

COUNCIL MEETING MINUTES



6:00 pm on Monday February 27, 2023

Livestreaming at www.bendigo.vic.gov.au/councilmeeting

Broadcast live on Phoenix FM 106.7 ***

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NEXT MEETING:

March 27, 2023

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](#)

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1. ACKNOWLEDGEMENT OF COUNTRY

We acknowledge that the City of Greater Bendigo is on Dja Dja Wurrung and Taungurung Country.

We would like to acknowledge and extend our appreciation to the Dja Dja Wurrung People, the Traditional Owners of the land that we are standing on today.

Today, we pay our respects to leaders and Elder's past, present and emerging for they hold the memories, the traditions, the culture and the hopes of all Dja Dja Wurrung People.

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.

2. TRADITIONAL LANGUAGE STATEMENT

Bangek Knoorarook Bunjil Dja Dja Wurrung
William Talle tallingingorak wirrmbool bunjil

I honour the wisdom of the Dja Dja Wurrung.
We will speak words of truth and listen to your wisdom

3. OPENING STATEMENT

4. MOMENT OF SILENT REFLECTION

5. ATTENDANCE AND APOLOGIES

Attendance

- Mayor Cr Andrea Metcalf
 - Deputy Mayor Cr Jennifer Alden
 - Cr Matthew Evans
 - Cr Rod Fyffe OAM
 - Cr Margaret O'Rourke
 - Cr Greg Penna
 - Cr Julie Sloan
 - Cr Vaughan Williams
-
- Andrew Cooney, Acting Chief Executive Officer
 - Brian Westley, Director Presentation and Assets
 - Stacy Williams, Director Healthy Communities and Environments
 - Jessica Clarke-Hong, Acting Director Corporate Performance
 - Ross Douglas, Acting Director Strategy and Growth
 - Geoff Fallon, Acting Manager Governance

Apologies

- Cr David Fagg
- Craig Niemann, Chief Executive Officer

RESOLUTION - Resolution No. 2023-14

Moved: Cr Fyffe

Seconded: Cr Evans

That any apologies are accepted.

CARRIED

6. LEAVE OF ABSENCE

Nil

7. SUSPENSION OF STANDING ORDERS

RESOLUTION - Resolution No. 2023-15

Moved: Cr Fyffe

Seconded: Cr O'Rourke

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

CARRIED

8. COMMUNITY RECOGNITION

- We now move to tonight's community section.
- Since we last met there have been many more achievements in our community that we wish to acknowledge.
- Firstly, congratulations to our Sports Star of the Year, Jenna Strauch. Jenna had a standout year last year, making two Australian swim teams – going to the Commonwealth Games in Birmingham and World Short Course championships in Melbourne, taking home silver medals at both events. The countdown to the Paris 2024 Olympics is on and we will continue to follow Jenna's success in the pool.
- Former Sandhurst Cricket Club player Todd Murphy made his Australian Test debut earlier this month and played a standout first innings, taking five wickets.
- Another local sports star to make their international debut is soccer player Josh Beekes, who recently represented the Pararoos in an international friendly match against the USA.
- And Andy Buchanan was recently named in Australia's Cross-Country Team for the World Athletics Cross-Country Championships held in Bathurst. He was one of six runners to represent Australia.
- It's always exciting to see sporting exports from the region on the world stage and we wish them well as they continue their careers.
- Closer to home and Bendigo Canoe Club recently had a standout meet at the Victorian Sprint Championships on Lake Nagambie, winning a total of 23 medals.
- The medal haul was led by Sophie Hughes, who took home six gold, Claudia Hamilton who won two gold and Alistair Hughes with one gold. A fantastic effort!
- And with those several achievements, our community section comes to a close.
-

9. PUBLIC QUESTION TIME

9.1. Pre-Registered Questions

1. From Ian of Bendigo:

- a. **Question** - Has Council carried out the work requested by the consultant Water Technology to explore changing the operation of Crusoe Reservoir to operate the reservoir as a water retention basin and so reduce the impact of flooding on the community downstream along Bendigo Creek?

b. **Answer:**

Detailed investigation into the feasibility and benefits of proposed modifications to Crusoe Reservoir and the upstream catch drain network connecting to Sandhurst Reservoir has not yet been completed, however remains a priority flood investigation project which the City intends to pursue.

Following completion of the Bendigo Urban Flood Study the City has focused on advancing and further refining flood modelling and mitigation option analysis through targeted flood studies for Kangaroo Flat, Epsom/Ascot/Huntly and more recently Central Bendigo. These studies have built on the preliminary findings from the Bendigo Urban Flood Study and identified several high priority mitigation options for investigation/implementation.

Priority is currently being given to completion of detailed investigation and design of those flood mitigation structures expected to yield the greatest cost/benefit ratio namely, the upgrade/repair of flood levee systems along Racecourse Creek and Bendigo Creek in the Epsom/Ascot/Huntly area. The City has been successful in attracting state and federal government funding to complete these bodies of work.

More recently the City has explored similar funding opportunities to progress both improvements to the Bendigo Creek Total Flood Warning System and feasibility/design investigations for the Crusoe Reservoir detention system.

Unfortunately due to internal resource constraints these bodies of work are yet to commence, however both are the next highest priority projects for implementation and are highly likely to be successful in attracting funding support through such programs as the Natural Disaster Resilience Grants.

9.2. Gallery Questions

1. From Anita of unknown suburb:

- a. **Question** - What is the process for consultations to residents where there is going to be a planning developments?
- b. **Answer** - the advertising process for an application varies depending on the type of application. Some applications are exempt from an advertising process and cannot be advertised nor appealed through the [Victorian Civil and Administrative Tribunal](#) (VCAT). For those advertised the advertising period it will involve a 14 day advertising period with objections being able to be received up until the time the application is decided. Methods for advertising may include letters to neighbours, a sign erected on site and advertising in local print media. Whilst not mandated by the planning system the City will conduct a formal consultation meeting between the applicant and objectors however participation at a consultation meeting is at the discretion of each party. Informal consultation regularly occurs between planning officers and the applicants and objectors.

2. From Lee of Eaglehawk:

- a. **Question:** As a rate payer am I entitled to ask questions at Council Meetings?
- b. **Answer:** Yes, Council allows 30 minutes for public question time for any questions on any matter except for planning items that are on the agenda tonight.

3. From Lyn from Strathdale:

- a. **Question:** With regard the community consultation process for the Domestic Animal Management Plan, which was limited and over the Christmas and New Year period, why is the Council so biased that we cannot have any off leash access in Strathdale and wider region.
- b. **Answer** - The advice Council gave you at the January Council Meeting was to submit a response to this Plan during the consultation period, which you have done and we thank you. Your feedback will be considered when finalising the Plan.

4. From James from Eaglehawk:

- a. **Question:** with regard 10 minute neighbourhoods will Council commit to not using this for control of or locking away people.
- b. **Answer:** this is in the Planning Scheme to provide communities with appropriate and accessible services, without being overly reliant on vehicles. It is not about "locking people up".

10. RESUMPTION OF STANDING ORDERS

RESOLUTION - Resolution No. 2023-16

Moved: Cr Fyffe

Seconded: Cr Penna

That Standing Orders be resumed.

CARRIED

11. WARD REPORTS

11.1. Eppalock Ward - Cr Penna

Eppalock Ward - Cr Penna presented a report on various issues and meeting/events, including:

- Listening post at Heathcote Market, kept very busy with most Enquiries focused on Kerbside Bin Changes and Flooding Issues as Heathcote was badly affected.
- Various Briefings
- Councillor Only Meetings
- Ward Meetings
- Many Resident Contact Meetings
- Planning Item attendances
- CEO KPI Review and talk
- Fosterville Gold ERC Meeting
- Talk to Bendigo Pistol Club Committee
- Chaired PAAC Meeting at Green Room, always a productive and fun meeting.
- Bendigo Chamber of Music attended by Matt
- BMRG Meeting
- Bendigo Maubisse Friendship Committee Meeting
- Golden Dragon Museum Board Meeting
- Community Aquatics Facilities Strategy Panel
- Fosterville Gold Reclamation Site visit with Mayor, Cr Sloan and myself, and Discussion about recent emails. Both Cr Sloan and I passed around information and a video of the process of reclaiming two sites, which for those who saw, read and watched, would have found it informative.
- Confirmation of 2023 Youth Mayor and Deputy Mayors.
- Bendigo Sports Star Gala Dinner with all three Eppalock councillors representing their ward, Great Evening with a strong insight into the Caliber of Sports people of Bendigo
- Bendigo Community Farmers Market at Dia Gum San
- Netball tournament at Red Energy Arena
- Civic welcome to Nth Melbourne football club at the Ulumbarra
- Attended 81st year Commemorative Service of the Darwin Defenders along with Cr Evans, and laid a Wreath, at the RSL Sub Branch in Bendigo. Moving service as they always are, remembering those who sacrificed so much.
- Some interesting facts about the Darwin Raid on Australian Soil on 19th Feb 42. 292 Japanese Aircraft attacked Darwin over two raids and continued to over 100 raids over a two year timeline, up and down the coast, primarily to put the wind

up us, but also to reduce Australia's Defense capability to attack the Japanese as they moved their hostilities southward.

- In the Initial raids, 11 ships initially sunk, but 27 Ships were progressively sunk of a total of 57 in Darwin Port, 30 Aircraft Destroyed, 236 people killed, 400+ wounded, (not known really as Darwin was a fluid population) but real estimates over 1000. And more tonnage of bombs dropped than was at Pearl Harbor.
- An American ship called NEPTUNA was an ammunition ship, and was hit which resulted it the Largest explosion at that time, ever recorded
- The raid was kept quiet so that the Australian public would not panic and anticipate a perceived invasion of our shores by the Japanese Military. Even I learnt things from this.
- Matt and Marg attended State of the Economic Market Breakfast hosted by Be Bendigo and Bendigo Bank
- Civic welcome to La Trobe Uni students during O Week
- Attended Indonesian Club Event and answered Questions.
- Attended AGM of Heathcote Health at Heathcote. What a fun dedicated Group, very close knit.
- Attended Community Presentations at TH
- Attended Official Opening of Bendigo's New and Spectacular Law courts
- Attended Strategy and Growth and Census presentation Workshops
- Attended Creative Commemorative Garden Party at Dudley House.
- Considering we three Councillors also work, as you can see we all are extremely full on and busy filling private and councilor roles.

11.2. Lockwood Ward - Cr Fyffe

Cr Fyffe presented a report on various issues and meeting/events for Lockwood Ward, including:

- Annual get-together of Arts Communities
- Civic welcome for O Week
- Community budget submissions
- Launch of Easter Festival 2023 program
- Lockwood Ward Listening Post
- 10th anniversary celebrating Golden Square pool
- North Melbourne Football Club visit.

11.3. Whipstick Ward - Cr Sloan

Thank you Mayor Metcalf and welcome everyone in the public gallery and at home viewing online or listening on Phoenix FM. Whipstick Ward councillors have had a busy month as the community have returned to work, school and daily routines. Community groups are meeting, sport has recommenced and our valued volunteers continue to work for others.

Ward councillors have been busy meeting with the community and attending events and meetings; these activities are all important as they events bring a sense of wellbeing, social connection and joy to the community. I proudly attended the GMo4Refugees Bendigo group meeting and heard about the great advocacy occurring locally to advance compassionate welcome and safe settlement of all people seeking asylum with a primary focus on children. The CoGB is committed to support the work of local Humanitarian Settlement Providers to ensure GB is a welcoming, safe and inclusive city that offers culturally appropriate and responsive services to all multicultural communities, especially, those of refugee backgrounds. The City also has a key role in supporting multicultural events and providing safe spaces for multicultural groups to meet and celebrate their culture. Ward councillors met with Goornong and Elmore Structure Plan Community Reference Groups to discuss strategic community needs and suggestions for their local plans. I wish to thank everyone who represent their community on these advocacy reference group. We attended site meetings at Huntly, Myers Flat and Mollison St, the official opening of the new Law Courts where beautiful Bunjil overlooked the ceremony and welcome to country performed by Dja Dja Wuurung Elder Trent Nelson. Following this event, we attended the formal opening of the Vic Aboriginal Legal Service in Hargreaves Mall and look forward to these services being delivered with our community members.

Along with the Mayor and Councillors I attended the Civic welcome to North Melbourne Football Club players and officials and heard about the outreach footy talks and clinics with school children in Rochester to encourage, mentor and model a love of sport for children experiencing difficult times. Participated in the Fosterville Environmental Resource Committee, Audit & Risk committee, strategy & growth workshops and it was an honour to represent Mayor Metcalf and open the meeting of the CWA Northern Group Feb conference and AGM at Kangaroo Flat. Attendance at the Community Presentations at the Town Hall again gave Cr's the chance to gain awareness of the diverse perspectives reflected and presented the of community members. We attended the confirmation of the GB Youth Mayor, Deputy Mayors & group Chairs and wish all youth councillors a great year ahead as they work with and advocate for young people in the municipality.

Finally, it was one of the highlights of the month to meet The Ambassador of the United States of America Caroline Kennedy at a ceremonial plaque unveiling. John Joseph (1831 – 1858) was an African American who left the United States for the goldfields of Victoria. He was arrested at the Eureka Stockade and was tried for high treason in Melbourne. Over 10,000 people gathered to witness the jury's verdict of not guilty. He is buried in Bendigo's White Hills Cemetery in an unmarked grave.

12. DECLARATIONS OF CONFLICT OF INTEREST

No attendee declared a 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>

RESOLUTION - Resolution No. 2023-17

Moved: Cr O'Rourke

Seconded: Cr Penna

That the recommended motion be adopted.

CARRIED

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
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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.

RESOLUTION - Resolution No. 2023-18

Moved: Cr O'Rourke

Seconded: Cr Fyffe

That the recommended motion be adopted.

CARRIED

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]

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.

RESOLUTION - Resolution No. 2023-19

Moved: Cr Evans

Seconded: Cr O'Rourke

That the recommended motion be adopted.

CARRIED

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

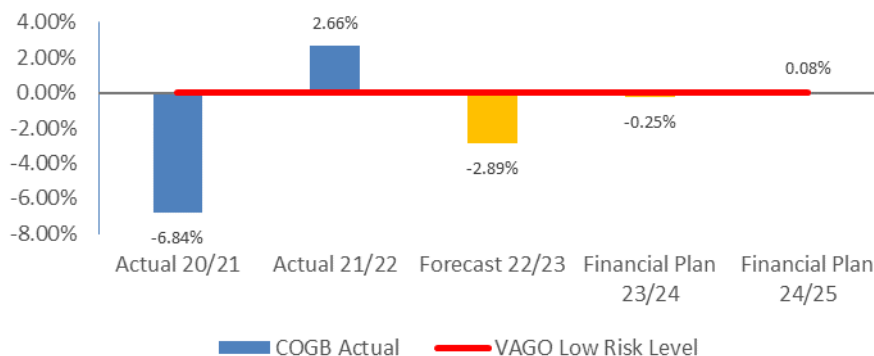
A rate cap of 3.5% was announced in late December for the 2023/2024 financial year. For other costs, the ABS records National CPI through to September 2022 as 7.3% (7.4% for Victoria). This will represent a significant gap between the rate cap and the increased cost for materials. Council are currently 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

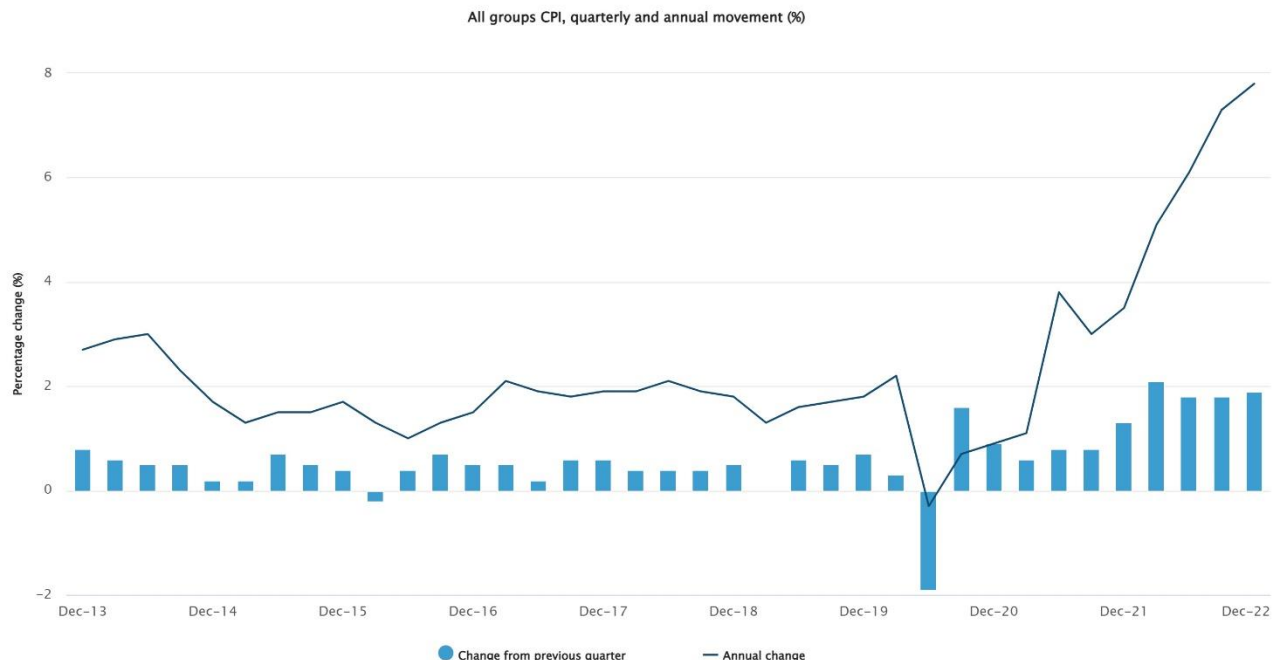
The Underlying Surplus/Revenue is the City's surplus/revenue less non-recurrent government grants received for capital purposes, contributions for capital works and the value of assets received from developers



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: Australian Bureau of Statistics, Consumer Price Index, Australia December Quarter 2022

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.

RESOLUTION - Resolution No. 2023-20

Moved: Cr Alden

Seconded: Cr O'Rourke

That the recommended motion be adopted.

CARRIED

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.

RESOLUTION - Resolution No. 2023-21

Moved: Cr O'Rourke

Seconded: Cr Sloan

That the recommended motion be adopted.

CARRIED

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]

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:	<ul style="list-style-type: none"> • 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:	<p>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.</p> <p>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.</p> <p>Appropriate vehicle and pedestrian movements will be provided to and from the site and the proposal is unlikely</p>

	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.
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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.

RESOLUTION - Resolution No. 2023-22

Moved: Cr O'Rourke

Seconded: Cr Penna

That Council 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 the land for a restricted recreation facility (gymnasium), removal of easement, creation of easement, alteration of access to a road in the Transport Zone 2, associated signage and parking to the satisfaction of the responsible authority at 909 Wellington Street and 6 Uxbridge Street, STRATHFIELDSAYE 3551 on the following grounds;

1. The proposal would result in unacceptable amenity impacts with regards to the hours of operation, noise, light spill and traffic generation.
2. The scale of built form is not in keeping with the character of the surrounding area.
3. The proposal does not 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.
4. The proposal does not contribute to the orderly planning of the area.

CARRIED

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.

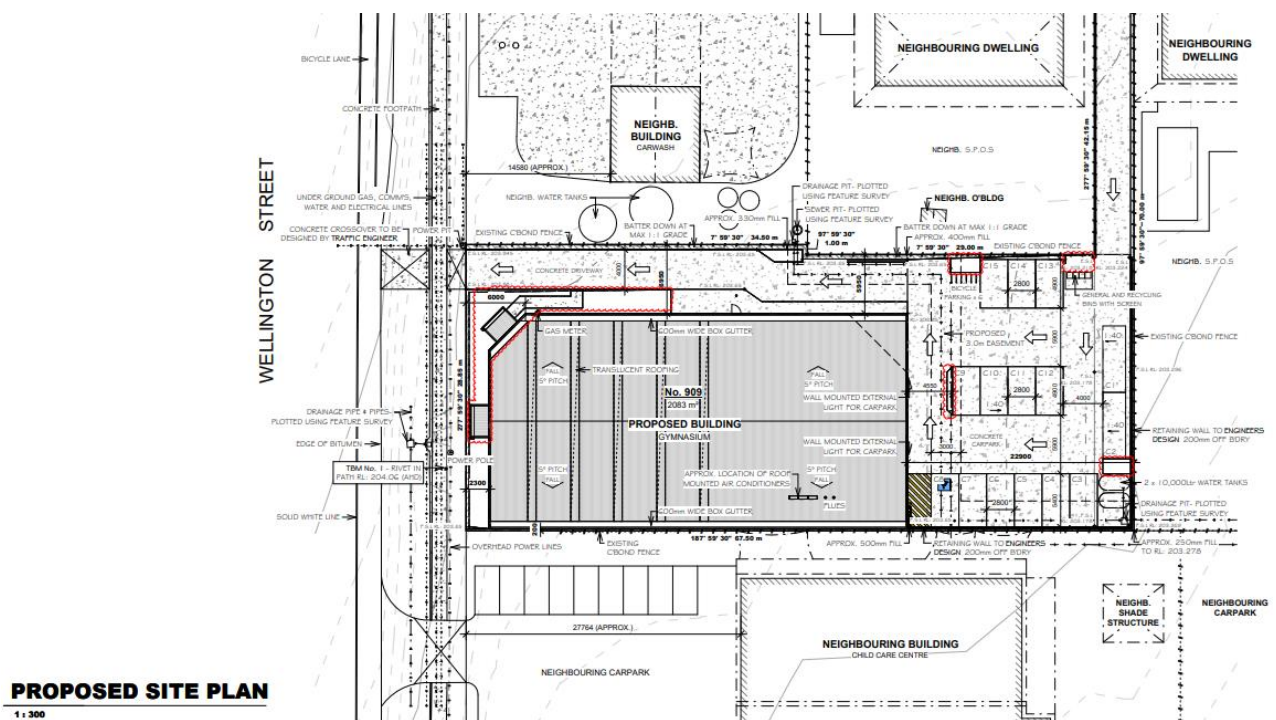


Figure 5: Proposed Site Plan

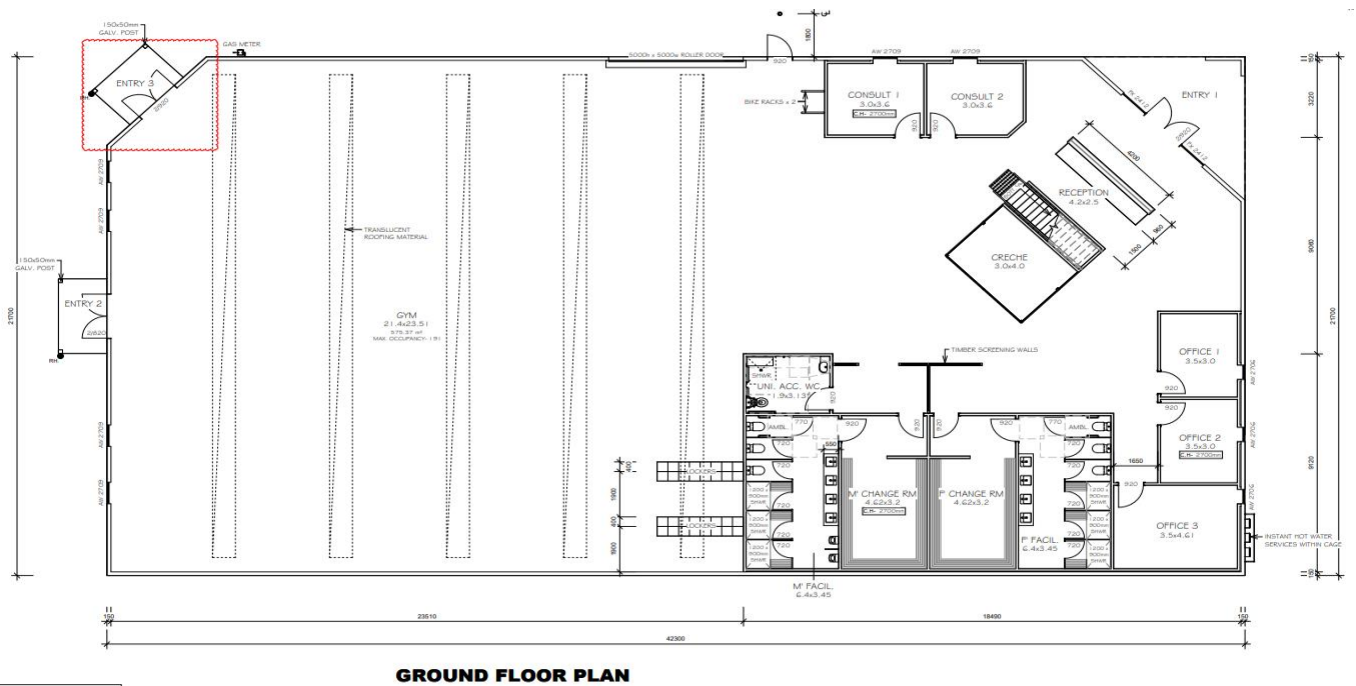
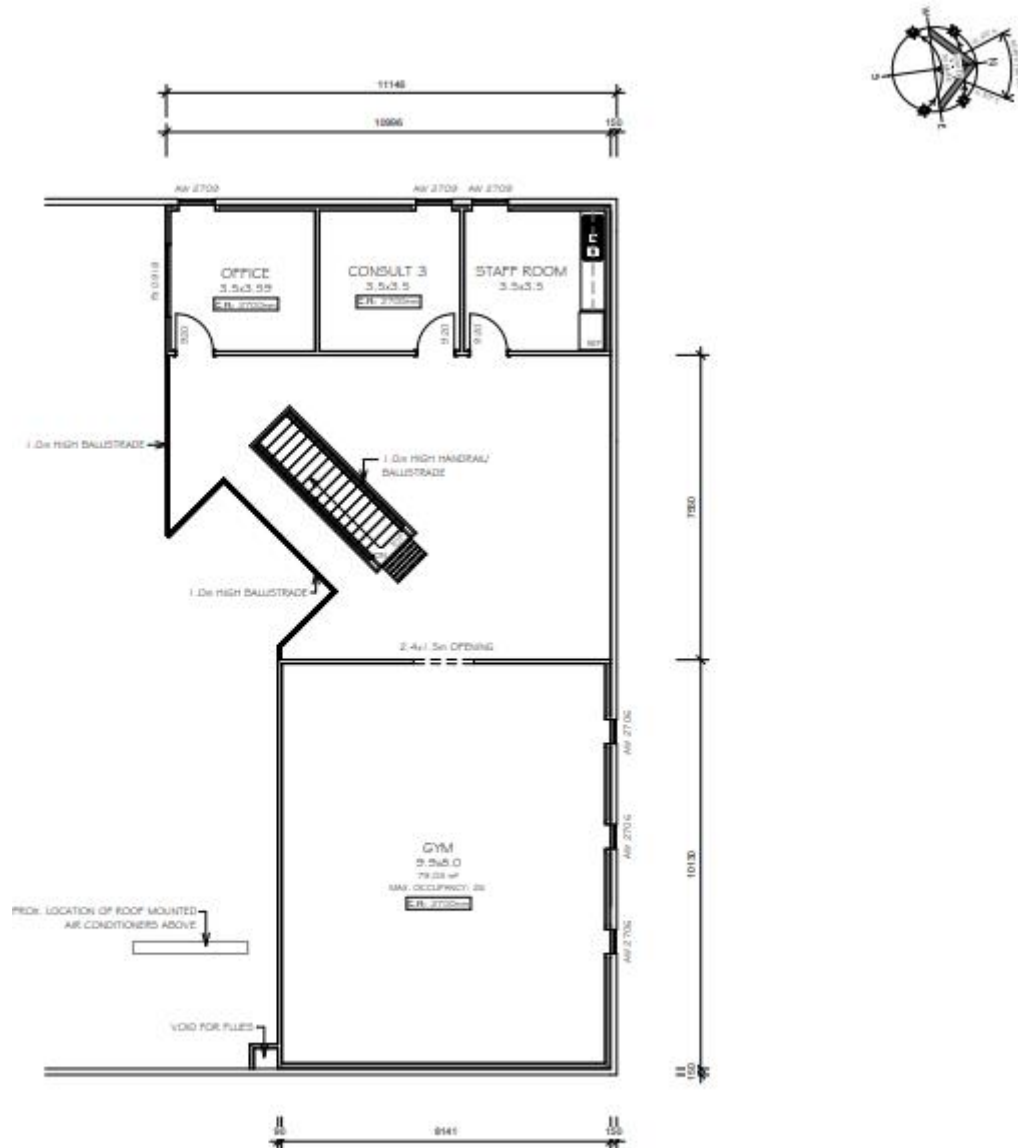


Figure 6: Proposed Ground Floor Plan



FIRST FLOOR PLAN

Figure 7: Proposed First Floor Plan

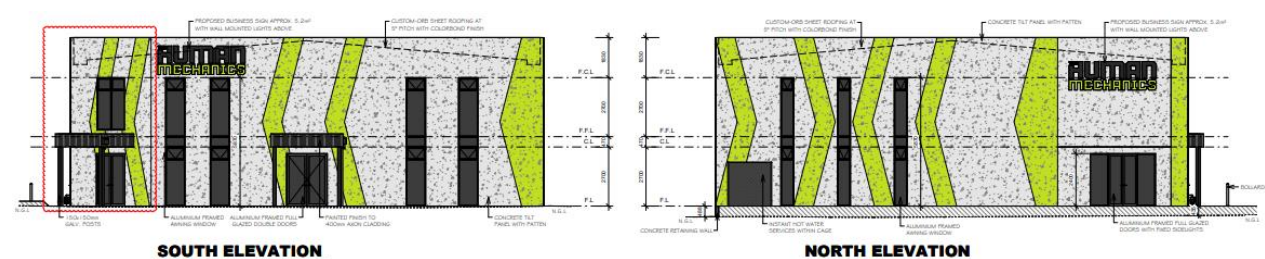


Figure 8: Proposed north and south (front and rear) elevations

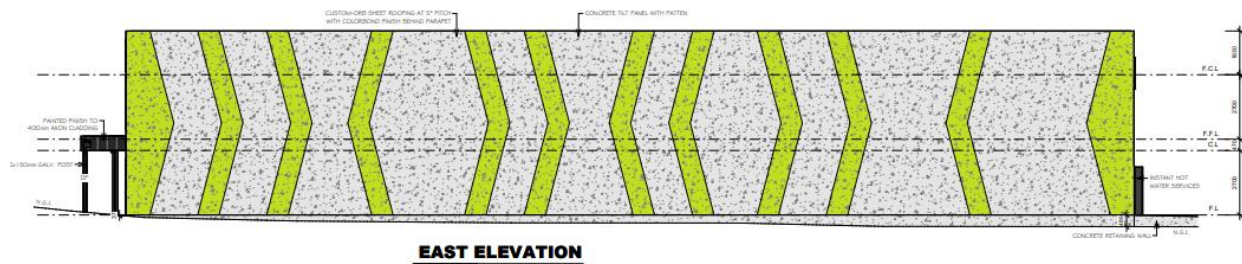


Figure 9: Proposed eastern elevation

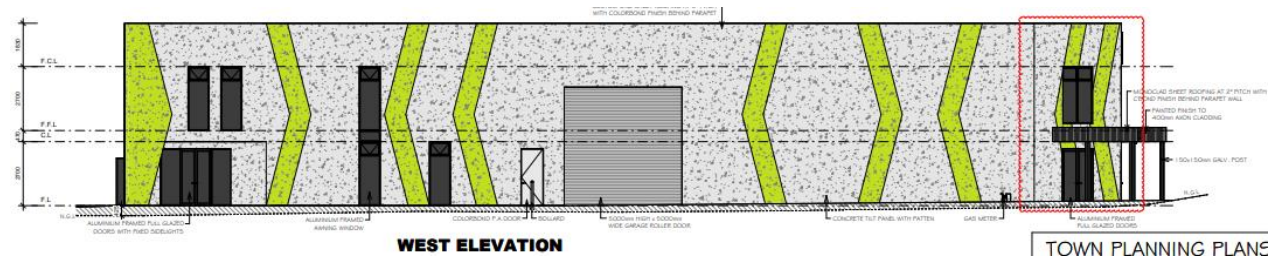


Figure 10: Proposed western elevation

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.

[illegible]

Ending of a Section 173 Agreement

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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: <ul style="list-style-type: none"> • 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 <i>Planning and Environment Act 1987</i>	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
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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).

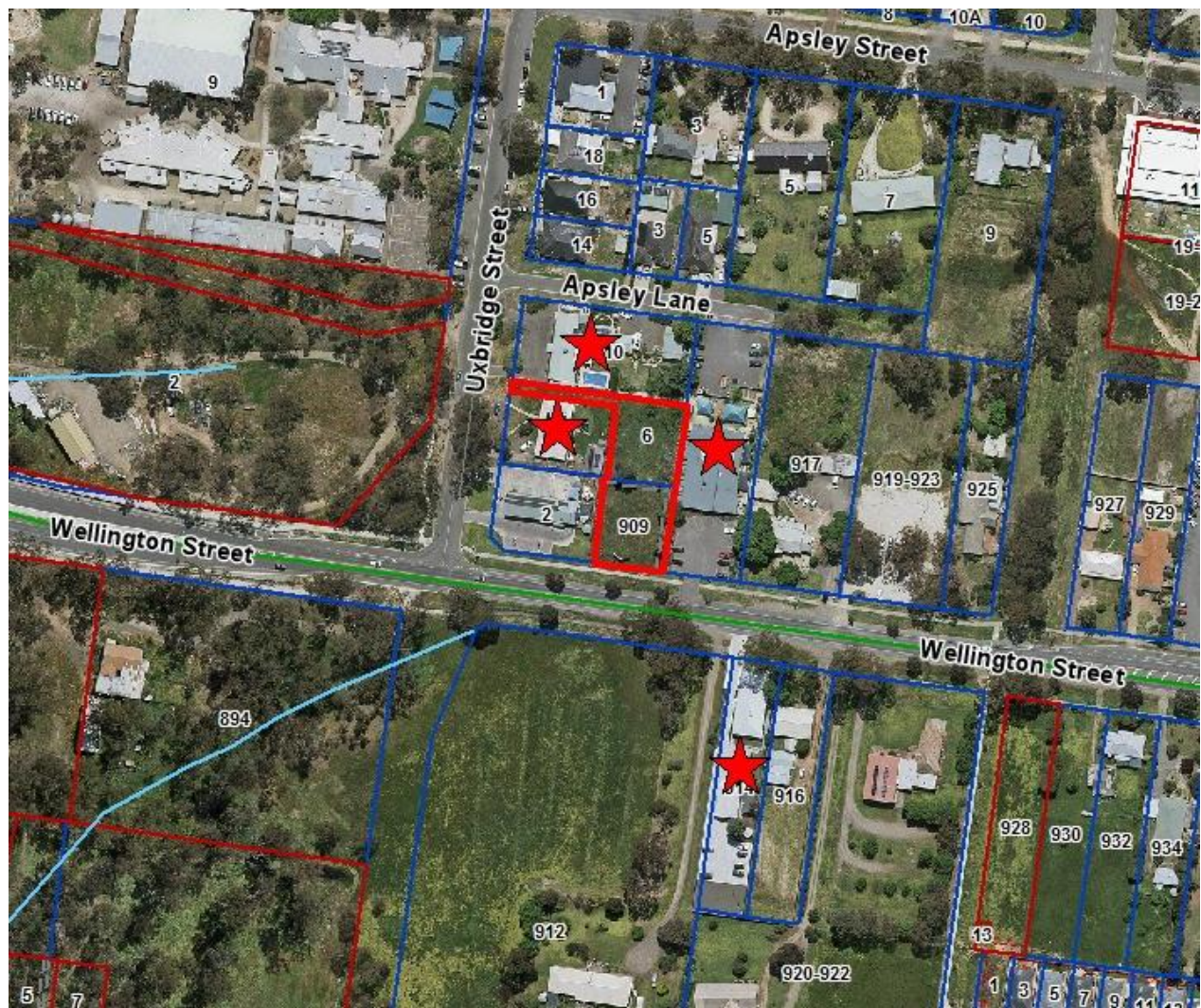


Figure 13: Aerial image showing the location of objectors' properties within proximity to the site (noting that one objector resides approximately 840 metres from the site).

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 comprises 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 subject land;
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 exiting 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 than 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 : $Q_{10\%} = 20 \text{ l/s}$.

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.

RESOLUTION - Resolution No. 2023-23

Moved: Cr Penna

Seconded: Cr O'Rourke

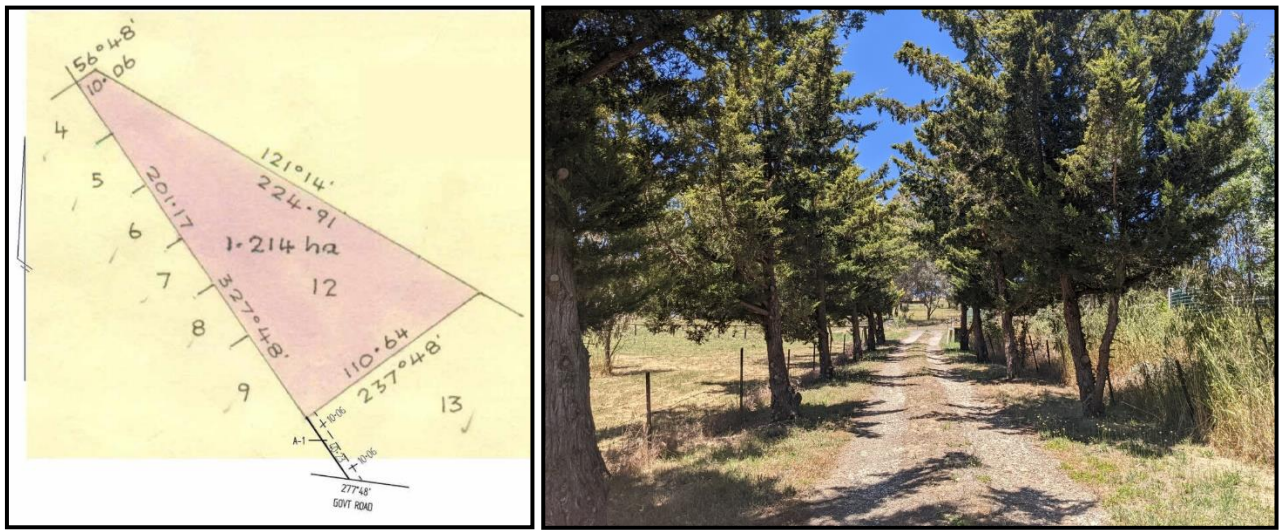
That the recommended motion be adopted.

CARRIED

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.

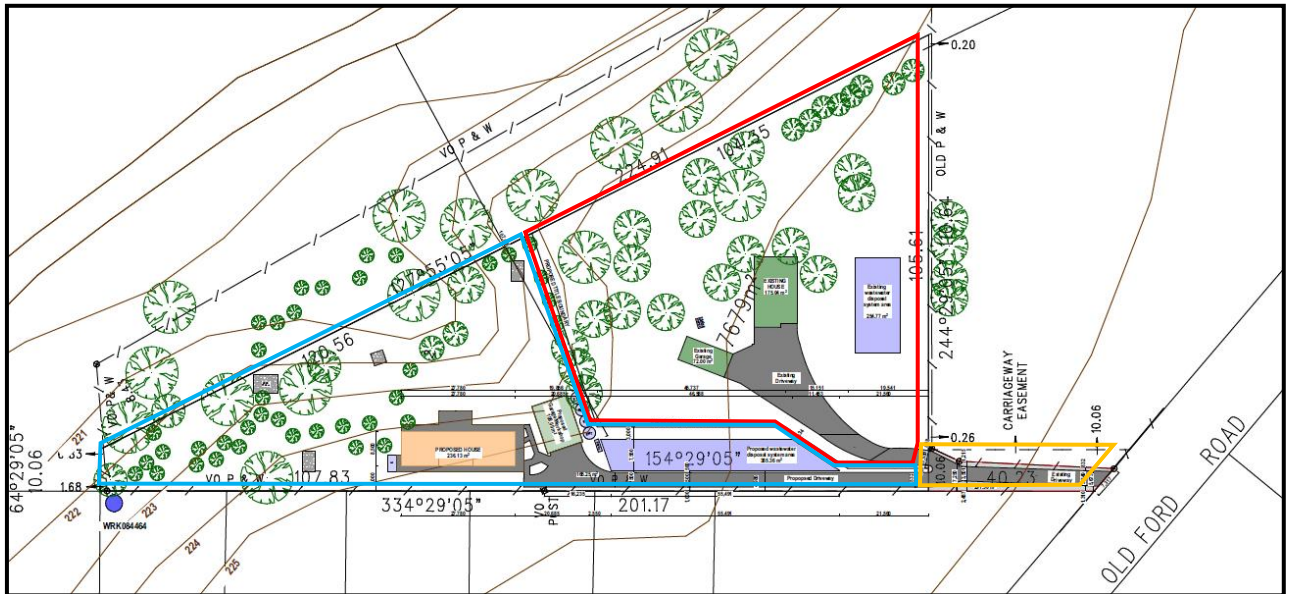


Figure 7: Indicative site plan showing access, effluent disposal field and building footprints

The application also includes the removal of 5 native trees from the site.

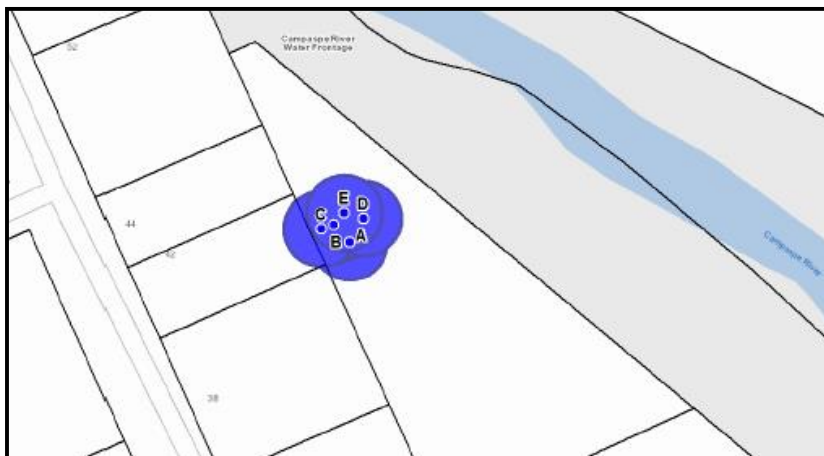


Figure 8: Location of assessable vegetation from Native Vegetation Removal Report

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	<p>No objection – subject to conditions relating to the appropriate management of wastewater as described in the Land Capability Assessment.</p> <p>It is noted that the initial referral response provided was an objection based on non-compliance with water protection policies.</p>
Goulburn Murray Water	<p>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.</p> <p>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.</p>
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 Clause 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).

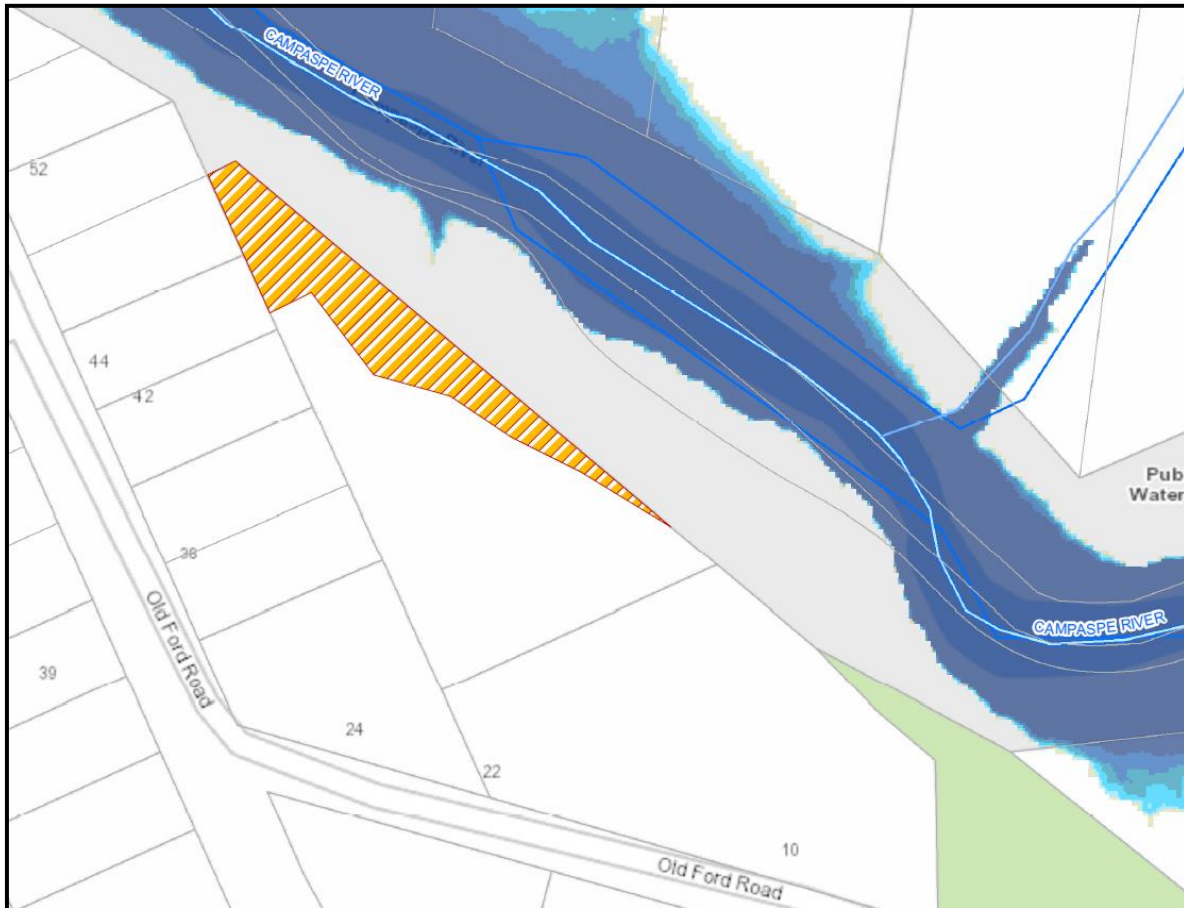


Figure 9: Plan of title restriction from NCCMA showing 50m from top of bank

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 1,500m² 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 is 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.

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.

RESOLUTION - Resolution No. 2023-24

Moved: Cr Sloan

Seconded: Cr O'Rourke

That the recommended motion be adopted.

CARRIED

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.

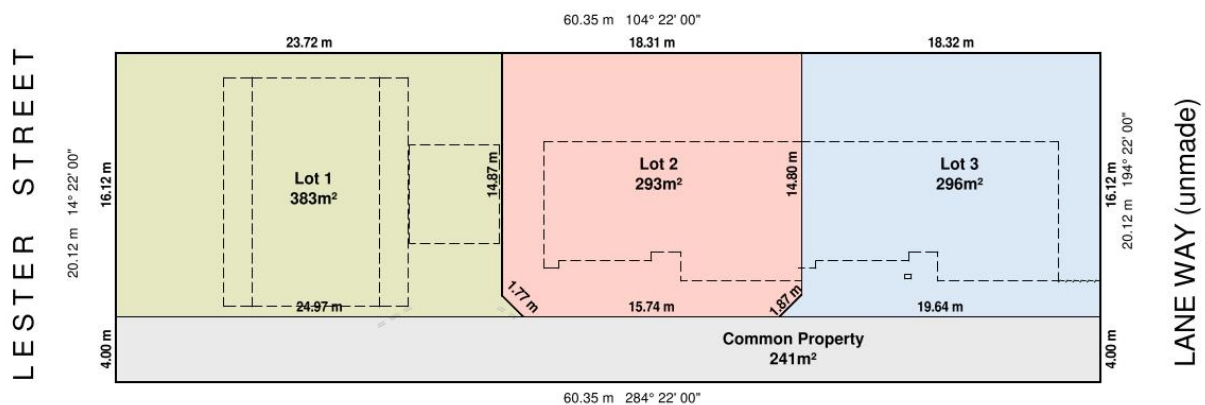


Figure 17: Proposed subdivision layout.

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.

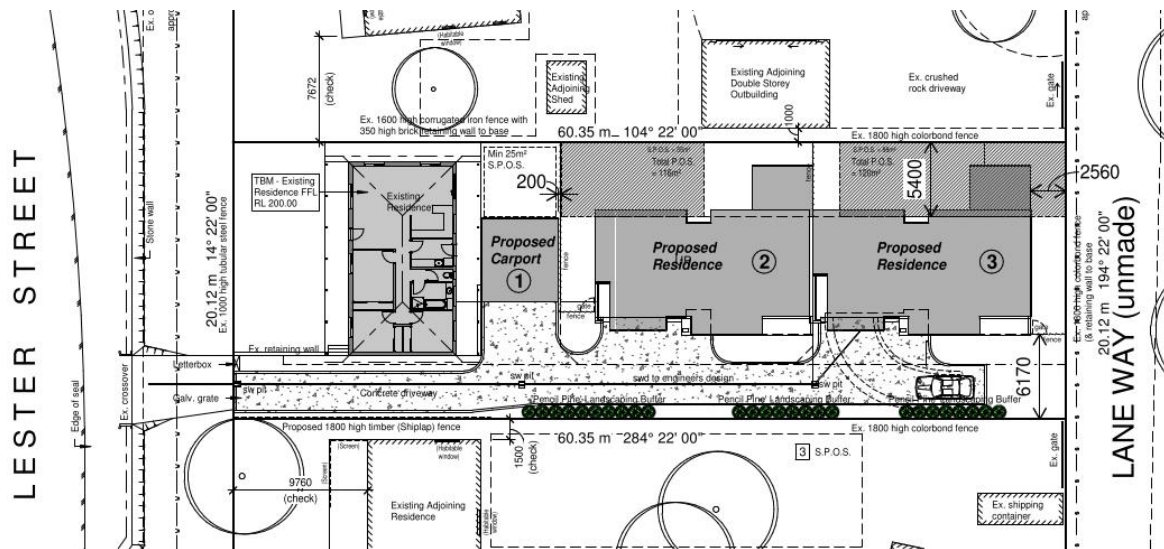


Figure 18: Proposed site layout plan.

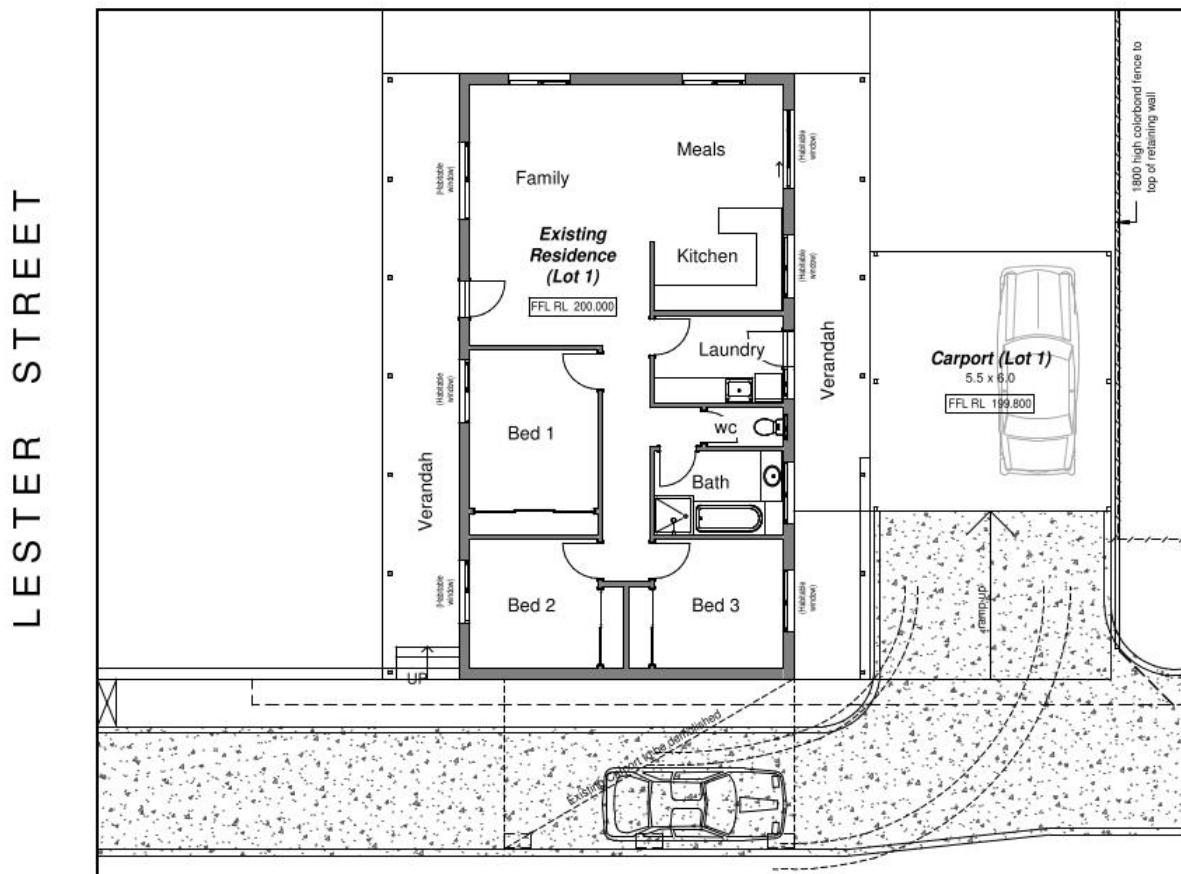


Figure 19: Floor plan of the existing dwelling with new carport.

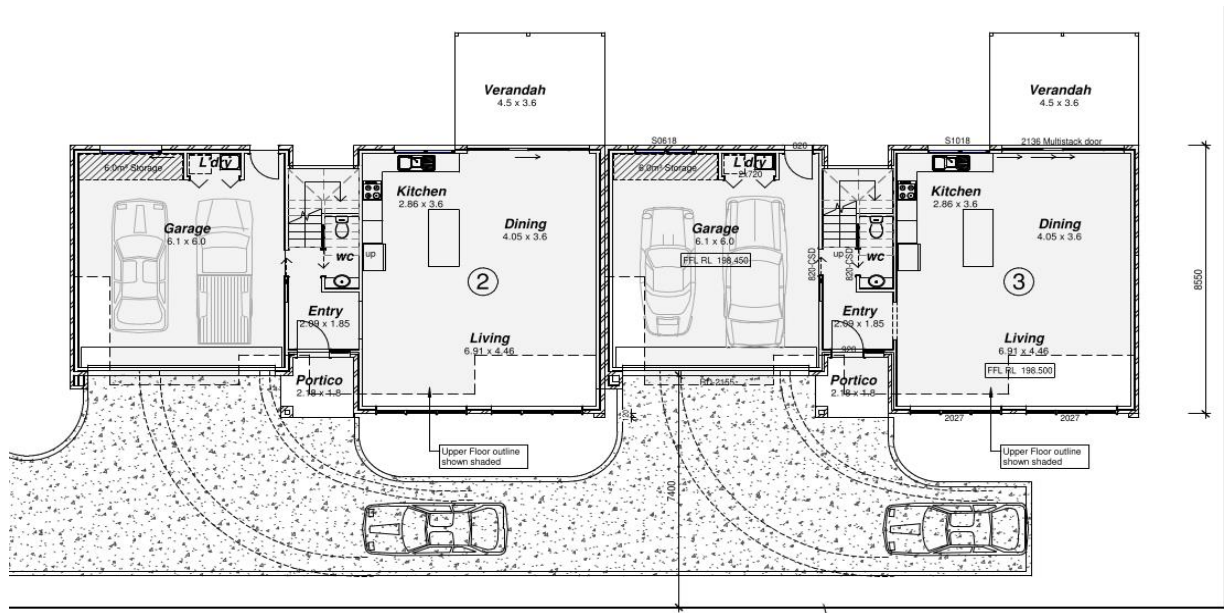


Figure 20: Ground floor plan of the proposed dwellings.

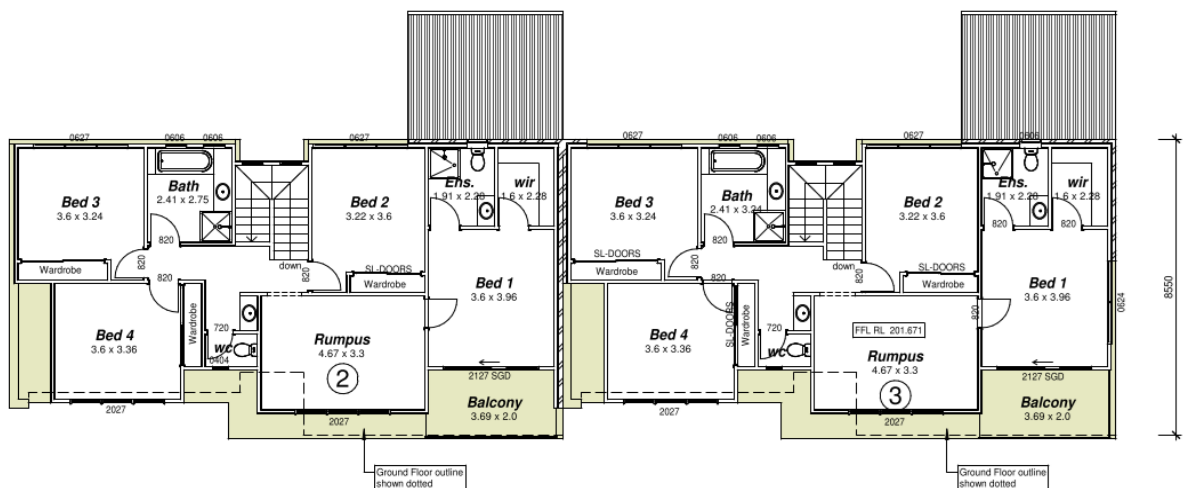


Figure 21: Upper floor plan of the proposed dwellings.



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

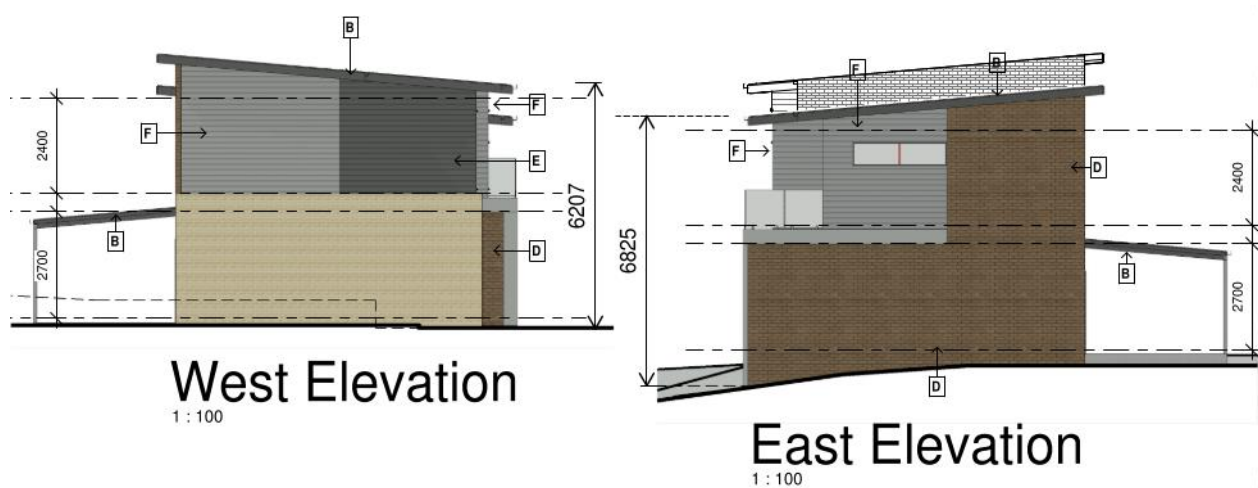


Figure 23: Eastern and western elevations of the proposed dwellings.



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.

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

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 prevented 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 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 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: $Q_{10\%} = 14\text{l/s}$.

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 landscapes 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 overlies all remaining permeable landscapes 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 landscape).
- (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 from 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 within 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:	<ul style="list-style-type: none"> • 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.

RESOLUTION - Resolution No. 2023-25

Moved: Cr Sloan

Seconded: Cr Alden

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 the land for a dwelling and facilities associated with horse husbandry and dog breeding at Lot 2, 211 Drummonds Lane, Derrinal 3523 for the following reasons:

1. In the absence of a Waste Management Plan, Operations Management Plan and Land Management Plan, Council is not satisfied that the proposal is in accordance with clauses:
 - a. 13.04-2s (Erosion and landslip) – specifically how stocking rates from the horse husbandry use would pose a risk to aggravating soil erosion.
 - b. 14.01-2S (Sustainable agricultural land use) specifically with respect to 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.
 - c. 35.06-6 (Rural Conservation Zone Decision Guidelines)
2. The risk of grassland fires because of land slope and the threat from fast moving grassfires has not been appropriately considered in accordance with 13.02-1S (Bushfire planning) and 71.02-3 (Integrated decision making) which elevates the protection of human life over all other policy considerations.

CARRIED

Cr Fyffe left the meeting at 7:33 pm.

Cr Fyffe returned to the meeting at 7:45 pm.

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:

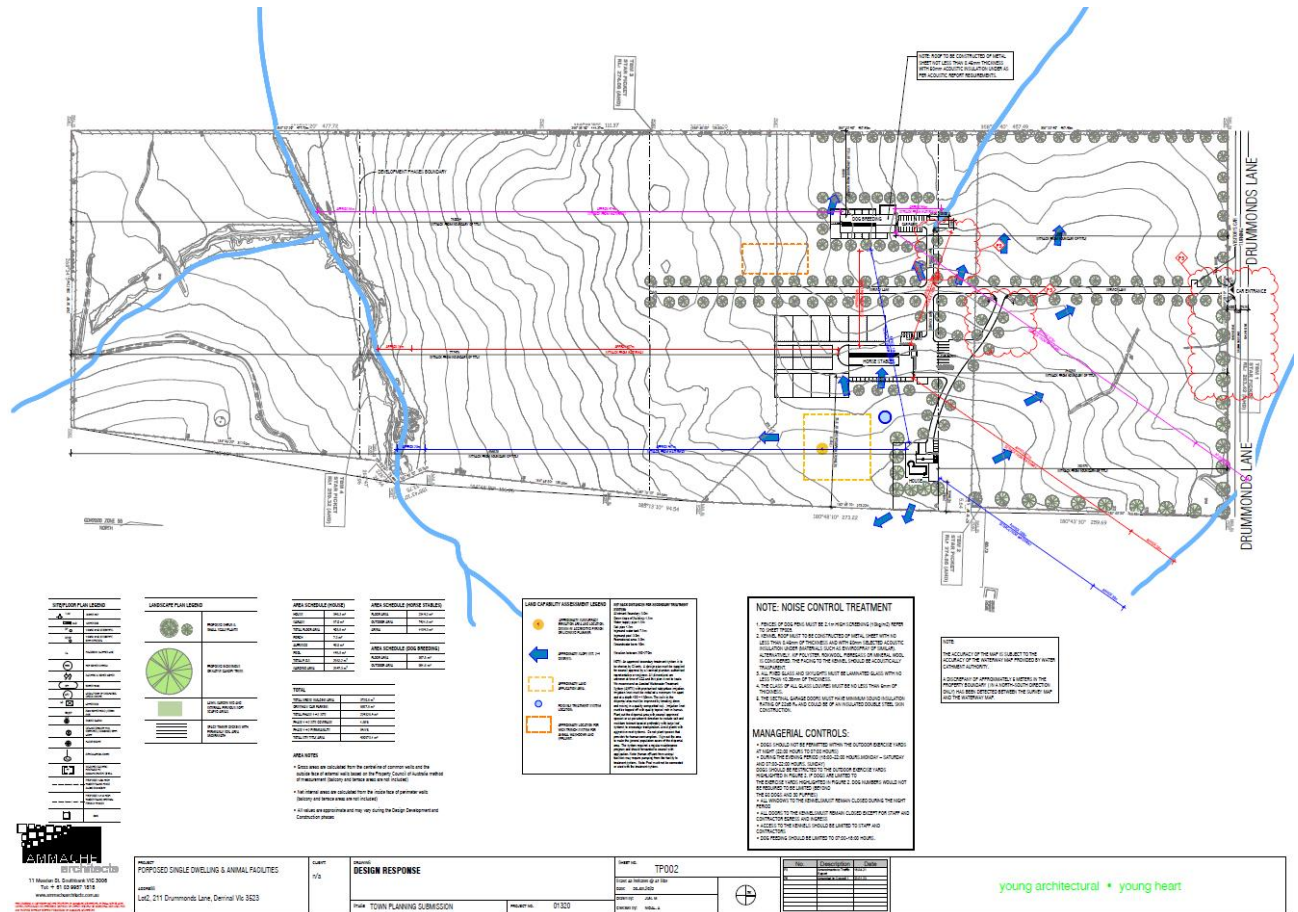


Figure 3: Overall site plan.

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.

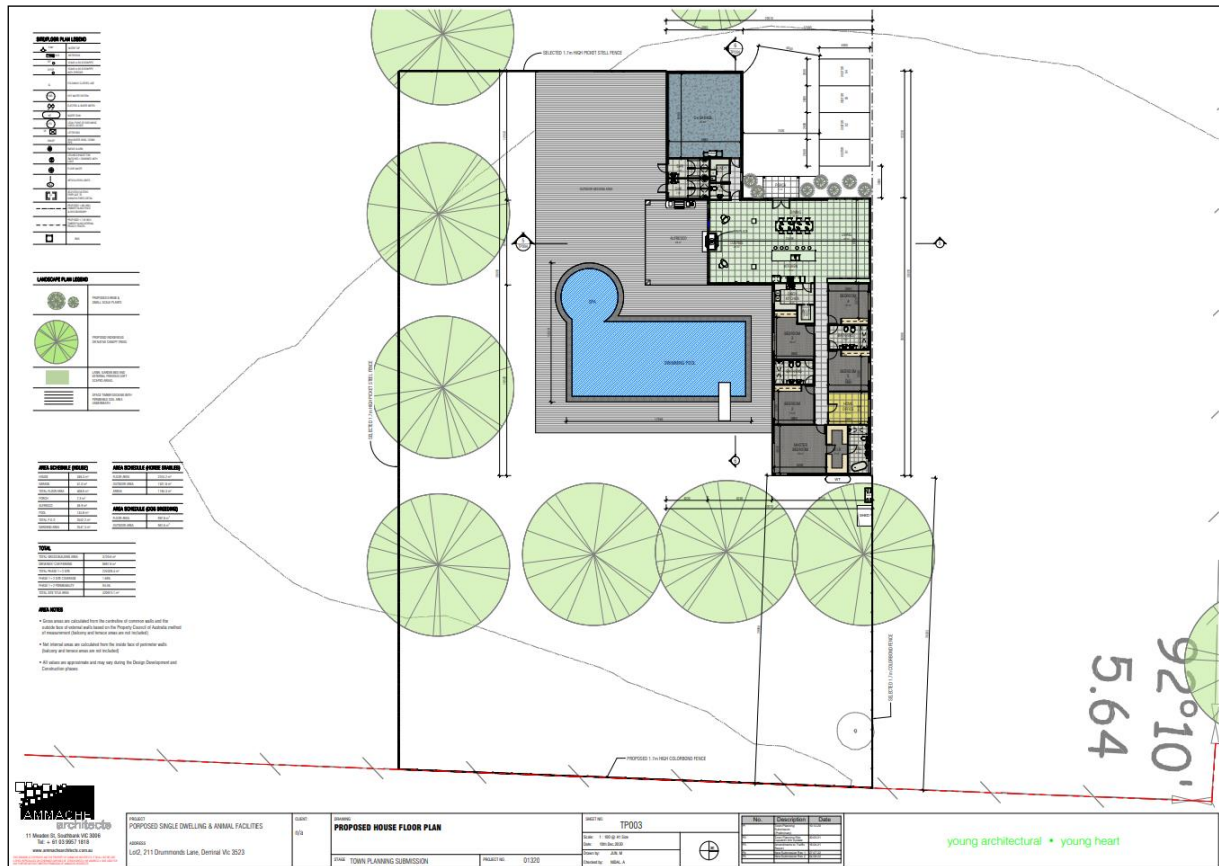


Figure 4: Site and floor plan of proposed dwelling.



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.



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).

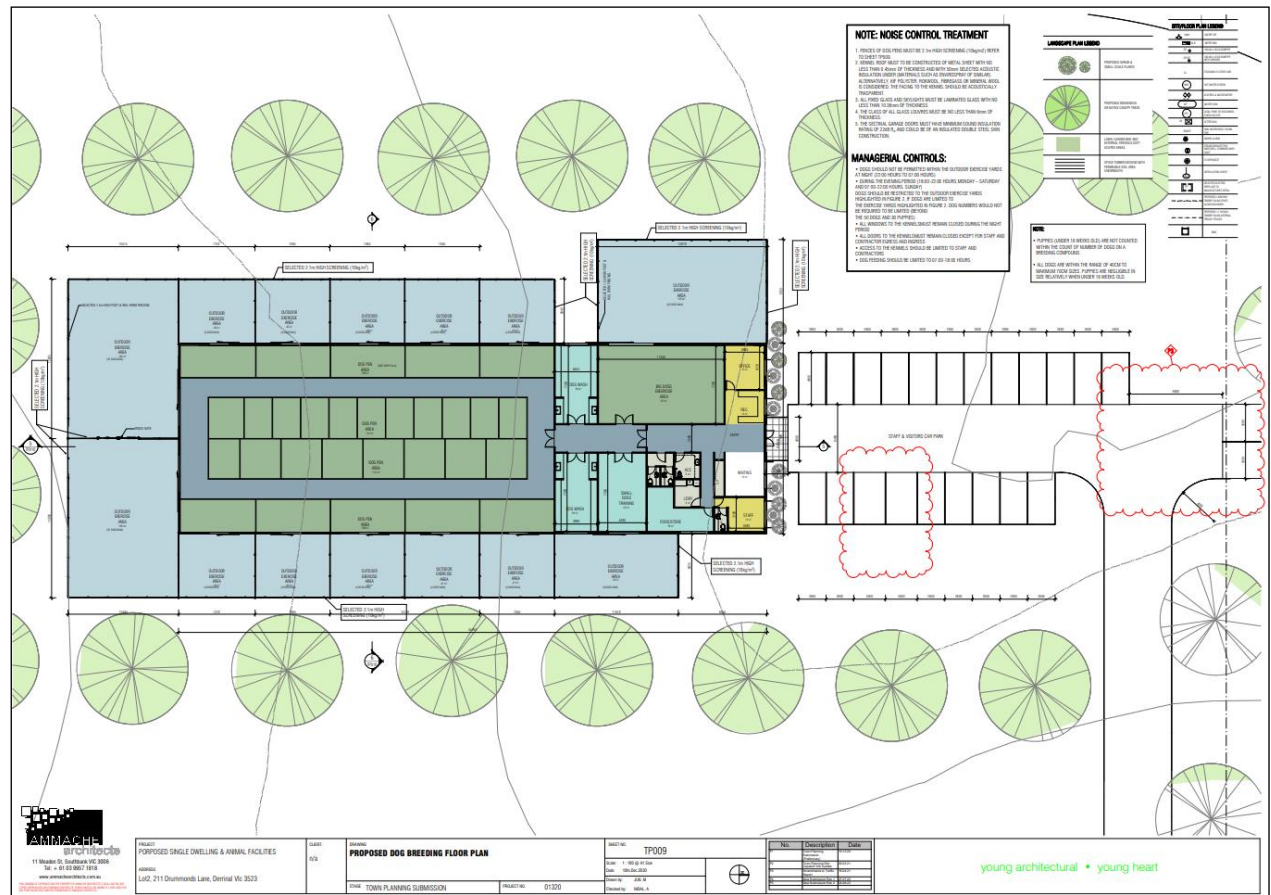


Figure 11: Site and floor plan of proposed dog breeding facility

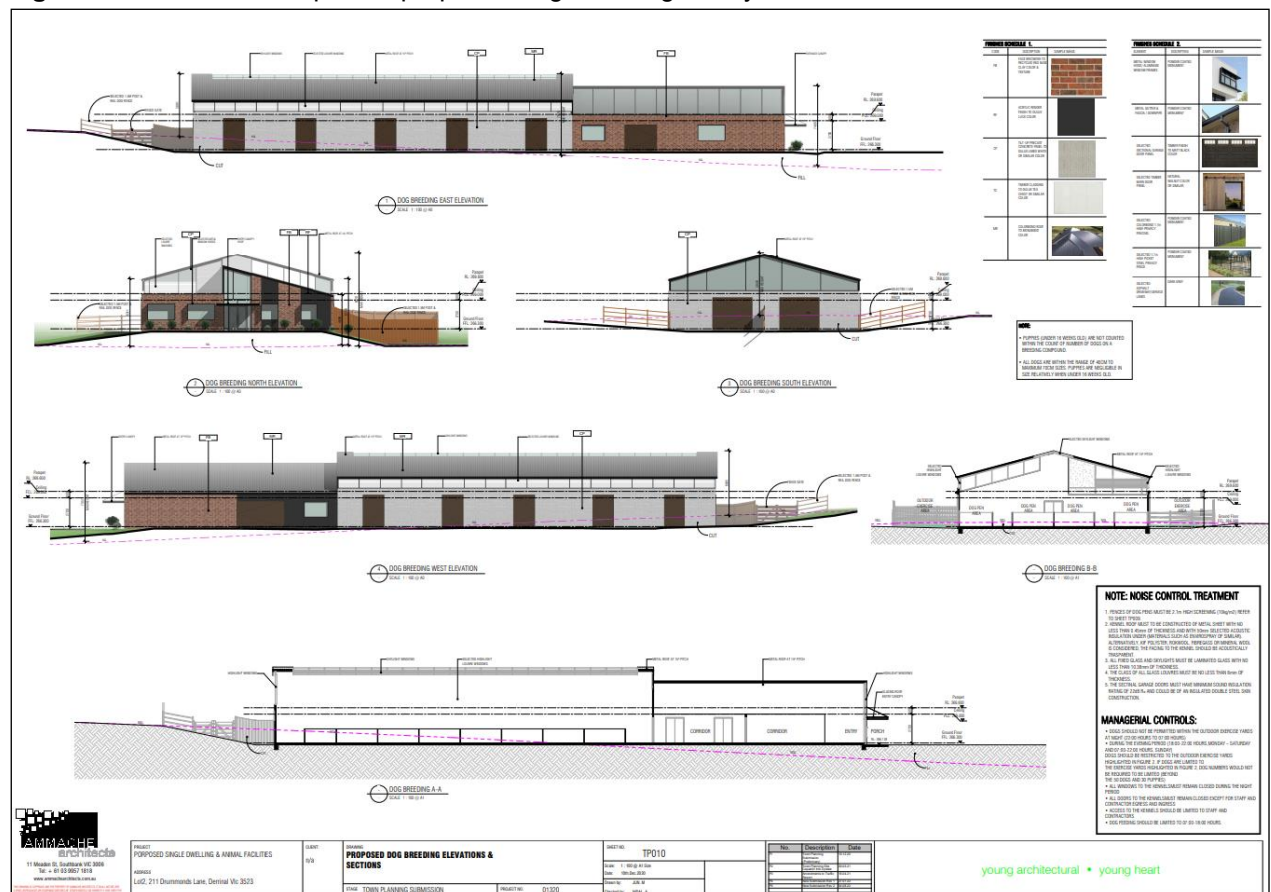


Figure 12: Elevation plans and schedule of materials for proposed dog breeding facility.



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

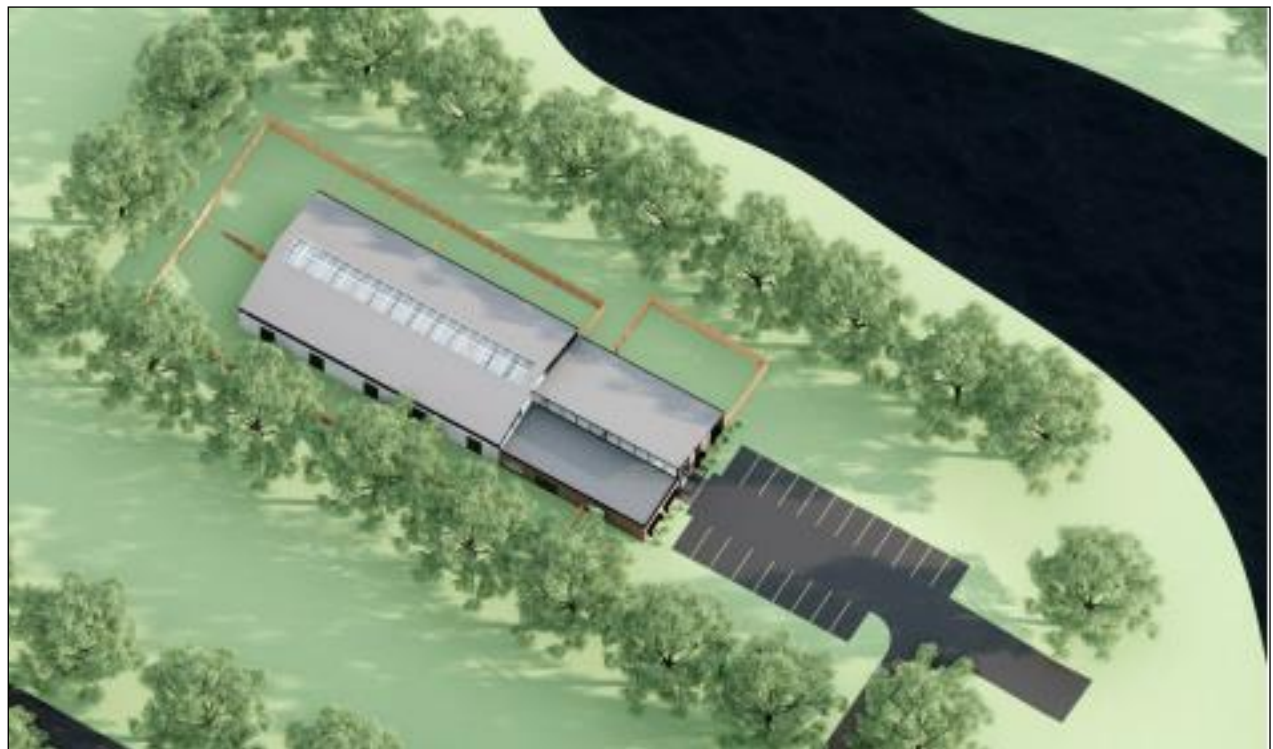


Figure 14: Proposed 3D render of dog breeding facility (birds eye view)

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.

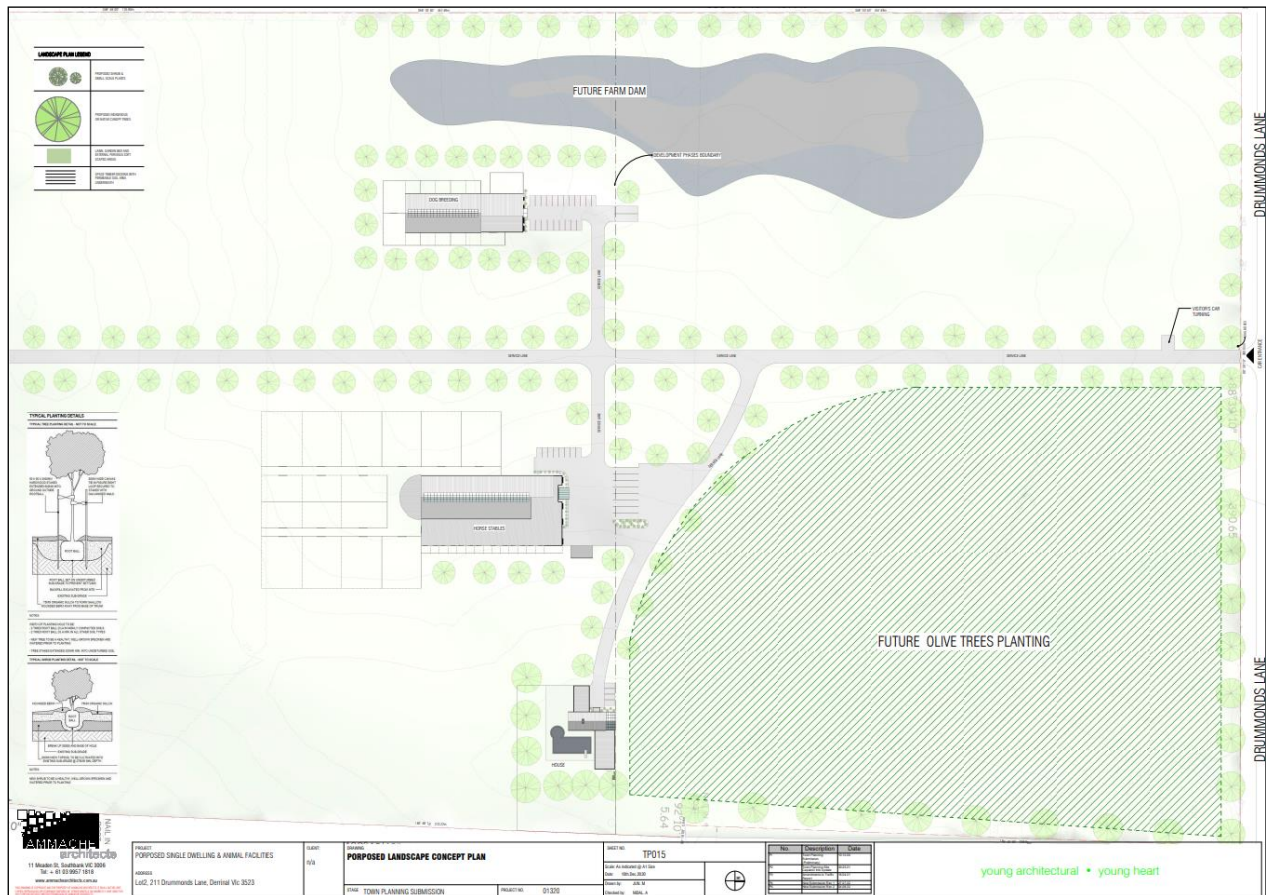


Figure 15: Proposed landscaping plan

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:

Municipal Planning Strategy

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

Planning Policy Framework

- 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: <ol style="list-style-type: none">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: <ol style="list-style-type: none">1. All construction and ongoing activities must be in accordance with sediment control principles outlined

Referral	Comment
	<p>in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).</p> <ol style="list-style-type: none"> 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	<p>No objection, considers the proposal to be generally suitable and requests the following notations on any permit:</p> <ul style="list-style-type: none"> • 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. <p>Also recommends the inclusion of a condition requiring the submission of an Operational and Management Plan.</p>

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 (paras 111-113)

- *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.

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

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.

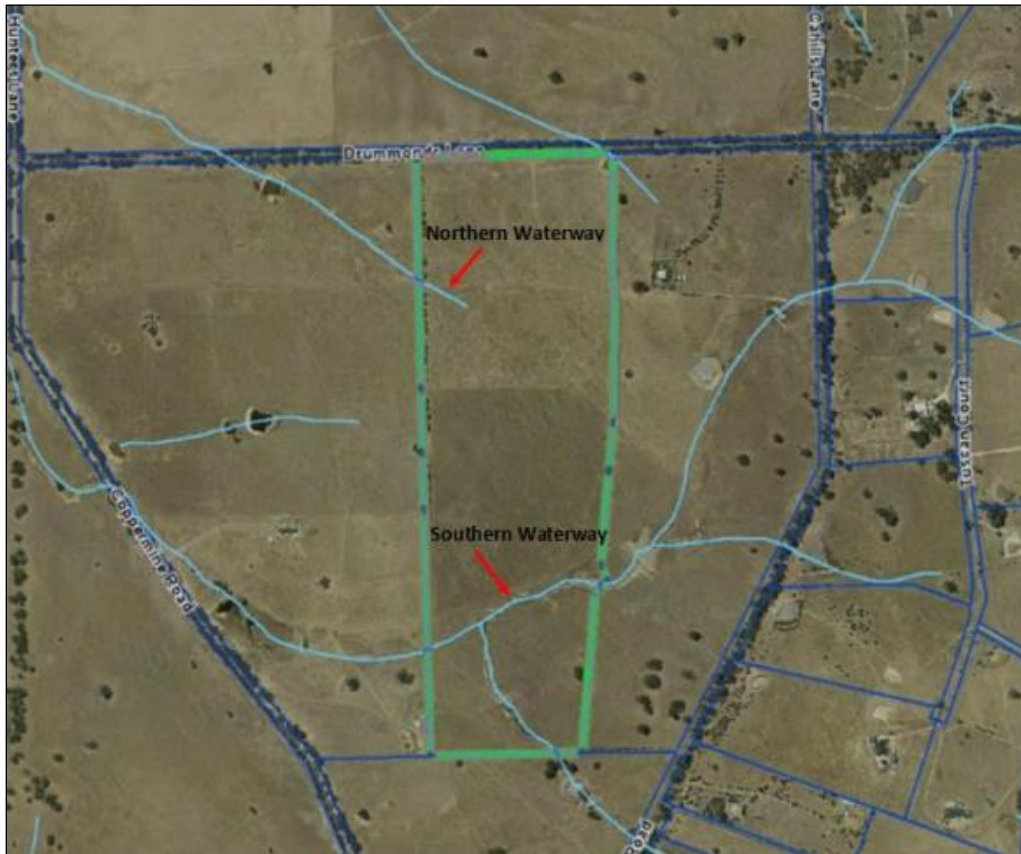


Figure 15: Map provided with written consent, denoting northern and southern waterways.

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.

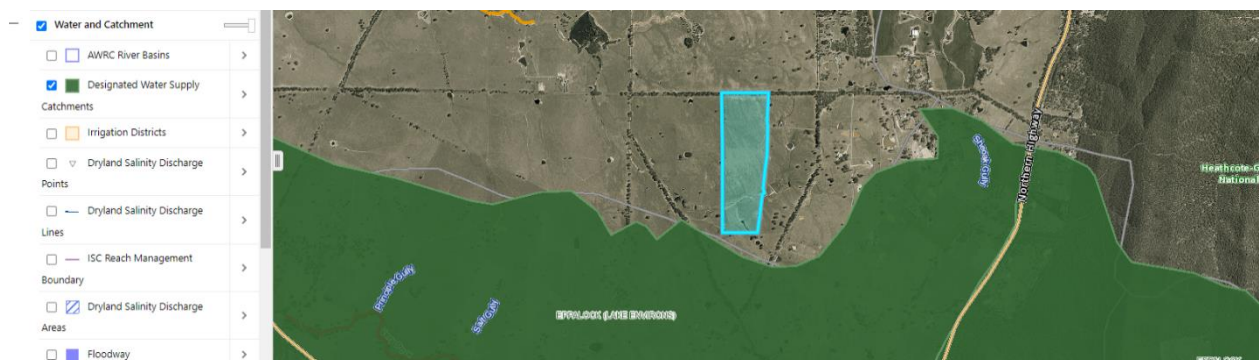


Figure 16: Map indicating extent of Designated Water Supply Catchment.

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

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 and 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	A maximum of 50 adult dogs is proposed to be kept on site. The facility has been purpose built to accommodate this

<p>basis of:</p> <ul style="list-style-type: none"> • 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. 	<p>maximum number of dogs.</p> <p>Waste disposal, noise and odour attenuation and land capability have been considered at length elsewhere within this report.</p> <p>The proposed building will be appropriately set back from watercourses.</p>
<p>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.</p>	<p>The siting of the proposed building achieves and exceeds these required set backs.</p>
<p>Landscaping and screening of the site to minimise amenity impacts.</p>	<p>Landscaping is proposed throughout the site, and surrounding the proposed dog breeding facility, to reduce amenity impacts.</p>
<p>Preventing a nuisance or disturbance to nearby properties from noise or smell by considering:</p> <ul style="list-style-type: none"> • 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. 	<p>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.</p>
<p>Constructing feed rooms and treatment rooms to have impervious walls and floors.</p>	<p>As above, this will be enforced through permit condition and within the Operational Management Plan.</p>
<p>Prevailing wind direction and the likely travel of odour and amenity impact to adjacent properties.</p>	<p>Emanation of significant odour is not expected from the site, and appropriate management of the site should ensure this does not occur.</p>
<p>Providing for the regular washed down and maintenance of all animal keeping facilities so they are kept in a clean and hygienic manner.</p>	<p>This will be required and enforced through permit conditions and the Operational Management Plan.</p>
<p>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.</p>	<p>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.</p>

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, waste 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. 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:	<ul style="list-style-type: none"> • 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:	<p>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.</p> <p>It is recommended that a Notice of Decision to Grant a Permit be issued with conditions.</p>

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.

RESOLUTION - Resolution No. 2023-26

Moved: Cr Evans

Seconded: Cr O'Rourke

That the recommended motion be adopted.

CARRIED

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.

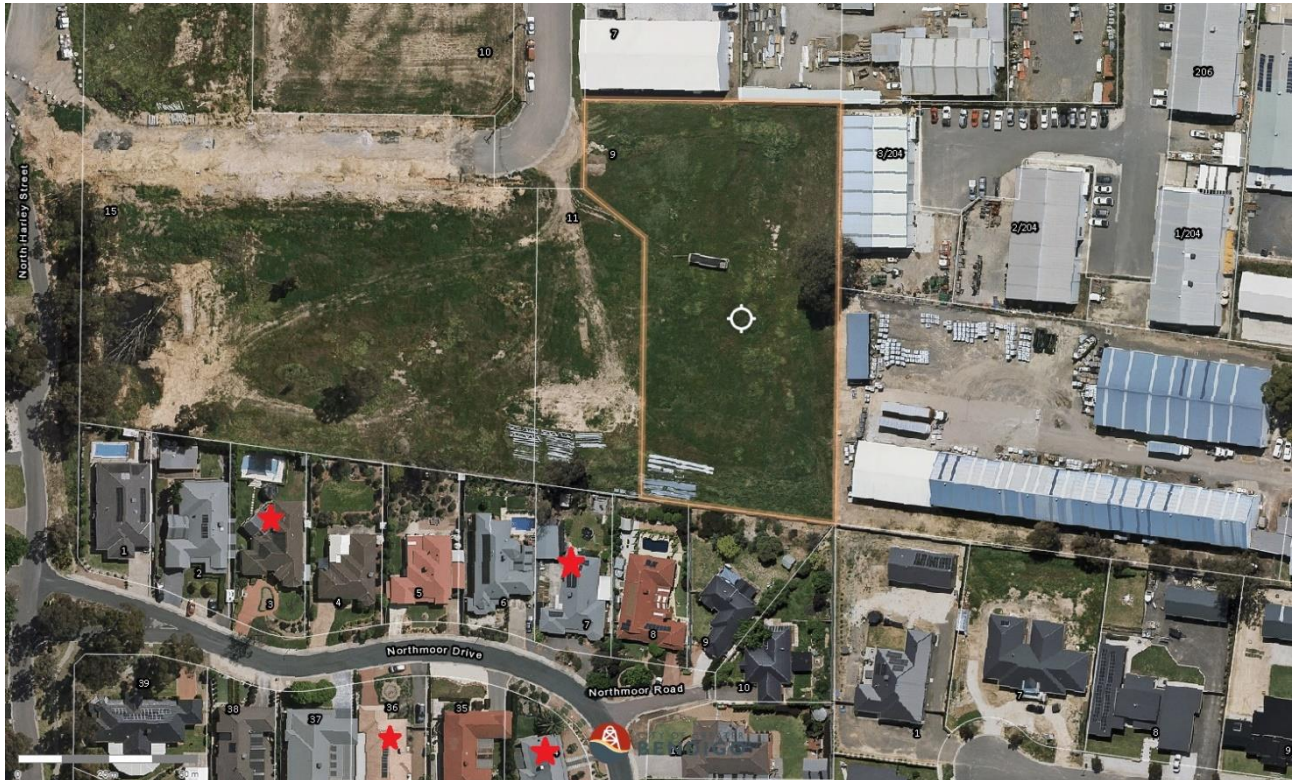


Figure 1: Location map showing subject site. Remaining objectors' properties marked with a star.



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.

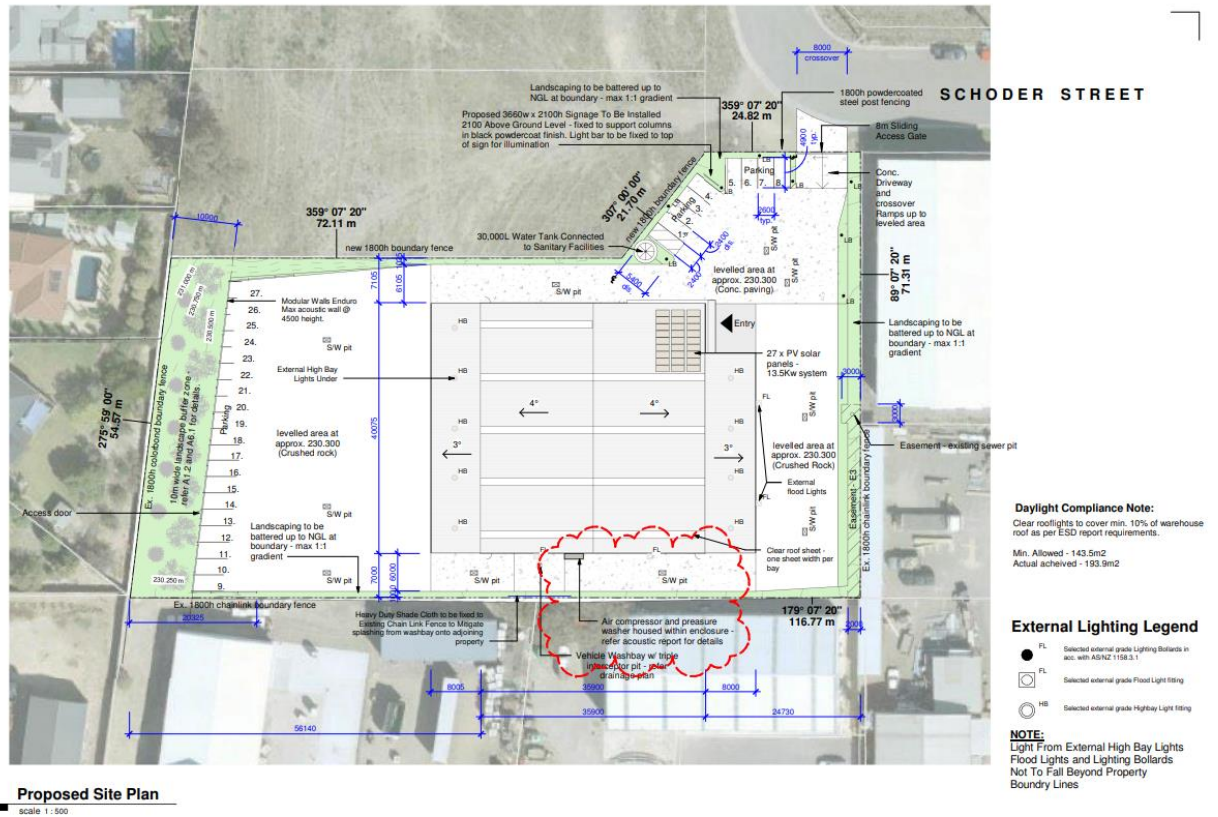


Figure 3: Proposed Site Plan.

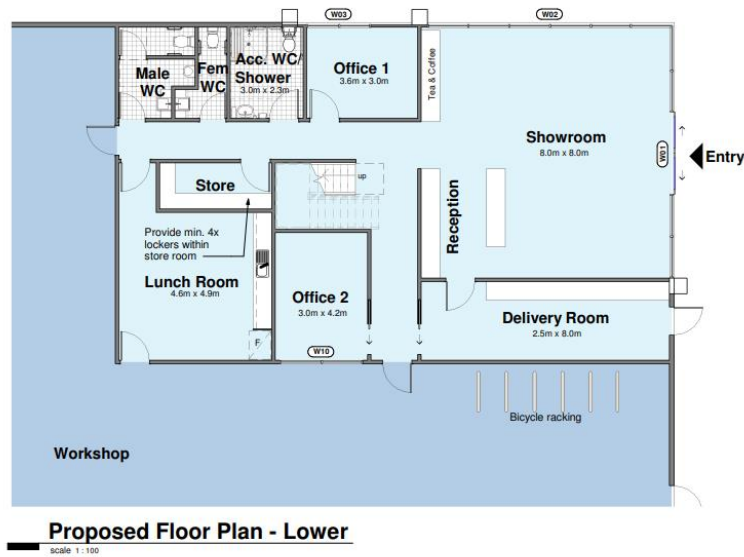


Figure 4: Proposed Ground Floor Plan.

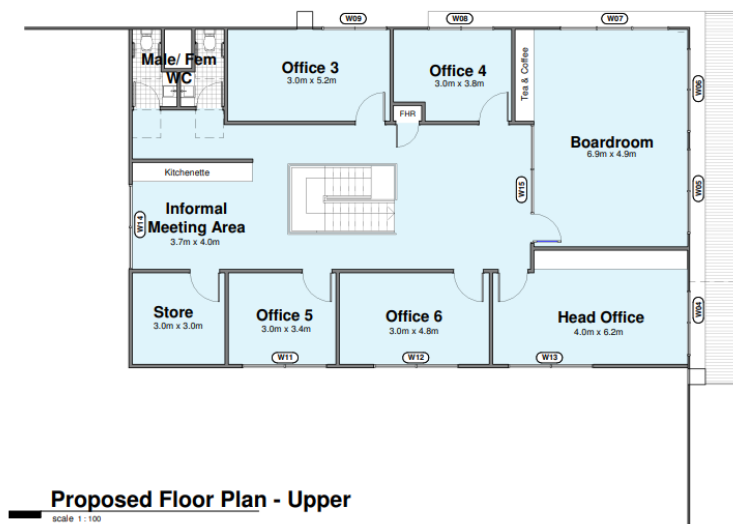


Figure 5: Proposed First Floor Plan (mezzanine).

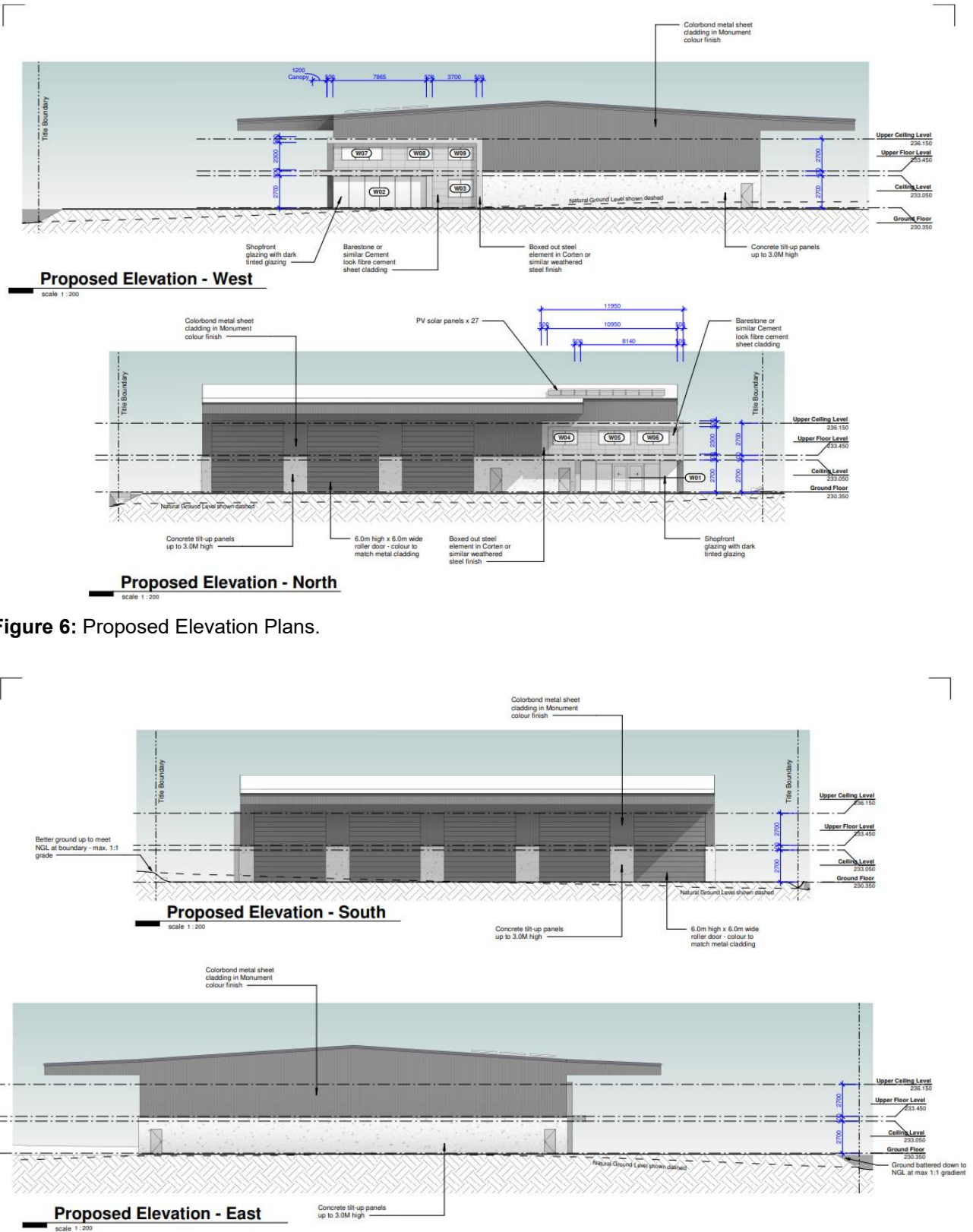


Figure 6: Proposed Elevation Plans.

Figure 7: Proposed Elevation Plans.

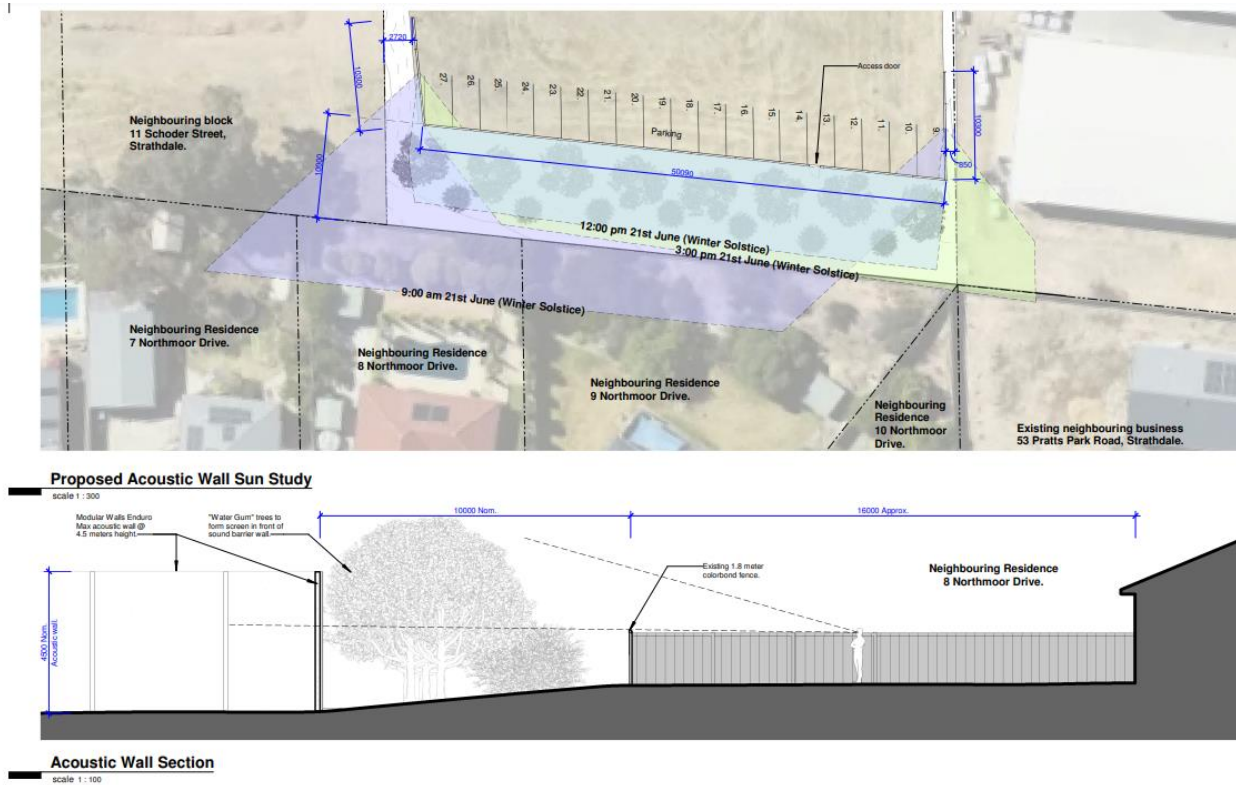


Figure 8: Proposed Elevation Plans.

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.
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 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
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Area	Mitigation Measure
Restrictions to operations	<p>Operations must not extend into the 'night' period as defined by the EP Regulations.</p> <p>The following are recommended as a conservative approach:</p> <ul style="list-style-type: none"> • 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	<p>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.</p> <ul style="list-style-type: none"> • 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. <p>Or any other equivalent that can achieve a surface density greater than 20 kg/m².</p>
Compressor Enclosure	<p>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/m². All joins should be sealed with a non-setting mastic.</p> <p>The compressor and enclosure should be located as per Figure 9. Locating this further north will have little effect on the effective noise levels.</p>

Area	Mitigation Measure
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 than 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 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.

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.

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:	<ul style="list-style-type: none"> • 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.

RESOLUTION - Resolution No. 2023-27

Moved: Cr Sloan

Seconded: Cr Penna

That the recommended motion be adopted.

CARRIED

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.

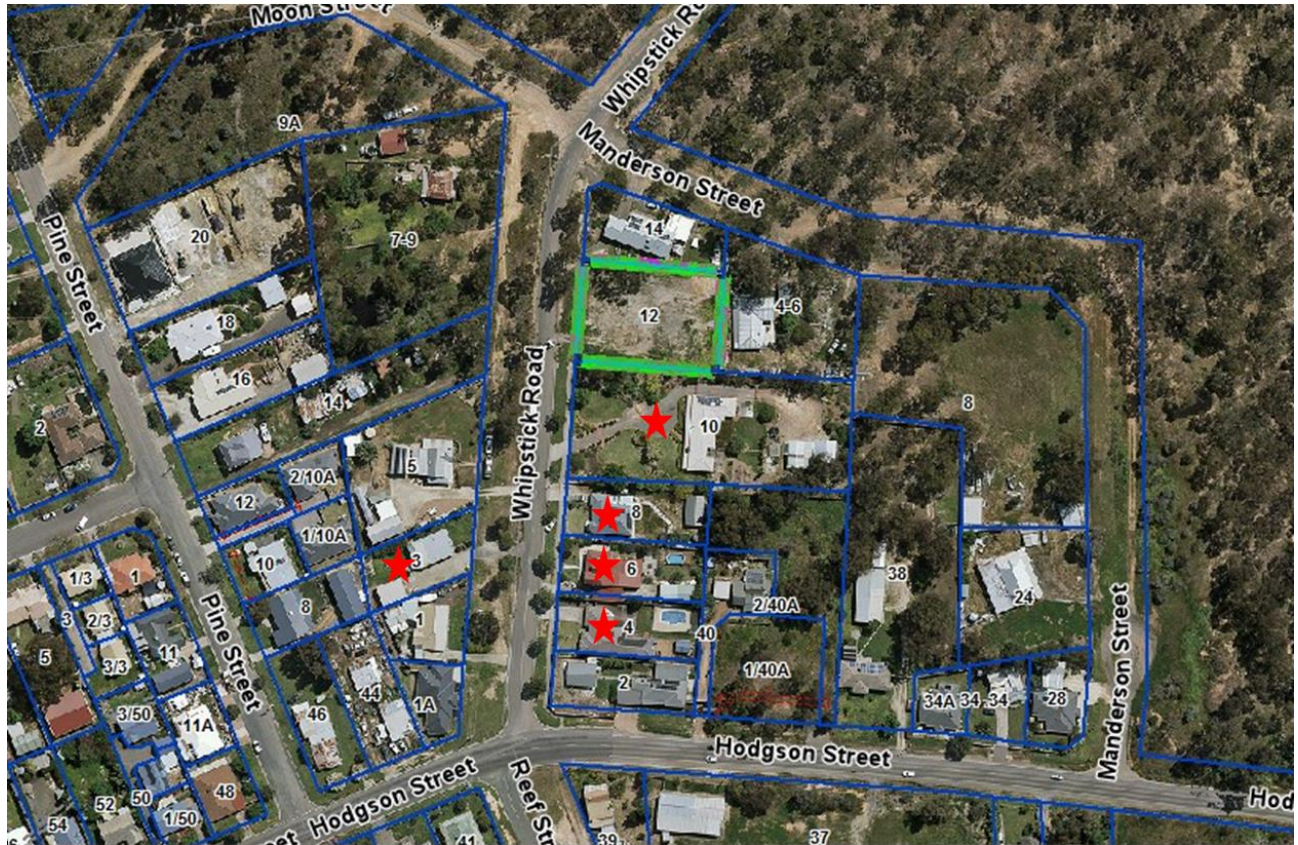


Figure 1: Location map showing subject site. Objectors' properties marked with a star.

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 654.2m² 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.

Bushfire Attack Level
"GFL"
Robust

PRELIMINARY CONCEPT ONLY



<https://1drv.ms/Au1AgahOPZsq7CnH1jvOTrHE5m-PRG7e#p8Ybzc>

Page No.	Title
1	Concept - 3D
2	Concept - 3D
3	Concept - 3D
4	Concept - 3D
5	Concept - 3D
6	Concept - 3D
7	Concept - 3D
8	Concept - 3D
9	Concept - 3D
10	Concept - 3D
11	Concept - 3D
12	Concept - 3D

Figure 2: Three dimensional perspectives of the development viewed from Whipstick Road. Location map

PRELIMINARY CONCEPT ONLY



Figure 3: Three dimensional perspectives viewed from Whipstick Road and adjoining land.

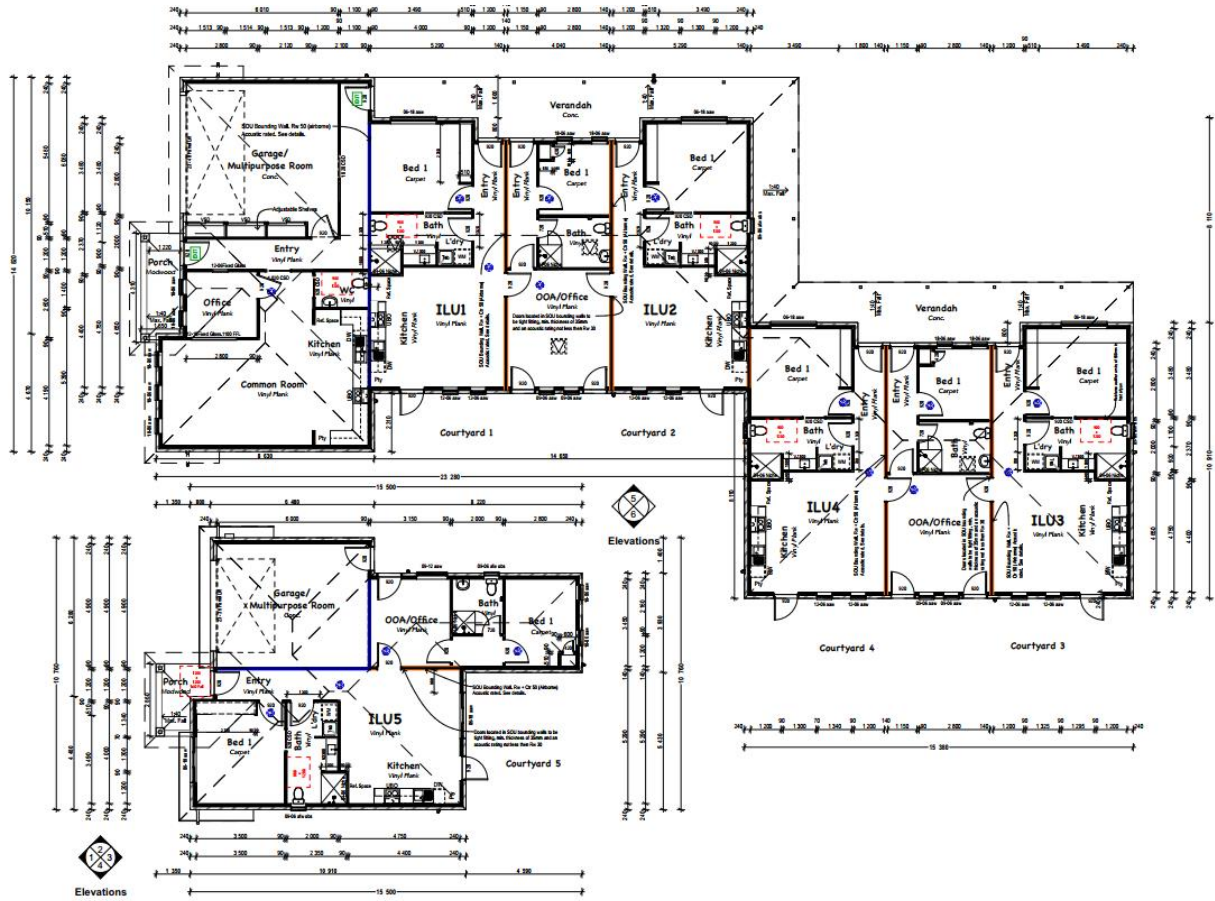


Figure 5: Floor plans.



- 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

Referral	Comment
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* (Victoria) 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 defensible 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 City officers, 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, defensible 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.

RESOLUTION - Resolution No. 2023-28

Moved: Cr O'Rourke

Seconded: Cr Fyffe

That the recommended motion be adopted.

CARRIED

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

The *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 <i>Greater Bendigo Public Space Plan</i> .
20 March 2019	Council resolved to adopt the <i>Greater Bendigo Planning Scheme Review</i> .
19 June 2019	Council resolved to re-adopt the <i>Greater Bendigo Public Space Plan</i> , 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 <i>Greater Bendigo Planning Scheme Review Part 2 Zone and Overlay updates and corrections</i> .
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 <i>Greater Bendigo Planning Scheme Review Part 2 Zone and Overlay updates and corrections</i> 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	Unresolved

Submission #	Summary of Submission	Outcome
	schedules as warranted.	
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 Authority	Supports removal of LSIO as exhibited.	Supports
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]

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.

RESOLUTION - Resolution No. 2023-29

Moved: Cr Penna

Seconded: Cr Williams

That the recommended motion be adopted.

CARRIED

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*.

RESOLUTION - Resolution No. 2023-30

Moved: Cr Alden

Seconded: Cr Sloan

That the recommended motion be adopted.

CARRIED

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]

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.

RESOLUTION - Resolution No. 2023-31

Moved: Cr Evans

Seconded: Cr Williams

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 **and rural** 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 **and rural** 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.

CARRIED

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.

RESOLUTION - Resolution No. 2023-32

Moved: Cr Alden

Seconded: Cr Sloan

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 preferencing divestment of these investments (eventually moving towards 100% divestment)**. 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 preferencing divestment of these investments (eventually moving towards 100% divestment)**. 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.*

CARRIED

Cr Alden called for a division on the voting for the Motion.

Those voting **for** the Motion:

- **5** - Cr Metcalf, Cr Alden, Cr Fyffe, Cr O'Rourke and Cr Sloan

Those voting **against** the Motion:

- **2+1** - Cr Penna and Cr Williams **plus** Cr Evans abstained

Absent:

- **1** - Cr Fagg

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

The Mayor, Cr Andrea Metcalf, tabled a report on attendance at the following meetings and events:

- Hosted visit by the Governor of Victoria, Her Excellency, The Hon. Linda Dessau and Mr Anthony Howard AM KC.
- Chaired the Regional Cities Victoria Executive Management Group online meeting.
- Met with representatives from Agnico Gold.
- Integrated Municipal Emergency Management Planning Committee online meeting.
- Met with Gaelle Broad, Member for Northern Victoria.
- Launch of CBD coverage from temporary Optus Comms Tower.
- Met with the Hon. Jacinta Allan MP, Member for Bendigo East.
- Bendigo Chamber Music Festival Summer Night Series 4 - Mayor's Gala at The Capital Theatre.
- Bendigo Health's 27th Annual General Meeting and 2022 Nursing and Midwifery Awards.
- Goornong Community Reference Group Meeting.
- Bendigo Trust Board Meeting.
- Mayor and CEO met with City of Ballarat Mayor, Cr Des Hudson and CEO Evan King.
- Onsite meeting with residents regarding the Millwood Road, Huntly levee bank.
- Chaired the Loddon Campaspe Group of Councils meeting hosted by Buloke Shire Council.
- Attended the Bendigo Community Farmers Market new location opening at Dai Gum San Precinct.
- Officially welcomed the Melbourne Vixens Pre-Season Match (Bound4Bendigo) at Red Energy Arena.
- Hosted Civic Welcome to the North Melbourne Football Club at Ulumbarra Theatre (AFL).
- Laid a wreath at the National Service Day Wreath Laying Ceremony held at Soldiers Memorial Gardens, Kangaroo Flat.
- Regional Victoria Strategic Pipeline Stakeholder Reference Group meeting.
- Elmore Community Reference Group Meeting.
- Chaired the Eaglehawk Table Tennis and Badminton Committee Meeting.
- Participated in site visit at the Agnico Eagle Fosterville Gold Mine.
- Chaired the Farming and Agribusiness Advisory Committee.
- Special Youth Council Meeting confirming the 2023 Youth Mayor (Ryan Peterson) and Deputy Youth Mayors (Lilly Corell and Remus Brasier). The meeting also acknowledged the outgoing Youth Mayor Victoria Tangey, and welcomed the eight new Youth Councillors who have joined the Youth Council for 2023.
- Chaired the Regional Cities Victoria meeting.
- Chaired the Goornong Recreation Reserve Annual General Meeting.
- Participated in the online Loddon Campaspe Careers Explorium Briefing.
- Regional Launch of Caritas Australia's Project Compassion Campaign 2023 'For All Future Generations'.
- Greater Bendigo Climate Collaboration Governance Group.
- Australian Computer Society Victoria Regional event - IO2 Security Trust Mark - Securing connected devices.
- Be.Bendigo - State of the Economic Market Breakfast.

- Officially welcomed students at the Campus Welcome 2023 for La Trobe University Bendigo.
- Melbourne Airport Briefing.
- Chaired the Community Presentations session attended by Goldfields LLEN and the Rotary Club of Eaglehawk.
- City of Greater Bendigo Audit and Risk Committee meeting.
- Chaired the Gastronomy Advisory Committee.
- Official opening of the new Bendigo Law Courts.
- Strategy and Growth – Strategic Workshop.
- Laid wreath at the National Day for War Animals Commemorative Service held at the Memorial Gardens, Bendigo & District RSL.
- Creative Communities Garden Party held at Dudley House.
- Community Flood Recovery Session held in Heathcote.
- Plaque unveiling at White Hills Cemetery by The Ambassador of the United States of America and United States Consul General.
- Spoken with residents, businesses and community groups regarding a wide range of issues.
- Participated in numerous radio, newspaper, television media interviews and photo opportunities.

25. CHIEF EXECUTIVE OFFICER'S REPORT

Thanks to the Councillors

- Thank you for having me back as Acting CEO tonight while our CEO is on a well-earned break
- Another large agenda, around 400 pages in total, 6 planning application matters and a Planning Scheme amendment
- Range of those matters residential development, supported accommodation, economic development, animal breeding
- Lots of reading, meeting with the community and site visits to prepare for this

John Joseph plaque unveiling

- Very honoured to attend the unveiling of the commemorative plaque on John Joseph's grave by the Ambassador of the USA, Caroline Kennedy and the US Consul General Kathleen Liveley
- The Gold rush is a significant part of Bendigo and Central Victoria's history and today's unveiling and John Joseph's story is another chapter in that history
- Today was a great step forward in correcting history and very special for Bendigo to be a part of this

Bendigo Law Courts opening

- An amazing facility - that has been the culmination of many years of advocacy
- Will create a much safer, more accessible court space for all users
- Very impressive addition to the skyline of the City Centre
- Adorned by a striking image of Bunjil the 4th floor designed by Barapa Barapa and Boon Wurrung artist Racquel Kerr

Events

- We have seen another big month of events in Bendigo - sport, music, art, culture food. There is something for everyone
- More to come - Lost Trades Fair is the next big event on the March Long Weekend at the Bendigo Jockey Club
- We will then welcome the Bendigo Easter Festival on from 7 - 10 April
- There are plenty of ways to get involved in the Easter Festival, including by registering as a volunteer
- Log on to the Bendigo Easter Festival website for more information on this

26. CONFIDENTIAL (SECTION 66) REPORTS

Nil

27. CLOSE OF MEETING

There being no further business, this Council Meeting closed at 8:46 pm.