owned land to the north, Ironstone Road to the south and east and the railway track to the west as shown on Planning Scheme Map No. 16DPO.
- Apply the DPO4 to part of 453 Midland Highway, Huntly as shown on Planning Scheme Map No. 16DPO.
- Delete the DPO4 from land at 144 Sargeants Road, Huntly as shown on Planning Scheme Map No. 16DPO.
- Apply the DPO4 to additional land at Lot 2 Jones Road, to include all of the land at Lot 2 Jones Road, Epsom as shown on Planning Scheme Map No. 16DPO.

Authorisation

- Delete the Development Plan Overlay Schedule 14 (DPO14) from land in White Hills generally bounded by Tussock Street to the north and west, Scott Street to the south and Priest Street to the east as shown on Planning Scheme Map No. 19DPO.
- Delete the Neighbourhood Character Overlay Schedule 1 (NCO1) from 61 Panton Street, Golden Square as shown on Planning Scheme No. 22NCO.
- Delete the Salinity Management Overlay (SMO) from land at 42 Olympic Parade and 275 Mackenzie Street West, Kangaroo Flat as shown on Planning Scheme Map No. 22SMO.
- Delete the Land Subject to Inundation Overlay Schedule 1 (LSIO1) from land at Lots 65 to 69 PS 806834 Wooleen Court, Huntly 1, 2, 5, 6, 8 Henbury Street, 1, 4 and 5 Bluestone Street, 4, 5, 6, 7, 8, 9 and 10 Remington Court, Huntly as shown on Planning Scheme Map Nos. 12LSIO and 16LSIO.
- Delete the LSIO1 from land at 2, 3 and 5 Evergreen Boulevard and 301 Howard Street, Jackass Flat as shown on Planning Scheme Map No. 15LSIO.
- Delete the LSIO1 from land at 601-611 and 617-623 Napier Street, Epsom as shown on Planning Scheme Map Nos. 15LSIO and 19LSIO.
- Delete the LSIO1 from land at 7, 9, 11, 13, 15, 17, 26 and 31 Priest Street, 1 and 3 Tussock Drive, 589-595 Napier Street, 16 and 18 Scott Street, White Hills as shown on Planning Scheme Map Nos. 15LSIO and 19LSIO.
- Delete the LSIO1 from land at 28, 30, 32 and 34 Langley Drive, Epsom as shown on Planning Scheme Map No. 16LSIO.
- Delete the LSIO1 from land at 1A, B & C Arrawalli Avenue, 162 Myrtle Road, 1, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 Limousin Court, 45, 47, 49, 51, 53, 55, 57, 59, 61 and 63 Sullivan Street, 147, 151 and 169 Ironstone Road, 1, 3 and 5 Argyle Lane, 2, 11 and 29 Charolais Court, 1 Apple Lane and at 2 Randall Way, Ascot as shown on Planning Scheme Map No. 16LSIO.
- Delete the LSIO1 from land at 19, 21 and 23 Orville Way and 24 and 26 Rheola Drive, White Hills as shown on Planning Scheme Map No. 19LSIO.
- Delete the LSIO1 from land at 18 & 19 Trantara Court, East Bendigo as shown on Planning Scheme Map No. 20LSIO.
- Delete the LSIO1 from land at 1, 3, 5, 7, 9, 11, 13, 15, 1/17, 2/17, 3/17, 4/17 and 19 Grantham Terrace, 20, 22, 24, 27, 29 and 31 Sovereign Gardens and 2 Queen Street, Kangaroo Flat as shown on Planning Scheme Map No. 22LSIO.
- Delete the LSIO1 from land at 10 Cadella Way, Strathfieldsaye as shown on Planning Scheme Map No. 25LSIO.
- Delete the LSIO1 from land at 92, 96, 98 and 100 Taylors Lane, Strathfieldsaye as shown on Planning Scheme Map No. 28LSIO.
- Delete the Public Acquisition Overlay (PAO) from Lot 2 Dukes Lane and 5, 7, 8, 9 and 10 Kiwarra Court and Lot 1 Mannes Lane and 1 and 18 McCleans Road and 478 and 483 Somerset Park Road and CA 1, CA 28C and 1151 Strathfieldsaye Road and 43 Swanson Boulevard and CA 49 and 961, 982, 994, 995, 998 and 1108 Wellington Street, Strathfieldsaye as shown on Planning Scheme No. 25PAO.

Planning Policy Framework

- Amend Clause 15.01-2L (Environmentally sustainable development) to correct a terminology error introduced during the translation of policy in amendment C256gben.

Zone Schedules

- Replace the existing Schedule to Clause 32.03 (LDRZ) with a new Schedule 1 (LDRZ1), which applies in parts of the municipality with the default minimum subdivision size, consistent with the *Ministerial Direction – Form and Content*.
- Insert a new Schedule 2 to Clause 32.03 (LDRZ2) which applies to land in Maiden Gully.

Authorisation

- Insert a new Schedule 3 to Clause 32.03 (LDRZ3) which applies to land in Eaglehawk and Myers Flat.
- Insert a new Schedule 4 to Clause 32.03 (LDRZ4) which applies to land in Axedale, Eaglehawk, Myers Flat and Strathfieldsaye.
- Insert a new Schedule 5 to Clause 32.03 (LDRZ5) which applies to land in Huntly.
- Replace the existing Schedule to Clause 35.03 (RLZ) with a new Schedule 1 (RLZ1), which applies in parts of the municipality with a minimum subdivision size of 8 hectares, consistent with the *Ministerial Direction – Form and Content*.
- Insert a new Schedule 2 to Clause 35.03 (RLZ2) which applies to land in Elmore and Heathcote.
- Insert a new Schedule 3 to Clause 35.03 (RLZ3) which applies to land in Lockwood South.
- Insert a new Schedule 4 to Clause 35.03 (RLZ4) which applies to land in Strathfieldsaye.
- Insert a new Schedule 5 to Clause 35.03 (RLZ5) which applies to land in Lockwood and at Merindah Road.
- Replace the existing Schedule to Clause 35.06 (RCZ) with a new Schedule 1 (RCZ1), which applies in parts of the municipality with the default minimum subdivision size, consistent with the *Ministerial Direction – Form and Content*.
- Insert a new Schedule 2 to Clause 35.06 (RCZ2) which applies to land in Junortoun.
- Insert a new Schedule 3 to Clause 35.06 (RCZ3) which applies to land in Junortoun.
- Insert a new Schedule 4 to Clause 35.06 (RCZ4) which applies to land in Axe Creek, Emu Creek, Eppalock and Heathcote.
- Replace the existing Schedule to Clause 35.07 (FZ) with a new Schedule 1 (FZ1), which applies in parts of the municipality with the default minimum subdivision size, consistent with the *Ministerial Direction – Form and Content*.
- Insert a new Schedule 2 to Clause 35.07 (FZ2) which applies to land in Ladys Pass.
- Insert a new Schedule 3 to Clause 35.07 (FZ3) which applies to land in Huntly.
- Amend the Schedule to Clause 36.03 (PCRZ) to remove completed projects and make minor administrative changes consistent with the *Ministerial Direction – Form and Content*.
- Amend the existing Schedules 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 to Clause 37.01 Special Use Zone (SUZ) to remove outdated land use terms and make minor administrative changes consistent with the *Ministerial Direction – Form and Content*.
- Amend the existing Schedules 1, 2 and 3 to Clause 37.02 Comprehensive Development Zone (CDZ) to remove outdated land use terms and make minor administrative changes consistent with the *Ministerial Direction – Form and Content*.

Overlay Schedules:

- Amend the existing Schedules 1, 2, 3 and 5 to Clause 42.01 Environmental Significance Overlay (ESO) to remove construction exemptions for completed projects, clarify permit exemptions and make minor administrative changes consistent with the *Ministerial Direction – Form and Content.*
- Amend the existing Schedules 1, 2 and 3 to Clause 42.02 Vegetation Protection Overlay (VPO) to clarify permit exemptions and make minor administrative changes consistent with the *Ministerial Direction – Form and Content.*
- Amend the existing Schedules 1 and 2 to Clause 42.03 Significant Landscape Overlay (SLO) to make minor administrative changes consistent with the *Ministerial Direction – Form and Content.*
- Amend the existing Schedules 1, 3, 4, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 20, 22, 23, 24, 25 and 26 to Clause 43.02 Design and Development Overlay (DDO) to update maps and make minor administrative changes consistent with the *Ministerial Direction – Form and Content.*

Authorisation

- Delete Schedule 2 to Clause 43.02 (DDO2) as recommended by the *Greater Bendigo Planning Scheme Review 2019* to remove the schedule from the scheme as the land is now developed.

- Amend Schedules 4, 10, 16, 20, 21, 25, 26 and 29 to Clause 43.04 (DPO) to update maps and make minor administrative changes consistent with the *Ministerial Direction – Form and Content.*

- Delete Schedules 2, 3, 14, 15 and 23 to Clause 43.04 Development Plan Overlay (DPO) as recommended by the *Greater Bendigo Planning Scheme Review,* 2019 to remove the schedule from the scheme as the land is now developed.

- Amend Schedules 1 and 2 to Clause 43.05 Neighbourhood Character Overlay (NCO) to clarify permit exemptions and make minor administrative changes consistent with the *Ministerial Direction – Form and Content.*

- Amend the Schedule to Clause 45.01 (PAO) as recommended by the Department of Transport.

- Amend Schedules 1 and 2 to Clause 45.06 Development Contributions Plan Overlay (DCPO) to update to make minor administrative changes consistent with the *Ministerial Direction – Form and Content*.

- Amend Schedules 1 and 2 to Clause 45.09 Parking Overlay (PO) to update maps, clarify content and make minor administrative changes consistent with the *Ministerial Direction – Form and Content*.

Particular Provisions

- Amend the Schedule to Clause 52.17 (Native vegetation) to remove completed projects from the list of scheduled areas.

General Provisions

- Amend the Schedule to Clause 66.04 (Referral of permit applications under local provisions) to include referrals previously contained within other schedules, consistent with the *Ministerial Direction – Form and Content.*

- Amend the Schedule to Clause 66.06 (Notice of permit applications under local provisions) to include referrals previously contained within other schedules, consistent with the *Ministerial Direction – Form and Content.*

Operational Provisions

- Amend the Schedule to Clause 72.08 (Background documents) to include background documents previously contained within other schedules, consistent with the *Ministerial Direction – Form and Content.*

Strategic assessment of the amendment

Why is the amendment required?

The amendment updates the content of local schedules to reflect the findings of the *Greater Bendigo Planning Scheme Review,* 2019 and to align content with the requirements of the *Ministerial Direction – Form and Content.* Minor administrative changes are proposed to improve legibility for users of the Greater Bendigo Planning Scheme by modernising maps and rewording some requirements to clarify and simplify.

The amendment is required to make corrections and to improve the efficient operation and effectiveness of the Greater Bendigo Planning Scheme by removing unnecessary restrictions that originate from incorrectly applied or outdated planning controls that do not reflect the current circumstance of the

Authorisation

affected land. This is consistent with the *Planning and Environment Act 1987* requirements for the regular review of planning schemes by the relevant responsible authorities.

The amendment rezones land which is currently inappropriately zoned based on either the ownership or use. Where a privately owned parcel of land is covered by two or more zones and one of the zones is a Public Land Zone or a Special Purpose Zone the amendment proposes to rezone to the current Residential or Rural zone that applies to the balance of the land. Conversely, the amendment corrects zoning anomalies on public owned land by proposing to rezone land to an appropriate PUZ. Corrections have also been proposed to the extent of Built Form Overlays which apply to parts of these properties.

The amendment also implements some of the recommendations of the *Greater Bendigo Public Space Plan*, 2019 which recommend the rezoning of land being used as public open spaces or for other public purposes to either PPRZ or to PCRZ to reflect the use and ownership.

An amendment proposes to rezone land at 60 Retreat Road, Flora Hill after ownership of the property changes from La Trobe University to City of Greater Bendigo. The proposed PPRZ is more appropriate than the existing PUZ2 and will facilitate the lands use as a sporting facility and reflect its public ownership.

The amendment proposes to rezone 29 properties located along McIvor Road in Strathdale from C1Z to GRZ as recommended by the *Commercial Land and Activity Centre Strategy*, 2015. This land has the potential to provide a diversity of housing types and housing growth in a location offering good access to services and transport. The properties are located adjacent to a Transport Zone 2 (McIvor Road) which provides direct linkage via both public and private transport to the City Centre. The properties are also within the 10-minute walking catchment of the Woodbury Court local centre. The land is flat and is not significantly constrained by overlays. In accordance with *Planning Practice Note 91* which states that the right residential zone will reflect the true development capacity of the land, the General Residential Zone has been identified as the most appropriate residential zone for this land.

The amendment is required to remove ESO5 from 40 Whirrakee Road, Huntly. This overlay was applied to the nearby public land at Lot RES1 Sawmill Road, Huntly to protect the remnant native vegetation and has erroneously been applied to this residential land containing no native vegetation.

The amendment proposes to delete the DDO2 and the DPO Schedules 2, 3, 14, 15 and 23 as recommended by the *Greater Bendigo Planning Scheme Review,* 2019 because the land now been developed.

The amendment proposes to remove the SMO from two properties in Kangaroo Flat because neither the North Central Catchment Management Authority nor the City Drainage Engineering Department could clarify the purpose of this overlay at this location.

The amendment proposes to remove the LSIO from 118 properties at the request of the North Central Catchment Management Authority, who have advised that the overlay is no longer required due to development that has occurred at these sites which has removed the risk of flooding.

The amendment proposes to remove the PAO5 from land in Strathfieldsaye at the request of the Department of Transport who have advised that this overlay is no longer required.

How does the amendment implement the objectives of planning in Victoria?

This amendment implements the following objectives of planning in Victoria, set out in section 4(1) of the *Planning and Environment Act 1987*:

a) *To provide for the fair, orderly, economic, and suitable use, and development of the land.*
b) *To provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity.*
c) *To ensure a pleasant, efficient, and safe working, living and recreational environment for all Victorians and visitors to Victoria.*
d) *To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.*
e) *To protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community.*
f) *To facilitate development in accordance with the objectives of planning in Victoria.*

The amendment updates the Greater Bendigo Planning Scheme with current and improved policy content. The amendment includes corrections to ensure land is appropriately zoned and implements recommendations from strategic work undertaken. It improves the legibility and efficiency of the

Authorised

planning scheme and removes redundant planning controls. This will in turn provide certainty for the users of the planning system by ensuring the orderly use and development of land within the municipality, consistent with the objectives of planning in Victoria.

How does the amendment address any environmental, social and economic effects?

As a predominantly administrative amendment, most of the changes proposed in this amendment are unlikely to have any significant environmental, social or economic effects.

Environmental effects

The amendment is likely to have minor positive effects on the environment through the provision of clear objectives and decision guidelines in existing Environmental and Landscape Overlay Schedules. The rezoning of land identified in the *Greater Bendigo Public Space Plan*, 2019 will provide protection to existing public open space, whilst corrections to residential and commercial land zones will support development being directed to appropriate locations where existing infrastructure can be leveraged resulting in a lower environmental impact. The amendment will not have any adverse environmental effects.

Social and economic effects

The amendment is likely to improve the legibility and efficiency of the planning scheme which will provide certainty for the users by ensuring the orderly use and development of land within the municipality. The removal of redundant planning controls reduces the need for unnecessary permit applications and will ensure that decisions can be made based on relevant concerns.

Does the amendment address relevant bushfire risk?

Clause 13.02-1S (Bushfire planning) provides the policy basis on how bushfire risk should be addressed. This clause states that the policy must be applied to all planning and decision making under the *Planning and Environment Act 1987* relating to land that is within a designated bushfire prone area, subject to a Bushfire Management Overlay (BMO) or proposed to be used or developed in a way that may create a bushfire hazard. Clause 13.02-1S has the objective to *strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life* and Clause 71.02-3 explicitly requires the protection of human life to be the priority policy consideration in decision making where a proposal has, or could have, a bushfire risk.

This amendment has the potential to intensify development through the rezoning of land and the removal of overlays. A Bushfire Risk Assessment Report (BRAR) was prepared to assess the risk of bushfire and is provided as a background document to this amendment. The BRAR demonstrates that the proposed amendment complies with the Victoria Planning Provisions for bushfire, with the key considerations and findings outlined below.

Landscape considerations

The land affected by the amendment is spread throughout the municipality and the landscape, local and neighbourhood conditions vary from site to site. Generally, the greatest bushfire hazard will be from vegetation located to the north and north-west of any given site. The topography (slope) of the affected land in relation to the location of vegetation has been considered when assessing the bushfire risks. None of the affected land was found to be located on a heavily vegetated slope which would have the potential to impact the intensity and severity of bushfire.

Alternative locations for development

The land affected by the amendment generally already has established development or existing uses and the rezoning of land is to correct zoning errors or anomalies that apply to part of the site. For these reasons, it is considered that determining alternative locations for development is not relevant in the context of this amendment.

Availability of safe areas

The rezoning of land or the application or deletion of redundant overlays as proposed by this amendment will not intensify development to the extent that more lives or properties will be put at bushfire risks. For this reason, the availability of safe areas is not considered as relevant.

Authorisation

Site based exposure

The land identified for increased development is predominantly located in low risk bushfire areas. The BRAR determined that whilst the following changes to zones may result in the introduction or intensification of development, the sites can all achieve BAL-12.5 rating under AS3959-2009 Construction of Buildings in Bushfire Prone Areas (Standards Australia, 2009) as follows:

- CA 20 Sandhurst Street, Raywood from PUZ3 to TZ
  This site is located on the edge of the Raywood township. Land adjoining the site is zoned Township Zone, except to the west (PUZ2 - Raywood Primary School) and the south-east (Farming Zone). The subject site is undeveloped. The nearby vegetation is classified as Grassy Woodland Forest, with a slope of 0%. Whilst there is some vegetation on site, it is not linked to vegetation outside of the site boundaries. There is no significant vegetation within 150m of the site.

- Part Lot 2 Jones Road, Epsom from PPRZ to LDRZ1.
  This site is currently developed with a single dwelling. The rezoning is required to correct an error where private land has a public zone applied. The nearby vegetation is classified as Plains Grassy Woodland, with a slope of 0%. There is no significant vegetation within 150m of the site.

- 453 Midland Highway, Huntly from FZ to LDRZ1.
  This site is currently developed with a single dwelling. The rezoning and the application of DPO4 is to align the zones to the property boundaries. The nearby vegetation is classified as Plains Grassy Woodland, with a slope of 0.23%. There is no significant vegetation within 150m of the site.

- 10 Matheson Road, Mia Mia from PUZ7 to TZ.
  This site is currently developed with a single dwelling. The rezoning is required to correct an error where private land has a public zone applied. The nearby vegetation is Grassy Woodland, to the south of the site and upslope. The required setback is 33m, which can be achieved due to the area to Matheson Road and it's cleared road reserve.

- 167, 169, 171, 173, 175 and 177 Crook Street and 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34 and 36 Elstead Drive and 195A and B and 197A, B and C and 199A, B and C and 201 and 203 McIvor Road, Strathdale from C1Z to GRZ.

  Most of these sites are developed with a single dwelling and some are yet to be developed. None of these sites is within a designated bushfire prone area, are on a vegetated slope or is in proximity of a bushfire hazard, with all being in an existing established urban area.

Risk change

The amendment will not result in an increase of the risk from bushfire for existing and future residents, property, community infrastructure or the natural environment because it principally only corrects zoning anomalies or redundant overlays.

Mitigation measures

Mitigation measures are not required for any of the sites included in this amendment.

Views of the relevant fire authority

The amendment and BRAR was referred to the Country Fire Authority for their preliminary comments, with several follow up attempts made. The comments of the CFA have not been received and will be sought again during the exhibition process of the amendment.

Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?

Authorisation

The amendment improves compliance with *Ministerial Direction – Form and Content of Planning Schemes* by making administrative changes and corrections to schedules. In accordance with this Direction, the amendment also seeks to ensure that the Greater Bendigo Planning Scheme only includes land in a public zone where the land is Crown land, or is owned by, vested in or controlled by a Minister, government department, public authority or municipal council and the public land zone is the most appropriate zone.

The amendment is consistent with *Ministerial Direction 1- Potentially Contaminated Land* as none of the sites it proposes to rezone to allow a sensitive use is known to be potentially contaminated.

The amendment is consistent with *Ministerial Direction No.11 – Strategic Assessment of Amendments* through the inclusion of this Explanatory Report which responds to all the required strategic considerations, as guided by Planning Practice Note 46 – *Strategic Assessment Guidelines,* August 2018.

The amendment will comply with *Ministerial Direction No. 15 – the planning scheme amendment process* by completing steps in the planning scheme amendment process within the set times, unless an exemption from the need to comply is granted by the Minister for Planning.

The amendment complies with *Ministerial Direction No. 19 - Information requirement for amendments that may result in impacts on the environment, amenity and human health* as the amendment does not propose changes that could result in use or development of land that may result in significant impacts on the environment, amenity and human health due to pollution and waste.

How does the amendment support or implement the Planning Policy Framework and any adopted State policy?

Clause 01 states that one of the purposes of the planning scheme is "*To provide a clear and consistent framework within which decisions about the use and development of land can be made*." This amendment implements recommendations of the *Greater Bendigo Planning Scheme Review* 2019 and other strategic work, makes corrections to zoning and overlay errors and anomalies and removes outdated controls as recommended by relevant agencies.

The amendment is supported by the following clauses in the Planning Policy Framework:

Clause 11.01-1R (Settlement - Loddon Mallee South) has a strategy to support Bendigo as the regional city and the major population and economic growth hub for the region, offering a range of employment and services. The amendment is consistent with this clause and the Loddon Mallee South Regional Growth Plan by ensuring that planning controls are up to date and support population and economic growth.

Clause 13.02-1S (Bushfire planning) has an objective to strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life. The amendment is consistent with this objective as outlined extensively in the relevant section above.

Clause 16.01-1S (Housing supply) has an objective to facilitate well-located, integrated, and diverse housing that meets community needs. The amendment is consistent with this objective by rezoning land zoned C1Z to GRZ to facilitate use and development for residential purposes, as recommended by adopted strategic work.

Clause 16.01-3S (Rural residential development) has an objective to identify land suitable for rural residential development. The amendment is consistent with this objective by rezoning land that is currently being used for residential purposes, but which is inhibited from further development because it is partly in a public zone.

Clause 17.02-1S (Business*)* has an objective to encourage development that meets the community's needs for retail, entertainment, office and other commercial services. The amendment is consistent with this objective by rezoning land that is developed and used for office purposes but is in two zones to all C1Z so its use and development can be maximised.

Authorisation

Clause 17.03-1S (Industrial land supply) has an objective to ensure availability of land for industry. The amendment is consistent with this objective because it corrects a zone mapping error over a property to facilitate its use and development for industrial purposes into the future.

Clause 17.04-1S (Facilitating tourism) has an objective to encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination. The amendment is consistent with this objective by correcting a zoning anomaly to an existing caravan park and by updating the schedule to the Special Use Zone which applies to tourism facilities.

Clause 18.02-3S (Road system) has an objective to manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure. The amendment is consistent with this objective by applying the correct zone to a road reserve which should be in a Transport Zone and also by deleting the PAO on land adjoining a TRZ2 in Strathfieldsaye as it is no longer required.

Clause 19.02-2S (Education facilities) has an objective to assist the integration of education facilities with local and regional communities. The amendment is consistent with this objective because it proposes to correct a zone mapping error over a property with existing educational uses. The amendment will rezone this property to PUZ2 (Education) to reflect its existing use and future development.

Clause 19.02-6S (Open space) has an objective to establish, manage and improve a diverse and integrated network of public open space that meets the needs of the community. The amendment is consistent with this objective by rezoning public land currently used as public open to either PPRZ or PCRZ to support its continued use into the future as recommended by the *Greater Bendigo Public Space Plan*, 2019.

How does the amendment support or implement the Municipal Planning Strategy?

The amendment is supported by the following clauses in the Planning Policy Framework:

Clause 02.03-3 (Environmental risks and amenity) lists climate change, bushfire, flooding soil degradation and land use compatibility among the key environmental risks for Greater Bendigo. The strategic directions for natural environmental risks include:

- Strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.
- Manage flooding risks that have the potential to cause harm to people and property and damage environmental values.

The amendment is consistent with this clause because in correcting zoning or overlay errors considers the bushfire risk of all proposed changes. It also removes outdated flooding controls as recommended by the catchment authority.

Clause 02.03-6 (Housing) lists the location of residential development, housing diversity and the management of rural residential development among the key housing issues for Greater Bendigo. The strategic directions for housing include:

- Facilitate a wide diversity of housing typologies to suit all household types, needs and incomes and make best use of land and environmental resources.
- Increase the residential population of Bendigo City Centre and its immediate surrounds to create a more dynamic area, maximise the use of existing infrastructure and provide different housing choices for people.

The amendment is consistent with this zone because it proposes to rezone land to residential zones as identified in the *Commercial Land and Activity Centre Strategy,* 2015.

Clause 02.03-7 (Economic development) includes key strategic directions:

- Make well located affordable employment land available.
- Plan for the future growth of the industrial sector by providing zoned land in appropriate locations and lot configurations.

Authorisation

The Amendment is consistent with this clause because it also includes the rezoning of land currently used for industrial purposes to the correct zone.

Clause 02.03-9 (Open space) has among its strategic directions:

- Retain the existing amount of public space, but strategically consolidate it to improve its quality and achieve a network of public open space links between key destinations like schools and activity centres and open spaces.
- Support the various functions and values of the public space network, including space for natural areas and wildlife, biodiversity, managing water quality, active recreation and transport, cultural heritage and indigenous connections.

The amendment is consistent with this clause as it further implements recommendations of the *Greater Bendigo Public Space Plan,* 2019

Does the amendment make proper use of the Victoria Planning Provisions?

The amendment makes proper use of the Victoria Planning Provisions by updating the Greater Bendigo Planning Scheme with current and improved policy content. The amendment includes corrections to ensure land is appropriately zoned and implements recommendations from strategic work undertaken. It improves the legibility and efficiency of the planning scheme and removes redundant planning controls, providing certainty for users of the planning system. The amendment makes changes to further align the Greater Bendigo Planning Scheme with the *Ministerial Direction - Form and Content*.

In preparing this amendment, the relevant planning practice notes have been considered specifically:

- Planning Practice Note 3 - *Applying the Special Use Zone*, May 2022
- Planning Practice Note 23 – *Applying the Incorporated Plan and Development Plan Overlays,* September 2022
- Planning Practice Note 30 - *Potentially Contaminated Land*, July 2021
- Planning Practice Note 32 - *Review of Planning Schemes,* June 2015
- Planning Practice Note 46 – *Strategic Assessment Guidelines,* August 2018
- Planning Practice Note 54 – *Managing Referrals and Notice Requirements,* June 2015
- Planning Practice Note 22 – *The Parking Overlay,* April 2013
- Planning Practice Note 91 - *Using the residential zones,* December 2019

The following planning practice notes will be considered throughout the planning scheme amendment process:

- Planning Practice Note 74 – *Making planning documents available to the public,* January 2022
- Planning Practice Note 77 – *Pre-setting panel hearing dates,* July 2015

How does the amendment address the views of any relevant agency?

Extensive consultation occurred with relevant agencies during the preparation of the Planning Scheme Review. Agencies were also consulted during preparation of this amendment. The Department of Environment, Land, Water and Planning supports the rezoning of its land to a public zone where appropriate. The Department of Transport supports deletion of the PAO along Wellington Street in Strathfieldsaye.

North Central Catchment Management Authority provided the City with a list of properties with the supporting mapping where they are satisfied that flood mitigation works have occurred and the Land Subject to Inundation Overlay is no longer required and therefore, should be deleted.

The amendment was referred to the CFA for comment and followed up on several occasions, but no feedback has been provided.

All relevant agencies were again consulted during the amendment process with the North Central Catchment Management Authority, Department of Transport and Department of Environment, Land Water and Planning all making submissions in support of the Amendment. No other agencies provided comment on the Amendment.

Authorisation

Does the amendment address relevant requirements of the Transport Integration Act 2010?

The Transport Integration Act 2010 defines the transport system as all the components which make up the system for the movement of persons and goods.

The amendment will not have a significant impact on the transport system as defined by section 3 of the *Transport Integration Act 2010* because the Amendment will not affect land in such a way that there will need to extend any existing transport infrastructure. The land affected by the Amendment is already adequately serviced by the required level of infrastructure. Any changes propose to land which is located within a Transport Zone, are at the request, or in consultation with, the relevant transport authority.

Resource and administrative costs

What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?

The amendment provides for the correction of errors, anomalies and outdated policy in the planning scheme. The changes will reduce resource and administrative costs of the responsible authority by avoiding the need for unnecessary planning permit applications for land use and development which meet with the purposes and provisions of the scheme and by adding clarity to the content and mapping of the planning scheme.

Where you may inspect this amendment

The Amendment is available for public inspection, free of charge, during office hours at the following places:

City of Greater Bendigo Planning Department, Hopetoun Mill, 15 Hopetoun Street, Bendigo

or

http://www.bendigo.vic.gov.au/residentsandservices/planningservices/Planningschemeamendments

The amendment can also be inspected free of charge at the Department of Environment, Land, Water and Planning website at www.delwp.vic.gov.au/public-inspection

Panel hearing dates

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

Directions Hearing: To commence in the week of Monday, 27 March 2023.

Panel Hearing: To commence in the week of Monday, 1 May 2023.

Authorisation

ATTACHMENT 1 – Zone changes

Location	Land/area affected	Mapping references
Raywood	CA 20 Sandhurst Street	Greater Bendigo C247gben znMap07 Exhibition
Huntly	CA 22E Sec 27 Station Street	Greater Bendigo C247gben znMap12 Exhibition & Greater Bendigo C247gben znMap16 Exhibition
Huntly	CA 4A Sec 27 Station Street	Greater Bendigo C247gben znMap16 Exhibition
Epsom	Lot 1 TP951458 Howard Street	Greater Bendigo C247gben znMap15 Exhibition
Epsom	123-129 Midland Highway	Greater Bendigo C247gben znMap15 Exhibition
Epsom	CA2025 Rosemundy Road	Greater Bendigo C247gben znMap15 Exhibition
Epsom	CA2001 Midland Highway	Greater Bendigo C247gben znMap15 Exhibition & Greater Bendigo C247gben znMap16 Exhibition
Epsom	Lot 1 TP967530 Midland Highway	Greater Bendigo C247gben znMap15 Exhibition & Greater Bendigo C247gben znMap16 Exhibition
Ascot	164 Ironstone Road	Greater Bendigo C247gben znMap16 Exhibition
Ascot	171 Ironstone Road	Greater Bendigo C247gben znMap16 Exhibition
Ascot	17 Millewa Drive	Greater Bendigo C247gben znMap16 Exhibition
Epsom	13 Yellowgum Drive	Greater Bendigo C247gben znMap16 Exhibition
Epsom	Allot. 6A Sec. 8 Parish of Huntly on Station Street	Greater Bendigo C247gben znMap16 Exhibition
Epsom	Lot 2 Jones Road	Greater Bendigo C247gben znMap16 Exhibition
Huntly	453 Midland Highway	Greater Bendigo C247gben znMap16 Exhibition
Huntly	144 Sargeants Road	Greater Bendigo C247gben znMap16 Exhibition
California Gully	35 Murdock Street	Greater Bendigo C247gben znMap18 Exhibition
Long Gully	12-28 Cunneen Street	Greater Bendigo C247gben znMap18 Exhibition
Long Gully	76 Holdsworth Road	Greater Bendigo C247gben znMap18 Exhibition
Maiden Gully	330 Maiden Gully Road	Greater Bendigo C247gben znMap18 Exhibition
West Bendigo	CA 2087 Derwent Gully Road	Greater Bendigo C247gben znMap18 Exhibition
Bendigo	56 Chapel Street	Greater Bendigo C247gben znMap19 Exhibition
East Bendigo	129 Strickland Road	Greater Bendigo C247gben znMap19 Exhibition
North Bendigo	36 Anderson Street	Greater Bendigo C247gben znMap19 Exhibition
North Bendigo	44 Anderson Street	Greater Bendigo C247gben znMap19 Exhibition
North Bendigo	83 Holdsworth Road	Greater Bendigo C247gben znMap19 Exhibition
North Bendigo	42-72 Holmes Road	Greater Bendigo C247gben znMap19 Exhibition
Strathdale	37 Herbert Avenue	Greater Bendigo C247gben znMap19 Exhibition
Strathdale	34 Mill Street	Greater Bendigo C247gben znMap19 Exhibition
Strathdale	36 Mill Street	Greater Bendigo C247gben znMap19 Exhibition
White Hills	27 Hamelin Street	Greater Bendigo C247gben znMap19 Exhibition
White Hills	559 Napier Street	Greater Bendigo C247gben znMap19 Exhibition
White Hills	Part of the Midland Highway (Napier Street) road reserve	Greater Bendigo C247gben znMap19 Exhibition

Authorisation

Location	Land/area affected	Mapping references
	adjacent to 384-386 Napier Street	
White Hills	Part of the Midland Highway (Napier Street) road reserve adjacent to 484-488 Napier Street	Greater Bendigo C247gben znMap19 Exhibition
Strathdale	167, 169, 171, 173, 175 and 177 Crook Street	Greater Bendigo C247gben znMap20 Exhibition
Strathdale	14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34 and 36 Elstead Drive	Greater Bendigo C247gben znMap20 Exhibition
Strathdale	195A & B, 197A, B & C, 199A, B & C, 201, 203 and 205 McIvor Road	Greater Bendigo C247gben znMap20 Exhibition
Strathdale	Road reserve along Gittins Drive	Greater Bendigo C247gben znMap20 Exhibition
Strathdale	99 Crook Street	Greater Bendigo C247gben znMap20 Exhibition & Greater Bendigo C247gben znMap24 Exhibition
Golden Square	17 Akins Rise	Greater Bendigo C247gben znMap22 Exhibition
Golden Square	38A Akoonah Drive	Greater Bendigo C247gben znMap22 Exhibition
Golden Square	10-14 Allpress Drive	Greater Bendigo C247gben znMap22 Exhibition
Golden Square	24 Elliott Street	Greater Bendigo C247gben znMap22 Exhibition
Golden Square	24 Gresham Court	Greater Bendigo C247gben znMap22 Exhibition
Golden Square	2-12 Holly Street	Greater Bendigo C247gben znMap22 Exhibition
Golden Square	8 Maxwell Drive	Greater Bendigo C247gben znMap22 Exhibition
Golden Square	70 Norelle Crescent	Greater Bendigo C247gben znMap22 Exhibition
Golden Square	61 Panton Street	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	Lot 1 TP832622 Brian Street	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	8 Bronze Drive	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	9 Browning Street	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	26-28 Browning Street	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	6-50 Danson Avenue	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	80-92 Lockwood Road	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	34A Magellan Crescent	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	99-101 Olympic Parade	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	72 Queen Street	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	17 Carpenter Street	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	2 Lansell Street	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	29 Lockwood Road	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	39 Neil Street	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	1 Station Street	Greater Bendigo C247gben znMap22 Exhibition
Kangaroo Flat	1D Station Street	Greater Bendigo C247gben znMap22 Exhibition
Flora Hill	60 Retreat Road	Greater Bendigo C247gben znMap23 Exhibition

Attachment

Location	Land/area affected	Mapping references
Flora Hill	20 Drechsler Street	Greater Bendigo C247gben znMap23 Exhibition
Flora Hill	19 Sherwood Drive	Greater Bendigo C247gben znMap23 Exhibition
Flora Hill	26 Sherwood Drive	Greater Bendigo C247gben znMap23 Exhibition
Kennington	72 Lowndes Street	Greater Bendigo C247gben znMap23 Exhibition
Kennington	84 Marnie Road	Greater Bendigo C247gben znMap23 Exhibition
Spring Gully	9 Annabell Court	Greater Bendigo C247gben znMap23 Exhibition
Spring Gully	4 Eliza Court	Greater Bendigo C247gben znMap23 Exhibition
Spring Gully	12 Kristy Drive	Greater Bendigo C247gben znMap23 Exhibition
Spring Gully	CA 260D Retreat Road	Greater Bendigo C247gben znMap23 Exhibition
Strathdale	19 Figtree Lane	Greater Bendigo C247gben znMap24 Exhibition
Strathdale	20 Figtree Lane	Greater Bendigo C247gben znMap24 Exhibition
Strathdale	13-17 Landale Drive	Greater Bendigo C247gben znMap24 Exhibition
Strathdale	4 Paperbark Court	Greater Bendigo C247gben znMap24 Exhibition
Strathdale	7-8 Stephens Court	Greater Bendigo C247gben znMap24 Exhibition
Strathdale	4 Wildwood Drive	Greater Bendigo C247gben znMap24 Exhibition
Kangaroo Flat	44-46 Barnett Drive	Greater Bendigo C247gben znMap26 Exhibition
Kangaroo Flat	8 Cobb Court	Greater Bendigo C247gben znMap26 Exhibition
Kangaroo Flat	6 Jerribong Way	Greater Bendigo C247gben znMap26 Exhibition
Kangaroo Flat	11 Lee Street	Greater Bendigo C247gben znMap26 Exhibition
Kangaroo Flat	16 Miners Rest	Greater Bendigo C247gben znMap26 Exhibition
Kangaroo Flat	15 Stanley Crescent	Greater Bendigo C247gben znMap26 Exhibition
Kangaroo Flat	CA 76 Stanley Crescent	Greater Bendigo C247gben znMap26 Exhibition
Lockwood	40 Granter Street	Greater Bendigo C247gben znMap26 Exhibition
Costerfield	CA 14 Sec 6 Bradleys Lane	Greater Bendigo C247gben znMap38 Exhibition
Mia Mia	10 Matheson Road	Greater Bendigo C247gben znMap42 Exhibition

Authorisation

ATTACHMENT 2 – Overlay changes

Location	Land/area affected	Mapping references
Huntly	40 Whirrakee Road	Greater Bendigo C247gben002d-esoMap12 Exhibition
Lockwood South	Bounded by McGlashans Road to the north, Hokins Road to the south, Almond Tree Road and Bendigo-Maldon Road to the east and Wild Cherry Road to the west	Greater Bendigo C247gben 009d-ddoMaps30_39 Exhibition
Huntly	Bounded by Burgoyne Street, Caviar Court and Stephenson Street	Greater Bendigo C247gben 007d-dpoMap12 Exhibition
Huntly	CA 4A & CA 22E Sec 27 Station Street	Greater Bendigo C247gben 005d-dpoMaps12_16 Exhibition
Epsom	10, 11, 12, 13, 14, 15, 16 and 17 Botheras Court and 14 and 16 Rosemundy Road	Greater Bendigo C247gben 008d-dpoMaps15_16 Exhibition
Epsom	Bounded by Ironstone Road to the north, McConnachie Court to the south, Millewa Drive and Creekview Place to the east and Myrtle Road to the west.	Greater Bendigo C247gben 008d-dpoMaps15_16 Exhibition
Epsom	Bounded by Tobin Crescent to the north, Cassandra Crescent to the south, Station Street to the east and Midland Highway to the west.	Greater Bendigo C247gben 008d-dpoMaps15_16 Exhibition
Epsom	Bounded by publicly owned land to the north, Ironstone Road to the south and east and the railway track to the west.	Greater Bendigo C247gben 008d-dpoMaps15_16 Exhibition
Huntly	453 Midland Highway	Greater Bendigo C247gben 003d-dpoMap16 Exhibition
Huntly	144 Sargeants Road	Greater Bendigo C247gben 003d-dpoMap16 Exhibition
Epsom	Lot 2 Jones Road	Greater Bendigo C247gben 006dpoMap16 Exhibition
White Hills	Bounded by Tussock Street to the north and west, Scott Street to the south and Priest Street to the east.	Greater Bendigo C247gben 012d-dpoMap19 Exhibition
Golden Square	61 Panton Street	Greater Bendigo C247gben 027d-ncoMap22 Exhibition
Kangaroo Flat	42 Olympic Parade	Greater Bendigo C247gben 013d-smoMap22 Exhibition
Kangaroo Flat	275 Mackenzie Street W	Greater Bendigo C247gben 013d-smoMap22 Exhibition
Huntly	Lots 65 to 69 PS 806834 Wooleen Court and 1, 2, 5, 6, 8 Henbury Street and 1, 4 and 5 Bluestone Street and 4, 5, 6, 7, 8, 9 and 10 Remington Court	Greater Bendigo C247gben 014d-lsioMaps12_16 Exhibition
Jackass Flat	2, 3 and 5 Evergreen Boulevard and 301 Howard Street	Greater Bendigo C247gben 019d-lsioMap15 Exhibition

Authorisation

Location	Land/area affected	Mapping references
Epsom	601-611 and 617-623 Napier Street	Greater Bendigo C247gben 021d-lsioMaps15_19 Exhibition
White Hills	7, 9, 11, 13, 15, 17, 26 and 31 Priest Street and 1 and 3 Tussock Drive and 589-595 Napier Street and 16 and 18 Scott Street	Greater Bendigo C247gben 021d-lsioMaps15_19 Exhibition
Epsom	28, 30, 32 and 34 Langley Drive	Greater Bendigo C247gben 020d-lsioMap16 Exhibition
Ascot	11 and 29 Charolais Court	Greater Bendigo C247gben 015d-lsioMap16 Exhibition
Ascot	2 Charolais Court and 1, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 Limousin Court and 147, 151 and 169 Ironstone Road and 2 Randall Way	Greater Bendigo C247gben 016d-lsioMap16 Exhibition
Ascot	1A, B & C Arrawalli Avenue and 162 Myrtle Road	Greater Bendigo C247gben 017d-lsioMap16 Exhibition
Ascot	45, 47, 49, 51, 53, 55, 57, 59, 61 and 63 Sullivan Street and 1, 3 and 5 Argyle Lane and 1 Apple Lane	Greater Bendigo C247gben 018d-lsioMap16 Exhibition
White Hills	19, 21 and 23 Orville Way and 24 and 26 Rheola Drive	Greater Bendigo C247gben 022d-lsioMap19 Exhibition
East Bendigo	18 & 19 Trantara Court	Greater Bendigo C247gben 023d-lsioMap20 Exhibition
Kangaroo Flat	1, 3, 5, 7, 9, 11, 13, 15, 1/17, 2/17, 3/17, 4/17 and 19 Grantham Terrace and 20, 22, 24, 27, 29 and 31 Sovereign Gardens and 2 Queen Street	Greater Bendigo C247gben 024d-lsioMap22 Exhibition
Strathfieldsaye	10 Cadella Way	Greater Bendigo C247gben 025d-lsioMap25 Exhibition
Strathfieldsaye	92, 96, 98 and 100 Taylors Lane	Greater Bendigo C247gben 026d-lsioMap28 Exhibition
Strathfieldsaye	Lot 2 Dukes Lane 5, 7, 8, 9 and 10 Kiwarra Court Lot 1 Mannes Lane 1 and 18 McCleans Road 478 and 483 Somerset Park Road CA 1, CA 28C and 1151 Strathfieldsaye Road 43 Swanson Boulevard CA 49 and 961, 982, 994, 995, 998 and 1108 Wellington Street	Greater Bendigo C247gben 010d-paoMap25 Exhibition Greater Bendigo C247gben 011d-paoMap25 Exhibition

Authorisation

[redacted]

SUBMISSION 1
Supports

21 November 2022

City of Greater Bendigo
Strategic Planning Department
195-229 Lyttleton Terrace
Bendigo Vic 3550

To Whom it may Concern

RE: Greater Bendigo Proposed Planning Scheme Amendment c247gben

We refer to the proposal to delete the Public Acquisition Overlay (PAO) from Lot 2 Dukes Lane, Strathfieldsaye as shown on Planning Scheme No. 25PAO.

Villawood Properties as authorised agent of the owners of Lot 2 Dukes Lane are fully supportive of this proposal.

Kind Regards

[redacted]

[redacted]

SUBMISSION 2
Supports

21 November 2022

City of Greater Bendigo
Strategic Planning Department
195-229 Lyttleton Terrace
Bendigo Vic 3550

To Whom it may Concern

RE: Greater Bendigo Proposed Planning Scheme Amendment c247gben

We refer to the proposal to delete the Public Acquisition Overlay (PAO) from 483 Somerset Park Road, Strathfieldsaye as shown on Planning Scheme No. 25PAO.

Villawood Properties as authorised agent of the owners of [redacted] are fully supportive of this proposal.

Kind Regards

[redacted]

CELEBRATING 30 YEARS OF EXCELLENCE

Our Ref: CSM71412

30 November 2022

SUBMISSION 3
Resolved - changed as requested

[redacted]

Greater Bendigo City Council
PO BOX 733
BENDIGO VIC 3552

Emailed to:

strategic.planning@bendigo.vic.gov.au

Dear [redacted]

Greater Bendigo Planning Scheme Amendment C247gben

We refer to Council's correspondence dated 15 November 2022 notifying VicTrack of Amendment C247 to the Greater Bendigo Planning Scheme.

We understand that the amendment proposes to partially rezone a portion of 61 Panton Street, Golden Square from General Residential Zone to the Transport Zone 1 and remove the Neighbourhood Character Overlay.

VicTrack supports correction of this anomaly as proposed in the amendment.

The amendment also proposes to rezone the balance of 43A Sandhurst Road, California Gully from Transport Zone 1 to Industrial 1 Zone, to be consistent with the majority zoning of this land. This site is VicTrack owned land and is required for transport purposes. It is leased to [redacted]

We ask that this site is removed from the amendment as what is proposed does not correct an anomaly.

The Transport Zone 1 portion of the land is correctly zoned, it is the balance that is zoned Industrial 1 zone that is incorrectly zoned. However, rather than correct this within the amendment we ask that the site merely be withdrawn out of the amendment for the time being.

VicTrack
Level 8, 1010 La Trobe St Docklands VIC 3008
GPO Box 1681 Melbourne VIC 3001
T 1300 VICTRACK (1300 842 872)
victrack.com.au

VicTrack

VicTrack is liaising with its tenants and the Department of Transport about tenure and future transport needs in this location relating to potential line upgrades.

VicTrack has identified a number of other anomalies where VicTrack land is zoned land other than Transport Zone in the Golden Square and California Gully areas.

All VicTrack land should be zoned Transport Zone 1. We will write to Council separately recommending sites for inclusion in a forthcoming amendment.

On this basis, VicTrack has no objection to amendment C247 and requests removal of 43A Sandhurst Road, California Gully from the amendment.

Should you have any queries, please contact me on [redacted]

SUBMISSION 4

Resolved – changed as requested

Grounds on which this submission is made: There is an omission in the description of lands to which the new Schedule 4 to clause 35.06 Rural Conservation Zone relates.

Changes I wish the council to make: In the current schedule to clause 35.06 Rural Conservation Zone Section 1.0 Subdivision and Other Requirements the land described as "North Harcourt area (as shown on Map 3 to this schedule) 8 hectares" should be included in the new Schedule 4 to Clause 35.06 Rural Conservation Zone 1.0 Subdivision and Other Requirements.

Comment and Reasons:

1. I believe this omission is a simple error easily remedied.
2. The current schedule to the Rural Conservation Zone shows a Map 3 - Rural Conservation Zone North Harcourt Area Minimum Lot Size 8 ha and is the area that has been omitted
3. The proposed schedule to the Rural Conservation Zone has all the lands covered in Schedules 2 to 4 of whereas this North Harcourt Area has been omitted.
4. The Greater Bendigo C247gben znMap29 Exhibition Gazetted.pdf map correctly shows this land to be identified as RCZ4 and therefore it should be identified as such in the proposed Schedule 4 to Clause 35.06 Rural Conservation Zone 1.0 Subdivision and Other Requirements.
5. In the Explanatory Report - Zoning Maps - the Report specifically states that council - Apply the Rural Conservation Zone Schedule 4 (RCZ4) to land zoned RCZ: - At 19 Blossett Drive, 22 and 32 Daley Lane and CA 1 Springs Road, Sedgwick as shown on Planning Scheme Map No. 29.
6. That land omitted should then be identified in Schedule 4 of the proposed Rural Conservation Zone.

SUBMISSION 5

Unresolved

Planning Scheme Amendment No.: C247GBEN

What is proposed?: A range of changes

Do you own or occupy land affected by the Amendment?: No

Address:

State the grounds on which the amendment is supported or opposed, including any supporting evidence; and, if opposed indicate what changes (if any) you wish the City to make to the amendment.: The process of updating and removing redundant controls is appropriate however the amendment does not go far enough to address the current and future issues of accommodating residential growth within compact and existing serviced areas.
The amendment proposes the removal some DPOs and DDOs that relate to old and out of date planning documents dating back to the 1990s however there are others that need to be removed such as the DDO 10 that relates to a 1996 document on the first areas pf Maiden Gully that were developed. Considering the development that has occurred adjoining these sites and beyond to the Maiden Gully township the areas including Pioneer Drive, Burra Burra Road and Clay Gully Court have the ability to support considerable further development. The DDO10 should be removed.
Also the use of DDO and DPO controls to attempt to control lot size is inappropriate as such control should be within schedules to zones if require at all. The use of the DPO and DDO is in appropriate use the planning system to control density and as such all overlays that attempt to control density should be removed. If the controls are truly warranted then such controls should be within the zone.

SUBMISSION 6

Withdrawn

Hi

I was made aware that today is the last day of public consultation for this rezoning.

I do not think it is in the best interest of the owners of both 201 and 203 McIvor Road Strathdale to rezone these two properties to residential. The rezoning would only be to benefit the newly established development (who have chosen the residential option already), this development does not include these two properties.

I viewed 201 McIvor Rd this weekend as it was an open home, and it is of a condition that it would need to be demolished and rebuilt, and 203 looks in very similar condition from outside. No single person is going to buy a lot facing a major highway as their choice for residential land. (At least without significant financial loss to the current owners)

I was interested in viewing it for the potential to do something commercial (one day) if I bought it but the rezoning eliminates that possibility.

It would also be a loss to the city of Bendigo as it is in a beautiful location to add something beneficial commercially to Bendigo.

I propose that you exclude 201 and 203 from the rezoning to leave opportunities for the future for their owners, as the current housing is not new and shiny like the development next door and individual purchasers are unlikely to choose these lots to build their dream home for already mentioned reasons.

Submission was withdrawn on 23 December

Please withdraw my submission.

Thank you for your reply though.

SUBMISSION 7
Supports

NCCMA Ref: NCCMA-F-2022-01634
Council Ref: C247gben
Date: 19 December 2022

[redacted]
Greater Bendigo City Council
Po Box 733,
Bendigo Vic 3552

[redacted]

Planning Scheme Amendment No: **C247gben**
Development Description: **Amendment C247gben**
Street Address: **12 Hopetoun Street Bendigo Vic 3550**

Thank you for your referral under Section 19 of the *Planning and Environment Act, 1987* dated 16 November 2022, and received by North Central Catchment Management Authority (CMA) on 16 November 2022, regarding the above matter.

North Central CMA supports the removal of the Land Subject to Inundation Overlay as per the planning maps on public exhibition.

Should you have any queries, please do not hesitate to contact me on [redacted]
To assist the CMA in handling any enquiries and the supply of further information, please ensure you quote **NCCMA-F-2022-01634** in your correspondence.

Yours sincerely

[redacted]

SUBMISSION 8
Supports

Department of Transport

[redacted]

Ref: PSA385/22

Greater Bendigo City Council
15 Hopetoun Street
BENDIGO VIC 3550

Dear Greater Bendigo City Council

GREATER BENDIGO PLANNING SCHEME AMENDMENT C247gben

The Head, Transport for Victoria has reviewed the documentation and does not object to the Planning Scheme Amendment as proposed.

Should you have any enquiries regarding this matter, please contact [redacted]

Yours sincerely

[redacted]

19/12/2022

VICTORIA State Government

SUBMISSION 9
Clarification received 27/01/2023
Resolved – Changed as requested

conceptz TOWN PLANNERS

[redacted]

Your Reference: Amendment C247gben
Our Reference: Assignment No 1140

16 December 2022

[redacted]

City of Greater Bendigo
PO Box 733
Bendigo 3552

[redacted]

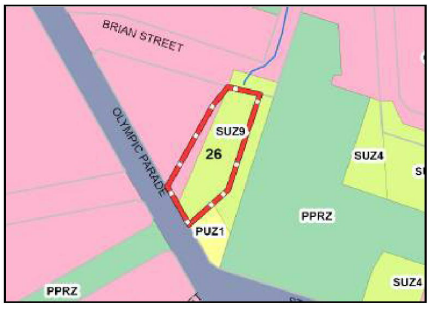
PROPOSED PLANNING SCHEME AMENDMENT C247gben
26 OLYMPIC PARADE, KANGAROO FLAT

Conceptz has been engaged by Maughold Pty Ltd, the owner of the land at 26 Olympic Parade, Kangaroo Flat, to act on their behalf with respect to Notice of Preparation of Planning Scheme Amendment C247gben that affects their land at 26 Olympic Parade, Kangaroo Flat.

Site

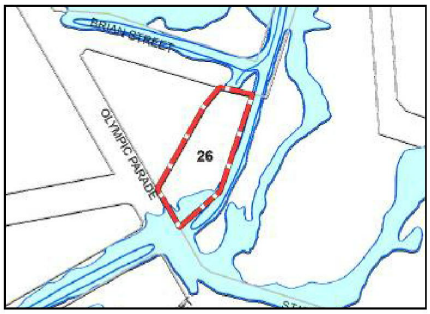
Land details:

Address:	26 Olympic Parade, Kangaroo Flat
Title Description:	Lot 1 TP628840
Land Area:	Approximately ~ 6,200 m2
Zones:	General Residential Zone
	Special Use Zone 9 (SUZ9 – *Bus Depot*)



[redacted]

Overlays: Land Subject to Inundation Overlay 1 (Flooding from waterways (Depths up to an including 350 mm))
Land Subject to Inundation Overlay 2 (Flooding from waterways (Depths greater than 350 mm))



Road Zones: Olympic Parade is in a Transport Zone 3 (Significant Municipal Road)

Services: The land is fully serviced urban land

A Planning Property Report is attached.

Current land use and development

The land is currently developed and used as one of Christian's Bus Company's two established bus depots that service the Bendigo area, the other being situated at 132 Spring Gully Road, Spring Gully.

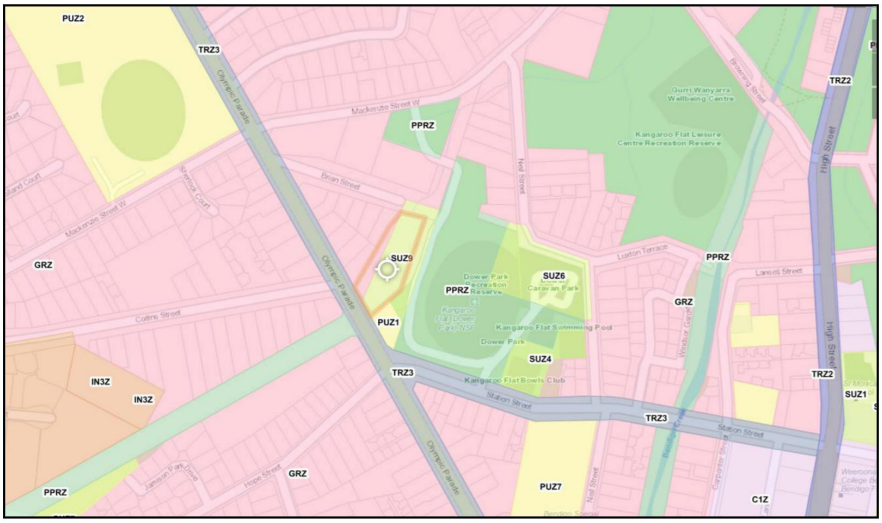
The land is developed with:

- Two vehicle access points are provided to Olympic Parade (no access to Brian Street)
- Office / administration building presenting to Olympic Parade
- Covered wash down area
- Vehicle storage buildings
- Staff car park
- Hardstand for vehicle parking and movements
- Landscaping to the Olympic Parade frontage.

Development is currently across the existing zone boundary as shown on the following aerial photograph:

[redacted]

Land broadly north, west and south of the site (other than publicly held land in public zonings), and east of the site beyond the Dower Park recreation reserve are broadly zoned for residential purposes as shown on the zoning map below:



Strategic Context

In 2018, Christian's Bus Company sought planning approval to develop a new bus depot on the land at Lots 701 and 702 Brickworks Road, East Bendigo. The proposal would see their two current sites at Kangaroo Flat and Spring Gully consolidated and relocated (closed).

The City of Greater Bendigo granted planning approval for the proposal on 25 July 2019 (Planning Permit DI / 954 / 2018, copy attached).

The planning permit has since expired however Christian's Bus Company and their consultant team has been actively consulting with the City of Greater Bendigo through 2022 in relation to lodging a new application for substantially the same proposal (with modifications to respond to emerging industry trends and business requirements).

The new application will be lodged this year.

Once approved, Christian's Bus Company will act on the permit, which will ultimately see their current sites vacated.

Given the site will no longer be used for the identified special purpose, the whole of the land should be rezoned to reflect the future use of the site. Given the context of the site in an identified urban area, the most appropriate future use / zoning of the site is for residential development.

Rezoning the whole of the land to a Special Use Zone for a Bus Depot purpose is not supported on the basis that:

- The use of the whole of the land for a bus Depot is established.
- As the use and development is established, the rezoning is not required to support the current or ongoing use of the site for this purpose.
- The site will no longer be used for a Bus Depot upon development of their new Brickworks Road site.
- As the future use of the site will not be for the identified special purpose, any rezoning should reflect the appropriate future use of the site (residential).

[redacted]

Request

Given the genuine, current proposal to relocate the Bus Depot use from the site it is requested that:

- The rezoning of the whole of the site to Special Use Zone 9 be abandoned / removed from Amendment C249gben.
- Any proposal to rezone the land facilitate the Special Use Zone 9 portion of the site being rezoned to the General Residential Zone.

Would you please confirm receipt of our submission to Amendment C247gben.

My clients and I request a meeting with you to discuss our position further.

Should you have any queries, would you please contact me or [redacted]

Yours faithfully

[redacted]

Encl. *Planning Property report*
Copy of Planning Permit DI / 954 / 2018

[redacted]

Submission 9
Clarification received 27/01/2023
Resolved – Changed as requested

RE: Submission - Greater Bendigo Planning Scheme Amendment C247gben

Reply | Reply All | Forward | ...

A [redacted]

Fri 27/01/2023 3:50 PM

You replied to this message on 2/02/2023 3:13 PM.
Click here to download pictures. To help protect your privacy, Outlook prevented automatic download of some pictures in this message.

Hi Rebecca

Apologies for any confusion.

To clarify:

- The removal of the site from Amendment C247 would satisfy our concerns.
- We understand that rezoning from SUZ to GRZ would not be included in this amendment, and would need to be subject to a future amendment for the reasons outlined in your letter of 23 December 2023.

Thank you for confirming the matter is scheduled to be heard at the Council meeting of 20 February 2023. We look forward to confirming the outcome following the meeting.

Regards

[redacted]

SUBMISSION 10
Supports

Department of Environment,
Land, Water and Planning

[redacted]

Ref: SP482352
20221222 ps

[redacted]
Greater Bendigo City Council
PO Box 733
Bendigo Vic 3552

[redacted]

GREATER BENDIGO PLANNING SCHEME – AMENDMENT C247GBEN

Thank you for your letter dated 16 November 2022 to the Minister for Environment and Climate Action regarding the above planning scheme amendment.

The following response from the Department of Environment, Land, Water and Planning (DELWP) comprises the consolidated views of DELWP (excluding the Planning group). The Planning group will provide separate input at the appropriate time.

Response

The Department of Environment, Land, Water and Planning wishes to advise that it supports the proposed amendment.

If you have any questions regarding this matter, please contact [redacted]

Yours sincerely

[redacted]

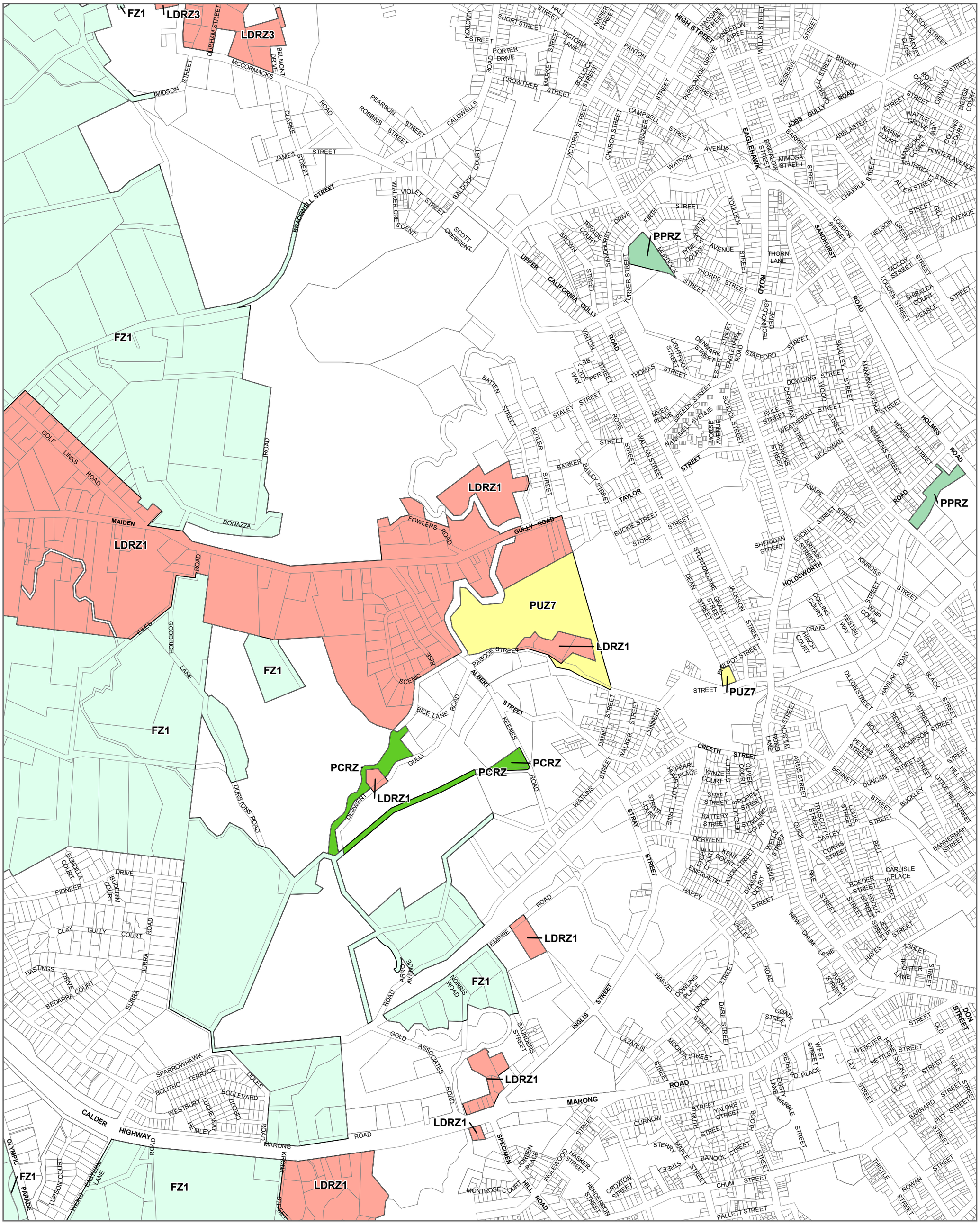
22 December 2022

Any personal information about you or a third party in your correspondence will be protected under the provisions of the *Privacy and Data Protection Act 2014*. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorized by law. Enquiries about access to information about you held by the Department should be directed to foi.unit@delwp.vic.gov.au or FOI Unit, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002.

VICTORIA State Government

GREATER BENDIGO PLANNING SCHEME - LOCAL PROVISION

AMENDMENT C247gben


FZ1
LDRZ3
LDRZ3
DURHAM STREET
BELMONT DRIVE
MCCORMACKS
MIDSON STREET
CLARKE ROAD
JAMES STREET
STREET
PEARSON ROBBINS STREET
CALDWELLS
WALKER CRESCENT
VIOLET STREET
BALDOCK COURT
SCOTT CRESCENT
BRACEWELL STREET
JUNCTION STREET
SHORT STREET
HALL STREET
PORTER DRIVE ROAD
CROWTHER STREET
MARKET STREET
VICTORIA LANE
BULLOCK STREET
NAPIER STREET
HIGH STREET
HAGGAR STREET
KNEEBONE STREET
WILLAN STREET
PANTON STREET
PARSONAGE GROVE
RESERVE STREET
COULSON STREET
HARVEY CLOSE
ROY COURT
OSWALD STREET
MEGGS COURT
BRIGHT STREET
OLD GULLY ROAD
JOBS GULLY ROAD
WATTLE VIEW GROVE
NARINI COURT
MANOOKA COURT
COLLINS COURT
HUNTER AVENUE
MATHRICK STREET
ALLEN STREET
GILL AVENUE
NELSON GREEN
LOUDON STREET
SANDHURST STREET
CHAPPLE STREET
ARBLASTER STREET
BARRELL STREET
MIMOSA STREET
BRIGALOW STREET
EAGLEHAWK
VICTORIA STREET
CHURCH STREET
CAMPBELL STREET
BRAZIER STREET
WATSON AVENUE
PPRZ
MURDOCK STREET
THORPE STREET
TYNE COURT
TYLA AVENUE
YOULDEN STREET
FIRTH STREET
DRIVE
BROWN TERRACE COURT
SANDHURST STREET
TURNER STREET
UPPER CALIFORNIA GULLY ROAD
THORN LANE
TECHNOLOGY DRIVE
DENMARK STREET
LIGHTFOOT STREET
ESLER STREET
EAGLEHAWK ROAD
STAFFORD STREET
SMALLEY STREET
MANNING AVENUE
DOWDING STREET
WOOD STREET
CHRISTIAN STREET
RULE STREET
WEATHERALL STREET
JENKINS STREET
MCGOWAN STREET
SEMMENS STREET
HENKEL STREET
HOLMES ROAD
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KNAPE STREET
SHERIDAN STREET
EXCELL STREET
BRITAIN STREET
HOLDSWORTH
KINROSS STREET
COLLING COURT
WHIP COURT
FESTINO WAY
CRAIG
HINCH COURT
PINPOT STREET
PUZ7
DILLON STREET
HAVILAH ROAD
BRAY
BLACK
REVENE STREET
THOMPSON STREET
PETERS STREET
BOLT STREET
BENNETT STREET
DUNCAN STREET
BUCKLEY STREET
LITTLE HILL STREET
HILL STREET
BANNERMAN STREET
CARLISLE PLACE
ROEDER STREET
FROUT STREET
WEBB STREET
HAYES STREET
ASHLEY STREET
ROTTER LANE
NEW CHUM LANE
SUSAN STREET
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FZ1
GOLF LINKS ROAD
MAIDEN ROAD
BONAZZA ROAD
LDRZ1
FOWLERS ROAD
GULLY ROAD
PUZ7
LDRZ1
PASCOE STREET
FZ1
EILES GOODRICH LANE
SCENIC RISE
ALBERT STREET
BICE LANE ROAD
KEENES GULLY ROAD
PCRZ
PCRZ
PCRZ
LDRZ1
DERWENT
DURSTONS ROAD
FZ1
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BAILEY STREET
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ALBERT STREET
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JACKSON STREET
LIGHTFOOT STREET
DENMARK STREET
ESLER STREET
LOTUS WAY
UPPER STREET
THOMAS STREET
STAFFORD STREET
SMALLEY STREET
MANNING AVENUE

--/--/----
Proposed C247gben

SCHEDULE 4 TO CLAUSE 35.06 RURAL CONSERVATION ZONE

Shown on the planning scheme map as **RCZ4.**

CONSERVATION VALUES

The Rural Conservation Zone has been applied to areas within the municipality that are characterised by significant vegetation cover.

The zone has been applied in recognition of the following values:

- The need to preserve the flora, fauna and landscape values of the land in the zone.
- The need to protect significant vegetation cover on land in the zone.
- The need to protect existing vegetation on privately-owned land adjoining vegetated public land.
- The need to minimise land degradation including salinity and erosion.
- The need to protect the water supply catchment of Lake Eppalock.

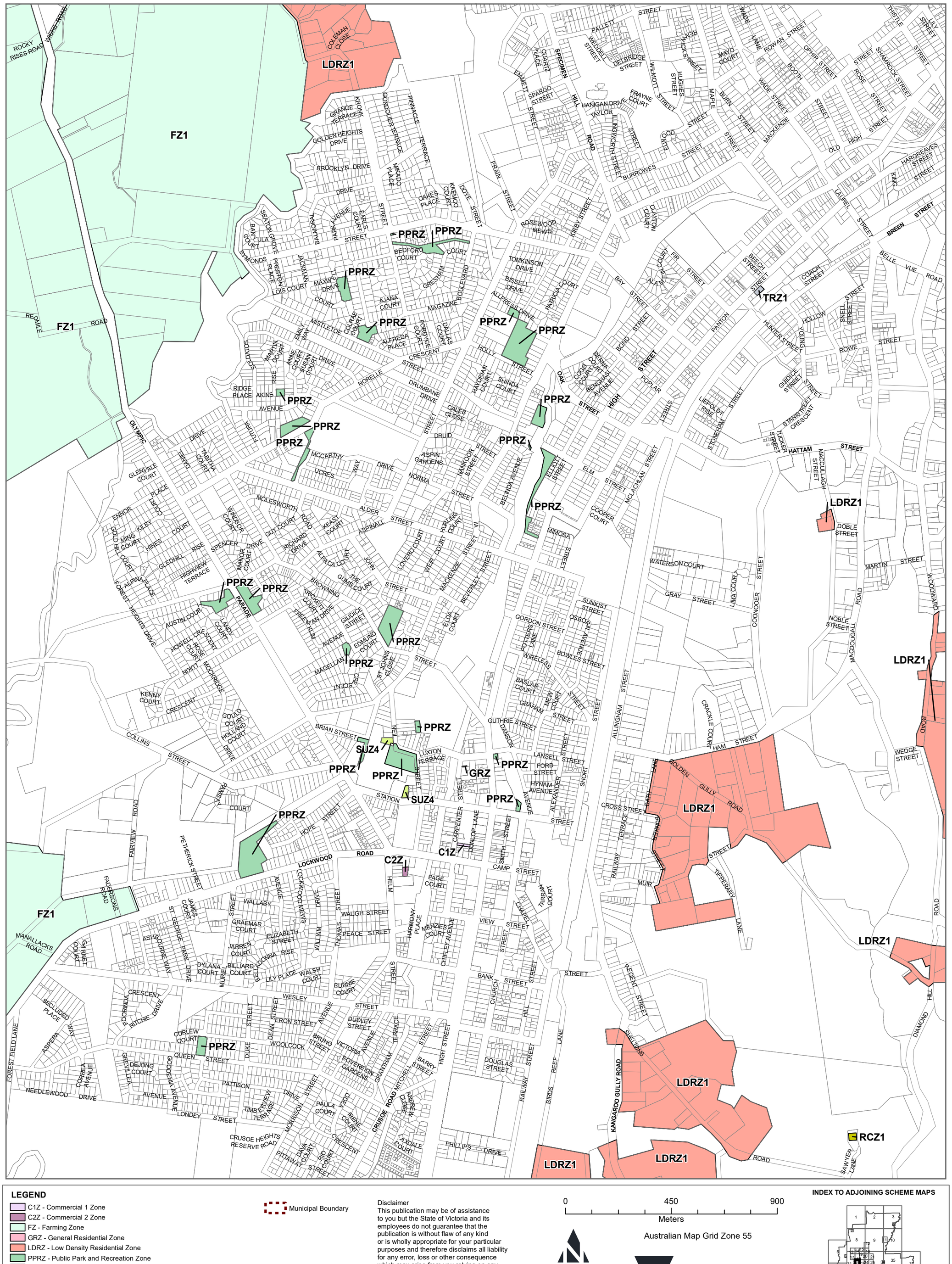
1.0 Subdivision and other requirements

--/--/----
Proposed C247gben

	Land	Area/Dimensions/Number
Minimum subdivision area (hectares)	Axe Creek Emu Creek Land west of Doles Road, Eppalock Land south of Heathcote-Redesdale Road, Heathcote- 19 Blossett Dve, 22 & 32 Daley Ln and CA1 Springs Rd, Sedgwick.	8 hectares
Maximum floor area for which no permit is required to alter or extend an existing dwelling (square metres)	None specified	None specified
Maximum floor area for which no permit is required to construct an out-building associated with a dwelling (square metres)	None specified	None specified
Maximum floor area for which no permit is required to alter or extend an existing building used for agriculture (square metres).	None specified	None specified

Permit requirement for earthworks	Land
Earthworks which change the rate of flow or the discharge point of water across a property boundary	All land
Earthworks which increase the discharge of saline groundwater	All land

GREATER BENDIGO PLANNING SCHEME - LOCAL PROVISION
AMENDMENT C247gben



LEGEND

- C1Z - Commercial 1 Zone
- C2Z - Commercial 2 Zone
- FZ - Farming Zone
- GRZ - General Residential Zone
- LDRZ - Low Density Residential Zone
- PPRZ - Public Park and Recreation Zone
- RCZ - Rural Conservation Zone
- SUZ - Special Use Zone
- TRZ1 - Transport Zone - State Transport Infrastructure

Municipal Boundary

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This publication may be of assistance to you but the State of Victoria and its employees do not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for any error, loss or other consequence which may arise from you relying on any information in this publication.

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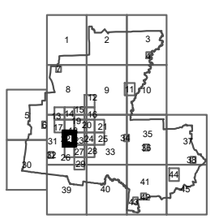
0 450 900
Meters

Australian Map Grid Zone 55

Planning Group
Print Date: 12/01/2023
Amendment Version: 10

VICTORIA State Government | Department of Transport and Planning

INDEX TO ADJOINING SCHEME MAPS



ZONES

MAP No 22

GREATER BENDIGO PLANNING SCHEME

--/--/----
Proposed C247gben

SCHEDULE 3 TO CLAUSE 35.03 RURAL LIVING ZONE

Shown on the planning scheme map as **RLZ3.**

1.0 Subdivision and other requirements

--/--/----
Proposed C247gben

	Land	Area/Dimensions/Distance
Minimum subdivision area (hectares)	Land south of McGlashans Road and west of Bendigo-Maldon Road, Lockwood South	3 hectares (average size lots in a subdivision to be 4.5 hectares)
Minimum area for which no permit is required to use land for a Dwelling (hectares)	Land south of McGlashans Road and west of Bendigo-Maldon Road, Lockwood South	3 hectares
Maximum floor area for which no permit is required to alter or extend an existing dwelling (square metres)	None specified	None specified
Maximum floor area for which no permit is required to construct an out-building associated with an existing dwelling (square metres)	None specified	None specified
Maximum floor area for which no permit is required to alter or extend an existing building used for Agriculture (square metres)	None specified	None specified
Minimum setback from a road (metres)	None specified	None specified
Minimum setback from a boundary (metres)	All land	~~10~~30 metres
Minimum setback from a dwelling not in the same ownership (metres)	All land	50 metres

Permit requirement for earthworks	Land
Earthworks which change the rate of flow or the discharge point of water across a property boundary	All land
Earthworks which increase the discharge of saline groundwater	All land

17. STRONG, INCLUSIVE AND SUSTAINABLE ECONOMY

17.1. Bendigo Airport Lease of Lot N3

Author:	Vicki Bayliss, Bendigo Airport Manager
Responsible Director:	Steve Hamilton, Director Strategy and Growth

Purpose

This report seeks Council's decision on the granting of a lease at the Bendigo Airport to Henry Misfud who has requested a lease for an initial term of twenty-five (25) years for Lot N3 commencing in March 2023, at a commencing rent of $1,893.00 plus GST per annum, with rent review every three years.

Recommended Motion

That Council, having given public notice in the Bendigo Advertiser on 29 October 2022 and that no submissions were received:

1. Grants a lease to Henry Misfud for 216 square metres of land, being part of the land in certificate of Title Part Lot 3 PS 422204F, Volume 10557, Folio 954, known as Lot N3 at the Bendigo Airport situated on 35 Victa Road, East Bendigo, (Land) for the purposes of an airport hangar, a space to operate his recreational aviation school, and storage of related equipment and consumables (Lease Proposal), for a term of twenty-five (25) years, with a commencing rent of $1,893 per annum plus GST.

Executive Summary

The City has completed the advertising process regarding the lease proposal. Public notice was given in The Bendigo Advertiser on 29 October 2022 giving Council's intention to enter a lease on the following terms:

- Lessee - Henry Misfud.
- Initial twenty-five (25) year term commencing March 2023.
- Commencing rent of $1,893.00 plus GST per annum.
- Market rent reviews every three years.
- Permitted use of the premises is for an airport hangar, a space to operate his recreational aviation school, and storage of related equipment and consumables.

At the close of the submissions period on 26 November 2022, no written submissions were received. Council can now decide whether or not to grant a lease to the proposed tenant.

Background

Council is the owner of the land known as the Bendigo Airport which is located on 35 Victa Road, East Bendigo (being part of the land in certificate of Title Part Lot 3 PS 422204F, Volume 10557, Folio 954.

Henry Misfud has sought a lease of the part of the Land which is known as Lot N3 (Premises) and proposes to use the premises for the purposes of storage of aircraft for private (non-paying) operations only, and storage of related equipment and consumables, over a lease term of twenty-five (25) years. The premises comprises of approximately 216 square metres. The City has assessed the annual market rental and rental for the premises at $1,893.00 per annum, plus GST upon the basis that a market review is undertaken every three years and the lease is compliant with the Lease Policy approved in 2019.

Previous Council decision dates: 24 October 2022

Report

The Bendigo Airport is located at 35 Victa Road, East Bendigo (being part of the land in certificate of Title Part Lot 3 PS 422204F, Volume 10557, Folio 954 (Land).

The Bendigo Airport has two (2) vacant hangar sites available to lease. The uptake has been very strong over the last few years with 11 leases commencing in the last two years.

Communications/Engagement

Public notice was given in The Bendigo Advertiser on 29 October 2022 and in October’s Airport Bulletin indicating Council’s intention to enter a lease with this tenant. No written submissions were received.

Financial Sustainability

The costs associated with the negotiation and development of the lease documentation can be absorbed in the Economic Development Unit’s operations budget. There will not be an increase in ongoing maintenance or operational expenses as a result of this lease.

If Henry Misfud's lease is approved an additional $1,893.00 per annum revenue (plus GST) will be made. The revenue will increase annually as per the Bendigo Airport Lease Policy.

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025
Outcome 3 - Strong, inclusive and sustainable economy

Secondary Council Plan Reference(s)

Goal 1 - Inclusive employment opportunities for all, sustainable jobs and investment and a diverse economy

Other Reference(s)

Strategy Reference – Bendigo Airport Strategic Plan:

https://www.bendigo.vic.gov.au/sites/default/files/2018-06/city-of-greaterbendigo-bendigoairportstrategic-plan-update.pdf

Strategic Direction 2: Effectively Manage and Maintain Bendigo Airport Assets

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Attachments

Nil

18. ABORIGINAL RECONCILIATION

Nil

19. A CLIMATE-RESILIENT BUILT AND NATURAL ENVIRONMENT

19.1. Zero Emissions Plan for Council Operations 2023-2030

Author:	Ben Bowman, Coordinator Environmental Sustainability
Responsible Director:	Stacy Williams, Director, Healthy Communities and Environments

Purpose

To seek Council endorsement of the draft *Zero Carbon: Net Zero Emissions Plan for Council Operations 2023-2030.*

Recommended motion

That Council endorse the *Zero Carbon: Net Zero Emissions Plan for Council Operations 2023-2030.*

Executive Summary

The *Zero Carbon: Net Zero Emissions Plan for Council Operations 2023-2030* (the Plan) outlines a five-point plan to reduce emissions from City operations to net zero and to attain Australian Government 'carbon neutral' certification by 31 December 2030.

The five-point plan, in accordance with the Australian Government's Climate Active Carbon Neutral Standard for Organisations (the Climate Active Standard), is to:

1. Measure: Calculate emissions
2. Reduce: Implement our emission reduction strategy (electrify everything)
3. Offset: Offset residual emissions
4. Validate: Validate our carbon neutral status
5. Report: Provide a public statement of our carbon neutral claim

The Plan expresses a core strategy to 'electrify everything' over the course of the 2020s.

The strategy is made up of five steps:

A. Electrify buildings
B. Electrify fleet and plant
C. Electrify waste
D. Reduce Scope 3 emissions
E. Align the organisation

This rapid electrification of City assets will require a coordinated, organisation wide, collaborative effort and is expected to provide net savings over time through reduced operating costs.

However, this net saving will require a significant investment of capital expenditure additional to business as usual over the seven financial years from 2023/24 to 2029/30. Some operating costs will also be incurred associated with the procurement of carbon offsets.

Council will advocate for and actively seek State and Federal government funding support to help enable the transition.

The immediate priority is to electrify our buildings. This will require approximately $6.3M of capital expenditure to remove gas from City operations, including from our aquatic centres.

The Plan includes position statements and actions that relate to policy updates, capital works, consultancy services, programs, and projects.

Background

At the Ordinary Meeting of Council on 21 August 2019, Council passed a Resolution of Council that recognises that we are in a state of climate and biodiversity breakdown.

The Resolution recognises that climate change will impact City services and that the breakdown carries financial implications and requires appropriate Council budget mechanisms and allocations to address the risks and issues.

In 2021, Council endorsed the *Climate Change and Environment Strategy 2021-2026* (the Strategy). The Strategy included the action area Zero Carbon and the target to achieve ‘zero carbon from Council operations by 2030’. The Plan articulates a process to achieve this target.

Report

Current emissions

In 2021-22 the City’s emissions were 50,263 tonnes of carbon dioxide equivalent (CO2-e). These emissions are principally from the methane leaking from the Eaglehawk landfill, from natural gas for heating, and from diesel and petrol for fleet and plant.

The City is at an early stage in understanding the organisation’s Scope 3 emissions. These are the emissions created because of our activities but which are outside of our control. These emissions have been estimated for FY2021-2022.

Altogether the organisation’s emissions make up approximately 3.3% of the municipality’s overall emissions. This makes Council the second largest emitter in the City. If the

emissions from Eaglehawk Landfill are excluded, Council would be the seventh largest emitter in the City.

Scope

The Plan applies only to emissions from Council operations. Actions to support broader community-wide emission reductions will be set out in the Greater Bendigo Zero Emissions Roadmap which is being prepared through the Greater Bendigo Climate Collaboration.

Goal

The Plan interprets ‘zero carbon’ as ‘net zero’ emissions, meaning that the organisation will seek to reduce emissions to as close to zero as possible with any remaining residual emissions to be offset through the creation or purchase of carbon credits.

Accreditation

To legitimately claim to have achieved net zero, the organisation is required to be certified as ‘carbon neutral’. The Plan provides a pathway for carbon neutral certification through the Australian Government’s Climate Active program.

The Climate Active program includes the Climate Active Standard that articulates a five-point plan to achieve carbon neutrality. The Plan follows this guidance.

Climate Active certification requires all emissions to be included, and where significant exclusions are made, they must be justified.

Of note, the City has had an emissions management approach and emissions boundary since adoption of the Carbon Management Plan 2009-2012. The emission sources included in this boundary are limited which means the boundary is not compliant with the Climate Active Standard.

The core strategy

The Plan expresses ‘electrify everything’ as the City’s core strategy to achieve the net zero goal.

To electrify everything, the core task is to upgrade all fossil fuel powered machines, big and small, to electric machines that are powered by 100% renewable electricity.

Timeframes

The Plan articulates the goal to achieve net zero emissions by 30 June 2030, and to be Climate Active certified carbon neutral by 31 December 2030.

Buildings

The main technologies required to electrify the City's buildings are well known. These are heat-pumps for hot water, heat-pump split systems and HVAC systems for heating and cooling buildings and induction electric cooking.

In addition to electrifying the City's facilities, reducing energy demand through energy efficiency upgrades and installation of rooftop solar panels will reduce costs in the long term and help buffer the organisation from possible future price increases.

The Plan recommends capital programs for:

- Solar panels and energy efficiency works ($200k per year)
- Electrification of small and medium facilities (approximately $1M)
- Electrification of large facilities (approximately $5.3M)

Staff resources may also be required to help deliver these programs.

These capital programs amount to an investment of $1.1M per year on average between 2023/24 and 2029/30, however it is recommended that the works be implemented expeditiously over 3-5 years.

Completing Council's current program of strategic planning for community facilities is critical to enabling the organisation to schedule energy efficiency and electrification works.

Clarification is also required from the State Government about the electricity contract for Galkangu and who will be responsible for the emissions from the site's gas consumption.

Fleet and plant

Battery electric vehicles are the most viable solution for the City's passenger fleet, however, zero emission technologies for heavy vehicles and plant are still emerging. This will be a critical area for future analysis.

The transition of the City's fleet and plant is complicated by the current uncertainty about the timing and staging of the depot redevelopment, the limited charging infrastructure at Galkangu and the lack of suitable zero emission alternatives to many heavy vehicles and plant.

Investigating options for charging infrastructure for the City's passenger fleet is a priority given the maturity of this electric vehicle market.

Zero carbon heavy vehicles and plant generally cost approximately 50% more than current models and cost approximately 50% less to operate. However, the overall cost of Council's fleet transition is difficult to determine given that costs are expected to reduce as technologies develop and as the organisation seeks to rationalise its fleet. The additional upfront costs will also be offset by the operational cost savings associated with maintenance, charging and repairs.

Service delivery and work practices may need to change to adjust to the different characteristics of electric vehicles and plant. Expert assistance with this element of the transition may be required to help reduce risks and ensure a smooth transition.

It is likely that additional budget will be required from 2024/25 to help fund the capital costs associated with the transition to zero carbon vehicles and plant.

Waste

The emissions from waste buried at the Eaglehawk landfill are the most significant emission issue for the City. These emissions are difficult to quantify and model into the future.

City officers are interrogating these landfill emissions, including through an expert third-party, to ensure that our understanding of this liability is as accurate as possible.

Council's emissions profile will change once Eaglehawk Landfill closes and as the City implements the Circular Greater Bendigo program.

All emissions from waste transported to Patho or from contracted waste management services, such as from the proposed waste to energy facility, will be outside Council's emissions boundary. Even so, Council is taking a proactive approach by requiring potential contractors to demonstrate that their service will deliver lower greenhouse gas emissions compared to the option of transporting the City's waste to Patho.

Scope 3

Scope 3 emissions are the greenhouse gases emitted as a result of the activities of the organisation, but which are outside our operational control e.g., the production and transport of materials we use such as concrete.

The Plan identifies that work is required to understand and measure our Scope 3 emission sources prior to confirming priority Scope 3 emission reduction actions.

Carbon offsets

Council is being pro-active in seeking an optimal local approach to carbon offsets that can provide additional biodiversity benefits. In addition, the Plan proposes the development of

a Carbon Offsets Policy to set out Council's approach and decision-making principles for future carbon offset investments.

Budgeting and reporting

The Plan recommends introducing 'green tagging' of items in the Council budget to help track the climate impact of Council's expenditure.

Priority/Importance

It is critical that the City commence the transition to electrification in earnest as soon as possible to enable the costs and workload to occur over several years. This will enable the transition to occur in a well-considered, collaborative, orderly manner.

Options considered

No options considered. The *Climate Change and Environment Strategy 2021-2026* sets the target of zero emissions and the Plan outlines how this target can be achieved.

Timelines

The Plan proposes that implementation will commence in financial year 2023-24, with carbon neutral certification being sought for financial year 2029-30.

Communications/Engagement

Internal consultation has occurred with key business units across the organisation, especially Works, Resource Recovery and Education, and Property Services.

Public consultation is not considered necessary or appropriate for the following reasons:

- The Plan aligns with the "Zero Carbon" goals and targets of the *Climate Change and Environment Strategy 2021-2026* which was prepared with input from the community.
- The Plan applies to operational matters which the community is not able to influence in a meaningful way

Financial Sustainability

The Plan signals that there will be a significant capital cost associated with reducing emissions to net zero by 2030, and that net savings are assumed over time through reduced operating expenditures.

The financial implications of the fleet and plant transition is difficult to quantify given that the market is only in its early deployment phase. Accordingly, it will be prudent to engage industry expertise to assist with the planning of this transition to mitigate risks and optimise the financial benefits.

There is an expectation that a minor increase in staff resourcing may be required to project manage some of the building transition works.

Council will advocate for and actively seek State and Federal government funding support to help enable the transition.

Officers will continue to monitor State and Federal government funding opportunities that arise that may assist with implementing the Plan.

Further, there may be opportunities for joint procurement projects with other councils which could achieve cost savings.

Electrification is expected to deliver net savings over time through the inherent efficiency of electric machines relative to those powered by fossil fuels and related energy cost savings, and through lower operating costs including for maintenance and repair.

Risk Assessment

The Plan is a climate change mitigation project that addresses the strategic risk of climate change, whilst increasing the energy security of City operations and providing other benefits such as community leadership and healthier workplaces for staff.

The risk of doing nothing is that the City will be exposed to volatile prices for fossil fuels and will not achieve its goal of zero carbon from Council operations by 2030.

There is a risk that Council will not be able to fully implement the Plan by 2030 due to the lack of suitable technologies (e.g., for heavy plant), the uncertainty associated with the future of some Council facilities (e.g., the depot and several aquatic centres) and the lack of suitable financial or staff resources. In this event Council can either purchase carbon offsets at 2030 or decide to postpone achievement of its net zero carbon target beyond 2030. In the meantime, Council can progress several actions where the pathway forward is more certain. This includes replacement of light fleet and plant, the electrification of small facilities and development or review of relevant internal policies and procedures.

Policy Context

Primary Council Plan Reference

City of Greater Bendigo Council Plan *Mir wimbul* 2021-2025
Outcome 5 - A climate resilient and healthy landscape

Secondary Council Plan Reference(s)

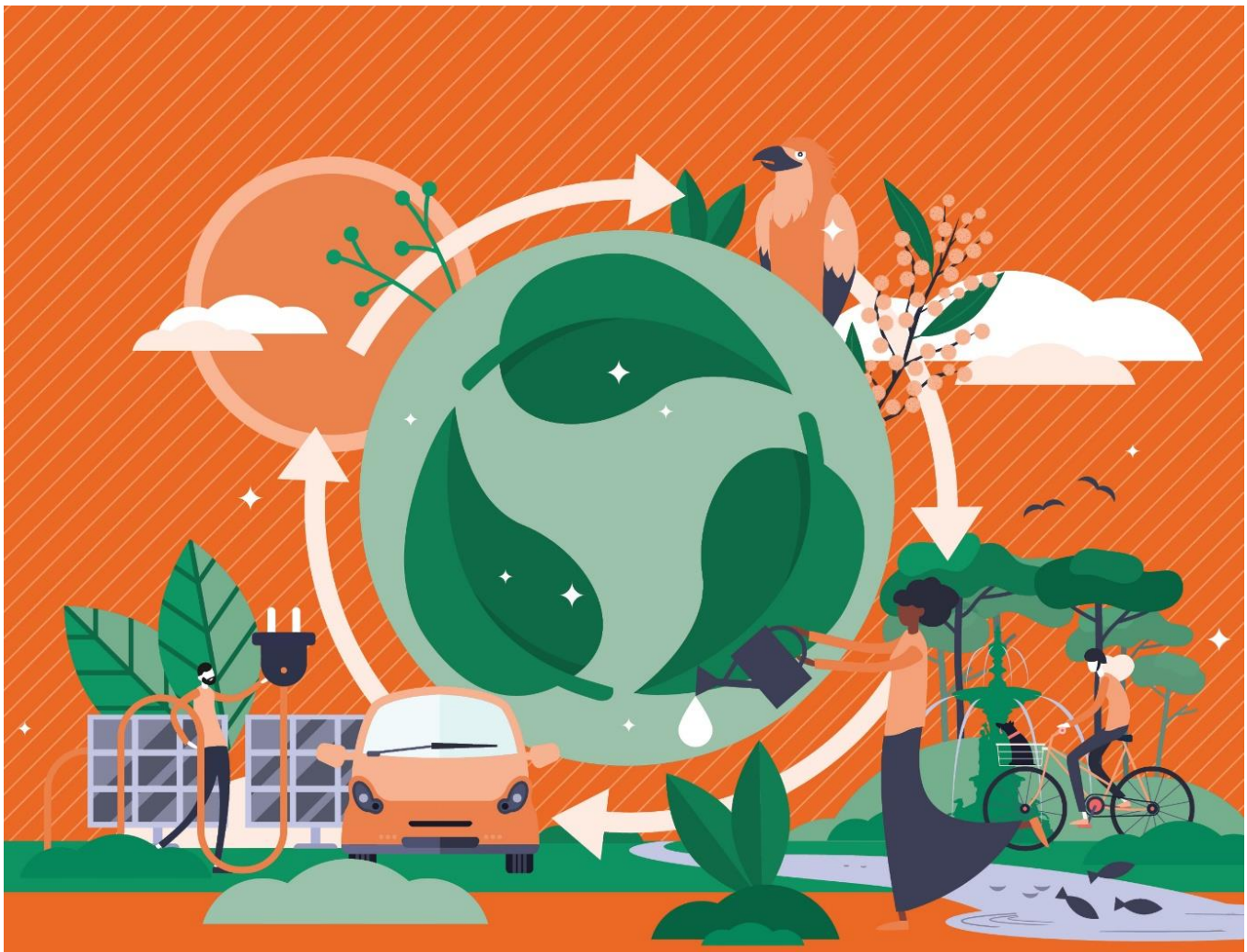
Climate Change and Environment Strategy 2021-2026
Goal 1 - Zero carbon

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Attachments

1. Zero Emissions Plan for Council Operations - 2022-2030 - OCM 27 Feb 2023 [**19.1.1** - 45 pages]



ZERO CARBON

NET ZERO EMISSIONS PLAN FOR COUNCIL OPERATIONS

2023-2030

CITY OF GREATER BENDIGO

Table of Contents

Acknowledgement of Country....1
Executive Summary....2
Plan Overview....5
Introduction....6
Resolution of Council....7
Our Journey....10
Our Five-Point Plan....16
Part 1. Measure....18
Part 2: Reduce....20
Part 3: Offset....35
Part 4: Validate....37
Part 5: Report....38
Appendix 1: Key achievements....39
Appendix 2: Action Plan....40
Appendix 3: Position statements....41
Appendix 4: Plan on a page....43

Acknowledgement of Country

Acknowledgement of Country

The City of Greater Bendigo is on Dja Dja Wurrung and Taungurung Country. We acknowledge and extend our appreciation to the Dja Dja Wurrung and Taungurung People, the Traditional Owners of the land.

We pay our respects to leaders and Elders past, present and future for they hold the memories, the traditions, the culture and the hopes of all Dja Dja Wurrung and Taungurung Peoples.

We express our gratitude in the sharing of this land, our sorrow for the personal, spiritual and cultural costs of that sharing and our hope that we may walk forward together in harmony and in the spirit of healing.

Acknowledgement of First Nations People

The City recognises that there are people from many Aboriginal and Torres Strait Islander communities living in Greater Bendigo.

We acknowledge and extend our appreciation to all First Nations Peoples who live and reside in Greater Bendigo on Dja Dja Wurrung and Taungurung Country, and we thank them for their contribution to our community.

Executive Summary

The City of Greater Bendigo (the City) is proud to have expressed, in the *Climate Change and Environment Strategy 2021-2026,* an ambitious target of zero greenhouse gas emissions for its own operations by 2030.

This Plan interprets this zero emission target as **'net zero' by 2030**. Net zero means cutting greenhouse gas emissions to as close to zero as possible, with any remaining emissions being offset, ideally through local carbon offset projects that achieve co-benefits for the environment and community.

The City's core strategy to achieve its net zero target is to **'electrify everything'** over the course of the 2020s.

This means that the City will aim to use no petrol, diesel or natural gas by 30 June 2030 and will continue to source its electricity from renewable sources.

To do this, the City needs to upgrade all machines, big and small, to new modern electric machines that are powered by 100% renewable electricity.

The City will also need to quantify and manage its landfill and other emission sources and purchase and retire carbon offsets to compensate for any residual emissions.

The transformation towards net zero emissions has commenced.

This Plan outlines the following **five-point plan**, with position statements and actions to complete the process:

1. **Measure:** Calculate emissions
2. **Reduce:** Implement our emission reduction strategy (electrify everything)
3. **Offset:** Offset residual emissions
4. **Validate:** Validate our carbon neutral status
5. **Report:** Provide a public statement of our carbon neutral claim

In 2030, the City will seek to attain net zero 'carbon neutral' certification from the Australian Government's Climate Active program.

The emission reduction strategy to electrify everything is made up of five steps:

A. **Electrify buildings**
B. **Electrify fleet and plant**
C. **Electrify waste**
D. **Reduce Scope 3 emissions**
E. **Align the organisation**

Decarbonisation of City operations is inevitable, achievable, and beneficial.

The transformation is expected to provide net savings over time through reduced operating costs. This net saving will require a significant investment of capital and operating expenditure upfront and additional to business as usual over the next seven financial years. The City will advocate for and actively seek out funding support from the State and Federal governments to assist with the upfront expenditure.

The immediate priority is to get off gas. This will require approximately $6M of capital expenditure and will remove gas from City operations, including from our aquatic centres.

Reducing emissions will require a coordinated, organisation wide, collaborative effort.

Our staff values and behaviours will guide our work to become a modern, all-electric organisation:

- We Lead: We have a clear vision and understand our purpose
- We Learn: We work together to continuously improve what we do
- We Contribute: We plan and deliver quality programs, projects, and services
- We Care: We work together to create a safe and healthy workplace
- We Respond: We do what we say we will do
- We Respect: We work together to create and maintain a positive culture

Key messages:

- Climate change is happening. We have limited time to prevent catastrophic outcomes beyond those already being experienced. Everyone needs to contribute to reducing emissions. Council is likely to be one of the larger emitters in Greater Bendigo (circa 3% of the total) and has an important leadership role in reaching net zero by 2030.

- The State and Federal governments are ratcheting up their programs to reduce emissions too. The State Government has a significant policy suite that includes policies on waste to energy, zero emission vehicles, and renewable energy; and recently updated the state targets to net zero by 2045 (brought forward from 2050), and 95% renewable energy by 2035. The Australian Public Service (excluding security agencies) has a new target of net zero emissions by 2030. The City will seek to collaborate with State and Federal initiatives.

- This Plan outlines what we know and what we don't yet know. The pathway to net zero must be pragmatic. We will continue to deliver our services while we transform. We will transform when we have confidence in the feasibility and cost and benefits of proposed changes. This confidence will be gained through the development of business cases and through project delivery.

- While total costs and benefits are still uncertain, we know that some investments in electrification will generate savings. For example, currently, each year, the City spends over $2M each year on diesel and petrol. These costs will be removed through vehicle electrification and substituted by electricity costs that will conservatively be half the cost, providing at least a $1M per year saving.

- The transformation is based largely on the implementation of a small handful of technologies. Most of these technologies, such as split systems for heating and cooling, are mature and ready to install. Other technologies, such as battery electric and hydrogen electric heavy vehicles, will mature in the next few years. We will make the change when a fit-for-purpose technology exists, and when we are ready in terms of supporting infrastructure.

- As a rule, we will seek a '100% clean replacement rate', meaning that all new assets should be electric or fossil fuel free from 1 July 2023. This means no new gas appliances, and the purchase of zero emissions fleet and plant where a fit-for-purpose option is available and affordable.

- Much of the work needed to 'electrify everything' and get to net zero emissions will occur as the result of our standard process of building new assets, dealing with issues we are already thinking about, and doing the work we do maintaining, rectifying, and renewing assets.

  However, to achieve our net zero target, it is critical that we finalise decisions about our future building portfolio. For example, the timing of the depot redevelopment and availability of charging parking at Galkangu are critical to the broad procurement of electric vehicles. Therefore, a key requirement for the Plan's success is for the City to develop a draft ten-year capital works program that factors in the pathway to electrification and net zero emissions into all relevant projects.

- In 2021-22 the City's emissions were 50,263 tonnes of carbon dioxide equivalent (CO2-e). We have seven financial years, from 2023-24 to 2029-2030 to get as close to zero emissions as possible.

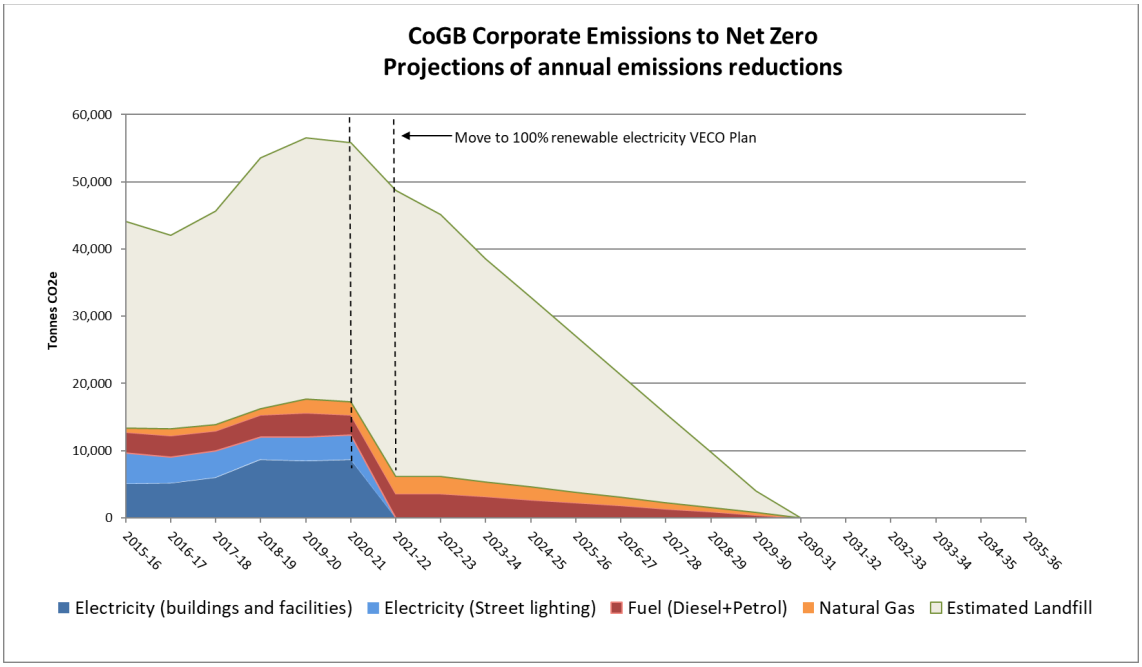


Figure 1: Representative trajectory to net zero emissions (excluding scope 3)

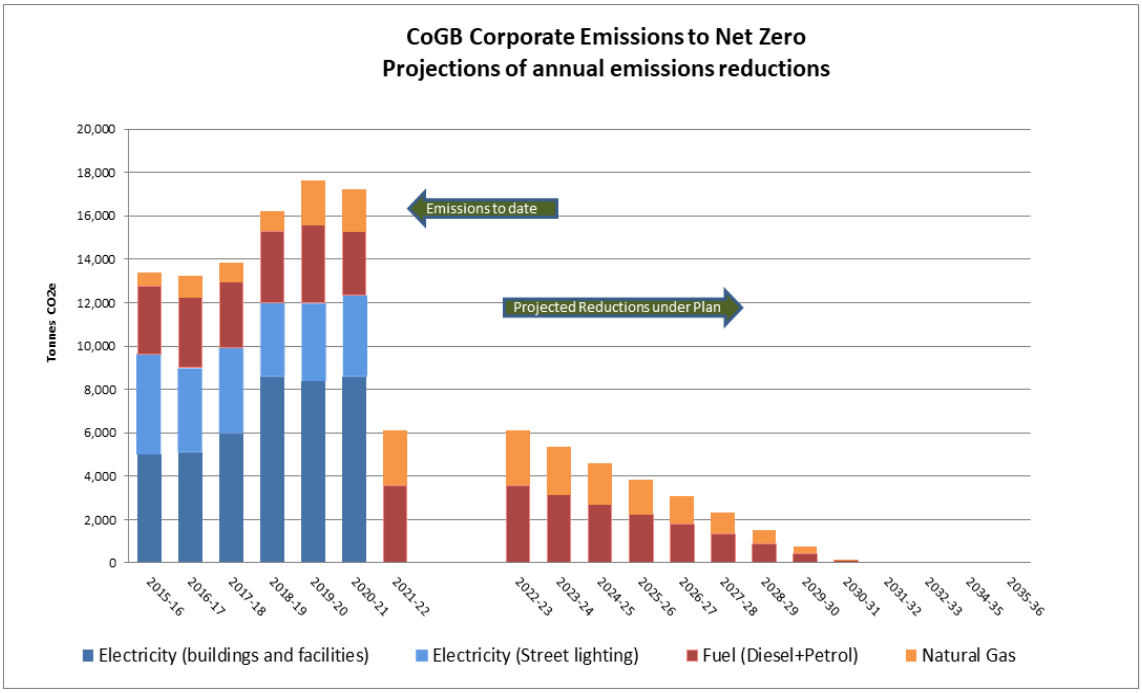


Figure 2: Representative trajectory to net zero emissions (excluding landfill and scope 3)

Plan Overview

Purpose

To plan for the City to achieve net zero emissions and be certified carbon neutral in 2030.

Scope

To reduce to net zero all emissions within the City's operational boundary by 2030.

Net zero means cutting greenhouse gas emissions to as close to zero as possible, with any remaining emissions reabsorbed from the atmosphere by purchasing carbon offsets.

Strategy

The core emission reduction strategy is to 'electrify everything'.

Operating Context

In 2019 Council acknowledged and resolved to respond to the climate and biodiversity breakdown.

In 2021 Council endorsed the *Climate Change and Environment Strategy 2021-2026* and set the target of 'zero carbon from Council operations by 2030'.

Implementation

Implementation will be achieved over the seven financial years of the Plan from 2023-24 to 2029-30.

Project Management

Each project will be managed independently.

Governance

Governance arrangements will ensure the consideration of relationships between projects and provide strategic coordination of the five-point plan.

Monitoring, Reporting and Learning

The Climate Change and Environment Unit will coordinate monitoring, reporting, and learning related to this Plan, and will publish relevant information in Council's Annual Environment Report.

Exclusions

The Plan does not describe the current operating context for emissions reduction, such as social, technological, economic, environmental, political, legal, and ethical considerations.

The Plan does not seek to estimate the cost savings or payback periods from undertaking projects. Projects will present business case information as part of the budget process.

Introduction

Climate Change in Greater Bendigo

The risk from climate change is ratcheting up each day as greenhouse gas levels in our atmosphere continue to increase, trapping more heat and warming the planet.

The main global cause of global heating is the burning of fossil fuels.

Australia's climate has warmed by an average of 1.47 degrees (land surface average temperature) since 1910 when records began.[1]

This is the result of global mean atmospheric carbon dioxide concentrations reaching 414 parts per million (in 2021), and overall greenhouse gases reaching the carbon dioxide equivalent (CO_2e) of 516 parts per million. These are the highest levels on Earth in at least two million years.

The current climate projection for the City of Greater Bendigo, based on a high emissions scenario, anticipates a temperature increase of up to 4.2 degrees Celsius by 2090.

At this time, the climate of the City of Greater Bendigo will be like the current climate of Forbes in the Central West region of NSW.

We need to prepare for this future in a precautionary manner.

Multiple lines of evidence show that extreme weather events such as extreme heat events and floods are increasing in frequency and will continue to increase as our environment warms and dries.

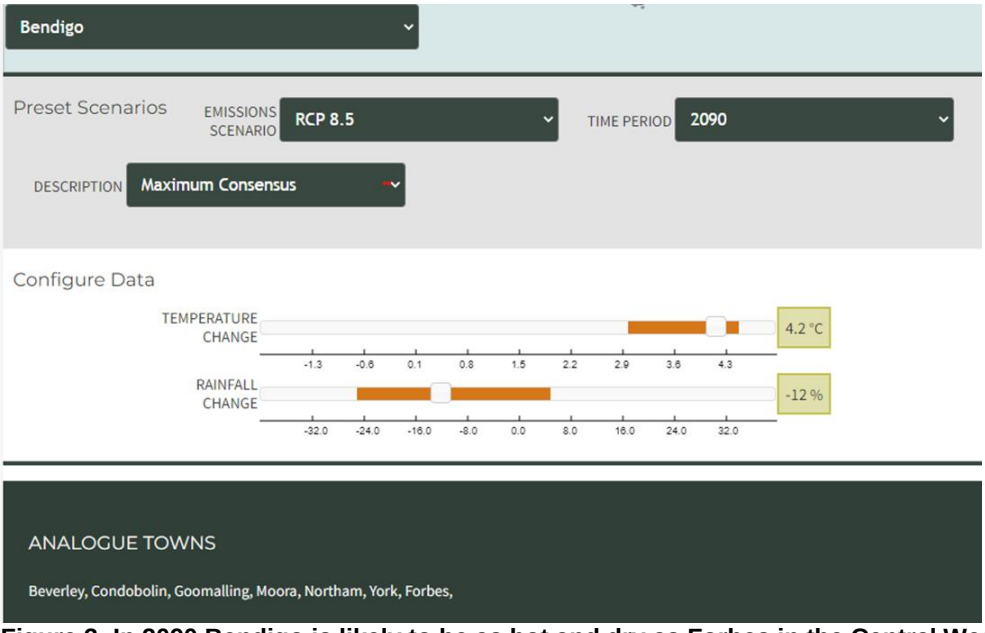


Figure 3: In 2090 Bendigo is likely to be as hot and dry as Forbes in the Central West of NSW

[1] https://www.minister.industry.gov.au/ministers/husic/media-releases/launch-state-climate-2022-report#:~:text=Sea%20surface%20temperatures%20have%20increased,regions%20since%20the%20late%201950s.

Resolution of Council

On 21 August 2019, Bendigo City Council (Council) passed a Resolution of Council that recognises that we are in a state of climate and biodiversity breakdown, and that we must address this serious risk to the health and wellbeing of the people of Greater Bendigo.

The Resolution recognises that climate change will impact City services and that the breakdown carries financial implications and requires appropriate Council budget mechanisms and allocations to address the risks and issues.

A copy of the resolution is provided below.

That the Greater Bendigo City Council acknowledge:

1. *The urgent need for action to address the environmental and climate breakdown that poses serious future risks to the health and wellbeing of the people of Greater Bendigo, especially those who are socially and economically the most vulnerable and disadvantaged in our community.*

2. *That climate risks will impact public health, emergency management, community services and recreation facilities and carry financial and social implications for LGAs requiring a whole-of-Council approach.*

3. *The current global consensus that cities should be responsive to climate, environmental and biodiversity breakdown, investing in restoration and conservation of biodiversity and ensuring a resilient city in current and planned actions to mitigate and adapt to the effects of climate change and reduce greenhouse gas emissions.*

4. *That an internal report on the Council's expenditures aligned to greenhouse gas emissions across Council's business will be prepared by December 31st, 2019.*

5. *The need for budget considerations for the 2020/21 year to incorporate Council-wide mechanisms and allocations to address the risks that climate change presents to the future health and wellbeing of the people of Greater Bendigo.*

Resolution of Council: Ordinary Meeting - 21 August 2019

Climate Change and Environment Strategy 2021-2026

The *Climate Change and Environment Strategy 2021-26* was developed in consultation with the community of Greater Bendigo, agencies, stakeholders, and Council staff. The Strategy includes six action areas, and six flagship projects.

Figure 4: Six action areas in the *Climate Change and Environment Strategy 2021-2026*

This Plan is focused on the Zero Carbon action area. Specifically, the goal (F) to achieve net 'zero carbon from Council operations by 2030'.

The Strategy includes targets for 2026 and 2036. This Plan aspires to achieve the 2036 targets by 2030, and to strengthen the 2026 targets where appropriate to achieve this 2030 aspiration.

		2026 TARGETS	2036 TARGETS
COUNCIL	2036 GOAL F: **Zero carbon from Council operations by 2030**		
	F1	No new gas connections in new council buildings built after 2021	All council owned buildings powered by 100% renewable locally generated electricity
	F2	60% of council small and medium-sized owned and operated buildings transitioned off-gas	No gas connections to council owned buildings
	F3	90% of Council owned buildings have solar systems installed	
	F4	35% of lightweight fleet is electric	100% electric lightweight vehicle fleet
	F5	Five heavy plant vehicles are electric or powered by a sustainable fuel source	100% of the heavy vehicle fleet is electric or powered by a sustainable fuel source
	F6	Program for local regenerative offsets established in partnership with North Central CMA	
	F7	Offsets purchased to reach 2026 net-zero target	Purchase 25% fewer offsets than in 2031
	F8	More than 60% of Council's funds are invested with financial institutions that do not lend to fossil fuel industries, or invested in products that reduce carbon emissions	100% of Council's funds are invested with financial institutions that do not lend to fossil fuel industries, or invested in products that reduce carbon emissions
	F9		Leverage $100 million investment in local regenerative projects that bring Greater Bendigo community beyond net zero

Figure 5: Zero Carbon targets in the *Climate Change and Environment Strategy 2021-2026*

Emission scopes

Emissions are characterised by their scope. There are three scopes:

- Scope 1 emissions: The release of greenhouse gases into the atmosphere as a direct result of activities occurring within a responsible entity's control. For example, emissions from the combustion of diesel in a City heavy vehicle, the burning of gas in a City building, or from the gas escaping from the Eaglehawk landfill.

- Scope 2 emissions: The release of greenhouse gases into the atmosphere from the consumption of electricity, heating, cooling or steam that is generated outside of a responsible entity's control. For example, if the City purchased electricity from a coal fired powerplant, then the City would have to account for the associated emissions.

- Scope 3 emissions: Greenhouse gases emitted because of a responsible entity's activities but emitted outside the responsible entity's control. The City is just starting to measure and calculate its scope 3 emissions. An example of scope 3 activities are the emissions associated with the extraction and production of purchased materials, such as concreted and asphalt. There are 15 categories for scope 3 emissions.

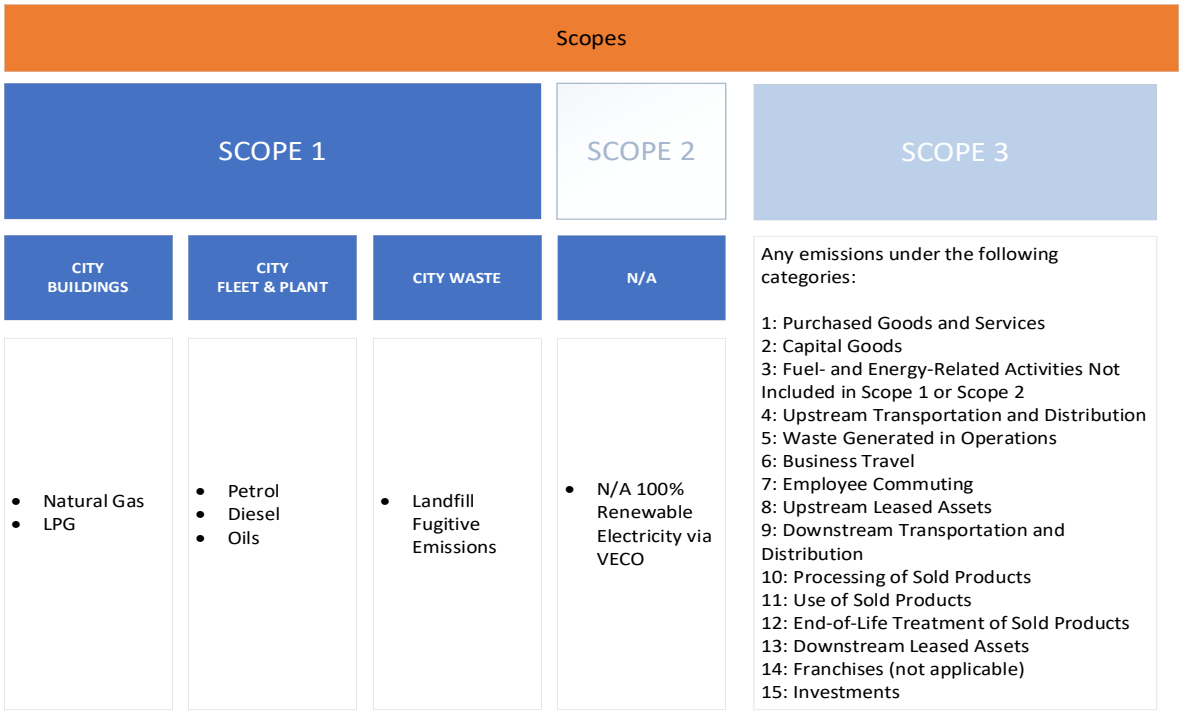


Figure 6: City emission scopes and sources

Our Journey

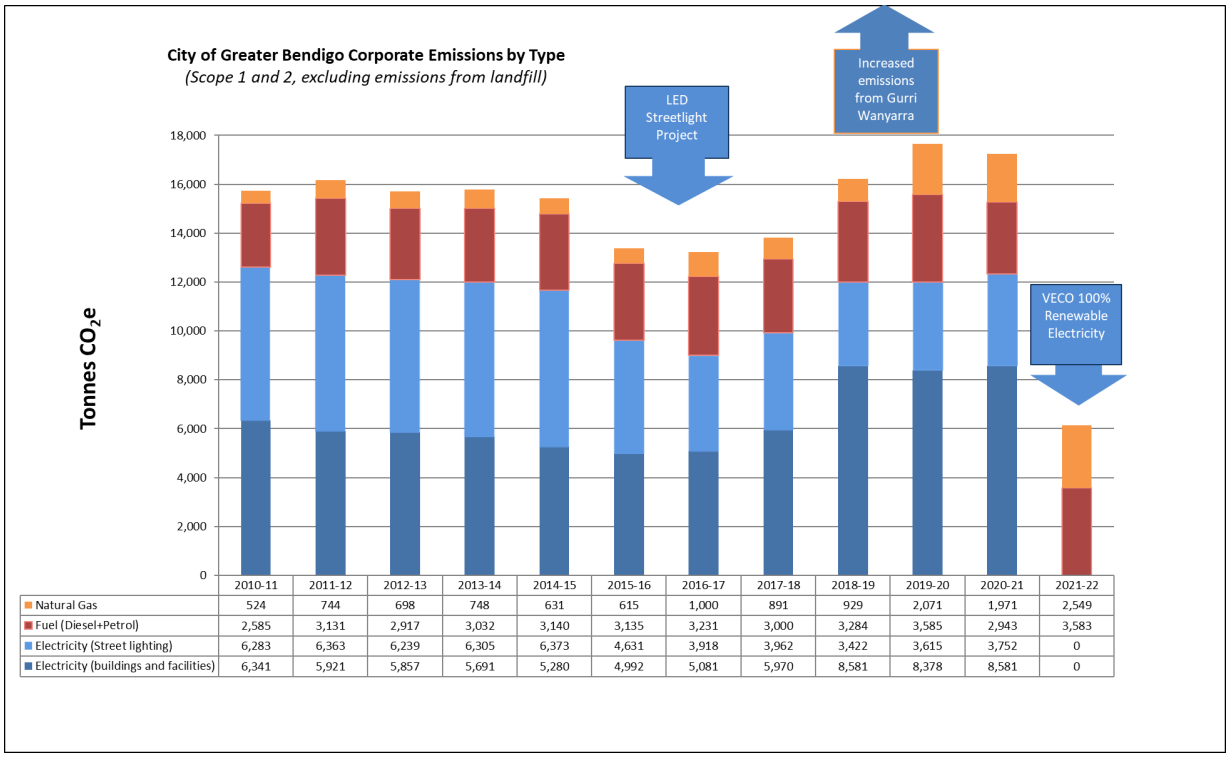
Where have we come from?

Council, over many years, has supported successive sustainability initiatives. However, the challenge has been to decouple the growth of the City's operational emissions from the growth in the City's assets and services that provide for the growing population and economy.

The significant projects below - one a large technology upgrade (LED streetlighting) and the other a large renewable energy procurement project (the Victorian Energy Collaboration 100% renewable energy project [VECO]) - are the ones that have significantly dented, and then significantly shifted the trajectory toward a positive story of reducing emissions. They signal that ambitious large projects are possible, beneficial and what is needed next. Electrification is inevitable. It is also an exciting opportunity.

A list of the City's key emission reduction achievements is provided at **Appendix 1.**

It is also clear that the pendulum can swing the other way if projects are not designed with emission reductions or zero carbon as a primary goal. Despite its only recent development, the Gurri Wanyarra Wellbeing Centre consumes a great deal of gas and has imposed a significant climate liability on the City.



	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Natural Gas	524	744	698	748	631	615	1,000	891	929	2,071	1,971	2,549
Fuel (Diesel+Petrol)	2,585	3,131	2,917	3,032	3,140	3,135	3,231	3,000	3,284	3,585	2,943	3,583
Electricity (Street lighting)	6,283	6,363	6,239	6,305	6,373	4,631	3,918	3,962	3,422	3,615	3,752	0
Electricity (buildings and facilities)	6,341	5,921	5,857	5,691	5,280	4,992	5,081	5,970	8,581	8,378	8,581	0

Figure 7: City emissions from 2010-11 to 2021-22 (excluding landfill emissions)

Where are we now?

In 2021-22 the City's emissions were 50,263 tonnes of carbon dioxide equivalent (CO2-e).

The City is using 100% renewable electricity. However, it is still very reliant on fossil fuels for heating and transport, its landfill emissions remain a significant issue, and it is yet to tackle other, scope 3 emission sources.

- Many City buildings still use gas for heating water and space, including a handful of very big consumers such as the Gurri Wanyarra Wellbeing Centre. The City spent over $650,000 on gas in FY2021-22.

- The City has around 500 fleet and plant assets – from passenger vehicles to garbage trucks, brush cutters to road graders – that each year consume over a million litres of diesel and petrol. The City spent over $2,000,000 on fuel in FY2021-22.

- The City's greenhouse gas emissions from waste buried at the Eaglehawk landfill are significant. These emissions are difficult to quantify and model into the future. The City is interrogating these landfill emissions, including through an expert third-party, to ensure that our understanding of this liability is as accurate as possible. An independent company, LMS Pty Ltd, captures landfill gas at the Eaglehawk landfill to create electricity, and so the amount of gas they capture is excluded from the City's emissions liability.

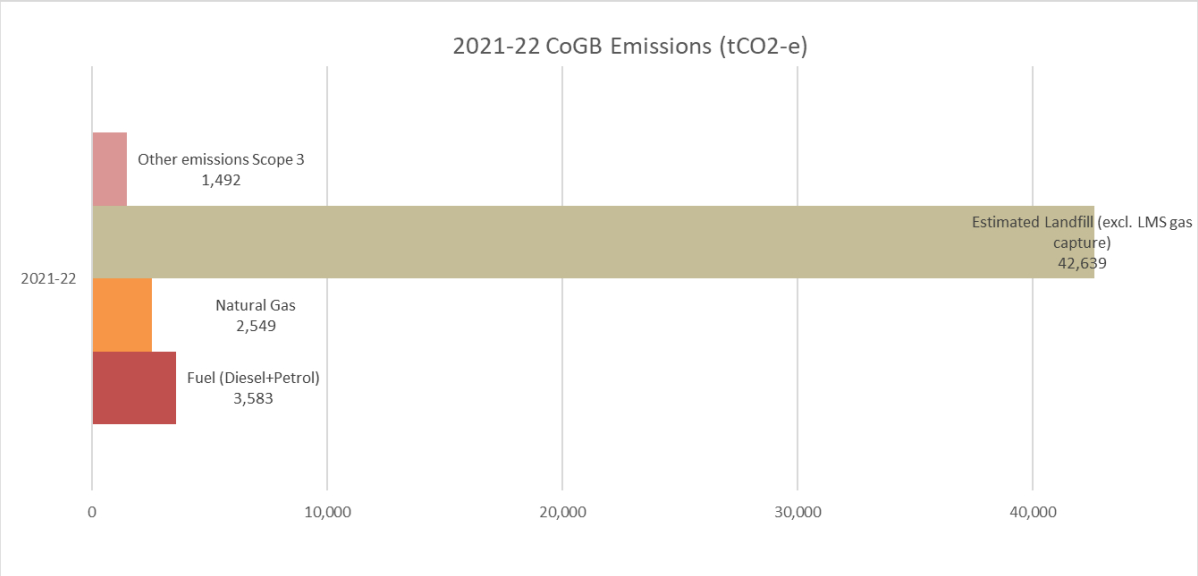


Figure 8: Corporate FY2021-22 emissions

The above emissions profile includes:

- Gas emissions from facilities where Council pays the gas bill.
- Modelled / estimated data for scope 3 and landfill emissions

Where do we want to be?

We aim to achieve net zero emissions by the end of financial year 2029-30.

We aim to be Climate Active certified carbon neutral by 31 December 2030.

A representative trajectory to achieve these aims is outlined below.

In practical terms, the task will require a handful of big processes, which in turn are composed of a significant number of smaller projects, and a significant allocation of financial and human resources.

The result will be a fully electric organisation enjoying ongoing energy and other operational cost savings.

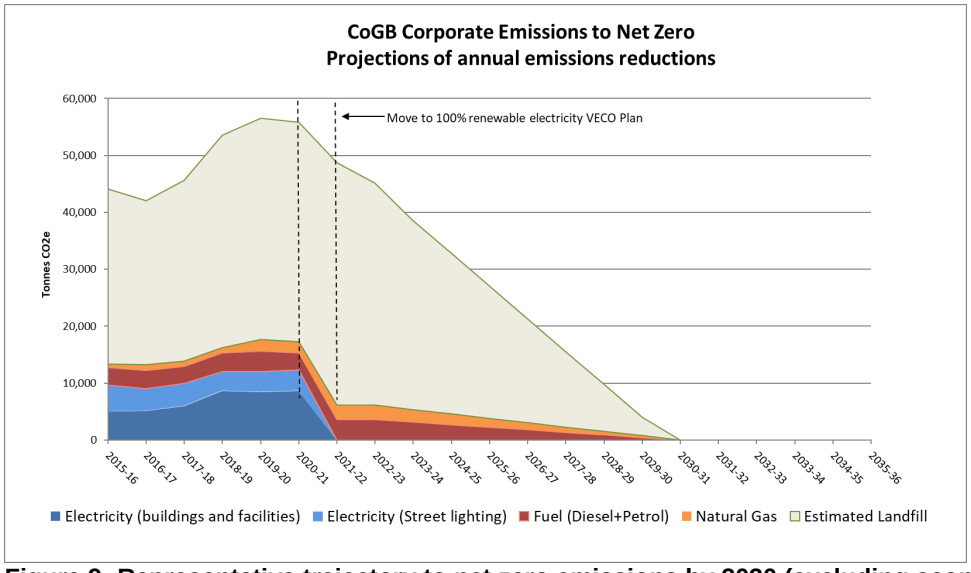


Figure 9: Representative trajectory to net zero emissions by 2030 (excluding scope 3 emissions)

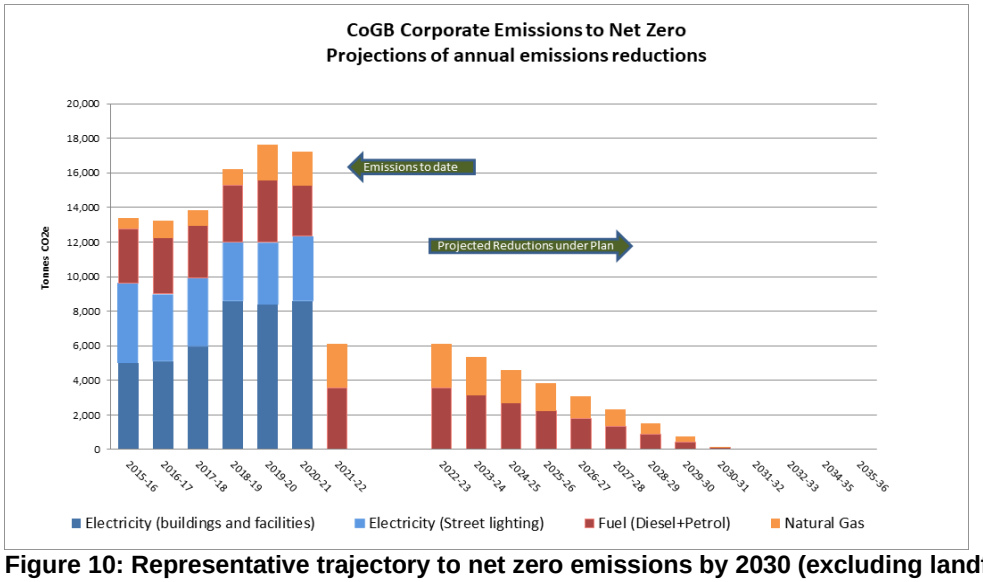


Figure 10: Representative trajectory to net zero emissions by 2030 (excluding landfill and scope 3)

How do we get there?

The Core Aim: Certified Carbon Neutral

The City will seek to become Climate Active certified carbon neutral by 31 December 2030. Climate Active certification provides the organisation with verification of its net zero emissions position.

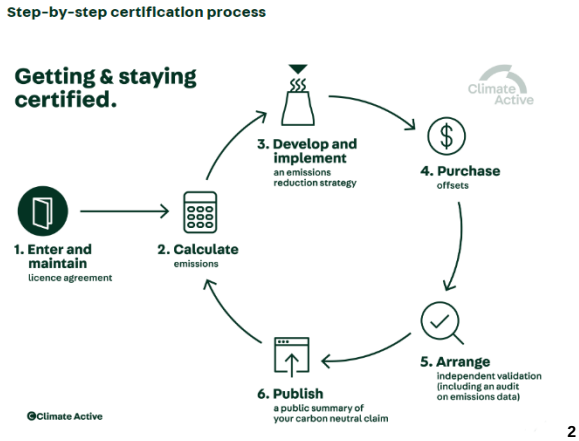
Accordingly, the City will begin immediately to align its carbon emissions reporting with the Climate Active Carbon Neutral Standard for Organisations (the Climate Active Standard).

Image 1: Cover - Climate Active Carbon Neutral Standard for Organisations

Climate Active is led by the Australian Government and is the only government accredited carbon neutral certification scheme in Australia.

Climate Active certification is awarded to businesses and organisations that have credibly reached a state of carbon neutrality. This means that the activities associated with running a business or producing a particular product have no net negative impact on the climate.

The transition to the leading practice Climate Active methodology for defining our corporate organisational emission boundaries will require the City to report on emissions from all our facilities, operations, services, and our supply chain.



[2]

Figure 11: Climate Active certification process

[2] https://www.climateactive.org.au/sites/default/files/2022-10/10571RR%20Environment%20-%20Organisation%20Standard%20A4_FA_Web.pdf

The Core Strategy: Electrify Everything

The City's core strategy to slash its emissions is to 'electrify everything.' The 'electrify everything' transformation must occur at two levels at the same time, and in an orderly and efficient manner: on the 'supply side' and on the 'demand side'.

The combination of low-cost renewable energy on the supply side and reducing energy use by using efficient electric machines on the demand side, means we can do the same work at reduced running costs and with no emissions.

Coupled with an ongoing investment in solar PV and building energy efficiency, electrification will unlock even greater energy bill savings.

The 'supply side'

The supply-side is principally the 'electricity grid'. The grid comprises the National Energy Market (NEM) that services the east coast of Australia. The grid is moving rapidly towards renewables. For example, Victoria has set a renewable energy target of 65% by 2030 and 95% by 2035.

In 2021, the City took a huge step in the electric direction when it signed onto VECO to purchase 100% renewable electricity through to 2030.

The City also has solar PV installed at several sites and will continue to install solar PV where it is advantageous.

The 'demand side'

The 'demand-side,' is 'behind the meter'. In City sites the demand side is made up of all the things that use energy, including appliances in buildings, fleet, and plant.

Everything on the demand side must use electricity as soon as possible. This is the core task at hand. This means replacing all our machines, tools, appliances, and vehicles that burn fossil fuels with electric versions powered by renewable energy.

The main technologies are all well-known: heat-pumps for hot water, heat-pump split systems and HVAC systems for heating and cooling buildings, induction electric cooking, electric vehicles, and landfill gas (and/or waste) to electricity. Non-fossil fuel technologies for heavy vehicles and plant are still emerging.

Image 2: Heat pump installation[3]

[3] https://www.energy.vic.gov.au/renewable-energy/victorias-gas-substitution-roadmap

Energy efficiency

The energy hierarchy states that efforts to reduce and avoid energy consumption should be primary. This hierarchy will guide the City's path to electrify everything. For example, efforts will be made to reduce and avoid energy consumption through the optimisation of fleet and plant, and of buildings, to promote energy efficiency, and to integrated renewable energy such as solar PV.

Importantly, due to less energy wasted, modern electric machines are far more energy efficient than their fossil fuel counterparts, and battery electric machines are much more efficient than hydrogen fuel-cell electric machines.

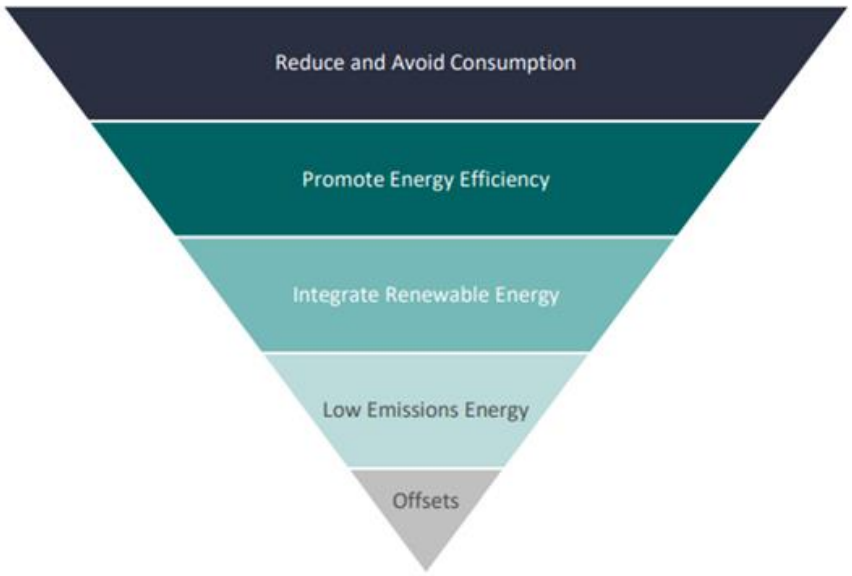


Figure 12: The energy hierarchy[4]

[4] FG Advisory Group 2022. Electrification Foundation Paper, All-Electric Councils Information Group

Our Five-Point Plan

Our five-point plan, in accordance with the Climate Active Standard to achieve carbon neutral status is to:

1. **Measure:** **Calculate our emissions**
2. **Reduce:** **Implement our emission reduction strategy**
3. **Offset:** **Purchase offsets for residual emissions**
4. **Validate:** **Validate our carbon neutral status through external review**
5. **Report:** **Provide a public statement of our carbon neutral claim**

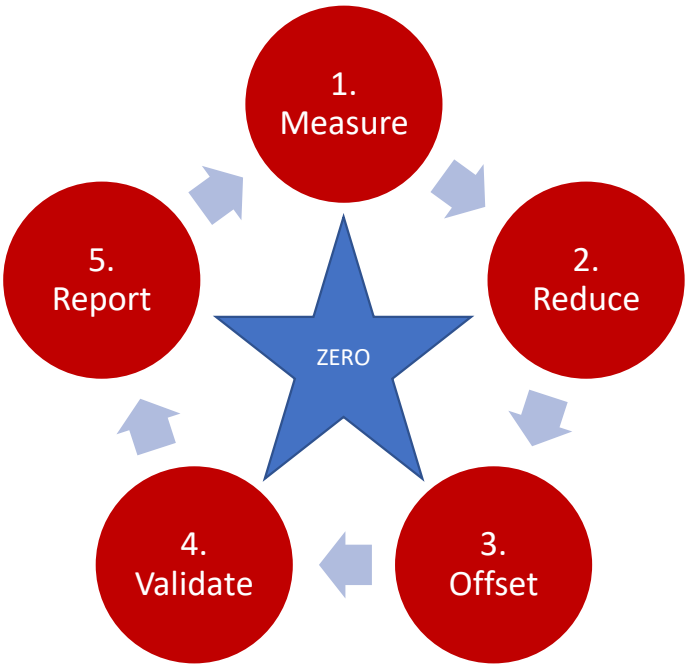


Figure 13: The five-point plan to net zero

The following parts of the Plan are directed by content in the Climate Active Standard.

Program Logic

The program logic below outlines how the five-point plan will be achieved.

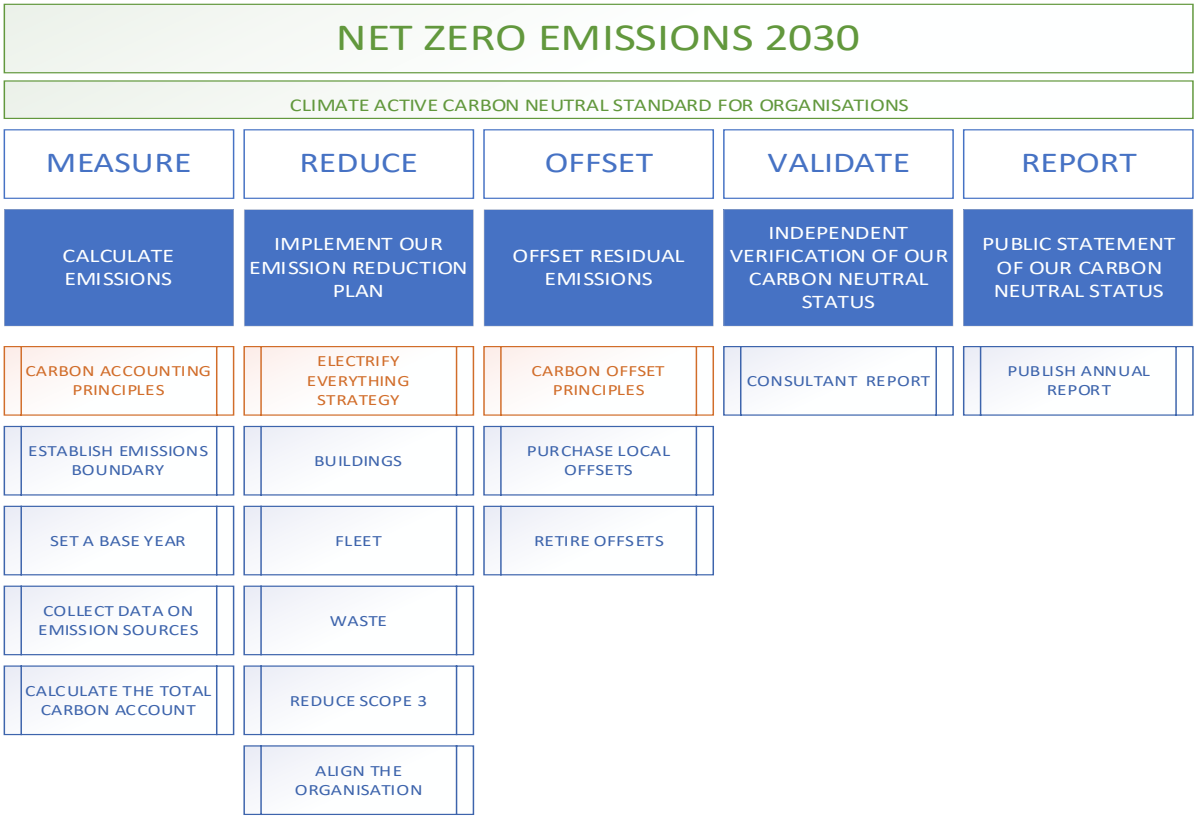


Figure 14: Program logic to achieve net zero emissions

Part 1. Measure

Calculate emissions

Part 1 of the Plan is for the City to undertake the preliminary work necessary to align with the Climate Active Standard.

The City will:

Step 1A: **Establish its emission boundary, and have this boundary validated independently**

Step 1B: **Establish the 2023-2024 financial year as the base year for Climate Active alignment**

Step 1C: **Collect and establish a data monitoring regime on identified emissions sources**

Step 1D: **Calculate the total carbon account, and have this account validated independently**

Further, the City will follow best practice principles when calculating its carbon account.

Carbon accounting principles

When seeking to claim carbon neutrality against the Climate Active Standard, the carbon account of an organisation must be calculated according to these principles.[5]

- **Relevance:** Ensure the greenhouse gas inventory of an organisation appropriately reflects the greenhouse gas emissions attributable to that organisation and serves the decision-making needs of users – both internal and external.
- **Completeness:** Account for and report all greenhouse gas emissions sources and activities within the defined boundary of the organisation. Disclose and justify all exclusions.
- **Consistency:** Use consistent methodologies to allow for meaningful comparisons of greenhouse gas emissions over time. Transparently document any changes to the data, boundary, methods, or any other relevant factors in the time series.
- **Transparency:** Compile, analyse and document greenhouse gas information clearly and coherently so that auditors and the public may evaluate its credibility. Disclose any relevant assumptions and make appropriate references to the calculation methodologies and data sources used.
- **Accuracy:** Ensure the quantification of greenhouse gas emissions is unbiased (not systematically over or under actual emissions) and uncertainties are reduced as far as practicable. Achieves sufficient accuracy to enable users to make decisions with reasonable assurance as to the integrity of the reported information. Where uncertainty is high, use conservative values and assumptions.

[5] https://www.climateactive.org.au/sites/default/files/2022-10/10571RR%20Environment%20-%20Organisation%20Standard%20A4_FA_Web.pdf

1A: Establish the emissions boundary

Defining the emissions boundary is the first step in the carbon accounting process.

The emissions boundary refers to the coverage and extent of the carbon account for the City.

The City has had an emissions boundary since 2009 that was limited to scope 1 and 2 emissions and excluded scope 1 fugitive landfill gas emissions.

Climate Active requires all scopes to be included, and where significant exclusions are made, they must be clearly stated, and the reasons for and implications of the exclusions must be justified.

Position Statement: The City will adopt the 'operational control' approach to determine what emissions are under the direct control of the organisation and will report on 100 percent of the operations over which it has 'the full authority to introduce and implement its operating policies'.

Action 1: The City will implement an emission tracking program, using the Trellis web-based emission tracking software to collect, interpret and act on data within its emission boundary.

1B: Set a year

According to the principle of consistency, the carbon account must allow for the meaningful comparison of emissions over time. A base year provides a starting point for these emission comparisons. The base year carbon account must be validated independently to achieve Climate Active certification.

The City has been recording most of its significant emission sources for many years, such as for fleet and plant, and for energy. However, to align with Climate Active, more rigour is required in respect to landfill emissions, scope 3 emissions, and the detail about exclusions.

Position Statement: The City will adopt financial year 2023-24 as its base year for Climate Active alignment.

Position Statement: The City will adopt and align its emissions boundary with the requirements of the Climate Active Standard and will have its emissions boundary and base year emissions verified by a Climate Active qualified third-party.

1C: Collect data on identified emissions sources

In collecting data, the City will use measured data whenever possible, with conservative estimates used only where data is unavailable. The quality of data is key to the integrity of a carbon account. Quality control procedures will ensure data quality, and records will be kept for a minimum of seven years.

1D: Calculate the total carbon account attributable to the organisation

The carbon account must include emissions of carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and other greenhouse gasses. 'Emission factors' will be used to convert a unit of activity into its emissions equivalent.

The carbon account must also include renewable energy (used or generated) and account for any carbon neutral supply chains.

Significant changes (±5 per cent) in the carbon account between reporting years that are not attributed to emissions reduction actions by the organisation's operations will be disclosed as part of the annual public report.

Part 2: Reduce

Implement our emissions reduction plan

Part 2 of the Plan is for the City to reduce our emissions.

To implement the 'electrify everything' strategy over the seven financial years from 2023-2024 to 2029-2030, the plan is to:

Step 2A: **Electrify Buildings**
Step 2B: **Electrify Fleet and Plant**
Step 2C: **Electrify Waste**
Step 2D: **Reduce Scope 3 Emissions**
Step 2E: **Align the Organisation**

The challenge is to create the bridge from the old to the new. We can achieve zero net emissions much more quickly than is widely imagined by deploying and scaling the technology we already have, and that we are about to have.

2A: Electrify buildings

Approximate Capex Cost:	$6.3M (Additional)
Cost Confidence:	Medium

'Buildings' includes all stationary (fixed in place) buildings and infrastructure assets, including aquatic centres and outdoor lights.

By 2030, the City will achieve a net zero emissions building portfolio.

This will require the total removal of all gas, and the substitution with electric machines and appliances.

Heat pumps will provide hot water, split systems will provide space heating and cooling, and electric induction cooking will be the norm. In addition, buildings will include more solar PV, and many will feature batteries and electric vehicle charging.

It is expected that there will be a net cost saving by electrifying buildings, and that the savings will increase further if the City also invests in building energy efficiency and solar PV.

Energy efficiency

Reducing energy consumption by maximising energy efficiency in buildings reduces demand for renewable energy infrastructure and generates long term cost savings for the organisation.

Council's Sustainable Building Policy is the main driver of energy efficiency in City buildings and is a companion policy document to this Plan.

The purpose of the Policy is to adopt and implement contemporary best practice Environmentally Sustainable Development (ESD) policy standards and practices into City service delivery. As a result, buildings will be efficient to run, healthy and safe to occupy, a good return on investment, and have a limited impact on our environment.

The Policy requires, for example, that no new gas connections are made, and that we stop like-for-like replacement, and instead always install an electric alternative.

Under the Policy, all new City buildings over $5M in cost are required to be certified by the Green Building Council of Australia to a minimum 5 Star Green Star 'Australian Excellence' standard which, from 2023, requires net zero in operations.

Action 2: The City will finalise the 2023 update of the Sustainable Buildings Policy and promote it across the organisation.

Solar

Rooftop solar does not result in emission reductions in City run facilities with energy purchased via the VECO 100% renewable energy contract. For facilities where a community organisation purchases non-renewable electricity, solar panels do result in emission reductions. However, where the City does not pay the energy bills, these reductions are outside the City's emissions boundary and are not credited to the City under emissions reporting rules.

Either way, installation of rooftop solar supplies lower cost efficient electricity; increasing the City's self-sufficiency and generating long term cost savings. It also buffers the organisation from annual price increases that which may occur when the VECO contract is renegotiated in 2030. It is estimated that the

payback period for rooftop solar installations in City facilities is between 5 and 10 years. This means that the City could be generating savings from 2028 for solar panels installed today.

Where electrification works are proposed, rooftop solar can also offset any cost increases associated with the higher price of electricity compared to gas. This alleviates costs for community organisations, many of whom are struggling to pay their energy bills. Both gas and electricity prices are expected to increase annually to 2030 more than CPI, with gas pricing in winter months subjected to pressures from supply shortages.

Delivery of a solar and energy efficiency program may require additional staff resources for project management.

Action 3: The City will develop a multi-year capital program for both energy efficiency works and for sustainable technologies such as solar PV and batteries, including for community managed facilities.

Asset optimisation

Decisions about what assets will exist in the future is crucial to determining the schedule of works for electrification. Council is currently working on several strategic reviews which will have implications for the City's building assets. In addition, several masterplans have been prepared for Council facilities, many of which are not currently funded, such as the redevelopment of the City depot.

Therefore, asset optimisation (i.e., what buildings we will retain and use into the future) and significant project decisions (i.e., what and when we plan to build and commission new assets) need to be decided as soon as possible to enable the electrification transition.

For example, it will be critical to decide on the future of the aquatic facilities as these sites are significant energy consumers.

Position Statement: The City will follow an 'optimise, prioritise, invest' approach to the electric transition process for buildings.

Action 4: The City will finalise strategic planning for City and community facilities and will develop a related (draft) ten-year capital program.

Transition

Typically, project prioritisation to reduce emissions in buildings is based on the highest to lowest energy consumption. However, other factors must be considered such as the age and status of the current equipment, and the available budget.

Action 5: The City will complete a review of the condition of our plant and equipment at key sites to inform project prioritisation and future budget requests and allocations.

When investing in electrification, the financial benefits and emissions savings will be greatest for the large sites. The City will advocate for and actively seek funding support from the State and Federal governments.

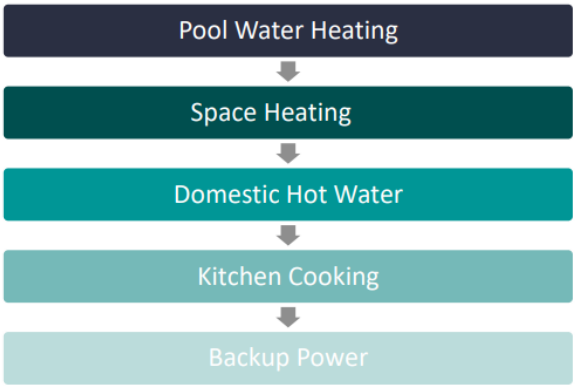


Figure 15: Typical council prioritisation for getting off gas[6]

Accordingly, project planning can be divided into large sites and small/medium sites.

Large gas consuming sites

The City's largest gas using sites are listed below. These sites are all very high energy consuming and so the City should commence planning to transition these to be all electric facilities as soon as possible.

The costs below for electrification are estimates. The operational cost of gas at Galkangu is yet to be determined.

Site	2020/21 Gas Volume Consumed (million MJ)	2020/21 Gas Cost (thousand $)	Estimated Cost for Electrification (million $)
Gurri Wanyarra Wellbeing Centre*	25.9	$294	$2.20
Faith Leech Aquatic Centre	8.6	$157	$1.30
Bendigo Art Gallery	6.6	$121	$1.70
Bendigo Library	4.1	$77	$0.89
The Capital Theatre	0.4	$9	$0.74
Eaglehawk Town Hall	0.4	$9	$0.12
Galkangu (Gov Hub)	TBD	TBD	TBD
Sub-total		$667	$6.95
Contingency 10%			$0.695
Total	51.2		$7.645
Assuming 30% of total is covered by already planned capital projects e.g., Bendigo Art Gallery redevelopment (*GW's gas cost/MJ lower due to accessing large volume user tariffs)			$5.3

Table 1: High gas consuming sites

It is important that upgrades to these large sites are undertaken simultaneously where there is an identified benefit from doing so. For example, the redevelopment of the Bendigo Art Gallery presents an opportunity to upgrade the adjacent Capital Theatre.

A cost saving will be realised by packaging works and by operating a single 'precinct' solution.

[6] FG Advisory Group 2022. Electrification Foundation Paper, All-Electric Councils Information Group

Delivery of the above gas transition works may require electrical upgrades in some cases, as well as additional staff resources for project management.

Action 6: The City will develop a capital program budget for the electrification upgrade of large gas consuming sites that include upgrades to electrical capacity where needed and will ensure that opportunities to package projects (i.e., co-deliver multiple upgrades concurrently) are realised to achieve cost efficiencies.

The technologies required for a zero-emissions building sector – deep energy efficiency and electrification powered by renewables – are available. The key challenge is widespread deployment.[7]

ClimateWorks

Small and medium gas consuming sites

City staff are already replacing gas appliances in a pragmatic and pro-active fashion, including by considering the facility type, equipment type, age of equipment and the usage pattern of the building's occupants.

Small and medium site prioritisation will be determined by the Property Services Unit in consultation with stakeholders.

Where electrification is not currently practical or justifiable from a cost or emissions reduction perspective (such as for sports grounds with high use but low frequency showers), the City will wait until suitable technological solutions are available.

The costs below for electrification are estimates.

Small Gas Appliances	Number	Approximate Cost for Electrification (million $)
Heating	122	$0.75
Hot Water	165	$0.65
Cooking	90	$0.40
Contingency 10%	N/A	$0.18
Total		$1.98
Assuming 50% of total is covered by the existing renewal program budget		$1

Table 2: Small and medium gas consuming sites

Action 7: The City will develop a capital program budget for the electrification of small and medium gas consuming sites.

[7] https://www.climateworkscentre.org/resource/government-climate-action-leading-policies-and-programs-in-australia-2022/

Step 2B: Electrify Fleet and Plant

Approximate Cost:	To be determined
Cost Confidence:	N/A

'Fleet' includes all vehicles including heavy truck assets such as garbage compactors and water carts; medium truck assets such as maintenance and patrol trucks; light truck assets such as light tippers; and passenger vehicles and commercial vehicles such as utes.

'Plant' includes all other mobile machines including heavy plant assets such as tractors, graders, loaders, backhoes, excavators, and rollers; light plant assets such as skid steers, rollers, sweepers, forklifts, smaller tractors, ride on mowers, and chippers; and minor equipment assets such as chainsaws.

The City currently has 472 fleet and plant assets, inclusive of minor equipment assets.

Class	Number
Heavy Plant	38
Heavy Truck	39
Light Plant	45
Light Truck	4
Medium Truck	35
Commercial Vehicle	75
Passenger Vehicle	50
Minor Equipment	186
Total	472

Table 3: Fleet and plant assets (December 2022)

In 2021-22 the City's fleet and plant used over one million litres of fuel. Approximately 95% was (bulk) diesel fuel used by depot-based operations. Total fuel consumption contributed over 3,500 tonnes of emissions to the City's emissions. Most fuel use and hence most emissions were by heavy fleet and plant.

Fuel	Diesel	Petrol
Total fuel consumed (L)	**1,226,135**	**59,920**
Total fuel cost ($)	**2,002,790**	**95,535**
Total emissions (tCO2e)	**3,441**	**143**

Table 4: 2021-22 fuel consumption and cost and emissions

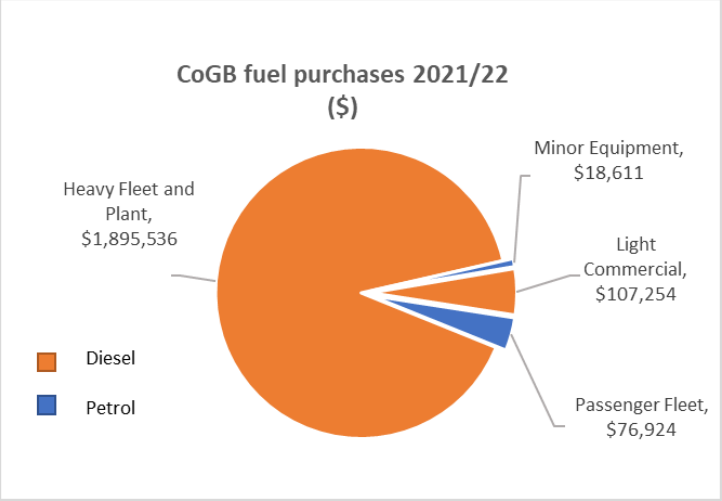


Figure 16: FY2021-22 diesel and petrol expenditure proportions

Transition

By 2030, the City aims to be a leading jurisdiction in the adoption of zero emission fleet and plant technologies.

To achieve this aim, a 100% 'clean replacement rate' approach will be pursued.

Position Statement: From 1 July 2023 the City will require all new assets to be zero emissions in accordance with a 100% clean replacement rate approach, provided a fit-for-purpose option is available.

Technology

Battery electric vehicles will dominate the City's electric fleet and plant. Battery electric vehicles are around three times more energy efficient than hydrogen fuel cell electric vehicles and are available now for most use-cases other than the heavy plant segment. Zero emission heavy plant products are in development. Independent expert opinion[8] confirms that hydrogen is not likely to be suited to widescale use as an energy source for fleet and plant.

Electric fleet and plant will provide benefits including:

- Reduced energy costs
- Lower asset maintenance costs and longer asset life expectancy
- Enhanced energy security
- No air pollution and reduced noise pollution
- Improved driving and operator experience

Position Statement: The City will focus on battery electric vehicles as the core zero emission technology for fleet and plant, unless other technologies emerge which are more cost effective and fit-for-purpose.

Policy

Importantly, as part of the transition, policy development needs to be undertaken. For example, policy changes need to be made to facilitate greater take up of electric private use vehicles and to ensure consideration of electric or zero carbon options as a part of procurement processes.

Action 8: The City will review its Fleet Policy and other relevant documents to enable the transition to electric vehicles.

Asset optimisation

Most analyses see electric vehicles as one-to-one substitutions for internal combustion engine vehicles. That is, in the future, the City will choose to own an electric vehicle instead of an internal combustion engine asset.

However, as a part of the transition, the optimisation of fleet and plant should be analysed sincerely to see how changes can be made to make productivity and efficiency improvements. For example, there may be an opportunity to replace an existing 4WD ute with an efficient electric van that can do more work.

This thinking reaffirms work undertaken by the City in 2019 to assess the changes needed to commence reducing fleet emissions. The key recommendation was to follow an approach of 'optimise, prioritise and invest'. This encourages data driven optimisation, followed by priority setting of replacements, and then investment.

[8] https://h2sciencecoalition.com/principles/

Position Statement: The City will follow an 'optimise, prioritise, invest' approach to the electric transition process for fleet and plant.

Charging infrastructure

A battery electric preference can best leverage our 100% renewable electricity supply contract and onsite solar PV. It will also simplify our charging infrastructure needs.

As the City principally runs a 'back-to-base' operation where most vehicles return to the depot or to Galkangu, these two garaging sites are critical to the transition process.

Accordingly, ensuring there is sufficient charging infrastructure at Galkangu and at the depot will be critical to the City's transition to electric vehicles. Delivery of this charging infrastructure will depend on discussions with the Victorian Government about upgrades to Galkangu and the timing and scope of any redevelopment of the depot.

While the City is investigating development of a multi-storey car park next to Galkangu, a business case is still being developed for the project. As a result, the delivery and timing of this car park is uncertain. Alternatively, additional charging infrastructure will be required for the City's passenger fleet at Galkangu in the next 2 to 3 years.

At the same time, electric vehicle charging installations can be added to other sites where they are congruent with longer-term service needs and infrastructure plans.

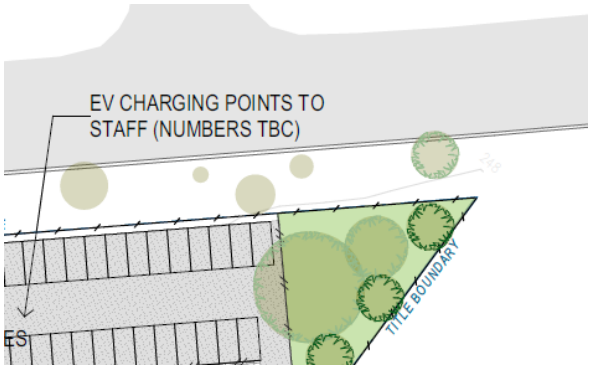


Figure 17: EV charging infrastructure will become standard in new City projects

The first task is to determine all future sites where electric vehicle charging will be required, and the current electricity supply at these sites. This will inform a determination about whether greater electrical supply capacity is required.

Action 9: The City will develop business cases for electric vehicle charging infrastructure at relevant Council facilities, prioritising Galkangu (in consultation with the Victorian Government) and the depot. This includes working with Powercor to determine the current electricity supply, spare capacity, constraints, and opportunities.

Vehicle availability

Electric fleet and plant options are set to become more available as production and competition ramps up, and as improved policy and financial support is provided by the Australian and Victorian governments attracts products from overseas manufacturers.

Electric options will be explored and considered as the first preference for all new assets. However, it is already clear that the City's initial focus will be to transition the fleet, minor equipment, and light plant. Electric heavy plant options are coming onto the market but are still in development for many applications.

Lightweight electric vehicles, including light trucks, are currently more available than medium trucks and heavy trucks, although the gap is closing. The City already has nine passenger electric vehicles in the fleet, and the existing target is to replace two vehicles per financial year, to reach a minimum target of 35% electric vehicles in the light vehicle fleet by 2026. This target will be reassessed and strengthened.

The target is to have a minimum of five light plant assets (e.g., ride on mowers) by 2026. This target will be reassessed and strengthened.

Action 10: The City will seek to optimise its fleet and plant and commence transitioning where suitable electric or zero emissions options are available. This includes seeking quotes for electric or zero emissions options as a part of future procurement processes.

Costs

At the current time it is estimated that the upfront capital cost is on average 50% higher for electric vehicles relative to conventional internal combustion vehicles. It is also estimated that the operating costs of electric vehicles are on average 50% lower. Given this situation it is important that decisions are based on comparisons of the total cost of ownership.

Total cost of ownership (whole-of-life comparison) includes both the capital and operating costs of assets over their lifetime, including their resale value.

Position Statement: The City will move to using total cost of ownership to compare vehicle asset costs.

To realise the cost saving opportunities of electric vehicles, it is likely that the capital budget for purchasing vehicles will need to be increased with an associated reduction in the operating budget.

Operational savings will be achieved by removing the fossil fuel cost of circa $2M per annum, with the electrical energy substitution costs likely to be approximately 50%-70% less costly i.e., a $1M-1.4M saving per annum, or $7M-10M over the first seven financial years. Operating savings have a medium confidence given the City has a long-term contract for electricity.

The approximate net financial impact of electrifying Council's fleet is difficult to determine at this time given that costs are likely to reduce over time and further work is required to determine cost savings from optimisation.

Importantly, opportunities may exist to reduce the amount of additional capital required, through State and Federal government grants and other measures such as joint procurement opportunities with other councils.

Service planning and work practices

In the short term, some heavy vehicles and plant may not have the range or tonnage carting/towing capability compared to their diesel equivalent. As a result, the transition to electric or zero emissions vehicles may require changes to how the City plans its service delivery, particularly for operations such as garbage collections and road maintenance works. Responding to the specifications of new vehicles and plant may require expert advice and strategic planning.

Action 11: The City will engage industry experts to help plan and implement the transition to zero emission vehicles to help reduce the risks and optimise the financial outcomes.

Step 2C: Electrify Waste

Approximate Cost:	Contractual operating cost per tonne to be confirmed.
Cost Confidence:	N/A

The City manages waste according to the waste hierarchy and is undertaking work to move towards a circular economy which reduces the consumption of finite resources.

For example, in accordance with the waste hierarchy, since 2016 the City has been collecting organic waste such as food and garden material for reuse. This material is currently sent for composting outside the municipality, however, by 2026 a new food and garden organics facility will commence operations in Greater Bendigo. The facility will be privately owned and operated but will be located on City land.

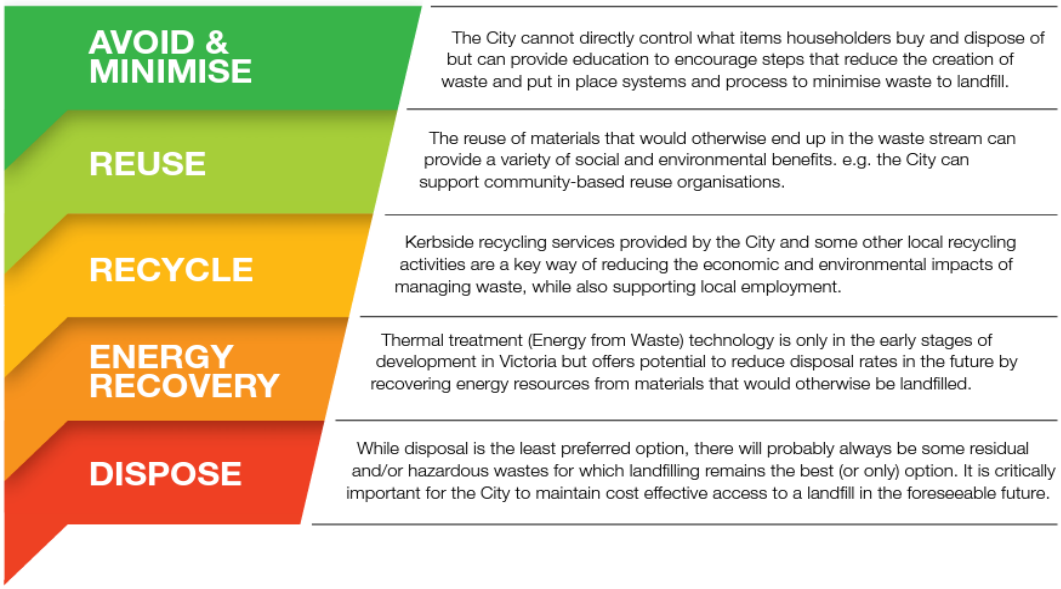


Figure 18: The waste hierarchy

Landfill gas to electricity

Importantly from an emissions perspective, the City owns and operates a waste landfill at Eaglehawk.

When organic matter is buried in a landfill it decomposes and releases ‘landfill gas’ for a long period. This landfill gas is made up of 40% methane. For comparison, ‘natural gas’ is 70-90% methane.

In 2008, to address this issue, the Eaglehawk landfill gas electrification and energy facility was commissioned. The facility, operated by LMS Pty Ltd, captures the landfill gas from bore wells, and burns it to create electricity, with the by-product being carbon dioxide (which is a less potent greenhouse gas than methane).

The facility has an installed capacity of 500kW, which is akin to about 1500 solar panels. On average the facility exports 4,000MW hours of electricity each year. This is enough to power approximately 700 homes.

Without this project, all the methane from the decomposition of waste at the Eaglehawk landfill would be released into the atmosphere. Because it is effectively reducing emissions, this project is registered under

the Australian Government's Emissions Reduction Fund, and to date has been issued with approximately 180,000 Australian Carbon Credit Units (ACCU).

One ACCU is a carbon offset equivalent to one tonne of carbon dioxide, meaning that the facility has been able to demonstrate that it has avoided, through the burning of methane, 180,000 tonnes of carbon dioxide equivalent pollution.

Generating and selling these carbon credits creates income additional to the income from the electricity generated and sold.

In FY2021-22, the Eaglehawk landfill generated the total equivalent of 62,598 tonnes of emissions, as calculated using EPA site data (waste to landfill) reports.

This was reduced to 42,639 tonnes of emissions (a reduction of 19,959 tonnes of CO2e or 31.9%) because of the LMS facility. Therefore, the City's landfill emission liability for FY2021-22 was 42,639 tonnes of carbon dioxide equivalent.

LMS, for the same year, was able to claim 14,032 carbon credits (equivalent to14,032 tonnes of carbon removed) and generate electricity for the wholesale market.

Image 3: Eaglehawk Landfill

Landfill closure and capping

The Eaglehawk landfill will be full and will cease accepting waste in 2023. The City will then begin, for a short period, to transport all residual waste to a landfill near Echuca. And the landfill will then be capped.

A landfill cap is a layer of material that is placed on top of a landfill to protect the environment from the waste stored in the landfill. Landfill caps are designed to isolate the waste from the surrounding soil and water and to prevent the release of the harmful gases and liquids from the landfill.

Landfill caps are an important part of the design of modern landfills and are used to help protect the environment and public health. Bores are typically drilled into the cap to allow for the extraction of landfill gas.

This change in operation to a closed landfill will have implications for the City's emissions. There is currently significant uncertainty about the waste emission liability for the City post Eaglehawk landfill closure, due the change in the emissions calculations that will occur once the site is closed and capped.

Action 12: The City will work with expert consultants to better understand its current emissions liability from the Eaglehawk landfill, and to forecast this liability into the future taking account of planned operational changes including the closure and capping.

The Eaglehawk site will continue to create emissions for decades following its closure, and LMS has signalled that its electricity and carbon offset production facility will continue while it remains an economic proposition. The City will continue to liaise with LMS in respect to emission management.

Waste to energy

By 2027 the City hopes to have a waste to energy facility (gasification/pyrolysis) up and running in Bendigo. This facility is expected to process roughly 30,000 tonnes per year of predominately residential kerbside waste. The facility will be privately owned and operated but will be located on City-owned land.

Waste pyrolysis is a process that involves the thermal decomposition of waste materials at high temperatures in the absence of oxygen. The goal of waste pyrolysis is to convert the waste materials into useful products, such as fuels, chemicals, and other materials. The materials produced depend on the chemical composition of the waste materials and the conditions used during the process. For example, the pyrolysis of tyres can produce oil, gas, and steel wire.

Gasification also applies heat to waste in the absences of oxygen, but the goal is to produce a clean burning fuel or a synthetic gas that can be used for a variety of purposes such as generating electricity, heat, or materials.

As per the waste hierarchy, ‘energy recovery’ is the final opportunity to get value from waste material that would otherwise go to landfill.

There are some waste to energy facilities already operating in Victoria. They are subject to conditions set through planning permits. Further, these facilities must comply with obligations set under the *Environment Protection Act 2017.*

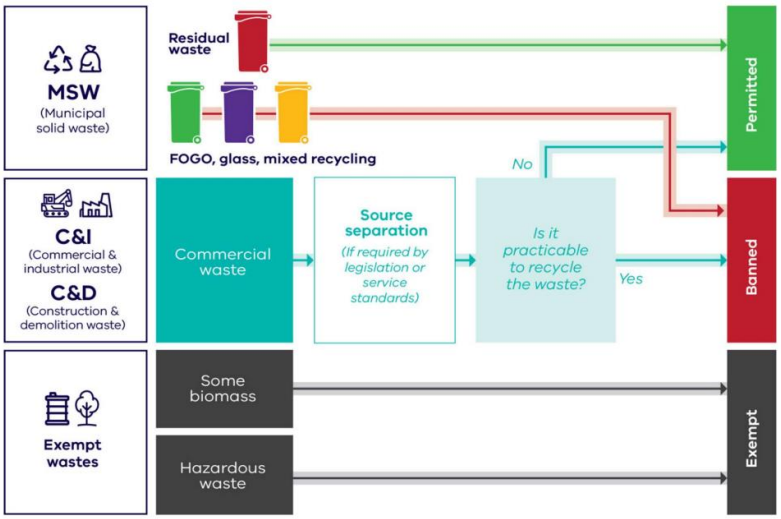


Figure 19: Victorian Waste to Energy Framework showing permitted materials

The Victorian Government’s circular economy plan, Recycling Victoria, includes a target to divert 80 per cent of waste from landfill by 2030, and an interim target of 72 per cent by 2025. These targets are supported by a range of new projects, regulations, and costs.

Step 2D: Reduce Scope 3 Emissions

The City will remain focused on reducing to net zero its scope 1 and 2 emissions, but going forward, beginning in the base year of FY2023-24, it will also begin to focus on scope 3 emissions.

Scope 3 emissions are all indirect emissions that occur because of the activities of the organisation but occur from sources outside the organisation's control boundary.

Climate Active requires a total emissions inventory that identifies and measures the City's scope 1, 2, and 3 emissions for all sources within its emissions boundary.

Scope 3 emissions are often difficult to quantify, but they can be substantial. For example, the concrete and asphalt and other materials used in City civil construction projects will have significant 'embodied emissions' - meaning all the greenhouse gas emissions that are released as part of making and transporting the product.

In total, scope 3 emissions span 15 different categories. Those that are 'upstream' include the emissions from production processes as well as emissions from travel and commuting, waste generated, and assets leased. Downstream activities include those emissions from activities like investing.

Any emissions under the following categories may be applicable as scope 3 emissions:

1: Purchased goods and services
2: Capital goods
3: Fuel and energy related activities not included in Scope 1 or Scope 2
4: Upstream transportation and distribution
5: Waste generated in operations
6: Business travel
7: Employee commuting
8: Upstream leased assets
9: Downstream transportation and distribution
10: Processing of sold products
11: Use of sold products
12: End-of-Life treatment of sold products
13: Downstream leased assets
14: Franchises (not applicable)
15: Investments

The best way for the City to reduce scope 3 emissions is to reduce the consumption of goods and services and reduce the waste output of the organisation. This exercise of itself can provide significant financial savings, and other benefits.

To this end, the City's Circular Economy and Zero Waste Policy seeks to change how we handle and value our material resources and keep them in use for as long as possible. The aim is to embed a shift from a 'take, make, waste' approach to a 'take, make, reuse' full life-cycle circular economy approach.

In 2022 Council's standard tender schedules were updated to include revised environmental performance criteria which will help the organisation make procurement decisions that minimise embodied energy and scope 3 emissions. Developing an approach to monitoring and reporting on the effectiveness of the updated schedules will be required in the future.

An important future consideration will be to require electrification of contractor operations.

Action 13: The City will quantify its annual material consumption and scope 3 emissions and identify and implement priority actions to reduce these emissions to net zero.

Step 2E: Align the organisation

Implementing actions to reach net zero emissions will require a large upfront investment. While some benefits of electrification and other climate response measures will be immediate, other benefits may take time to become apparent.

Accordingly, it is essential that the City's organisational culture is strategic and aligned in support of the challenge and opportunities of achieving net zero operational emissions.

There are several elements for successful alignment, including a long-term vision, political leadership, responsibility allocation, an oversight role, technical leadership, a whole of government approach, and a whole of society approach.

Long-term vision: The focus on electrification proves a crisp narrative for the core work to be done to achieve net zero emissions. It is easy to envisage the City doing what it does now, but just without fossil fuels. This long-term vision of a City powered by renewable electricity, offering healthy workplaces, and having low operating costs, is within reach and is an exciting vision that needs to be communicated.

Action 14: The City will promote its vision of 'electrifying everything' to become an all-electric, zero carbon, healthy workplace that is leading by example to achieve net zero e.g., in prospectus documents and public communications.

Political leadership: Political leadership will be essential, especially when it comes to making the financial decisions necessary to achieve net zero. Leaders will need to articulate the benefits, as well as the risks addressed, and trade-offs considered, in moving to net zero emissions.

The Resolution of Council that recognised the climate change and the biodiversity breakdown, also recognised that the breakdown carries financial implications, and requires appropriate budget mechanisms and allocations to address the risks and issues.

The resolution included a requirement that expenditures are identified as they relate to climate change.

Green budget tagging is a tool that involves assessing each individual budget measure and giving it a 'tag' according to whether it is helpful or harmful to environmental objectives. Information gathered from tagging individual measures can be useful to understand how the overall budget impacts cross-cutting goals relating to climate change and the environment.[9]

Action 15: The City will identify expenditures as they relate to the environment. This 'green tagging' will become part of the annual budget process and will be reported in budget documents and in the Annual Environment Report.

Responsibility allocation: To enable the transformation, City managers will need to ensure that their unit has the appropriate capabilities and capacity to deliver projects and programs. This may, for example, include a requirement for additional budget and staff, and professional development for staff in areas such as the maintenance of electric technologies.

Oversight role: The Climate Active certification process requires independent verification of the most important elements of the City's journey to net zero. The certification itself provides assurance of the claim of being a carbon neutral organisation.

Technical leadership: Business units will continue to lead their area of expertise. However, given the technical complexity of some aspects of the transition, it is expected that external consultant expertise will be required. The Climate Change and Environment unit will also be able to assist.

[9] https://www.oecd-ilibrary.org/sites/fe7bfcc4-en/index.html?itemId=/content/publication/fe7bfcc4-en

Whole of government approach: The transformation will require work across the organisation, and this work will require coordination.

Action 16: The City will develop governance arrangements, composed of new and existing small working groups, to coordinate the transformation to net zero emissions.

Action 17: The City will utilise its internal change management expertise to assist with the transformation, and to relate the transformation to the City's staff values and behaviours i.e., through the Be the Change flagship project.

Whole of society approach: The City is taking a leadership role to achieve net zero emissions by 2030. Importantly, the City also has a goal of the wider Greater Bendigo community achieving net zero emissions by 2030. Given this, it will be important for the City to communicate and report on its journey.

Part 3: Offset

Approximate Opex Cost:	To be confirmed
Cost Confidence:	N/A

A carbon offset is a way to reduce greenhouse gas emissions by supporting projects that remove or reduce emissions from the atmosphere, such as planting trees or generating renewable energy.

It is meant to be a last resort, used to compensate for emissions that are difficult to reduce directly, like those from air travel.

Offset units are issued for each tonne of emissions avoided or removed and can be used by organisations to become carbon neutral, meaning they have offset all their own emissions.

Offset trading

Offsets can be bought and sold on the global market. In Australia, the government has a program called the Emissions Reduction Fund that offers landholders, businesses, and other organisations the chance to earn offset units by running projects in Australia that reduce emissions.

Examples of the types of projects that can generate Australian Carbon Credit Units that can then be sold include:

- Methane destruction (landfill gas capture and burning, currently occurring at Eaglehawk landfill)
- Forestry and soil carbon sequestration (planting trees, increasing soil carbon)
- Renewable Energy Certificates (from the generation of new renewable energy)
- Energy efficiency measures (avoided emissions)

Offset units are verified by independent auditors to ensure they represent real emissions reductions.

The Climate Active Standard allows organisations to use offset units to support their emissions reduction efforts.

Once the City buys and retires offsets to effectively cancel out any residual emissions, it can apply to be certified as ‘carbon neutral’.

An independent review of the integrity of Australian Carbon Credit Units was recently completed which recommended revised governance arrangements for the Emission Reduction Fund.

Added benefits

The purchase of offset units supports projects that reduce or remove emissions from the atmosphere, such as through reforestation, renewable energy, or energy efficiency.

Many of these projects also deliver other environmental, social, and economic benefits, for example, improved water quality, increased biodiversity, and increased employment. Organisations often seek to buy offsets from projects that provide these benefits to align with their organisational values.

Only offset units that have met the integrity principles below are eligible for use in a carbon neutral claim against the Climate Active Standard.

Principles:

- **Additional:** It must result in emissions reductions that are unlikely to occur in the ordinary course of events, including due to any existing commitment or target publicly agreed by the entity responsible for issuing the units. It must represent abatement that has not been double counted.
- **Permanent:** It must represent permanent reductions in greenhouse gas emissions. In the case of sinks, this requires that the carbon stored is sequestered and will not be released into the atmosphere for a period of 100 years. Where a period of less than 100 years is applied to sequestration units, an appropriate discount must be applied.
- **Measurable:** Methods used to quantify the amount of emissions reductions generated must be supported by clear and convincing evidence.
- **Transparent:** Consumers and other interested stakeholders must have access to information about the offset project that generated the abatement, including the applied methodology and project-monitoring arrangements.
- **Address leakage:** The system responsible for generating the offset unit must provide deductions for any material increases in emissions elsewhere which nullify or reduce the abatement that would otherwise be represented by the offset unit.
- **Independently audited**: The circumstances responsible for the generation of the unit must be verified by an independent, appropriately qualified third party and not found to be in contradiction with these integrity principles.
- **Registered:** The offset unit must be listed and tracked in a publicly transparent registry.

3A: Purchase local offsets

From 2030 the City could simply buy offsets from the global market as required. However, the City is currently working with regional partners to investigate the feasibility of a local vegetation based local program that generates carbon offset credits and has additional local environmental benefits.

Purchasing carbon offsets from a local revegetation offset program would enable the City to progress toward zero emissions for City operations while supporting the achievement of important local biodiversity outcomes.

Action 18: The City will participate in a pilot project in collaboration with the North Central Catchment Management Authority and other councils to test the feasibility of a local carbon offset program that achieves biodiversity co-benefits.

Action 19: The City will develop an offset policy to guide decisions about purchasing offsets.

3B: Prove offsets

Action 20: The City will purchase carbon offsets as required, from FY2029-30 to achieve its net zero goal and will provide the necessary evidence that these offsets have been retired to achieve Climate Active carbon neutral certification.

Part 4: Validate

Part 4A: Consultant report

A carbon neutral claim against the Climate Active Standard must be subject to independent validation (i.e., audit or verification) by an environmental auditor or carbon consultant at least once every three years.

The independent validation report findings and/or assurance statement must be made publicly available.

The first review (of the base year) must include an assessment of the adequacy and appropriateness of the emissions boundary setting, emissions methodologies, and emission factors.

In addition to complying with the Climate Active reporting requirements, Council will also report annually on progress to implement this Plan through its Annual Environment Report.

The City will budget for third-party validation of its emissions accounting for its baseline year FY2023-24 and for certification and every third year after certification.

Part 5: Report

Part 5A: Publish Annual Report

The City will report against this Plan in its Annual Environment Report.

The Annual Environment Report will be made publicly available to communicate progress on emissions reduction activities and offsetting, including as part of a future carbon neutral claim.

The Report will include the following:

- The total gross and net greenhouse gas emissions of the organisation for the base year and current reporting period (considering any renewable energy and certified carbon neutral activities) and an explanation of any significant changes that are not attributed to emissions reduction actions.
- An emissions summary table showing high level emissions sources and total emissions for each source type.
- Disclosure of any non-quantified emissions within the emissions boundary and any plans to improve the consistency and completeness of the carbon account in the future.
- Disclosure of any excluded emission sources from the emissions boundary that stakeholders would expect to be included and the justification for the exclusion.
- A summary of the emissions reduction strategy and of the activities undertaken in accordance with the strategy.
- Records to prove that sufficient eligible offset units have been cancelled to offset the organisation's emissions (including the name of the registry in which the units were cancelled, vintage year, the project type, and serial numbers of the relevant units).

Action 21: The City will review and update the monitoring, reporting, and learning framework for its Zero Carbon journey as part of a larger review of the monitoring, reporting, and learning framework for the *Climate Change and Environment Strategy.*

Appendix 1: Key achievements

Council has undertaken a range of environmental sustainability initiatives over many years. Key recent achievements to reduce corporate emissions include the following.

- The purchase of **100% renewable electricity** to 2030 under the VECO renewable energy contract
- **Removal of gas appliances** in more than 10 facilities
- Installation of rooftop **solar PV on 36 buildings**
- Establishment of a Power Purchase Agreement for the installation of **rooftop solar** on Council facilities which are high energy users
- Replacement of over **7,000 streetlights with LED lights**
- **Energy efficiency upgrades** at buildings including at the Gurri Wanyarra Wellbeing Centre
- Purchase of **9 electric vehicles**
- Progression on an investigation into establishment of a **local revegetation-based carbon offsetting program**
- Introduction of a **fortnightly organic waste collection** which has diverted organic waste from landfill
- Inclusion of emission considerations in Council's standard **tender specifications**
- Development of the **Be the Change Action Plan** which, amongst other things, establishes a program of initiatives to reduce emissions from Council workplaces and work practices

Appendix 2: Action Plan

Note 1: The indicative expenditure and timing outlined below will be subject to Council's annual budget process. Council will advocate for and actively seek funding support from the State and Federal governments.

Note 2: Operational savings are expected as a result of the increased efficiency and reduced maintenance costs associated with electric fleet and appliances compared to their fossil fuel alternatives. The specific savings will be monitored as Council implements its electrification program.

Theme	Action	Cost (additional resources needed)	Commence
Calculate emissions	1. The City will implement an **emission tracking program**, using the Trellis web-based emission tracking software to collect, interpret and act on data within its emission boundary.	Existing resources	Underway
Electrify buildings	2. The City will develop a **multi-year capital program** for both **energy efficiency works** and for sustainable technologies such as **solar PV** and batteries, including for community managed facilities.	**$200k** per year + potential staff resources	2024/25
	3. The City will finalise the 2023 update of the **Sustainable Buildings Policy** and promote it across the organisation.	Existing resources	Underway
	4. The City will **finalise strategic planning for City and community facilities** and will develop a related (draft) ten-year capital program	Existing resources	Underway
	5. The City will complete a **review of the condition of our plant and equipment** at key sites to inform project prioritisation and future budget requests and allocations.	**$100k**	2024/25
	6. The City will develop a **capital program** budget for the electrification upgrade of **large gas consuming sites**, that includes upgrades to electrical capacity where needed and will ensure that opportunities to package projects (i.e., co-deliver multiple upgrades concurrently) are realised to achieve cost efficiencies.	**$5.3M** over 3 to 5 years + potential staff resources	2024/25*
	7. The City will develop a **capital program** budget, for the electrification of **small and medium gas consuming sites**.	**$1M** over 3 to 5 years + potential staff resources	2024/25*
Electrify fleet and plant	8. The City will **review its Fleet Policy** and other relevant documents to enable the transition to electric vehicles.	Existing resources	2023/24
	9. The City will develop **business cases for electric vehicle charging infrastructure** at relevant Council facilities, prioritising Galkangu (in consultation with the Victorian Government) and the depot. This includes working with Powercor to determine the current electricity supply, spare capacity, constraints, and opportunities.	**$50k**	2023/24
	10. The City will **seek to optimise its fleet and plant and commence transitioning** where suitable electric or zero emissions options are available, This includes seeking quotes for electric or zero emissions options as a part of future procurement processes	TBC	2023/24

Theme	Action	Cost (additional resources needed)	Commence
	11. The City will **engage industry experts** to help plan and implement the transition to zero emission vehicles to help reduce the risks and optimise the financial outcomes.	**$100K**	2023/24
Electrify waste	12. The City will work with expert consultants to **better understand its current emissions liability from the Eaglehawk landfill**, and to forecast this liability into the future taking account of planned operational changes including the closure and capping.	Existing resources	Underway
Reduce scope 3 emissions	13. The City will **quantify its annual material consumption and scope 3 emissions** and identify and implement priority actions to reduce these emissions to net zero.	Existing resources	Underway
Align the organisation	14. The City will **promote its vision of 'electrifying everything'** to become an all-electric, zero carbon, healthy workplace that is leading by example to achieve net zero e.g., in prospectus documents and public communications.	Existing resources	As opportunity arises
	15. The City will identify expenditures as they relate to the environment. This '**green tagging'** will become part of the annual budget process and will be reported in budget documents and in the Annual Environment Report.	Existing resources	2023/24
	16. The City will develop **governance arrangements**, composed of new and existing small working groups, to coordinate the transformation to net zero emissions.	Existing resources	2022/23
	17. The City will utilise its internal change management expertise to assist with the transformation, and to relate the transformation to the City's staff values and behaviours i.e., through the **Be the Change flagship** project.	Existing resources	Underway
Offset	18. The City will participate in a pilot project in collaboration with the North Central Catchment Management Authority and other councils to test the feasibility of a **local carbon offset program** that achieves biodiversity co-benefits.	**$100k** for first year	2023/24**
	19. The City will develop an **offset policy** to guide decisions about purchasing offsets.	Existing resources	2023/24
	20. The City will **purchase carbon offsets as required, from FY2029/30** to achieve its net zero goal and will provide the necessary evidence that these offsets have been retired to achieve Climate Active carbon neutral certification.	TBC***	2029/30
Report	21. The City will **review and update the monitoring, reporting, and learning framework** for its Zero Carbon journey as part of a larger review of the monitoring, reporting, and learning framework for the *Climate Change and Environment Strategy.*	Existing resources	Underway

**One year of funding to commence Council's gas transition works is proposed for consideration in the 2023/24 budget. A multi-year program will be prepared for consideration in the 2024/25 budget.*
***Subject to approval in the 2023/24 Council budget*
****Cost to depend on the outcomes of the local carbon offset pilot program and the review of the City's landfill emissions*

Appendix 3: Position statements

Position Statement 1. The City will adopt the ‘operational control’ approach to determine what emissions are under the direct control of the organisation and will report on 100 per cent of the operations over which it has ‘the full authority to introduce and implement its operating policies’.

Position Statement 2. The City will adopt financial year 2023-24 as its base year for Climate Active alignment.

Position Statement 3. The City will adopt and align its emissions boundary with the requirements of the Climate Active Standard and will have its emissions boundary and base year emissions verified by a Climate Active qualified third-party.

Position Statement 4. The City will follow an ‘optimise, prioritise, invest’ approach to the electric transition process for buildings.

Position Statement 5. From 1 July 2023 the City will require all new assets to be zero emissions in accordance with a 100% clean replacement rate approach, provided a fit-for-purpose option is available.

Position Statement 6. The City will follow an ‘optimise, prioritise, invest’ approach to the electric transition process for fleet and plant.

Position Statement 7. The City will focus on battery electric vehicles as the core zero emission technology for fleet and plant, unless other technologies emerge which are more cost effective and fit-for-purpose.

Position Statement 8. The City will move to using total cost of ownership to compare vehicle asset costs.

Appendix 4: Plan on a page

The Action Plan includes position statements, and actions than relate to policy work, programs, and projects. The representation below include this view of the position statements and actions in the Plan.

20. A VIBRANT, CREATIVE COMMUNITY

Nil

21. A SAFE, WELCOMING AND FAIR COMMUNITY

Nil

22. URGENT BUSINESS

Nil

23. NOTICES OF MOTION

23.1. Investing in Telecommunications & Digital Connectivity in Regional Communities

Cr Matt Evans

Purpose

The purpose of this Motion is to, through advocacy to the State and Federal local government peak-representational bodies, advocate to governments at all levels to make the appropriate investment into our regional communities, especially in telecommunications, digital technology and related infrastructure.

Proposed Motion

That Council:

1. Endorse and lodge the following Motions (or equivalent) at:

    a. Municipal Association of Victoria (MAV) State Council meeting. Motion:

    This State Council meeting of the MAV calls on the Government to:

    Provide greater investment in telecommunications and digital connectivity in regional communities to support increasing populations and industries, growth in jobs and investment, and remove the technological divide.

    b. Australian Local Government Association (ALGA). Motion:

    This National Assembly calls on the Government to:

    Provide greater investment in telecommunications and digital connectivity in regional communities to support increasing populations and industries, growth in jobs and investment, and remove the technological divide.

2. Acknowledges that some refinement may be undertaken to the wording of the above Motions, with the consensus of Councillors.

Rationale

It is important that governments at all levels make the appropriate investment into our regional communities, especially in telecommunications, digital technology and related infrastructure.

With more Australians moving to regional communities, we need more proactive investment to support the current and future growth in our regions.

Each motion presented to the MAV State Council and the ALGA National Assembly will be tailored to the relevant context. The principles in both remain the same.

The central principle is captured in the motion, which will be to “Provide greater investment in telecommunications and digital connectivity in regional communities to support increasing populations and industries, growth in jobs and investment, and remove the technological divide.”

The supporting principles will be:

- Increased investment in regional telecommunications and digital connectivity will help support businesses to grow and operate efficiently, supporting our local economy. (e.g. for Farming & Agribusiness, large businesses based in Bendigo, such as Bendigo Bank and Thales, and supporting entrepreneurship and work from home arrangements)

- Increased investment will support population growth (supported by Census data focusing on growth in regional cities in Victoria and Australia).

- Increased investment will reduce (and hopefully remove) inequity. (Highlighting issues around access to technology and the need to minimise disadvantage in particular sectors e.g. in education, access to Wi-Fi, internet, and mobile towers).

- Increased investment will address current issues facing regional communities and provide opportunities. (Highlighting current issues such as poor connectivity, emergency management, and drop outs in connection, as well as future opportunities, such as the Victoria 2026 Commonwealth Games).

The supporting information for the principles in the motions will be refined further and finalised before formal submission.

This will include references to motions moved at previous MAV State Council Meetings and other advocacy undertaken by organisations, such as the Loddon Mallee Regional Councils and Regional Cities Victoria (RCV).

The motions will also reference key documentation endorsed by the City of Greater Bendigo, particularly A Stronger Greater Bendigo 2030 and the 100 GIG City plan.

Many accept and support the concept of decentralisation and its principles. Not only is it about managing population growth and reducing the burden on our capital cities and metropolitan suburbs, it’s about proactively investing in our regional communities to support them to sustainably grow.

Officer Comment

Nil

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Attachments

Nil

23.2. Local Government Divestment from Investment in Fossil Fuel Financing Institutions

Cr Dr Jennifer Alden

Purpose

The purpose of this Motion is to, through advocacy to the State and Federal local government peak-representational bodies, enable Councils to show leadership by further reducing indirect carbon emissions by 100% divestment of investments.

Proposed Motion

That Council endorse and lodge the following Motions at:

1. Municipal Association of Victoria (MAV) State Council meeting. Motion:

   This State Council meeting of the MAV calls on the Government to:

   Promote and incentivise Local Governments to redirect funds over and above operational cash towards Authorised Deposit-taking Institutions (ADIs) that do not invest in fossil fuel industries. This would enable Councils to show leadership by further reducing indirect carbon emissions by 100% divestment of investments. It would apply to any company for whom the extraction, production, refining, or distribution of fossil fuels forms a core part of their business strategy.

2. Australian Local Government Association (ALGA). Motion:

   This National Assembly calls on the Government to:

   Promote and incentivise Local Governments to redirect funds over and above operational cash towards Authorised Deposit-taking Institutions (ADIs) that do not invest in fossil fuel industries. This would enable Councils to show leadership by further reducing indirect carbon emissions by 100% divestment of investments. It would apply to any company for whom the extraction, production, refining, or distribution of fossil fuels forms a core part of their business strategy.

Rationale

Local Government can assume a leading role in the move to lowering carbon emissions, with progress now being made across a range of sectors. This increasingly includes movement of investment away from institutions that fund fossil fuel industries. It also includes their role in supporting communities in transitioning away from fossil fuels.

Noting the Government's commitment to reducing emissions, support for divestment of Local Government finances 100% from fossil fuels would assist Councils in working to address climate change.

The Local Government Act 2020 require Councils to have Investment Policies as part of a 10 year Financial Plan, requiring them to take advantage of the interest earning potential of their surplus funds whilst reducing their exposure to financial risk and ensuring sufficient funds are kept available to meet cash flow requirements.

Collaboration across Local Governments could create a greater critical mass of investment funds, encouraging more Authorised Deposit-taking Institutions (ADIs) to adopt fossil-fuel free policies, without compromising the risk and return of Council investments, and while still meeting legislated standards for investment.

Research by Australian Ethical Investments has shown that moving $50,000 to a lower carbon ethical or responsible fund could equate to 2.8 tonnes of CO2e lower carbon footprint. Extrapolating this to investments by Australian Councils alone provides opportunity for extremely powerful and timely indirect effects on carbon emissions.

Divestment is principally governed by the Council policy that guides investment of funds. These policies address various State Government requirements for the prudent management of public funds.

Investments are largely restricted to the short-term markets with term deposits at ADIs. Exposure to an individual institution will be restricted by their Standard & Poor's rating so that single entity exposure is limited.

In 2018 the City of Greater Bendigo updated their Investment and Borrowings Policies and they are once more under review. This allowed for a substantial divestment of investments over and above operational cash from lending institutions that were involved in fossil fuel financing to partner with non-fossil fuel aligned institutions, seeking to influence large banks' corporate social responsibility (CSR) performance and fossil fuel divestment movement through a positive screening approach. The City gives consideration to those financial institutions that demonstrate a positive commitment within the region and to the endorsed ethical investment criteria.

Over the past 4 years the policy has influenced the investment profile and conversations with financial institutions (including banks). The result has been a higher level of investments that are not fossil fuel related.

This is reported quarterly as part of quarterly financial reporting to Council (currently around 33%, or $40 million, divested at the City of Greater Bendigo). To maintain a balance, both in cost (interest foregone) and risk (portfolio credit risk) the City's investment strategy will give preference to Authorised Deposit-taking Institutions that state they do not

finance fossil fuel projects where the rate of investment is within 0.05 percentage points (under review) when compared with other investments available to the City at the time. In addition the City is not to invest with an Institution with a Standard & Poor's credit rating of lower than B, compliant products that do not jeopardise the objectives or risk covenants in the Policy, or non-rated Institutions.

In 2023 the City of Greater Bendigo, as part of the Climate Change and Environment Strategy 2021 - 26 and the Greater Bendigo Climate Collaboration endorsed the Zero Carbon Plan. This Motion aligns with the ambition for zero emissions by recommending investing in zero carbon climate solutions.

A study undertaken by the Eastern Alliance for Greenhouse Action in 2017 across elected Victorian Councils showed:

- Councils can substantially divest without comprising on returns
- The management of council finances are governed by self-adopted investment policies that must comply with the prudential requirements of the Local Government Act 2020
- There are no legislative restrictions in Victoria to prevent councils from divesting
- Evidence indicates that most progress to date has been confined to the investment of surplus council funds to manage cash flow requirements
- Divestment levels of around 50-70% were being achieved by the councils participating in the study
- Opportunities exist to divest from other financial activities, however these areas are not currently being addressed
- Compliance with a council's investment policy is the key determinant of the extent to which a council can divest
- The availability of products from financial institutions with a required credit rating is a major limitation on the extent of divestment that is occurring

Investment policies placed limits in two ways, on how funds are invested.

- Each ranking had a limit that controlled the total proportion of funds that could be invested at that level or lower
- At each ranking, there was a limit on the proportion of funds that could be invested with any single ADI

Research found that the large banks offer similar rates to their smaller competitors and that giving preference to fossil free ADIs had not compromised returns.

Divesting from lending institutions can ultimately keep a substantial portion of fossil fuels in the ground.

Officer Comment

Due to the prevalence of fossil fuel related and supporting industries and the market–concentration of ADIs that may invest in these industries it may not be practical or fiscally responsible to commit to 100% divestment in the current market. Acknowledging that the City remains committed to our net-zero carbon goal and to addressing climate change.

Conflict of Interest

No officer involved in the preparation or approval of this report declared a general or material conflict of interest.

Attachments

Nil

24. MAYOR'S REPORT

25. CHIEF EXECUTIVE OFFICER'S REPORT

26. CONFIDENTIAL (SECTION 66) REPORTS

Nil

27. CLOSE OF MEETING