

COUNCIL MEETING MINUTES



6:00 pm on Monday May 22, 2023

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

Broadcast live on Phoenix FM 106.7 ***

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can be obtained online at www.bendigo.vic.gov.au

NEXT MEETING:

June 26, 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 Dr Jennifer Alden
- Cr Matthew Evans
- Cr David Fagg
- Cr Rod Fyffe OAM
- Cr Margaret O'Rourke
- Cr Greg Penna
- Cr Julie Sloan
- Craig Niemann, Chief Executive Officer
- Andrew Cooney, Director Commonwealth Games
- Steve Hamilton, Director Strategy and Growth
- Brian Westley, Director Presentation and Assets
- Stacy Williams, Director Healthy Communities and Environments
- Jess Howard, Director Corporate Performance
- Jessica Clarke-Hong, Manager Governance

6. LEAVE OF ABSENCE

Cr Vaughan Williams has requested a Leave of Absence for this Council Meeting (May 22, 2023).

MOTION - Resolution No. 2023-58

Moved: Cr Fyffe

Seconded: Cr Fagg

That the apology from Cr Vaughan Williams be received and Leave of Absence be granted from this meeting.

CARRIED

7. SUSPENSION OF STANDING ORDERS

RESOLUTION - Resolution No. 2023-59

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

- To this month's community section and last week was National Volunteer Week.
- I thoroughly enjoyed attending the City's thank you morning tea for our fantastic volunteers. We have up to 200 amazing people who contribute 15,000 hours of service each year. Whether it's welcoming people at our Visitor Centres and giving a local's perspective, showing people to their seats in our theatres, sharing their knowledge about the Gallery or landmarks like the Town Hall, helping to run events for people of all age groups, looking after our environment or contributing through an advisory group – the time and effort of our volunteers is absolutely appreciated.
- There has been some fantastic achievements in the arts world recently and we congratulate local artist Alanah Ellen Brand on being shortlisted for the 2023 Archibald Prize. She painted artist and mentor Solomon Kammer. Alanah's latest exhibition *Vulnerability* was recently on display in Dudley House, which was supported by the City's Artist on View subsidy program.
- Staying with the arts and three of the City's own staff – Annie Brigdale, Lorraine Brigdale and Janet Bromley – have contributed to a new sculpture called *Creative Resilience* that celebrates the strength and talents of First Nations women. The striking design is located in Melbourne out the front of the Queen Victoria Women's Centre.
- And congratulations to Bendigo business Soulfood Fusion House Café, which recently won silver in the Restaurant of the Year category at the recent Foodservice Australia Expo
- Congratulations to Bendigo East swimmer Henry Allan who made his debut at the Australian Age Championships last month, coming home with five medals including gold in the under 14, 50m backstroke, silver in the 100m backstroke and bronze in the 200m backstroke.
- And Jamieson Sheahan has been drafted into the Canadian Football League, where he'll play for the Winnipeg Blue Bombers. Jamieson has played three years of US college football in California as a punter and was picked up in the Canadian Football League global draft.

9. PUBLIC QUESTION TIME

9.1. Public Question Time Guidelines

Council allows up to 30 minutes for question time on any matter except for planning items that are on the agenda tonight or anything that is defamatory, otherwise inappropriate or outside the scope of Council.

If your question is about routine or operational Council requests, you should instead make a request through our [Customer Request system](#).

[Pre registering questions](#) is recommended as this provides more time for a more detailed response to be provided to you at question time. Pre registered questions will be given priority in accordance with the Governance rules. If a question is asked on the night and we don't have the answer immediately available we may need to take it on notice, and provide a response later.

Regardless, any member of the community may ask a question in person. The preferred format is to state your name, suburb and briefly identify your topic (ie parking or Lake Weeroona Playspace, etc). Then ask one question only. If time permits, there may be an opportunity to ask additional questions, at the discretion of the Chair.

Public Question time is only one of many ways the community is able to communicate with Council, other options include:

- [Customer Request system](#)
- [Let's Talk Greater Bendigo](#)
- [Feedback and complaints process](#)
- [Petitions and joint letters](#)
- [Invitations to the Mayor](#) (and other Councillors)
- [Presentations to Councillors](#)
- Councillor Ward Engagements events, generally held monthly
- Councillor attendance at many and varied events across the Municipality and over the year
- [Councillor committee membership](#)
- Various methods of contacting the [City](#) and individual [Councillors](#)

Public Question Time is not a requirement of Council under the Local Government Act. This Council has enabled it under the Governance Rules adopted by the Council to ensure greater public transparency and accountability. The Council asks that the opportunity to ask a question of the Council in this form is treated respectfully and within these rules.

9.2. Pre-Registered Questions

Nil

9.3. Gallery Questions

Question: 1

From: Kaylene of Long Gully

Topic: Eaglehawk Land Fill

Question: When Eaglehawk landfill closes at the end of 2023 and the transfer station opens, what will its function be?

Answer: Currently working on masterplan for the long term. In the interim it will continue to operate as is for the average consumer with some waste being taken off site to other locations until a long term solution is found.

Question: 2

From: James of Eaglehawk

Topic: People's Rights

Question: Is a woman's right to be in and feel safe in 'women's only spaces', such as public toilets and change rooms, of greater value than a man who is pretending to be a woman's right to use these spaces? as these clash.

Answer: This question taken on notice with a response to be provided to James and read out at the next public Council Meeting

Question: 3

From: Liz of Strathfieldsaye

Topic: Free parking in the periphery of CBD

Question: Why is there no free parking around the periphery of the Bendigo CBD, as this disadvantages shoppers who are trying to support local business? specifically Lyttleton Tce 90min bays.

Answer: The map of CBD parking is attached to these Minutes and will be reloaded on the City website shortly. Further information on the change to Lyttleton Tce will be taken on notice with a response to be provided to Liz and read out at the next public Council Meeting

Question: 4

From: Aimee of Long Gully

Topic: Speed limits around schools

Question: Who is responsible for the management of speed limits around schools? Bendigo Special Development School does not currently have 40kmh zone and children are at risk.

Answer: Bendigo Special Development School in Kangaroo Flat is surrounded by four roads. Lockwood Road is an arterial road managed by the Department of Transport and Planning. The speed limit enquiry regarding Lockwood Road has been referred to DTP. Olympic Parade, Neil Street and Station Street in Kangaroo Flat are local roads managed by Council. Whilst Council are the responsible road authority, DTP govern all speed limits throughout Victoria and are responsible for the speed limit guidelines which determine speeds. The City's Engineering team will conduct a speed limit review on Olympic Parade, Neil Street and Station Street. A response will be provided to Aimee

City of Greater Bendigo CAR PARKING MAP



Car park

Car park	PayStay code	Parking meters
1 QEO car park	35501008	✓
2 Tom Flood car park	35501007	✓
3 McCrae Street car park	35501006	✓
4 Hargreaves Street multi storey car park	Payment options onsite	
5 Edward Street multi storey car park	Payment options onsite	
6 Market Street car park	35501001	✓
7 Myers/Mundy Street car park	35501003	✓
8 Myers Street car park	35501002	✓

More information on parking services, such as where to park, how to pay for parking, and road rules can be found on the City of Greater Bendigo website at www.bendigo.vic.gov.au/Services/Parking

You can also pay for your parking throughout the city centre by using the PayStay app on your smart phone. PayStay is a parking payment system that allows you to park and pay for parking on your personal device, without having to walk to a smart meter. For more information on how PayStay works visit www.paystay.com.au, call 1300 322 111 or download the app from Google Play Store or the Apple App Store by scanning the QR code.



CITY OF GREATER
BENDIGO

10. RESUMPTION OF STANDING ORDERS

RESOLUTION - Resolution No. 2023-60

Moved: Cr Fyffe

Seconded: Cr O'Rourke

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:

1. Laid Wreath at Anzac Day Ceremony at Axedale and Heathcote. Both events had a larger turnup than was expected. I always get emotional at Anzac Events listening and seeing what our Soldiers went through for our freedoms.
2. Participated in Strategy and growth workshops
3. 1 on 1 meeting with Mayor
4. Meeting with Mayor and Peter Daley regarding Bendigo Fireworks concerns.
5. Strath Village Listening Post which went for 3 + hours, very beneficial post.
6. Attended Equity Impact Assessment Training
7. Several Councillor Only Meetings
8. Various Resident Visits locally, Heathcote, Redesdale, Mia Mia, Goornong, Sebastian and Elmore
9. Several Council Briefings
10. Attended Fosterville Gold ERC Meeting, including, after, holding a 12 Kg Ingot, of Fosterville Gold 4 millionth Ounce, mined, Followed with a Photo Shoot holding the Ingot. This is over four times the estimated gold, expected by Fosterville to be mined As a matter of Interest, the Ingot is valued at 1.5 Mil and the Dollar value of 4 million ounces is 12 Billion Australian Dollars. Just think of the Economical benefit to this region and Australia, And to think, some people want the mine to Close.
11. Interim CEO Interviews.
12. Attended Planning Consultation Meeting Hopetoun St
13. We Attended Community Presentations
14. Attended Eaglehawk Landfill Rehabilitation Tour to see progress and future plans for site.
15. Discovery Science and Technology Centre new Planetarium Launch.
16. Bendigo Tourism Board Meeting.
17. Environment Volunteers Breakfast hosted by city and DEECA
18. Matt had a Meeting with the Hon John Pesutto MP- Leader of the opposition and Hon Wendy Lovell MP
19. Marg attended BRMG Medeting.
20. Marg also attended Be.Bendigo Breakfast at the Red Energy Arena. Attended by CEOs of Bendigo Health and SJoG
21. Meeting with Riley St Landcare Group
22. IDAHOBIT Flag Raising Event
23. Marg Attended the Audit and Risk Committee

11.2. Lockwood Ward - Cr Fyffe

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

1. Discovery Science and Technology Centre new Planetarium Launch.
2. Attended Maiden Gully Progress Assoc. Meeting
3. Attended Bendigo Writers Festival
4. Opening of Paul Harrington Exhibit - Living Art Space
5. Maiden Gully Autumn Festival
6. Easter Festival Thank you Function
7. ANZAC Day at Kangaroo Flat
8. Quite a number of auxiliary meetings of organisations Cr Fyffe is on.

11.3. Whipstick Ward - Cr Fagg

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

Whipstick councillors have had 2 local community engagements in Long Gully and North Bendigo. Cr Sloan and I held a listening post at North Bendigo Recreation Reserve last Saturday while soccer, Aussie Rules, and netball matches were on. It's safe to say that our listening post was a lot less popular than the excellent community sport on offer.

More popular was the Coffee with a Councillor at Bennett St Café in Long Gully that we held about a month ago. Councillor Metcalf and I spoke with about 25 people on issues such as road safety, graffiti, disability access, and footpath construction. I'd like to thank the councillor support team for their tireless efforts to organise these engagement events.

A number of excellent events have happened over the past month in the Whipstick Ward, and I will only mention a few.

- Huntly tree planting at Goldleaf Wetland Reserve, run by Northern Bendigo Landcare Group. This is becoming an annual tradition. Congrats to all those who turned up on Mothers' Day. More than 80 people. More than 1000 seedlings. Amazing work.
- Congratulate Bendigo Venues and Events on the Ring Cycle Opera concerts that occurred in Bendigo. I was fortunate to spend 5 hours at one of these concerts, and it was great to overhear so many people there expressing gratitude and amazement that a regional town was putting on this event.
- Long Gully Neighbourhood Centre hosted their Good Neighbour Competition for the 3rd year. Congratulate ('Sunny'), and Linto Thomas who were the winners this year. Both have done great work in helping people from different cultures interact in Bendigo.

I would also like to draw resident's attention to opportunities for contribution to council policies and community plans. For example, the Long Gully Community Plan has taken its next step with an online and paper-based survey, which will shape Long Gully's aspirations for the future. You can access that survey from the Long Gully Neighbourhood Centre's Facebook page.

In addition the Let's Talk Greater Bendigo website has many opportunities to submit your views which will shape policies that the City of Greater Bendigo is writing. For example right now – Biodiversity Strategy, Vaping and Smoking, and Public Art Policy.

And lastly, I want to encourage residents to think about our long term growth. Council staff and councillors are working behind the scenes to come up with a draft policy on Managed Growth for our municipality. Whatever you think of Bendigo getting bigger, and I am certainly conflicted, we will grow in numbers of over the coming decades. We need a policy to guide this growth as best we can, so that we have a diversity of housing, that housing is affordable and equitable, our neighbourhoods remain healthy places to live, and we avoid losing our biodiversity. That policy is the Managed Growth Strategy. As I said, council staff and councillors are working on this behind the scenes. But later in the year there will an opportunity for the public to comment.

I encourage you, and the groups you are part of, to begin to consider your views on Bendigo's growth. Should we open new green-fields sites for suburban development on the fringes of our urban areas, or should we instead encourage more medium density housing around town centres? How will we keep our neighbourhood character but at the same time deal with change? These are important questions, and we need the contribution of our community to this policy, when it is released for public comment.

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

13.1. Confirmation of Previous Minutes

RECOMMENDED MOTION

That the Minutes of the Council Meeting held on April 24, 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. 2023-61

Moved: Cr O'Rourke

Seconded: Cr Penna

That the recommended motion be adopted.

CARRIED

14. PETITIONS AND JOINT LETTERS

Nil

15. BUDGET / ANNUAL REPORT**15.1. City of Greater Bendigo Budget 2023/2024**

Author:	Kate Fox, Coordinator Management Accounting & Analysis
Responsible Director:	Jessica Howard, Director, Corporate Performance

Purpose

The purpose of this report is to present Council with the City of Greater Bendigo Council 2023/2024 Budget for consideration and adoption.

Recommended Motion

That Council adopts the following motions.

Recommended motions supporting adoption of the City of Greater Bendigo Council 2023/2024 Budget (the Budget):

1. Adopts the Budget attached to this recommended motion, in accordance with the *Local Government Act 2020* (the Act) and relevant regulations.
2. Acknowledges the community's contribution to the Budget consultation process and thanks them for their contribution.
3. Approves new loan borrowings of up to \$8.625M in line with the Budget and authorise the CEO, Director Corporate Performance or Manager Financial Strategy to:
 - a. negotiate the loan;
 - b. approve the successful loan facility (any two of the above officers); and
 - c. execute the loan documentation (any two of the above officers).

Recommended motions declaring rates and charges:

4. Declares an amount of \$147.2M which Council intends to raise by General Rates and Annual Service Charges for the period 1 July 2023 – 30 June 2024 calculated as follows:
 - a) General Rates \$119.8M; and
 - b) Annual Service charges \$27.4M.
5. Declares the Rates and Charges as detailed in Council's *Revenue and Rating Plan 2021-2025* as required under section 94(2)(i) of the Act and section 161(2) of the *Local Government Act 1989* in line with Table 1 and Table 2 of this Report.
 - a. Notes that under the *Revenue and Rating Plan 2021-2025* it was determined in 2022 that the vacant land differential rate would remain at 125% of the general rate.
 - b. Grants an early full rate payment discount of 1.5% on current year rates and charges, if full payment (including any arrears and interest) is received on or before 30 September 2023
6. Notes that the Budget utilises final valuations from the Valuer-General.
7. Adopts the User Fees and Charges Schedule as set out in Appendix A of the Budget.

RESOLUTION - Resolution No. 2023-62

Moved: Cr Metcalf

Seconded: Cr Alden

That the recommended motion be adopted.

CARRIED

Executive Summary

This report presents Council with the 2023/2024 4-year Budget in line with relevant legislation and regulations.

Background

The 2023/2024 Budget is presented in the third year of the Council Plan and Financial Plan. Both plans, together with our Community Vision, were developed through the Imagine Greater Bendigo project which involved extensive community engagement and community feedback over nine months in 2021.

Report

This is a community-focused Budget with priorities that will enhance day-to-day liveability for residents of the City of Greater Bendigo. It invests in projects with long term benefits.

In a change to the community engagement approach from previous years, submission of community priorities was invited early in the budget process (November 2022) to support Councillors and Officers in developing the Budget. Creating healthy, liveable places and spaces in Greater Bendigo was a key theme from this engagement.

The Budget supports the City's Community Vision and Council Plan (*Mir wimbul*) 2021-2025 and other key strategies, including the Climate Change and Environment Strategy 2021-2026 and Healthy Greater Bendigo 2021-2025.

Council has not applied for a variation to the rate cap, and – conscious of cost-of-living pressures for the community – will continue to absorb increasing costs and lower forecast revenue within the current rate cap. Inflation continues to be close to 7 per cent. This is close to double the 3.5 per cent rate cap set for the City for 2023/2024. Construction costs are also likely to continue to increase significantly faster than the broader CPI – placing continuing pressure on delivery over the coming year.

The Budget includes \$67M in capital works, of which \$36M is classed as renewal funding. In total, the capital program includes \$13M for sealed roads, \$3.9M for unsealed roads, \$5.6M for drainage works, and \$3.3M for works for footpaths and shared paths.

In 2023/2024, the \$168M operating Budget will continue to fund early years services, waste collection, street cleaning, maintenance of our parks, gardens and recreation facilities, environmental health, statutory planning, road maintenance, tourism and visitor services, Bendigo Art Gallery, The Capital and Ulumbarra theatres and much more.

To support opportunities for the community to stay healthy and well, \$3.37M will be invested in designing, renewing and delivering new shared paths and trails, including:

- stage one of the Ironbark Gully Trail between Nolan Street and Holmes Road;
- design for the new Bendigo Low Line separated walking cycling network between Golden Square and Lake Weeroona;
- delivery of an underpass at Emu Creek in Strathfieldsaye over the next two years; and
- renewal of footpaths.

Priorities that support the delivery of actions in the Council Plan and Climate Change and Environment Strategy include:

- sustainable land management education and grants program;
- contribution to a local carbon offset pilot program;
- electrification projects; and
- biodiversity engagement including support for local Landcare and other environmental groups in the community.

Building our region's flood resilience is a priority to keep our community safe. Detailed design for a Bendigo Creek levee from Racecourse Creek at Midland Highway to Leans Road, Huntly will receive \$360,000 in funding, with current designs including a shared user path. Rehabilitating Bendigo Creek near Weeroona Avenue, White Hills will also see accumulated silt removed, banks stabilised, and an instream sediment basin installed.

The City is seeking external funding support for a new kindergarten building in Marong which will be the first stage of a multi-year investment for a community hub. Funds have also been allocated for all-abilities access projects to address non-compliant disabled car parking, pedestrian crossings, and minor footpaths and kerbs across the municipality. A Changing Places facility in Heathcote next to the public toilets on High Street will also go ahead.

Rates and Service Charges

An amount of \$139.3M is proposed to be raised by general rates and service charges as follows:

General Rates	\$117.8M
Service Charges	\$27.4M
Supplementary Rates*	\$2.0M (estimated for the financial year)

* Supplementary rates are a result of Supplementary Valuations. A Supplementary Valuation occurs when there is a change to a property that will affect the Valuation such as construction of a dwelling or shed, installation of a swimming pool or a demolition.

There will be a 3.5 per cent increase to the City's base average rate revenue, in line with the Victorian Government's Fair Go Rates System.

The Budget includes a General Rate and nine differential rates, as well as service charges to be declared, which are detailed in the following tables, and referenced in recommended motions 4 and 5.

Payment of rates can be by four instalments made on or before the following dates:

- Instalment 1 – 2 October 2023;
- Instalment 2 – 30 November 2023;
- Instalment 3 – 28 February 2024; and
- Instalment 4 – 31 May 2024.

Table 1: Rates detail

2023/2024 Type or class of land	cents/\$CIV
General Rate	0.271882
Commercial/Industrial A (Urban/non-CBD) -(185% of General)	0.502987
Commercial/Industrial B (Rural areas) - (180% of General)	0.489389
Commercial/Industrial C (CBD) - (190% of General)	0.516577
Farm Land - (75% of General)	0.203912
Vacant Land (residential and rural residential) - (125% of General)	0.339853
Other Land - (185% of General)	0.502987
Vacant Land - Forest Edge Estate Maiden Gully properties - (125% of General)	0.339853
Residential - Forest Edge Estate Maiden Gully properties - (100% of General)	0.271882
Commercial/Industrial - Forest Edge Estate Maiden Gully properties. - (185% of General)	0.502987

Table 2: Service charges

2023/24 Type of Service Charge	Per Rateable Property
General Waste & Landfill Charge 120/140 Litre bin (property located within Organic Waste collection area)	\$213.00
General Waste & Landfill Charge 240 Litre bin (property located within Organic Waste Collection area)	\$390.00
General Waste & Landfill Charge 120/140 Litre bin - Rural (property located outside Organic Waste collection area)	\$245.00
General Waste & Landfill Charge 240 Litre bin - Rural (property located outside Organic Waste Collection area)	\$422.00

Recyclable Waste Charge	\$113.00
Recyclable waste charge in excess of one bin (per additional bin)	\$56.00
Organics Waste Charge	\$101.00
Organic waste charge in excess of one bin (per additional bin)	\$52.00
Waste Collection and Disposal - Commercial/Industrial Properties as specified in Council's Garbage, Recycling & Organic Waste Charge Policy:	
General waste and landfill charge - commercial properties - 120/140 Litre bin	\$245.00
General waste and landfill charge - commercial properties - 240 Litre bin	\$422.00
Waste Collection and Disposal in Specific Commercial Areas as specified in Council's Garbage, Recycling & Organic Waste Charge Policy:	
General Waste & Landfill Charge 1 day per week	\$422.00
General Waste & Landfill Charge 2 days per week	\$845.00
General Waste & Landfill Charge 3 days per week	\$1,267.00
General Waste & Landfill Charge 5 days per week	\$2,111.00
General Waste & Landfill Charge 7 days per week	\$2,956.00
Recyclable Waste Charge Fortnightly	\$133.00
Recyclable Waste Charge 1 day per week	\$266.00
Recyclable Waste Charge 2 days per week	\$534.00
Recyclable Waste Charge 3 days per week	\$800.00
Recyclable Waste Charge 5 days per week	\$1,333.00
Recyclable Waste Charge 6 days per week	\$1,600.00
Organic Waste Charge Fortnightly	\$153.00
Organic Waste Charge 1 day per week	\$307.00
Organic Waste Charge 2 days per week	\$614.00
Organic Waste Charge 3 days per week	\$921.00
Organic Waste Charge 5 days per week	\$1,535.00
Organic Waste Charge 6 days per week	\$1,841.00

Options considered

In accordance with section 94(1) of the *Local Government Act 2020*, Victorian councils must prepare and adopt a budget by 30 June.

Timelines

In accordance with section 94(1) of the *Local Government Act 2020*, Victorian councils must prepare and adopt a budget by 30 June.

Communications/Engagement

Internal Consultation:

The Budget has been prepared with significant guidance from Councillors, the Executive Management Team, Managers and Officers.

External Consultation:

The Budget is presented in the third year of the Council Plan and Financial Plan. Both plans, together with our Community Vision, were developed through the Imagine Greater Bendigo project which involved extensive community engagement and community feedback over nine months in 2021.

Submissions on community priorities were invited in the early stages of the budget planning process in November 2022. Residents were invited to submit community priorities and were also provided with the opportunity to present to Council. Council received 68 submissions from the community at this time, 16 of these requested a time to speak to their submissions. This early engagement helped to inform Councillors and officers during the budget development process and ensured that, where possible, community priorities were reflected in the 2023/2024 Budget.

The community feedback during the Council Plan development and the 2023/2024 Budget planning process enabled the identification of recurring themes. Although there were many great ideas contributed, creating healthy, environmentally-friendly and liveable spaces in Greater Bendigo was a key theme from the feedback received.

Financial Sustainability

Council will effectively and efficiently use its resources to deliver the best outcomes for the community whilst ensuring ongoing future financial sustainability. As noted in quarterly financial updates to Council, cost increases – particularly around construction – will be increasingly challenging to manage across the City's services in the coming financial year.

Risk Assessment

The Budget is a key mechanism by which the strategic risk around financial sustainability is maintained.

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. Budget 2023 – 2024 [15.1.1 – 84 Pages]

16. LEAD AND GOVERN FOR ALL

16.1. Appointing an Acting Chief Executive Officer

Author:	Tiffany O'Connell, Governance Officer - Mayoral Support
Responsible Director:	Craig Niemann, CEO

Purpose

The purpose of this report is to request Council to appoint an Acting Chief Executive Officer (CEO) while the substantive CEO takes five weeks annual leave.

Recommended Motion

That Council appoint Andrew Cooney as Acting CEO effective from July 3, 2023 to August 4, 2023 inclusive.

RESOLUTION - Resolution No. 2023-63

Moved: Cr O'Rourke

Seconded: Cr Fagg

That the recommended motion be adopted.

CARRIED

Background

The substantive CEO plans to take annual leave for a period of five weeks from July 3, 2023 to August 4, 2023, inclusive, which equates to 32 calendar days.

Report

Under section 11(3) of the [Local Government Act 2020](#), the power to appoint an Acting Chief Executive Officer for a period exceeding 28 days resides with Council.

After discussion with the Mayor and Councillors, an expression of interest process was undertaken and offered to all current staff. Applications were subsequently considered by the Mayor and Councillors, and interviews were undertaken by Mayor, Councillors and CEO. The role of acting Chief Executive Officer was offered to Andrew Cooney, Director Commonwealth Games.

Priority/Importance

It is critical that Council appoint an acting CEO prior to commencement of the substantive CEO's leave.

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

Nil

16.2. Quarterly Finance and Capital Management Report Q3 - March 2023

Author:	Kate Fox, Coordinator Management Accounting & Analysis
Responsible Director:	Jessica Howard, 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 years, as at 31 March 2023 (Q3), 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 March 2023, in accordance with the requirements of the *Local Government Act 2020*.

RESOLUTION - Resolution No. 2023-64

Moved: Cr Alden

Seconded: Cr Fyffe

That the recommended motion be adopted.

CARRIED

Executive Summary

The Q3 Financial & Capital Management Report (Q3 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 March 31 2023 is \$48M (12%) 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.

This year's financials and budget are the most challenging the City has experienced in some time. For most local governments, the reality of operating under rate-capping, with the cost of materials and services increasing alongside community expectations, means that budgets are constrained. The City is making increasingly hard decisions during the year and through the budgeting process.

Within the financial year results, the October 2022 Victorian flood event continues to be a key impact. Claims are in progress, with additional State and Federal Government funding and insurance claims subject to a relatively complex and contested claims process before any revenue is received or recorded.

Other key year-to-date results include:

- \$6.4M unfavourable variance for general expenses. Portions of this variance are timing-related for upfront payments, however, the City is forecasting a 9% increase in the cost of materials and services – predominantly due to inflation and flood recovery works.
- \$3.6M favourable variance for User Fees and Charges due to Bendigo Art Gallery Elvis exhibition carrying over to July, increased parking revenue and childcare utilisation at full capacity.
- \$0.9M unfavourable variance for employee benefits due to redundancies in Home Support Services.
- \$3.6M 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).

The operating surplus forecast to the end of the financial year is \$37.8M (\$4.7M favourable to budget). This larger favourable forecast result is an accounting result, and includes additional forecast capital grants and contributions, which are tied to specific projects and increased capital expenditure (not recorded in the operating statement). Excluding capital grants and contributions, the City is likely to record a minor surplus for the current financial year of \$0.53M (<1% variance). The City's profit and loss statement for the 9 months ended 31 March 2023 is provided below:

	YEAR TO DATE				FORECAST			
	YTD Actual \$'000	YTD Budget \$'000	YTD Variance \$'000	%	Full Year Forecast \$'000	Annual Budget \$'000	Forecast Variance \$'000	%
Income								
Rates and Charges	139,025	139,359	(335)	(0%)	139,035	139,298	(263)	(0%)
Statutory fees and fines	4,246	3,840	406	11%	5,932	5,553	378	7%
User fees	21,161	17,910	3,250	18%	28,472	24,967	3,504	14%
Grants - operating	15,209	12,698	2,511	20%	32,900	29,315	3,584	12%
Grants - capital	16,733	15,647	1,086	7%	21,298	19,923	1,376	7%
Contributions - monetary	5,570	2,185	3,385	155%	5,570	2,780	2,790	100%
Contributions - non monetary	-	-	-	-	12,000	12,000	-	-
Share of net profits of assoc.	-	71	(71)	(100%)	95	95	-	-
Other income	3,797	1,821	1,975	108%	4,744	2,403	2,341	97%
Total income	205,741	193,533	12,207	6%	250,045	236,334	13,711	6%
Expenses								
Employee costs	61,403	60,504	(899)	(1%)	79,680	78,286	(1,394)	(2%)
Materials & services	63,221	56,796	(6,426)	(11%)	79,856	72,555	(7,301)	(10%)
Depreciation	32,078	32,045	(33)	(0%)	42,746	42,726	(20)	(0%)
Amortisation- intangible	698	698	-		930	930	-	
Amortisation- right of use	-	-	-		2,800	2,800	-	
Bad and doubtful debts	1	1	0	16%	287	262	(25)	(10%)
Borrowing costs	753	748	(5)	(1%)	997	997	-	-
Finance costs - leases	0	263	262	100%	360	350	(10)	(3%)
Net loss on disposal of property, infrastructure, plant and equipment	(342)	-	342	100%	4,024	4,020	(4)	(0%)
Other expenses	37	138	101	73%	510	245	(265)	(108%)
Total expenses	157,849	151,191	(6,657)	(4%)	212,189	203,171	(9,018)	(4%)
Surplus/(deficit):	47,892	42,342	5,550	12%	37,856	33,163	4,692	12%

Cash holdings & investments

Cash holdings currently remain above minimum required levels. There has been a significant increase this year in payment arrangements being put in place for rates. These include people seeking more time, deferral and/or flexibility with repayments. At the time of drafting this report, there were 1,218 payment arrangements in place, representing a 34% increase from the same time last year – noting this figure includes people on other arrangements like fortnightly or other regular deductions.

The City's investment portfolio remains in line with policy. Competition between the banks has increased in recent months resulting in further increased term deposit rates, flowing from increased central bank rates. Interest rates increased to approximately 4% in March, resulting in improved forecast revenues. Currently 45% of the City's investments are with institutions without fossil fuel investments. The City's Climate Change and Environment Strategy lists a target of 60% for Council funds to be invested with financial institutions that do not lend to fossil fuel industries (or similar) by 2026.

October 2022 flood event

In October 2022 the City, along with various other Local Government areas, were impacted by a significant storm/flood event. The City provided and operated an Emergency Relief Centre and Incident Control Centre as an immediate response to assist

those impacted by the event. Costs relating to the centre operations, infrastructure damage, community recovery, waste disposal, rates revenue reduction and building damage continue to be worked through.

There are a few disaster funding sources available to the City and claims are currently underway. The City estimates that around 50% of the total costs to date of approximately \$3M may be claimable. No claims have been finalised to date through the federal Government's Disaster Funding Recovery Arrangements (DRFA).

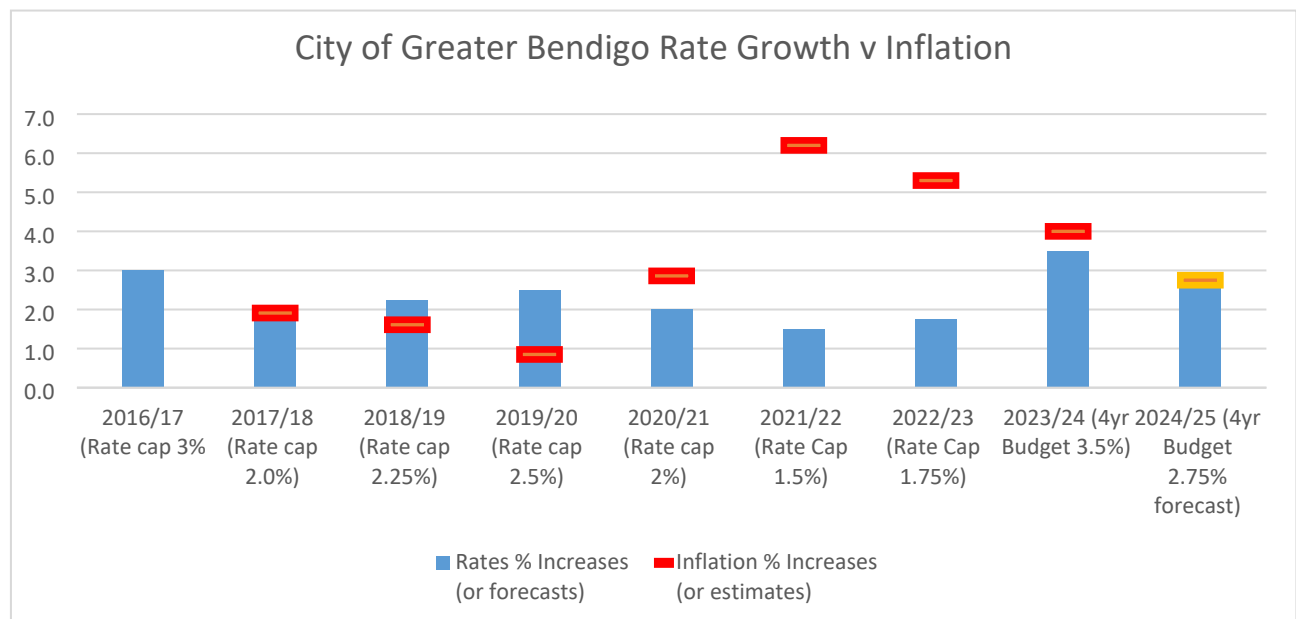
Borrowings

The City held a loan portfolio of \$21.3M as at 31 March, 2023. The City's 2022/2023 Budget was prepared with an upper borrowing limit of \$5.1M available, which will not be utilised this financial year. Since September 2021, loan facilities have been supported more directly by the Victorian Government, with Treasury Corporation of Victoria (TCV) having the capacity to lend directly to Local Government entities at lower rates than might otherwise be available in the market.

Rate Cap & City financial sustainability: looking forward

A rate cap of 3.5% has been built into the draft 2023/2024 budget. For other costs, the ABS records inflation (National CPI) through to February 2023 as 6.8%. This represents a significant gap between the local government rate cap and the increased cost of materials due to inflation. This cost gap has been considered as part of the 2023/2024 annual budget process.

The following graph summarises the difference between the rate cap and inflation. Over the two financial years between 2021/2022 and 2022/2023, this represents a notional funding 'gap' of over \$8.25M. The City's annual rates (excluding waste charges) are around \$110M, so each percentage point (1%) difference in the rate increase applied is equal to approximately \$1.1M.



In light of this funding gap, to deliver long term financial sustainability, the City will need to carefully consider how it continues to deliver current service levels and this may require operational efficiencies, reviews of services, or future increases in rates.

Capital Program

Key projects in delivery include: Bendigo Airport Terminal; Bendigo Skate Park renewal at Ewing Park; Soft Surfaces renewal at Tom Flood; and the Bendigo Tramways Workshop expansion.

Capital expenditure in the third quarter exceeded the City's target. Cost escalation is now evident and being realised across projects, particularly in relation to building and land improvement works (primarily steel, timber and concrete materials).

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 changes/savings cannot be realised.

Cost issues are in some cases compounded by scheduling conflicts, resources pressures and ongoing requests related to the October Flood event. Although current forecasts indicate a likelihood of expenditure exceeding that of prior years, construction sector issues are impacting Council, and may reduce the City's overall capital delivery (as a percentage of projects delivered).

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 presented to Council each quarter as required by the *Local Government Act 2020*.

Communications/Engagement

Managers have reviewed the financial results and provided commentary and forecasting to inform the Q3 Quarterly Report. EMT considered this report in May.

Financial Sustainability

The Q3 Quarterly Report and related 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

16.3. Audit and Risk Committee - Chairperson Biannual Report

Author:	Anna Connolly, Risk and Assurance Advisor
Responsible Director:	Jessica Howard, Director Corporate Performance

Purpose

The purpose of this report is to brief Councillors on the Audit and Risk Committee (ARC) Chairperson's biannual activity report, which provides a summary of the activities and findings of the Committee since the last report.

Recommended Motion

That Council note the ARC Chairperson's biannual report.

RESOLUTION - Resolution No. 2023-65

Moved: Cr Sloan

Seconded: Cr O'Rourke

That the recommended motion be adopted.

CARRIED

Executive Summary

In accordance with the Local Government Act (2020) and the ARC Charter, the ARC Chairperson is required to provide biannual reports to Council on the activities and findings of the Committee, with one including the annual performance.

Background

The ARC is an advisory committee of the Council established to assist the Council to discharge its responsibilities under the Act to:

- monitor the compliance of Council policies and procedures with:
 - o the overarching governance principles;
 - o the Act and the regulations and any Ministerial directions;
 - o other relevant laws and regulations;
- monitor internal controls;
- monitor Council's financial and performance reporting;
- monitor and provide advice on risk management and fraud prevention systems and controls;
- oversee internal audit function; and
- oversee external audit functions.

In accordance with the Local Government Act (2020), the City are required to have an ARC Charter adopted. One of the requirements of the ARC Charter is for the ARC Chairperson to provide two reports per year.

Previous Council decision dates: December 12, 2022 – last chairperson report to council.

Report

The ARC Charter requires that the ARC Chairperson report to Council biannually, a summary of the activities and achievements of the Committee. The report has been provided by the Chairperson, Jovana Obradovic-Tantra.

Communications/Engagement

The ARC Charter requires that the ARC Chairperson report to Council biannually, a summary of the activities and achievements of the Committee. The report has been provided by the Chairperson, Jovana Obradovic-Tantra.

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. Audit and Risk Committee Chairperson Biannual Report May 2023 [**16.3.1** - 9 pages]

16.4. Contracts Awarded Under Delegation

Author:	Corinne Fisher, Procurement Officer
Responsible Director:	Jessica Howard, Director Corporate Performance

Purpose

To inform Council of contracts signed under Delegation.

Recommended Motion

That Council note there were **nil** contracts awarded under delegation during the previous reporting period.

RESOLUTION - Resolution No. 2023-66

Moved: Cr Evans

Seconded: Cr O'Rourke

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

Nil

16.5. Domestic Animals Act S.25 and S.26 Orders

Author:	Jock Schofield, Manager Safe & Healthy Environments
Responsible Director:	Stacy Williams, Director Healthy Communities and Environments

Purpose

The purpose of this report is to consider the submissions received in response to the public consultation of the draft Domestic Animals Act (DAA) Section 25 and Section 26 Order (the Order) and recommends that Council adopts the final Domestic Animals Act Section 25 and Section 26 Order at the 22 May 2023 Ordinary Council Meeting.

Recommended Motion

It is recommended that Council:

1. Adopt the attached *Domestic Animals Act 1994* Section 25 and Section 26 Order.
2. Publish the adopted Order in the Government Gazette as required by the *Domestic Animals Act 1994*.

RESOLUTION - Resolution No. 2023-67

Moved: Cr Sloan

Seconded: Cr Alden

That the recommended motion be adopted.

CARRIED

Executive Summary

The development of the Section 25 and Section 26 Order implements two actions in the adopted Domestic Animal Management Plan 2021-2025 (DAMP).

Proposed Order - The Order proposes to make dogs on lead the default in the municipality. It also establishes 21 designated dog off lead areas and 11 areas prohibiting dogs. The introduction of 24 hour cat confinement is also proposed. No additional fenced 'dog parks' are proposed to be created at this stage.

Consultation outcomes - The draft Order was released for public consultation on December 13, 2022, for a period of 8 weeks. A total of 194 submissions were received via the Let's Talk platform or via email, with 89 submitters supporting the cat containment proposal and 30 being opposed. Similarly, 75 submitters were supportive of the dogs on lead proposal with 15 submitters opposed.

Next steps - Following Council adoption and publication of the Order in the Government Gazette, officers will install the necessary signage and deliver a comprehensive

communications and education campaign prior to the requirements coming into effect in 2024.

Background

Council adopted the DAA on November 15, 2021. Two of the key actions from the Plan for the next four years were to consider a 24-hour cat containment order and consider the municipality becoming default on leash. The DAA provides provision for Councils, by resolution, to make such orders under Sections 25 and 26.

Section 25 of the DAA refers to cats found at large. This section allows Council to make an order that specifies where cats are permitted during what hours as prescribed by the order. It also provides the penalty if cats are found at large. Currently, there is an order in place that requires cats to be secured to the owner's property from sunset to sunrise. The new Order is proposing to require cats to be securely confined to the owner's property at all times.

In considering whether to introduce a 24-hour cat containment as an order under Section 25 of the DAA, several items highlighted the positive benefits, including:

- Reduction in nuisance issues between neighbours;
- Reduction in impact on native fauna;
- Positive welfare consideration in relation to reduced fighting and disease transmission;
- Less opportunity for spraying or faecal matter to be left in public places and/or neighbouring properties;
- Cats kept in a safe, secure environment often live longer;
- Cats who roam are at risk of injury from cars, human cruelty, poison baits, attacks from other animals and unwanted pregnancies.

Section 26 of the DAA refers to dogs and cats found in places specified by the Council. This section allows Council to make an order that prohibits dogs and cats in any public place; or impose conditions regarding restraint or times where dogs and cats are or are not permitted. This Order is prohibiting dogs from certain public places within the municipality, as noted in Schedule 2 of the draft Order attached. In addition, it is proposing that dogs must be on leash at all times, unless in designated off leash areas which are contained in Schedule 1 of the draft Order.

The change to a default on leash municipality unless designated was proposed for the following reasons:

- Reduced threat of dog attack;
- Reduction in incidents associated with off leash dogs, including:
 - o Conflict with users of sporting fields;
 - o Dog faeces left on sporting fields;
 - o Unleashed dogs approaching people in public. Not everyone wants dogs approaching them, friendly or not.

- Current leash default status has been in place since 2001 and feedback via the survey for the DAMP process in 2021 indicated community expectations have changed;

Currently the City is a default off leash municipality, meaning dogs are allowed to be off leash provided they are under effective control at all times, unless designated. There are 10 existing sites that are designated as on leash, including Lake Weeroona, Rosalind Park, and Canterbury Gardens. These controls have been in place since 2001 and require review as the community expectations have shifted over time. The Order intends to switch the current state of play from off leash default unless designated on leash, to on leash default unless designated off leash. In addition, the Order designates several prohibited areas for dogs, expanding on the only current order not allowing dogs on the playing surface of the Queen Elizabeth Oval.

During the development of the Order and when determining whether to continue as a default off leash municipality or move to a default on leash municipality, benchmarking across other local government areas was undertaken which found that:

- 60 local governments were default on leash;
- A further five are considering a move to become default on leash;
- Six were off leash, however had a considerable number of designated on leash areas;
- Six were default off leash; and
- One council did not respond.

Previous Council decision dates:

At its meeting of 15 November 2021, Council adopted the Domestic Animal Management Plan 2021-2025.

At its meeting of 12 December 2022, Council endorsed the draft Domestic Animals Act Section 25 and Section 26 Order to be released for public consultation.

Report

The DAMP was developed in accordance with the requirements of the DAA and adopted by Council on 15 November 2021. The DAMP 2021-2025 is the fourth developed by the City. To satisfy the clauses set out in Part 5A of the DAA, Council must consider, in preparing a DAMP, a review of the existing orders and Local Laws, to determine whether further orders or changes to Local Laws are desirable in relation to the management of cats and dogs in the municipality.

The feedback provided during the development of the DAMP supported the City to propose both a 24-hour cat containment requirement and the municipality becoming default on leash. These were key actions for implementation. In implementing the DAMP

as endorsed, this Order has been developed with governance provided by an internal working group from varied stakeholders across the organisation.

In addition to the public feedback received via the survey, the work of the City's Animal Services team in responding to incidents and concerns raised, supports the implementation of the Orders. Over the previous six years, the team have investigated on average 167 attacks by dogs per year and 82 dog rushes a year.

Dogs on leash

Given the Order will require dogs to be on leash at all times unless designated, the internal working group identified several areas to be designated off leash areas which are contained within Schedule 1 of the Order. The considerations when identifying these sites were:

- City owned or managed land;
- Proximity to play spaces and playgrounds;
- Environmental/culturally sensitive sites including waterways;
- Use of the space as sporting field, natural reserve, or passive reserve;
- Proximity to arterial roads/schools/early learning centres/residential; and
- Size of the identified site.

A key consideration and requirement for these designated off leash areas is whether the site is City owned or City managed. The Domestic Animals Act requires agreement with the owner or occupier of the land if the designated area is to be on private land. Land owned or managed by other government agencies already have restrictions/controls in place for dogs. This Order does not seek to duplicate or supersede these controls. For example, dogs are prohibited from most National Parks and are required to be on leash and under the owner's control in most State Parks.

The public consultation period highlighted that a number of areas proposed were not supported by the community. These areas were parcels of land owned by the City where the boundary adjoined residential properties. These property owners were sent direct correspondence inviting their feedback on the proposal, which resulted in 15 submissions and one petition objecting to the designation of these parcels of land as designated off leash areas. These areas were removed from the Order due to the feedback identifying that the land being used was not appropriate or compatible with the surrounding area.

As a result of several sites being removed from the proposed Order, several sporting fields have been added to the Order. These have been included to ensure there is a suitable designated area in most suburbs. This is following feedback that there were not enough areas, particularly in several suburbs with above average dog registrations and combined with the decision to remove several sites from the proposal due to incompatibility. The sporting fields included will be designated off leash areas when they are not in use for planned bookings and when sports competitions or practice is occurring. The internal

working group had difficulty in identifying suitable sites where there were no competing uses or activities and where the sites were City owned or managed.

Further to this point, feedback received via the submissions identified that there is a lack of designated off leash areas in several outlying townships around Bendigo. This is not an omission in the Order, the City does not own or manage land in these townships that would be appropriate to be a designated off leash area. This land is however controlled via committee of management, and it is reasonable to allow these committees to put in place their own controls and determinations regarding this matter.

Similarly, the City has several 'Joint Use Agreements' in place with schools. These locations have been captured in the prohibited areas to align with the school's current controls when the City is managing the sites as per the agreement. An agreement will be sought between the schools and the City to ensure Section 26 (2A) of the DAA is met.

Submissions regarding the off leash dog parks highlighted a need for further off leash dog parks, particularly for the suburbs of Golden Square, Huntly, and Epsom/Ascot. This feedback has been accepted as part of this process, but any further off leash dog parks will be subject to future budget processes to fund more fenced off leash dog parks. Identification of suitable sites will be key in ensuring no competing uses or activities and where the use of land would receive approval for that use as a dog park. Reviewing the on leash Order and designated off leash areas following a period of implementation, will form part of future analysis as to the need of more fenced dog parks.

It should be noted that feedback received about the designated off leash areas highlighted there may have been some confusion that the City would be creating fenced off leash dog parks in these designated off leash areas. The proposal does not intend to increase any maintenance or infrastructure at any of the designated sites regarding fencing, mowing or weed control for example. Several submissions also sought clarity on this point.

Cat containment

Regarding the mandated 24/7 cat containment section of the Order, many submissions received were positive with the change to cat controls. There was a small percentage who objected to the cat containment based on animal welfare grounds, enforcement and policing of this Order, the financial implications for those who build enclosures and for those who may be penalised for not following the Order.

In all, the feedback was positive demonstrating there is community support for this type of 24/7 cat containment control to be implemented. Given that this is a momentous change and will require time to ensure it is implemented well, the team consider that the Order will have considerable lead in time before it comes into effect to allow residents to prepare. In addition, once the Order is in effect the Local Laws team plan to take an educative

approach to compliance in the first 12 months to ensure that residents have an opportunity to adapt to the changes.

By undertaking a new Order, Council will revoke all previous orders made under Section 25 and Section 26. Previous orders include the on leash requirements for several locations in Bendigo, current sunset to sunrise cat curfew, dogs prohibited from playing surface of QEO, shared use of Rodda Field in Strathdale Park, and dogs required to be on leash within 10m of specified public areas or where signed. This does not include the current requirements under Local Law No. 2 Keeping of Animals that requires dog owners to remove excrement left in a public place and must carry a bag or similar device to remove excrement from a public place.

The objective of the DAMP was for Council to have a comprehensive plan, informed by community engagement, that promotes responsible pet ownership and guides the management of domestic animals across the municipality, that aligns with and meets the expectations of the community. The adoption of this Order is a big step in fulfilling that objective for the current DAMP.

Priority/Importance

High – the proposed Order implements key actions from the adopted DAMP.

Options considered

There were 5 options considered:

1. Do nothing resulting in the current situation regarding cat containment and dogs' restraint remaining in situ. This option would not implement the DAMP as adopted; or
2. Introduce a 24-hour cat containment order; or
3. Introduce an order requiring dogs to be on leash in the municipality, unless in a designated off leash area; or
4. Introduce an order prohibiting dogs from certain areas; or
5. Introduce an Order requiring 24-hour cat containment and requiring dogs to be on leash in the municipality, unless in a designated off leash area and identifying certain areas prohibiting dogs.

Option 5 is the proposed option.

Timelines

- May 2023 – Council endorses the final Domestic Animals Act S.25 and S.26 Order for adoption
- June/July - The Order is published in the Government Gazette
- September/October/November -
 - Media campaign and education of the community on the Order
 - Implementation of designated off leash areas, including signage

- Information and locations of off leash areas placed on City website
- January 1, 2024 – Dogs on leash requirements are in effect
- July 1, 2024 – Cat containment requirements are in effect

Communications/Engagement

Internal consultation:

The Order has been developed with broad internal consultation and collaboration with relevant units and key positions, detailed in the following table:

Unit	Key contributors
Communications	Media and Communications Specialist
Parks and Open Space	Coordinator Sports Fields and Reserves
Climate Change and Environment	Climate Change Resilience Officer
Property Services	Strategic Property Analyst
Safe and Healthy Environments	Manager, Safe and Healthy Environments Coordinator Local Laws and Animal Services Team Leader Local Laws Operations Manager - BARC
Active and Healthy Communities	Coordinator Sport and Leisure

External consultation:

Residents were provided with 8 weeks to provide feedback on the draft Order. The community was invited to participate via a media release published in the local paper and several social media posts on the City's page.

During the consultation period, correspondence was sent to residents who adjoin the location of several proposed designated off leash areas, due to the proximity of the sites to their properties. Some residential property fence lines formed part of the boundary for the proposed sites.

Feedback was collected via the 'Let's Talk' platform and via email received directly to Local Laws. 194 submissions were received, including one petition containing 93 signatures opposing the proposal to designate an existing park as a designated off-leash area in Kangaroo Flat. Two face-to-face meetings were held with interested parties to further explain the proposal and receive feedback.

Among the feedback received, most submissions supported the proposed Order. In total, 89 submitters were supportive of the cat containment proposal with 30 being opposed. Similarly, 75 submitters were supportive of the dogs on leash proposal with 15 submitters opposed. It must be noted that the dogs on leash proposal received more detailed feedback, particularly regarding the designated off leash areas, with many submitters providing alternatives and suggestions to improve the draft Order.

Cat containment feedback:

Submissions received highlighted the following reasons for implementing the 24/7 cat containment:

- Reduce nuisance issues between neighbours;
- Reduction in impact on native fauna;
- Roaming cats are more at risk of injury from cars, poison baits, attacks from other cats and unwanted pregnancies.

Submissions also highlighted the reasons for not implementing the cat containment:

- Concerns about the enforcement of the cat containment proposal;
- This was a revenue raising exercise for Council;
- Mandated cat containment is not effective and attempted at other Councils;
- Additional controls may be seen as a disincentive to cat ownership resulting in higher numbers of animals impounded, not reclaimed and ultimately euthanised;
- Welfare considerations for cats being confined;
- Vermin will not be controlled without cats able to roam;
- It is much more difficult and costly to confine a cat, making it prohibitive for some people to own a cat.

Dogs on leash feedback:

Submissions received highlighted the following reasons for changing the default of the municipality to dogs being required on leash:

- Previous unwelcome interactions/experiences with dogs being off leash
- Threat of dog attacks/rushes;

Submissions also highlighted the reasons why the current status quo should remain, and the municipality continue to be a default off leash municipality:

- Potential for overcrowding at designated off leash areas increasing incidents of attacks;

The submissions received also contained suggestions for alternative options to be considered or clarifying how the draft Order will impact certain situations. These included:

- Inclusion of additional spaces to be designated off leash areas, such as Quarry Hill Golf Course, Soloman Gully Reserve, and a general all sports ovals when not in use;
- Additional spaces/scenarios where dogs should be prohibited such as all sports ovals when competitive sport is occurring, Quarry Hill Golf Course and Reserve;
- Provision for the need to train dogs in track and sniff exercises requiring longer leash lengths than the draft Order proposed;
- How will it impact working dogs?

Additional feedback

Submissions provided additional feedback concerning:

- The lack of waste bag dispensers available throughout the municipality and the availability of waste bins for the disposal of these bags;
- The lack of a fenced off leash dog parks in several suburbs such as Golden Square, Huntly, and Epsom/Ascot;
- Signage improvements in the areas to be designated;

The table summarising submissions received is attached to this report.

Changes to draft Order

As a result of the feedback, several changes have been made to the Order. These changes include:

- Provision made for working dogs to be off leash when actively engaged in farming and stock moving activities;
- Changes to the lead length requirements for practical, training and enforcement reasons;
- Restrictions placed on several designated off leash areas to ensure the designation does not impact on competing uses;
- Slight adjustment to the wording of the prohibited areas for clarity and uniformity;
- Removal of several designated off leash areas; and
- Inclusion of several designated off leash areas.

Designated Area removed from Draft Order	Rationale
Molesworth Rd, Kangaroo Flat	Close proximity to residential boundary, petition opposing location
Alder St, Kangaroo Flat	Close proximity to residential boundary
Jacob St, North Bendigo	Close proximity to residential boundary
Kiwarra Crt, Strathfieldsaye	Not suitable. Children's play equipment on site
Crowther St, Eaglehawk	Land not City owned and managed
Additional areas included in Order	Rationale
Strathfieldsaye Junior Oval	Location required in suburb
Strauch Reserve Junior Oval, Huntly	Location required in suburb
Epsom Huntly Recreation Reserve AFL No. 2	Location required in suburb
Spring Gully Oval	Location required in suburb
California Gully Oval	Location required in suburb
Inverness Drive Reserve, Junortoun	Location required in suburb
Allingham St Reserve, Golden Square	Location required in suburb
Rodda Field, Strathdale Park	Reinstate existing off leash area

Implementation Plan

- Media release outlining Order
- Social media posts advising of Order
- Update Council website to include information on Order, including links to locations of designated off leash areas
- Information advising of Order provided to all registered dog and cat owners with registration renewals in February/March 2024
- Signage reviewed and installed or updated at all relevant reserves or sites advising:
 - Off leash area; or
 - Dogs prohibited area: or
 - Dogs on leash area.
- Action taken with residents found in breach of the Order will align with the City's Compliance Policy. It will be an education and preventative approach first, to enable behaviour change in the community, with enforcement action being the final option. Action would be education, warning, and final option fines.

Financial Sustainability

The draft Order has been developed utilising existing resources.

If the Order is adopted and gazetted, further work will be required including updates to the websites and signage to assist the public to identify the newly designated off leash areas and the implications of the draft Order. There is allowance in the team's existing budget to undertake this work.

There are no additional staff resources required or requested at this time. The focus and outcomes of the Order will align with the City's Compliance Policy.

Risk Assessment

There is significant risk if Council does not have rigorous management processes in place to manage dog attacks and other nuisance issues, with the relevant delegations in place. Alternatively, there is a slight risk to the organisation if actions of the DAMP are not implemented.

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 Domestic Animal Management Plan 2021-2025

Section 6 Nuisance Action: consider a 24-hour cat containment to bring the requirement of keeping cats in line with that of keeping dogs contained

Section 7 Dog attacks

Action: conduct a feasibility study on the requirement to keep dogs on leashes in public areas unless designated otherwise

Conflict of Interest

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

Attachments

1. Domestic Animals Act S 25 and S 26 Order [**16.5.1** - 12 pages]
2. Table summarising submission responses [**16.5.2** - 3 pages]

16.6. Compensation for encumbrance to City owned land Saade St Epsom

Author:	Daniella McClure, Manager, Property Services
Responsible Director:	Brian Westley, Director Presentation and Assets

Purpose

To receive, consider and make a determination in relation to submissions received from the Public Notice of 1 April 2023 (28 Day Community Engagement Period), relating to the future use of the property Reserve 1 on LP210004M Saade Street, Epsom VIC 3551.

This is in response to Council Resolution 2023-38 of 27 March 2023, which required a 28-day public engagement period for a proposed encumbrance on a Council resolve.

Recommended Motion/s

That Council:

- Authorise the Chief Executive Officer to:
 - Obtain a current valuation that will set the amount of compensation to be paid to the Council for the use of the land for drainage.
 - Prepare the legal documents.
 - Sign and seal all relevant documents to facilitate the drainage encumbrance on Reserve 1 of Plan of Subdivision LP210004M Certificate of Title Volume 9792 Folio 960

RESOLUTION - Resolution No. 2023-68

Moved: Cr Fagg

Seconded: Cr Sloan

That the recommended motion be adopted.

CARRIED

Executive Summary

Council's Reserve (Reserve 1 on LP210004M Saade Street, Epsom) is reserved for "Municipal and Drainage Purposes". A request was received from a private developer in April, 2021 to further encumber this reserve for drainage purposes associated with a proposed residential development.

The City is not obligated to allow the Reserve to be utilised by the private developer.

Under the Local Government Act 2020, when there will be significant detrimental impact upon the existing or future useability of the land vested in Council, the City is required to:

- seek the view of the community through Community consultation in relation to the expansion of the drainage encumbrance on Council's Reserve.
- receive compensation from the developer, if approval is granted.

Previous Council resolution.

27 March 2023 ECM 4917037 Resolution No. 2023-38

Key Actions in response to the Council Resolution:

1. **Publish a public notice** (28 days' notice);
2. **Commence public engagement.**
3. **If any objections are received** to the proposed encumbrance of Council's Municipal Reserve **during the 28-day public notice period**, the matter is to be referred to Council for a further review and final decision.

Background

This report should be read in conjunction with the previous Council Report of 27 March 2023 in which the Council (in summary) resolved to:

1. **Publish a Public (28 day) notice;**
2. **Commence public engagement** seeking the view of the community regarding the expansion of the drainage encumbrance on Council's Reserve.
3. **After the period for public notice** and community feedback has closed:
 - a. **If any objections are received** to the proposed encumbrance of Council's Municipal Reserve:- refer the matter to Council for a further review and final decision, noting that Council (at its sole discretion) may also resolve to conduct a public hearing if sufficient public concern/objections are raised.
 - b. If no objections are received, that Council authorise the Chief Executive Officer to:
 - Obtain a current valuation setting the amount of compensation to be paid by the developer to Council.
 - Sign and seal all relevant documents to facilitate the drainage encumbrance.

Report

Submissions received from the Public Notice of 1 April 2023 are documented herein and attached for Council consideration.

Communications/Engagement

Date	Details	Actions Comments
27 Mar 2023	Council resolution	Council resolution 2023-38
28 Mar 2023	Letters posted	Surrounding properties formally advised in

		writing. • Letters sent to 197 Owners and Occupiers
30 Mar 2023	Return to sender	3 Letters were received as undeliverable.
01 Apr 2023	Public notice	Bendigo Advertiser 28-day period for community consultation. Page 80.
01 Apr 2023	Signage erected	Public notice signs (x 2) erected on site.

Submissions Feedback Received

Date	Details	Actions Comments
21 Apr 2023	Submission received	Attached and summarised within this report.
01 May 2023	Submission received	Attached and summarised within this report. This submission was received immediately after the 28-day period. However, the individual making the submission raised a public question as an objection to the proposal at the Council Ordinary Council Meeting on Monday 24 April 2023.

Public Notice was advertised on 1 April 2023 which stated:

“Greater Bendigo City Council is considering a proposal to grant a private developer the right to install drainage infrastructure on Council freehold land known as Reserve 1 on LP210004M Saade Street, Epsom VIC 3551 - Legal Description: Reserve 1 on Plan of Subdivision LP210004M Certificate of Title Volume 9792 Folio 960 (the Reserve) as shown hatched on the plan below.

The area of land to be encumbered is approximately 4,604 square metres to satisfy the private development’s drainage and retardation requirements.

In accordance with Section 114 sub-section (b) of the Local Government Act 2020 the City hereby seeks community feedback in relation to the proposed encumbrance.”

Comments received are to be considered in line with the purpose of the Public Notice seeking community feedback under the Local Government Act 2020.

It should be noted that any planning application matters have not been considered in this paper, as this forms part of any future formal Statutory Planning Application Process.

The following reflect comments received in the attached responses, and Council Officers responses.

Feedback received	Council Officers Response
<p><u>It is not acceptable.</u></p> <p>a. “the use of this council reserve for the drainage and water retardation of the proposed subdivision, given that this proposed subdivision is in a flood prone area where residential housing should not be built</p>	<p><u>Not applicable</u> to this Public Notice seeking feedback as to proposed use of Councils Reserve – comment relates to a Planning Permit Application matter of another property and not the subject property.</p> <p>Comments are to be considered in line with the purpose of the <u>Public Notice seeking community feedback</u> under the Local Government Act 2020.</p> <p>Whether or not the drainage basin will effectively retain stormwater would be considered as part of any subsequent Planning Permit Application.</p>
<p>The seven-hectare proposed subdivision of land has LSIO's, land subject inundation overlays imposed upon it and should not be used for the purposes of residential development.</p>	<p><u>Not applicable</u> to this Public Notice seeking feedback as to proposed use of Councils Reserve – comment relates to a Planning Permit Application matter of another property and not the subject property.</p> <p>Comments are to be considered in line with the purpose of the <u>Public Notice seeking community feedback</u> under the Local Government Act 2020.</p>
<p>The council reserve at Saade Street, Epsom is in a flood plain area. To be effective a retention basin should not be constructed within a floodplain area.</p>	<p>The matter of whether the drainage basin will effectively retain stormwater and the location of the retardation basin would be considered as part of any subsequent Planning Permit Application and subject to formal engineering design requirements. Any plan will be reviewed by the City's engineering department and other Statutory Authorities.</p>
<p>With the advent of climate change, more intense storm water events will occur which will cause more severe flooding. The purpose of this for and water retardation. Case of severe flooding, it needs to be taken into account that the retardation or flood water at the council reserve could exacerbate the flooding situation of the land of the proposed subdivision south of the council reserve.</p>	<p>The matter of whether the drainage basin will effectively retain stormwater and the location of the retardation basin would be considered as part of any subsequent Planning Permit Application and subject to formal engineering design requirements.</p>

<p>Can CoGB guarantee to future residents of the proposed subdivision South of the Saade St Council Reserve that their houses will not flood in future be subject to flooding in which the retardation of floodwaters at the council reserve may be a contributing factor? If flooding does occur, the ratepayers of Bendigo will incur the financial costs of any claim for compensation.</p> <p>This is a no-win outcome for both the affected residents whose houses have been flooded and for the ratepayers of Bendigo.</p> <p>In this case the precautionary principle should be applied, evened out with the final outcome, do not proceed.</p>	<p>The matter of whether the drainage basin will effectively retain stormwater and the location of the retardation basin would be considered as part of any subsequent Planning Permit Application and subject to formal engineering design requirements</p>
<p>The compensation to council for the encumbrance of placing a retardation basin in council land should be an equivalent amount to be determined by the profit obtained from that part of the private development subdivision that would have been required for placement of retardation bases in the private development subdivision.</p>	<p>The City has obtained an independent Market Valuation for compensation purposes as required under the Local Government Act 2020.</p> <p>The valuation approaches used are accepted and tested methodologies endorsed by the Australian Property Institute and law.</p> <p>As a check method <i>the opportunity benefit gained by the owner of the encumbrance on the subject land was also considered.</i></p>
<p>The maintenance cost of the water retardation basin and surrounding landscaping of the council reserve would after two years following the basins completion, be the responsibility of council.</p> <p>This would be an ongoing yearly cost, and a financial imposition on the ratepayers of Bendigo. A financial imposition caused by a residential development that was approved in a flood prone area.</p>	<p>The City's engineering department has been consulted in relation to the proposed use of the Councils Reserve and it should be noted that the City is responsible for numerous stormwater detention basins across its Local Government Area.</p> <p>The co-location of this stormwater detention basin on land where there is an existing stormwater detention basin through the expansion of an existing drainage encumbrance represents an opportunity for the City to create efficiencies in maintaining its stormwater infrastructure.</p>

<p>The encumbrance of this Council Reserve will result in the Reserve not being utilised for any future use that would benefit the local Epsom community.</p>	<p>Council's Reserve is already Reserved for Municipal and Drainage Purposes <i>noting that the Reserve (for Municipal and Drainage Purposes) was not created for the benefit of the south adjoining parcel and hence the City is not obligated to allow the Reserve to be utilised by the private developer</i>".</p> <p>If approval is granted the City will receive compensation from the developer for the encumbrance.</p> <p>Irrespective of the emcumberance, the basin doesn't eliminate the opportunity for this reserve to be used for public open space purposes in the future.</p>
<p>Opposes the proposal on the following grounds:</p> <ol style="list-style-type: none"> 1. We are facing a biodiversity crisis and open space owned by the public should be 'developed' to support biodiversity and community health, not developer profits. 2. The developer must have known that he/she would have to provide for the drainage and retardation requirements on his/her own property but failing to do so is 'gaming the system' for personal gain, and disadvantaging the public. 3. Burgeoning urban Landcare and Friends groups throughout the City of Greater Bendigo, both old and newly minted, have been working hard to establish bushland connectivity in BioLink's that foster the maintenance of existing populations of native birds, reptiles, animals and plants. The City of Greater Bendigo should keep freehold reserves in public hands in order to support this work. 	<ol style="list-style-type: none"> 1 & 2. Council's Reserve is already Reserved for Municipal and Drainage Purposes. <p>The City has obtained an independent Market Valuation for compensation purposes as required under the Local Government Act 2020. The developer will be required to pay the Council compensation for the encumbrance.</p> <ol style="list-style-type: none"> 3. The Council freehold Reserve is not being sold but will remain in Council ownership (public hands). <p>Council's Reserve is already Reserved for Municipal and Drainage Purposes.</p>

Of particular concern

A. Cost to ratepayers in future.

The City's independent valuer highlights issues of particular concern to ratepayers that set a worrying precedent for other parcels of publicly owned land. The valuer notes that any problem with the maintenance of drainage works after 2 years is the responsibility of the Council.

What exactly does this mean?

What could it mean in a time of climate change with more frequent floods and subsequent threats to housing developments on or near flood plains?

Indeed, why is housing being approved on flood plains at all? Council needs to discuss these issues thoroughly and involve the community in any change to the administration of Council freehold.

A. Correction: The valuer did not note that “any problem with the maintenance of drainage works after 2 years is the responsibility of the Council”. The correct statement in the report is from a Council Engineering Officer and it notes that “the developer is responsible for the maintenance of the basin and surrounding landscaping for two years following completion of the development in its entirety, at which time the ongoing maintenance responsibility would then be transferred across to the City”.

The City's engineering department has been consulted in relation to the proposed use of the Councils Reserve and it should be noted that the City is responsible for numerous stormwater detention basins across its Local Government Area.

The co-location of this stormwater detention basin on land where there is an existing stormwater detention basin through the expansion of an existing drainage encumbrance represents an opportunity for the City to create efficiencies in maintaining its stormwater infrastructure.

Not applicable to this Public Notice seeking feedback as to proposed use of Council's Reserve – comment relates to a Planning Permit Application matter of another property and not the subject property.

The matter of rezoning and subdividing land identified within the Land Subject to Inundation Overlay would be considered as part of a Planning Scheme Amendment and Permit Application.

<p>B. The independent valuer also reveals that if accepted, the developer's payment expunges almost all alternative uses of the freehold in perpetuity. Accepting this as a matter of course is not the actions of a responsible council.</p>	<p>B. The City is acting in accordance with its obligations under the Local Government Act 2020.</p> <p>Community feedback: In response to Council Resolution 2023-38 of 27 March 2023 which is in line with the requirements of the Local Government Act 2020, this report documents the feedback provided by community members during the Public Notice 28-day public engagement period and seeks Council feedback, guidance, and direction as to how Councils wishes to proceed in the determination of the future of the property Reserve 1 on LP210004M Saade Street, Epsom VIC 3551.</p> <p>Council's Reserve is already Reserved for Municipal and Drainage Purposes <i>noting that the Reserve (for Municipal and Drainage Purposes) was not created for the benefit of the south adjoining parcel and hence the City is not obligated to allow the Reserve to be utilised by the private developer</i>".</p> <p>The City will however receive compensation from the developer. The City has obtained an independent Market Valuation for compensation purposes as required under the Local Government Act 2020. The developer will be required to pay the Council compensation for the encumbrance.</p>
<p>C. Our city has some excellent programs to foster biodiversity e.g. Greening Greater Bendigo. Have they been consulted? Even if this particular block may not have significant biodiversity values it sets a bad precedent that the C.E.O. can make a determination without reference to the community and valued CoGB programs.</p>	<p>C. The City is acting in accordance with its obligations under the Local Government Act 2020.</p> <p>Council makes the determination and not the CEO.</p> <p>Environmental and biodiversity matters will be considered as part of any Planning Application Process and does not form part of this Public Notice consideration.</p>

Risks

Refer to attached Council Report of 27 March 2023 for full details of identified risks.

Financial Sustainability

The City has obtained an independent Market Valuation for compensation purposes as required under the Local Government Act 2020.

As per Council Report of 27 March 2023, if approval is granted, the City will receive approximately \$300,000 compensation from the developer, which is subject to revaluation if required.

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

17. HEALTHY, LIVEABLE SPACES AND PLACES

17.1. Use and Development of the Land for a Dwelling and Vehicle Store and a Reduction in Car Parking Requirements - Voddens Road, SEBASTIAN 3556

Author:	Rhiannon Biezen, Statutory Planner
Responsible Director:	Steve Hamilton, Director Strategy and Growth

Summary/Purpose

Application No:	DU/460/2022
Applicant:	Bendigo Planning Services
Land:	Voddens Road, SEBASTIAN 3556
Zoning:	Farming Zone
Overlays:	Bushfire Management Overlay
No. of objections:	1
Consultation meeting:	N/A
Key considerations:	<ul style="list-style-type: none"> • Whether the proposal is consistent with the purposes of the Farming Zone and the relevant planning policy that deals with rural dwellings and the protection of agricultural land. • Whether the proposal is compatible with surrounding land use and development and will result in any adverse amenity impacts. • Whether bushfire risk can be reduced to an acceptable level. • Whether the proposed car parking reduction is acceptable. • Objector concerns.
Conclusion:	<p>The application is not in accordance with the Greater Bendigo Planning Scheme.</p> <p>It is recommended that Council refuse to grant a permit as the proposal does not present an acceptable planning outcome with regards to the purposes of the Farming Zone and the relevant planning policy that deals with rural dwellings and the protection of agricultural land.</p>

Recommended Motion

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 store, and for a reduction in car parking requirements at Voddens Road, SEBASTIAN 3556 (Crown Allotment 61 Section H Parish of Neilborough), on the following grounds:

1. The proposal does not support or enhance agriculture.
2. The proposal would result in the permanent removal of agricultural land.
3. The proposal is inconsistent and not compatible with surrounding land uses.
4. The proposal would result in a disorderly and undesirable planning outcome.

RESOLUTION - Resolution No. 2023-69

Moved: Cr Fagg

Seconded: Cr Penna

That pursuant to section 61 of the Planning and Environment Act (1987), Council grant a permit for the use and development of the land for a dwelling and store and a reduction in car parking requirements at Voddens Road, SEBASTIAN 3556 (Crown Allotment 61 Section H Parish of Neilborough) subject to the following conditions:

1. MODIFIED PLANS REQUIRED

Before the development commences, 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:

1. All reference to dwelling and shed locations 'TBC' to be removed, and exact locations provided.
2. An amended Site Plan which removes reference to 'Proposed Granny Flat TBC'.
3. A schedule of external colours and materials for the dwelling.

2. NO LAYOUT ALTERATION

The use and 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 plan must show:

1. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
2. Details of surface finishes of pathways and driveways.
3. 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.
4. Native plantings along property boundaries in order to enhance the biodiversity of the area and provide a visual screen to surrounding properties.
5. All plantings must be in accordance with the requirements of the Bushfire

Management Plan endorsed to form part of this permit.

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

4. CONSOLIDATION OF PARCELS

Within six months of the date of this Planning Permit No. DU/460/2022 Crown Allotments 60 and 61 Section H Parish of Neilborough which comprise the application site must be consolidated and registered by the Land Titles office.

5. Construct a Gravel Driveway

Prior to the commencement of works for the dwelling, the owner must construct the following:

1. The driveway between the property boundary and the edge of the gravel road must be constructed in accordance with the Infrastructure Design Manual SD 255 Rural Driveway.
2. Access to the proposed dwelling must be provided via an all-weather (gravel) driveway with a minimum trafficable width of 3.5 metres with 500mm horizontal clearance and 4 metre vertical clearance to trees to accommodate emergency vehicles. A table drain is required on the high side with a turnaround area at the residence.
3. Sight distance at the access driveway must comply with AS/NZS 2890.1:2004 Fig 3.2.

6. General Drainage – Buildings AND Houses

The proposed building(s) and works must be drained to the satisfaction of the City of Greater Bendigo as the responsible drainage authority.

7. 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.

8. HOURS OF OPERATION – STORE

Except with the prior written consent of the responsible authority, the movement of vehicles and machinery to and from the store must only occur between the following times:

- Monday to Friday 7.30am to 3.30pm.

9. USE OF THE LAND – STORE

All goods, machinery or vehicles associated with the use of the land for a store must be kept within the approved store building.

10. NO REPAIRS, SERVICING OR WASHING - STORE

Repairs, servicing or washing of vehicles associated with the use of the land for a store must not be carried out on the subject 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. BAFFLED LIGHTING

Outdoor lighting, 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.

13. 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.

14. COUNTRY FIRE AUTHORITY

Endorsement of Bushfire Management Plan

Before the development starts, the Bushfire Management Plan prepared by Rod Hinton (Drawing No: 2205067-BMS (Revision B), dated 5/12/22) must be endorsed by the Responsible Authority. Once endorsed the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority.

15. BUSHFIRE PROTECTION MEASURES

The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

16. EXPIRY OF PERMIT - 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.

Planning Note:

This development has been assessed and approved under the Planning Scheme provisions **Clause 35.07 – Farming Zone** only. This approval does not indicate that requirements of Part 4 of the Building Regulations 2018 have been satisfied.

City of Greater Bendigo Environmental Health Note:

- Before a building permit is issued for a dwelling at the property, a Permit to Install an Onsite Wastewater Management System is required to be issued by Council.
- No plumbing fixtures are permitted to be installed in the shed without prior approval from Council/Wastewater shall not be generated from the shed without prior approval from Council.

City of Greater Bendigo Engineering Note:

A "Works Within Road Reserve Permit" must be obtained from Council's Engineering Department prior to commencing any work outside the property boundary on the road reserve including works specified in 3 above. (Note: A Planning Permit is not a Works Within Road Reserve Permit)

CONSENT FOR WORK ON ROAD RESERVES

The applicant must comply with:

1. The Road Management Act 2004,
2. Road Management (Works and Infrastructure) Regulations 2005, and
3. 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.

LOST

RESOLUTION - Resolution No. 2023-75

Moved: Cr O'Rourke

Seconded: Cr Alden

That the recommended motion be adopted.

CARRIED

Report

Background Information

Preliminary concerns were raised with the applicant during the process with regards to the proposal not being in accordance with planning policy relating to rural dwellings and the protection of agricultural land. Further, the lot is an old Crown Allotment, pre-dating modern planning instruments and the Greater Bendigo Planning Scheme discourages their use for de-facto rural living purposes.

The applicant has provided further justification to support the proposal, but has failed to persuade City officers that the proposal presents a desirable or acceptable planning outcome.

It is noted that the application initially included the use and development of the land for a dependent person's unit, but the application was later amended to remove this component.

Subject Site and Surrounds

The subject site is formally referred to as Crown Allotment 61 Section H Parish of Neilborough, and is generally rectangular in shape with an area of 8.08 hectares.

The site has a northern boundary of 271.98 metres to Voddens Road and a depth of 297.125 metres. The site is currently vacant and is heavily vegetated within the southern portion of the site. Access is provided via a 7.3 metre wide rural residential crossover from Voddens Road. The site has historically been used for agricultural purposes.

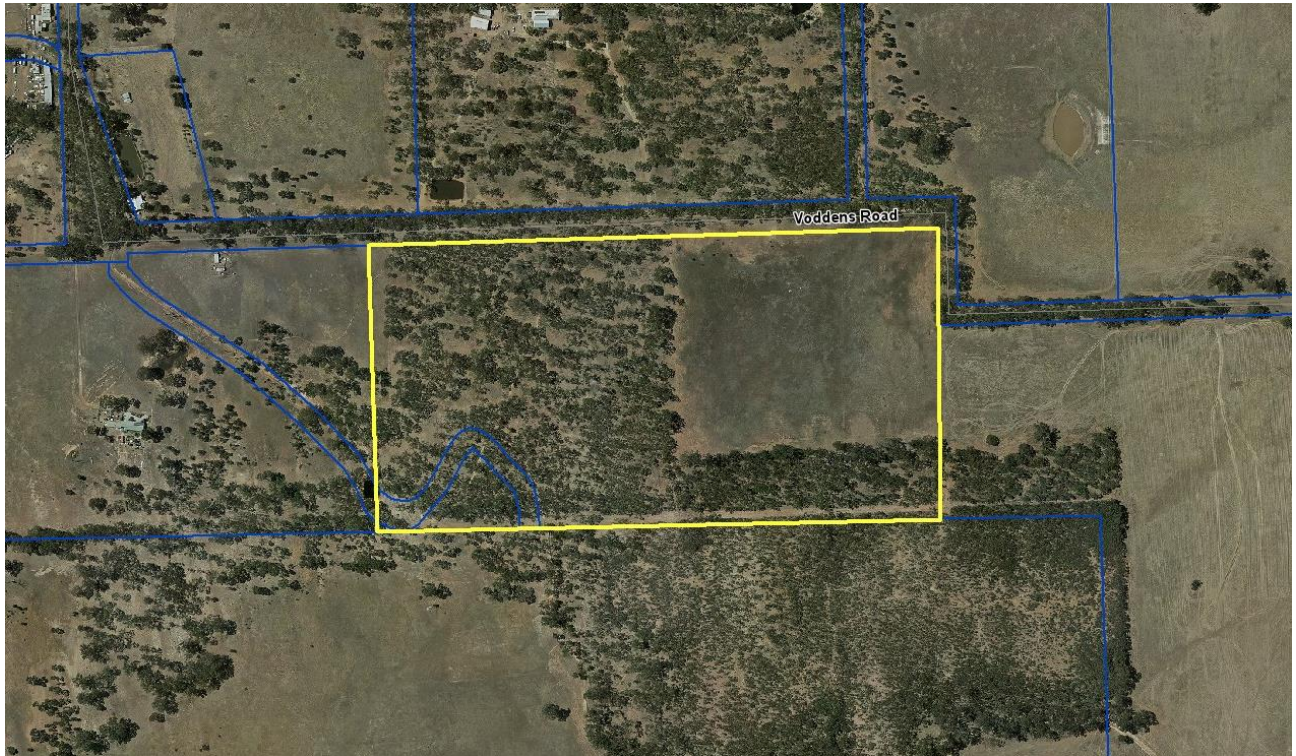


Figure 1: Aerial image of site and surrounding area

The site is located within the Farming Zone and is affected by the Bushfire Management Overlay.

Surrounding land to the north, south and west is located within the Farming Zone and land further to the east is located within the Rural Conservation Zone. The area is primarily used for large scale agricultural uses such as dairy farming, piggeries and grazing. A number of dwellings are located within the immediate surrounding area, primarily to the north and north-east., some of which are associated with the use of the land for agriculture.

Proposal

The application seeks approval for the use and development of the land for a dwelling and store, and a reduction in car parking requirements.

The use and development are proposed to occur wholly within the title boundary of Crown Allotment 61 (the eastern half of the site).

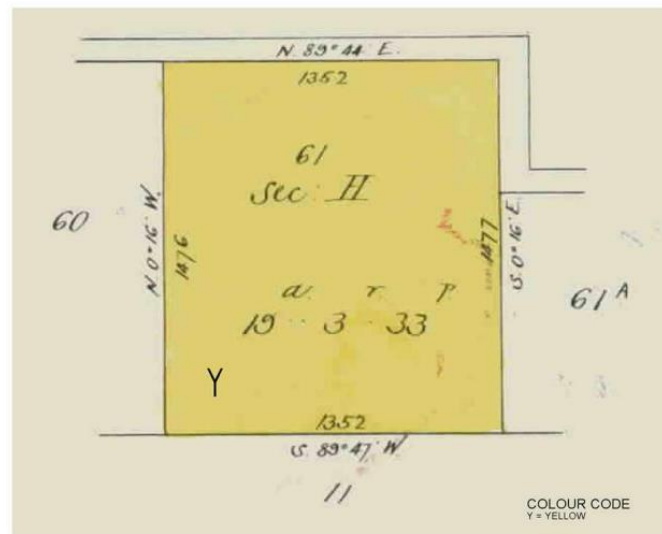


Figure 2: Title Plan of Crown Allotment 61, Section H, Parish of Neilborough

Use and development of the land for a dwelling

Details of the proposal dwelling include:

- Construction of a 425 square metre dwelling comprising of 6 bedrooms, 2 bathrooms, an open plan kitchen, living and dining area, rumpus room and attached double garage.
- The dwelling would be located approximately in the centre of the lot and setback 137 metres from the northern boundary (Voddens Road), 141 metres from the southern (rear) boundary and 78 metres from the western (internal side) boundary.
- The dwelling would be constructed of brick with a galvanised iron roof.
- The dwelling would be constructed to a BAL rating of 12.5 and be provided with a 10,000 litre water tank for fire fighting purposes.
- Access would be provided via a 3 metre wide crossover from Voddens Road and a 4 metre wide crushed gravel driveway.
- The application was accompanied by a Bushfire Management Plan (and associated bushfire documents) and a Land Capability Assessment.

Use and development of the land for a store

- Construction of a 768sqm (24m x 32m) storage shed which would be setback a minimum of 166.34 metres from Voddens Road. The store would be constructed to a BAL rating of 12.5 and be provided with a 10,000 litre water tank for fire fighting purposes.
- It would store vehicles/machinery/equipment associated with the owner's earth moving business (GDL Excavations). All vehicles/machinery/equipment would be stored within the purpose-built building.
- The vehicles (and associated equipment) proposed to be stored on the site include:
 - 2 trucks with one float
 - A water cart
 - 3 excavators
 - 2 skid steers
 - 1 roller
 - 3 trailers
 - Hand tools, form working, temporary fencing, pipes, end walls, mesh etc.
 - Chemicals etc.

- The applicant has advised that the number of vehicles entering and exiting the site per day would be:
 - 2 light vehicles (car and ute)
 - 1 truck with float
- 6 staff would use the store, including the owner of the business, two labourers, administrator, operator and concreter.
- The hours of operation proposed are:
 - 7.30 am to 3.30 pm Monday to Friday.
 - The applicant has noted some weekend hours of operation would occur but no further details have been provided.
- Security lighting would be fitted to the outside of the store.

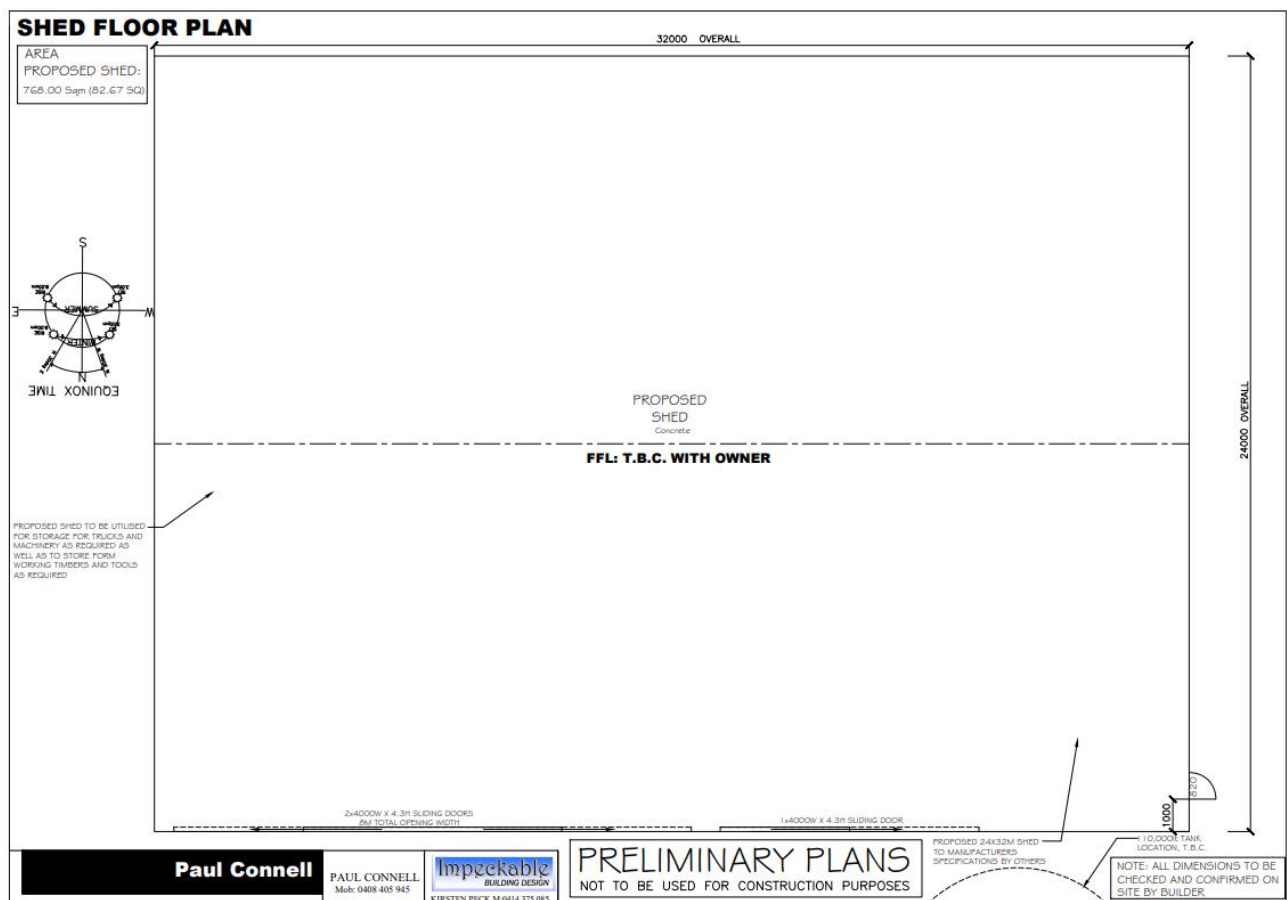


Figure 5: Proposed Store Floor Plan

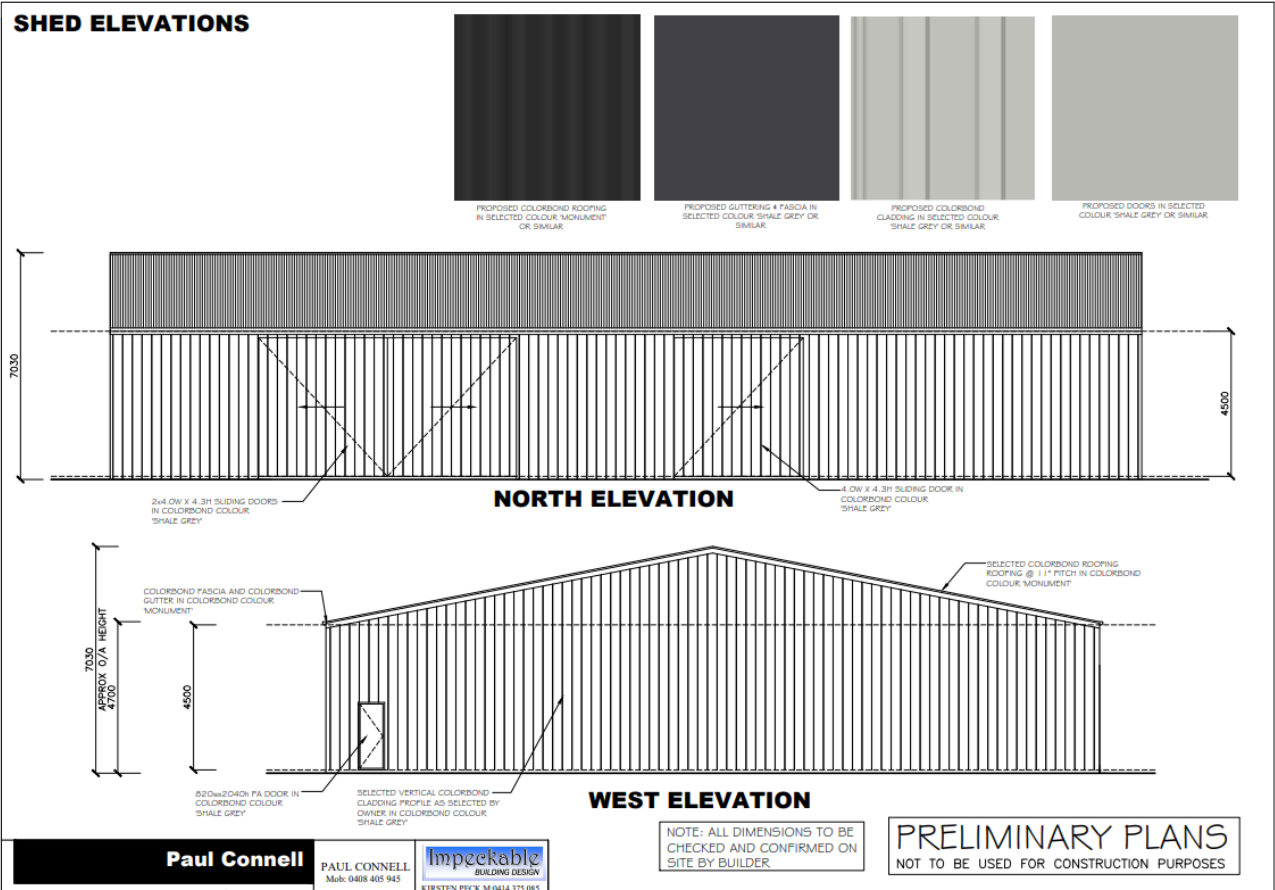


Figure 6: Proposed Store Elevations Plan

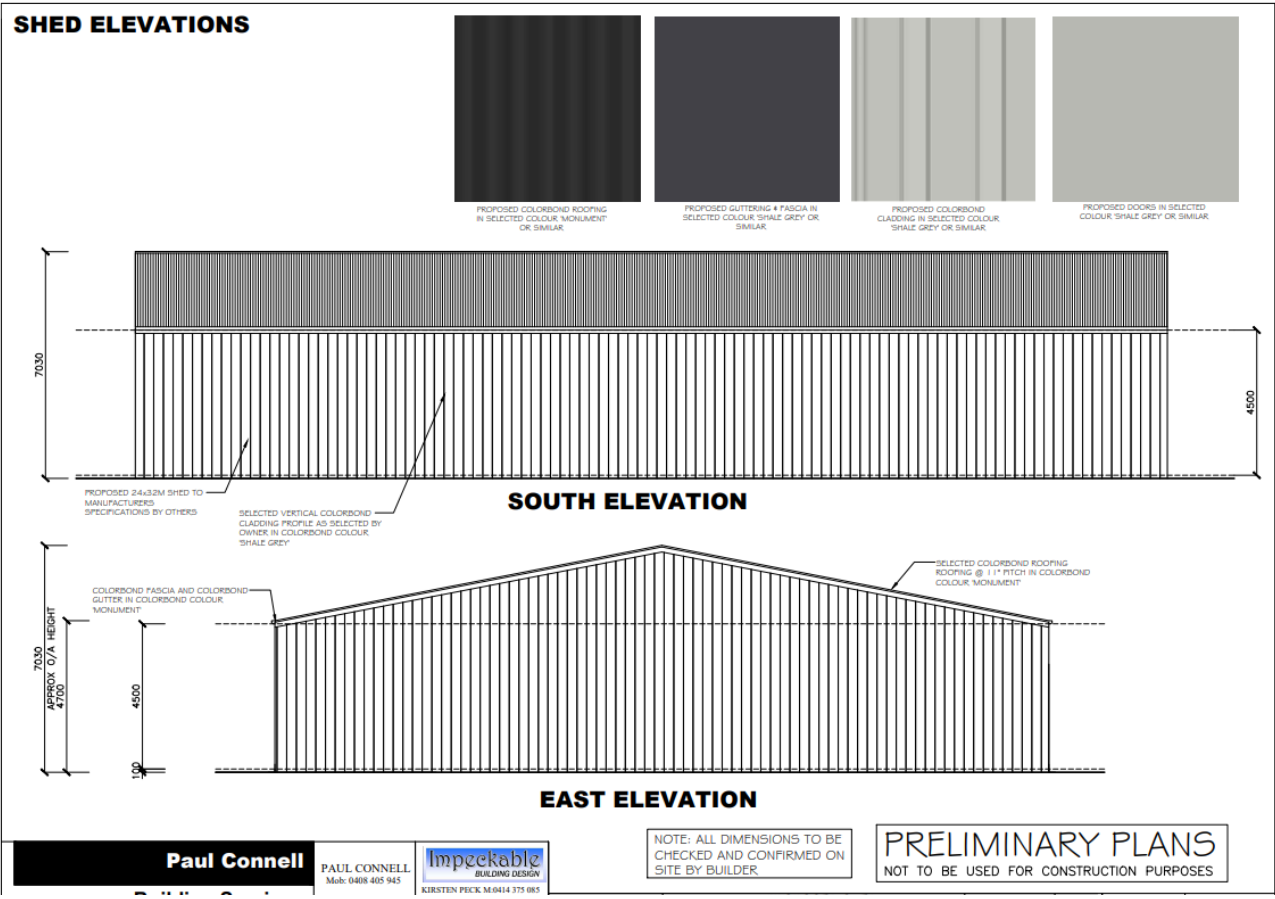


Figure 7: Proposed Store Elevations Plan*Reduction in car parking*

The application seeks a reduction in car parking requirements associated with the store, being 10 per cent of the site area.

It is noted that car parking is provided in association with the dwelling.

Planning Controls – Greater Bendigo Planning SchemeWhy is a permit needed?

A planning permit is required for the proposal pursuant to the following clauses within the Greater Bendigo Planning Scheme:

Planning control	Why is a permit required?
Clause 35.07 (Farming Zone)	<ul style="list-style-type: none"> • Clause 35.07-1 – a permit is required to use the land for a dwelling (as the lot is less than 40 hectares in size). • Clause 35.07-1 – a permit is required to use the land for a store. • Clause 35.07-4 – a permit is required for buildings and works associated with a Section 2 use.
Clause 44.06 (Bushfire Management Overlay)	<ul style="list-style-type: none"> • Clause 44.06-2 – a permit is required for buildings and works associated with accommodation (dwelling) and a warehouse (store).
Clause 52.06 (Car Parking)	<ul style="list-style-type: none"> • Clause 52.06-5 – a permit is required to reduce the number of car parking spaces.

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

Municipal Planning Strategy

- Clause 02.03-1 Settlement
- Clause 02.03-3 Environmental risks and amenity
- Clause 02.03-6 Housing
- Clause 02.03-7 Economic Development

Planning Policy Framework

- Clause 11 Settlement
- Clause 11.01-1R Settlement – Loddon Mallee South
- Clause 13.01-1S Natural hazards and climate change
- Clause 13.02-1S Bushfire Planning
- Clause 13.07-1S Land use compatibility

- Clause 14.01-1S Protection of agricultural land
- Clause 14.01-1L Protection of agricultural land – Greater Bendigo
- Clause 14.01-2S Sustainable agricultural land use
- Clause 15.01-6S Design for rural areas
- Clause 16.01-3S Rural residential development
- Clause 16.01- 3L Rural residential development – Greater Bendigo
- Clause 17.01-1S Diversified economy

Other Provisions

- Clause 35.07 Farming Zone
- Clause 44.06 Bushfire Management Overlay
- Clause 52.06 Car Parking
- Clause 53.02 Bushfire Planning

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
CFA	No objection – subject to standard conditions.
Traffic	No objection – subject to standard conditions.
Environmental Health	No objection – subject to standard notes.

Public Notification

The application was advertised by way of notice on the site and letters to adjoining and nearby owners and occupiers. It is noted that the application was re-advertised due to an error in what the permit allows during the first advertising period.

As a result of advertising, 1 objection was received, with the grounds of objection being:

- The size of the store – whether this is sufficient to house the proposed number of vehicles and associated earth moving equipment.
- Concerns relating to the site currently being used by the owners for the storage of imported soil, rocks, concrete, culverts and off-site materials associated with their existing earth moving business.
- Concerns relating to the significant earthworks that have been undertaken on site including the construction of a dam.
- Proposal not consistent with existing use and character of area.
- Road/traffic safety concerns – increased traffic, heavy vehicles traversing the roads and the 100 km/h speed limit.
- Detrimental amenity impacts from hours of operation, increase in traffic and heavy vehicles.
- The planning report submitted with the application states there are several commercial sites within the area, although these operations have ceased for in excess of 5 years.

The concerns raised relating to works having been undertaken on site and in relation to how the site is currently being used have been referred to the City's Planning Compliance Officer for further investigation.

Planning Assessment

Introduction

Rural lifestyle development poses an ongoing risk to the operations of agricultural land. Planning Schemes in rural municipalities will usually seek to address these challenges through directing 'rural lifestyle' development to appropriately zoned land (Rural Living Zone), and through the use of local planning policies to manage the development of dwellings in other rural zones, so as to protect the primacy of agriculture.

The *Rural Areas Strategy, September 2009* notes that the use of discretion to allow new dwellings in rural areas, primarily the Farming Zone, has been and continues to be generously applied, despite an over supply of zoned Rural Living land (estimated to be an 80 year supply) to cater for such demand. The Farming Zone has been facing increasing pressures in more recent years for subdivision and residential development, primarily for rural lifestyle opportunities rather than for farming purposes. Rural residential development should be directed to existing planned areas for this purpose.

Such is also the case for other non-agricultural land uses looking to encroach on agricultural land. Consideration must be given to whether these land uses are consistent with the purpose and decision guidelines of the Farming Zone, along with broader planning policy relating to the protection of agricultural land.

Whether the proposal is consistent with the purposes of the Farming Zone and the relevant planning policy that deals with rural dwellings and the protection of agricultural land.

State planning policy at Clause 14.01-1S relates to the protection of agricultural land, and seeks to protect the State's agricultural base by preserving productive farmland. Some of the main strategies include ensuring the State's agricultural base is protected from the unplanned loss of productive land, preventing inappropriately dispersed urban activities in rural areas and limiting new housing in rural areas.

Local planning policy at Clause 14.01-1L *Protection of agricultural land - Greater Bendigo* draws together these themes to provide a consistent basis for considering the use and development of rural land, and has the following relevant strategies:

- *Avoid the construction of a dwelling unless required to support a genuinely economically viable agricultural use of the land that requires permanent and continuous care, supervision or security.*
- *Ensure that where a dwelling is deemed necessary to support an agricultural use, that the use is viable based on the level of investment required and the estimated return as shown in an integrated land management plan.*
- *Ensure that where a dwelling has been deemed necessary to support an agricultural use, that the agricultural use has been established on the land prior to the construction of a dwelling.*
- *Avoid the construction of a dwelling proximate to locations for intensive animal production, pig farm or poultry farms unless associated with the use.*
- *Avoid the construction of a dwelling on existing small lots (lots smaller than the zone schedule minimum) in the Farming Zone, except if allowed under a Restructure Overlay.*

It is evident that the primary purpose of the Farming Zone is for agriculture. However, a number of non-agricultural land uses are allowable within the Farming Zone subject to planning approval. Such uses, commonly referred to a 'Section 2 uses' require planning approval so that they can be considered against the purpose and decision guidelines of the zone on a case by case basis.

The Farming Zone has the following identified purposes:

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

- *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

The Farming Zone includes the following relevant Decision guidelines:

General issues:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *Any Regional Catchment Strategy and associated plan applying to the land.*
- *The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*
- *How the use or development relates to sustainable land management.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *How the use and development makes use of existing infrastructure and services.*

Agricultural issues and the impacts from non-agricultural uses:

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*

Accommodation issues:

- *Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*
- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.*

Environmental issues:

- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

Design and siting issues:

- *The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*

- *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.*
- *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*
- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*

Clause 65 of the Planning Scheme states that because a permit can be granted does not imply a permit should or will be granted. The responsible authority must decide whether the proposal will produce an acceptable outcome in terms of the decision guidelines of this clause.

It is evident that the overall aims of the relevant policy framework are to ensure that agricultural land is carefully managed in order to prevent adverse impacts on agricultural production, to prevent the fragmentation of rural land, and to ensure an orderly development of residential development in rural areas so that agricultural production of these areas is not disadvantaged or prejudiced by ad hoc and unplanned residential development.

Current planning scheme policy (introduced into the Greater Bendigo Planning Scheme on 11 March 2022) seeks to ensure that new dwellings in the Farming Zone are only approved in instances where they are considered to support or enhance agriculture. In making such a determination, consideration should be given to why there is a need to live on site and how that would support or enhance agricultural use/production, whether agriculture would remain the primary land use, and whether it is likely that the land would remain in agricultural use into the future following development of the dwelling.

No agricultural land use is proposed. Rather, the applicant is seeking to use and develop the land for their family home and business. The applicant has provided justification in support of the proposal, which rests on the following arguments:

- The available cleared land, existing transport connections and the surrounding mixed use land holdings mean the site is deemed suitable for the proposal.
- The proposal would not permanently remove viable agricultural land due to the land not being suitable for agricultural use, the selected development footprint as well as minimal disturbance required to implement infrastructure.
- The proposal would have a low impact on limiting agricultural production on adjoining or nearby land.
- The proposal would not result in land fragmentation due to being located amongst small land holdings used mainly for rural residency, with viable agricultural land holdings further north and west of Sebastian.
- The use of the land for agriculture would not be economically viable, without causing environmental harm.
- The use of the land for agriculture would have a detrimental impact upon the environmental values of the site.

Whilst it is acknowledged that the western portion of the site is constrained due to vegetation, the eastern portion of the site is cleared and could be utilised for an agricultural pursuit. This is evidenced by the land previously having been used for the purposes of grazing. The applicant advised that the land was previously sold due to the low quality pasture for grazing, however it is unclear if any land management measures were undertaken to improve soil quality and overall output. The application material states that the soil of the area, being shallow stony uniform and gradational soil with red and/or yellow duplex soils dispersed, has traditional qualities that support current agricultural activity within the wider locality.

The applicant has failed to substantiate their claims that the use of the land for agriculture would not be financially viable. This is purely an assumption and it is unclear what agricultural land use this assumption is based on. No evidence has been provided to support this statement.

If supported for residential and commercial purposes, the proposal would permanently remove the land from future agricultural activity.. The approval of a dwelling that does not include an agricultural component would result in the fragmentation of agricultural land and could lead to a proliferation of dwellings within the surrounding area.

The proposal is not in accordance with the above stated policy. In short, the applicant has failed to produce a compelling argument that the proposal is in accordance with the purposes of the Farming Zone and the relevant planning policy that deals with rural dwellings and the protection of agricultural land. No aspect of the proposal aligns with these clear policy objectives.

It should be noted that concerns relating to the use and development do not extend to wastewater treatment or the ability for the buildings to be connected to an electricity and water supply.

Whether the proposal is compatible with surrounding land use and development, and will result in any adverse amenity impacts.

There are a number of dwellings found within the immediate surrounding area and as such it cannot be argued that the use and development of the land for a dwelling would be incompatible with the character of surrounding land use and development.

The issue lies in relation to the use and development of the land for a dwelling not being consistent with the purpose of the Farming Zone and planning policy relating to rural land and the protection of agriculture as discussed above. These policy objectives clearly set the desired future character for the area.

State planning policy at Clause 13.07-1S relates to land use compatibility and seeks to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts. Identified strategies include ensuring that use or development of land is compatible with adjoining and nearby land uses.

Concerns were raised by the objector in relation to the proposal not being consistent with the existing use and character of the area and concerns that the proposal would result in detrimental amenity impacts from the hours of operation and an increase in traffic and heavy vehicles.

The use of the land for a store is nested under the broader land use category of a warehouse. In this instance, the purpose of the store is in relation to the landowner's business (GDL excavations). Careful consideration must be given to whether this is the appropriate location for such a use, or if this land use should be directed to a more appropriate land zone such as an industrial zone.

The use and development of the land for a store is not in accordance with the purpose of the Farming Zone or the broader policy framework relating to agricultural land. Whilst the applicant has argued that the scale of the development is comparable to normal development for a Farming Zone property used for an agricultural activity, the issue remains that the development is associated with a non-agricultural land use. The size of the store (being 768 square metres) is considered to be substantial, with buildings of this size generally found on much larger lots.

The applicant has advised that the land will not be used for the purposes of industry and as such no repairs, servicing or washing of vehicles or machinery will occur on the site. This is contrary to information submitted at the start of the application process which indicated that there would be mechanical work undertaken on the site. As such, it is difficult to determine whether the proposal would result in any unreasonable amenity impacts. It is acknowledged that whilst a condition could be included on a permit preventing any processes of repairs, servicing or washing of vehicles being undertaken on the land; it is unclear if this would align with how the landowner intends to use the site.

The applicant has advised that large vehicles will turn off Bendigo-Pyramid Road onto Evans Road which connects with Voddens Road. It is acknowledged that large vehicles coming to/from the site on Voddens Road and Evans Road could result in dust and noise emissions impacting surrounding properties. This, along with potential safety issues, was raised by the objector. Whilst the applicant has advised that the vehicle movements per day would be approximately 3 vehicles coming and going, rural roads are not designed for heavy vehicle traffic. Both Voddens Road and Evans Road are unsealed rural roads.

Whilst planning scheme policy seeks to support business and economic development, such proposals should be directed to appropriate zones.

Land use and development such as this should be directed to an industrial or commercial area where the facilities are available for both storage and maintenance which will not impact the amenity of the area. The industrial nature of the use and development, along with increased traffic heavy vehicle entering and exiting the site and using local unmade roads is not consistent with the rural character of the area and constitutes the scale of activity normally found in an industrial or commercial area. The local road is used for local traffic only, and is not designed for carrying large vehicles. The intersection of Bendigo-Pyramid Hill Road and Evans Road is also degraded and is a school bus stop for residents within the immediate area, which could create safety concerns.

It should also be highlighted that there are no existing commercial and/or industrial enterprises that operate within the immediate context of the site and the wider surrounding area. Although the submitted planning report with the application refers to eucalyptus industry and its associated distillery, this has been decommissioned for a number of years.

Whether bushfire risk can be reduced to an acceptable level.

Planning policy through Clauses 13.02, 44.06 and 53.02 seeks to prioritise the protection of human life and strengthen community resilience to bushfire, ensure that the location, design and construction of development appropriately responds to the bushfire hazard, and ensure development is only permitted where the risk to life, property and community infrastructure from bushfire can be reduced to an acceptable level.

Bushfire management requirements apply to both the dwelling and store. The application was accompanied by a Bushfire Management Statement, Bushfire Hazard Site Assessment and Bushfire Management Plan in accordance with Planning Scheme requirements.

It is proposed that both the dwelling and store would be constructed to BAL 12.5, defensible space would be provided for the distances shown on the Bushfire Management Plan, a 10,000 litre water tank would be provided for each building and all-weather access would be provided for emergency vehicles.

The application was referred to the Country Fire Authority who supported the proposal subject to standard conditions relation to the endorsement of the Bushfire Management Plan and for bushfire mitigation measures to be employed on an ongoing basis. Subject to the inclusion of such requirements as conditions on a permit, it is considered that bushfire risk can be reduced to an acceptable level. No vegetation will be required to be removed to create defensible space for both the dwelling and the store.

Whether the proposed car parking reduction is acceptable.

Planning policy through Clause 52.06 seeks to ensure the provision of an appropriate number of car spaces. The planning scheme specifies car parking requirements for both a dwelling and store.

Land use	Number of car spaces required
Dwelling	2 car spaces to each 3 or more bedroom dwelling.
Store	10 per cent of the site area

The dwelling would be provided with two car spaces in the form of an attached garage which is consistent with the above requirements. The application seeks approval for a reduction in car parking requirements associated with the store.

Planning approval may be granted to reduce the required number of car spaces, with consideration given to factors such as the nature of the use, the car parking demand likely to be generated by the proposal, any adverse impacts from a shortfall of parking and the character of the area.

Whilst 10 per cent of the site could undoubtedly be set aside for the purposes of car parking, the applicant has sought a reduction on the following basis:

- 10 per cent of the site would equate to approximately 1.71 hectares.
- Setting aside 10 per cent of the site for car parking would lead to assumptions that the parking of multiple vehicles on the site would occur.
- A car parking reduction presents a more favourable planning outcome on the basis that the land use would not generate a car parking demand beyond the dwelling itself and vehicles parked within the store.
- Setting aside 10 per cent of the site for car parking is unwarranted and undesirable.

The car parking requirements for a store do not vary based on the zoning of the land or the specifics of the land use proposal. Unnecessarily setting aside such a large proportion of Farming Zone land for the purposes of car parking is unnecessary and would result in an undesirable planning outcome. Given the nature of the land use and the size of the site, a reduction in car parking requirements associated with the store would be supported if a permit was to be issued.

Objector concerns

Concerns were raised by objectors in relation to the size of the store and in essence whether this was large enough to house the proposed number of vehicles and equipment, or if the vehicles and equipment would be stored externally. The applicant has advised that all vehicles and machinery associated with the use would be stored within the building. Such a requirement could form a permit condition.

Concerns were raised by the objector in relation to the site currently being used for the storage of imported soil, rocks, concrete, culverts and off site materials associated with their existing earth moving business. The objector claims that materials have been

'dumped' on the site, whilst the applicant argues that the materials are merely being 'stored' on the site. Approval has not been sought for any materials to be stored outside of the purpose built shed. If approved, these materials would need to be relocated to within the building or removed from the site.

It was also noted that earthworks that have been undertaken on site, including the construction of a dam. Planning approval is only required for the construction of a dam in this instance if it changes the rate of flow of water across a property boundary.

As outlined above, the concerns raised relating to the current use and the works undertaken on site have been referred to the City's Planning Compliance Officer for further investigation.

Concerns were also raised by the objector that the planning report, prepared by the applicant, states there are several commercial sites within the area although these operations have ceased for in excess of 5 years. The applicant provided an updated response, correcting the error.

Conclusion

The application is not in accordance with the Greater Bendigo Planning Scheme. Whilst bushfire risk can be reduced to an acceptable level, the proposal is inconsistent with the purpose and decision guidelines of the Farming Zone, along with planning policy relating to the protection of agricultural land and land use compatibility. The proposal should be directed to a more suitable location.

It is recommended that Council does not support this proposal as the proposal does not present an acceptable planning outcome with regards to the purposes of the Farming Zone and the relevant planning policy that deals with rural dwellings and the protection of agricultural land.

It is recommended that a Notice of Decision to Refuse to Grant a Permit be issued.

Options

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

Conflict of Interest

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

Attachments

Nil

17.2. Approval of a Development Plan and Planning Permit for a 23 Lot Subdivision, Creation of a Reserve and Removal of Native Vegetation - 78, 94-106 Atlas Road, JUNORTOUN 3551

Author:	Michael St Clair, Statutory Planner
Responsible Director:	Steve Hamilton, Director Strategy and Growth

Summary/Purpose

Application No:	DEV/218/2021 & DS/1073/2021
Application Documents:	Included as attachments to this report
Applicant:	Atlas Road Development Co Pty Ltd
Land:	78 & 94-106 Atlas Road and Atlas Road road reserve, JUNORTOUN 3551
Zoning:	Clause 32.03 – Low Density Residential Zone
Overlays:	Clause 42.02 – Vegetation Protection Overlay – Schedule 2 Clause 43.04 – Development Plan Overlay – Schedule 4 Clause 44.06 – Bushfire Management Overlay
No. of objections:	Nine
Consultation meeting:	<p><u>Consultation meeting</u> A consultation meeting was held at City offices on 23 June 2022, attended by a Planning Officer, applicant, landowner and 7 local residents.</p> <p><u>On site meeting</u> An on-site meeting was held between City officers and a number of submitters on 18 April 2023.</p>
Key considerations:	<ul style="list-style-type: none"> • Is the proposed Development Plan consistent with the requirements of the Overlay? • Is there high level support for a subdivision in this location? • Is the proposed subdivision layout appropriate? • Is the extent of vegetation removal consistent with policy? • Is stormwater able to be appropriately managed by the development? • Are the site's interfaces with adjoining land uses appropriately considered? • Has access to the site been appropriately considered? • Submitter concerns.
Conclusion:	<p>The concurrent Development Plan and Permit Application to subdivide the subject site have been prepared in accordance with the relevant requirements of the Greater Bendigo Planning Scheme.</p> <p>It is recommended that Council resolve to approve the submitted Development Plan and issue a Planning Permit for the subdivision of the site into 23 lots and creation of a reserve and the removal of native vegetation, subject to the conditions at the end of this report.</p>

Recommended Motion

That Council:

1. Approve the Development Plan prepared by Terraco, reference 20153, Version 7 dated 28/09/2022 for a 23 lot subdivision, creation of a reserve and removal of native vegetation at 78, 94-106 Atlas Road, JUNORTOUN 3551.
2. Pursuant to section 61 of the Planning and Environment Act 1987, issue a Planning Permit for *23 lot subdivision, creation of a reserve and the removal of native vegetation* at 78, 94-106 Atlas Road, JUNORTOUN 3551 subject to the conditions at the end of this report.

RESOLUTION - Resolution No. 2023-70

Moved: Cr O'Rourke

Seconded: Cr Evans

That the recommended motion be adopted.

CARRIED

Background Information

The City is in receipt of two applications relating to the proposal, being DEV/218/2021 and DS/1073/2021.

The first application is for the approval of a Development Plan. A Development Plan has been submitted in accordance with the requirements of the Development Plan Overlay (Schedule 4) which states that a permit may not be granted to subdivide land before a development plan has been prepared to the satisfaction of the responsible authority.

The second application is a planning permit application for a '*23 lot subdivision, creation of a reserve and the removal of native vegetation*'.

Both applications have been assessed concurrently.

There are some important differences between the assessment and decision making of a development plan and that of a planning application.

A development plan has three purposes:

- a) To implement the Municipal Planning Strategy and the Planning Policy Framework.
- b) To identify areas that require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.

- c) To exempt an application from notice and review if a development plan has been prepared to the satisfaction of the responsible authority.

Whilst development plan applications and planning permit applications that are generally in accordance with an approved development plan are exempt from formal notice, it is the City's policy to informally advertise and seek comment from the community on a development plan and that is what has occurred in this instance.

Report

Subject Site and Surrounds

The site is an irregularly shaped landholding comprising two land parcels on the southern side of Atlas Road, Junortoun. The site is located to the north-east of the O'Keefe Rail Trail, has an overall area of approximately 8.80 hectares and currently contains a single storey dwelling with associated outbuildings.

The existing dwelling is located on 78 Atlas Road, which is accessed by a rural style crossover. A large dam is located within this allotment, positioned along the south-western boundary as it abuts the O'Keefe Rail Trail. The dam is located within a drainage depression that runs along the south-west boundary, which also comprises a smaller dam within the southern corner of the site. Large remnant native vegetation exists within the site, adjacent to the dwelling. Smaller regrowth exists along the boundary with the O'Keefe Rail Trail, which is associated with the extensive vegetation cover that exists along the rail trail itself.

The balance of the site is known as 94-106 Atlas Road. This parcel is undeveloped and has historically been used for grazing of animals associated with the existing dwelling. The site is predominately cleared along the western side of the allotment. Native vegetation, which includes some large trees, is located throughout the eastern and southern portions of the site.

The surrounding area has been undergoing change throughout the last decade. New development on 2,000 square metre (half acre) allotments has occurred to the east of the site, which includes an eight lot subdivision with a common property driveway (108 Atlas Road). Further development of this nature is also occurring to the south of the site on the opposite side of the O'Keefe Rail Trail. This form of development is what was envisaged under the Development Plan Overlay that affects this area.

The O'Keefe Rail Trail forms a northwest-southeast linear corridor adjoining the site. The O'Keefe Rail Trail through this section is characterised by the crushed granite rail trail with establishing native vegetation regrowth along either side.

The Bendigo Baptist Church is located to the south-east, with the land immediately bordering the subject site currently vacant. To the north of the site is the Bendigo Regional Park and Commonwealth land associated with the Junortoun Multi-User depot currently used by the Army reserve and a raft of other Federal Government agencies. The main access to the depot is located to the north of 94-106 Atlas Road. Figure 1 shows the subject site and its surrounding context.

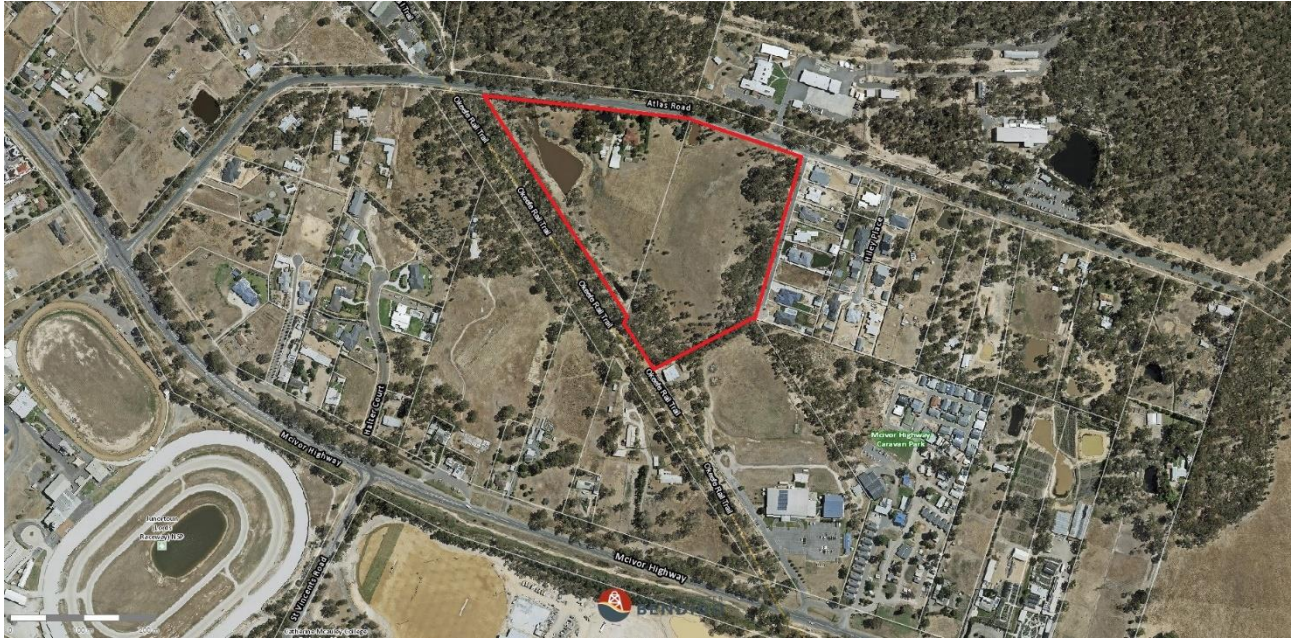


Figure 1: Aerial image of subject site and surrounding area (Site outlined in Red).

Proposal

The application seeks approval for a development plan and the issue of a planning permit for a *'23 lot subdivision, creation of a reserve and removal of native vegetation'* at 78, 94-106 Atlas Road, Junortoun. The individual components of the proposal are detailed as follows:

Subdivision

- Subdivide land into 23 allotments.
- Lots to range in size from 2,000 square metres to 6,668 square metres:
 - o Majority of lots to be approximately 2,000 square metres in size.
 - o Five larger allotments, generally 4,000 square metres in size, are proposed where native vegetation exists.
- Existing dwelling, with associated shedding to be retained on the largest lot.
- All allotments to be accessed from proposed road, with the existing dwelling the only lot to be accessed from Atlas Road.

Road

- Construction of a 16 metre wide local access street to provide access to all allotments, designed to the City's requirements.

Reserve

- Creation of a 1.18 hectare drainage reserve in the south portion of the site to capture and appropriately manage all stormwater flows from the site.
- Inclusion of a shared pathway connecting the site to the adjoining O'Keefe Rail Trail corridor.

Native vegetation removal

- The proposal seeks approval to remove 0.821 hectares of native vegetation. This area does not comprise any large trees.

Figure 2 below shows the submitted Development Plan prepared by Terraco for consideration under this application.

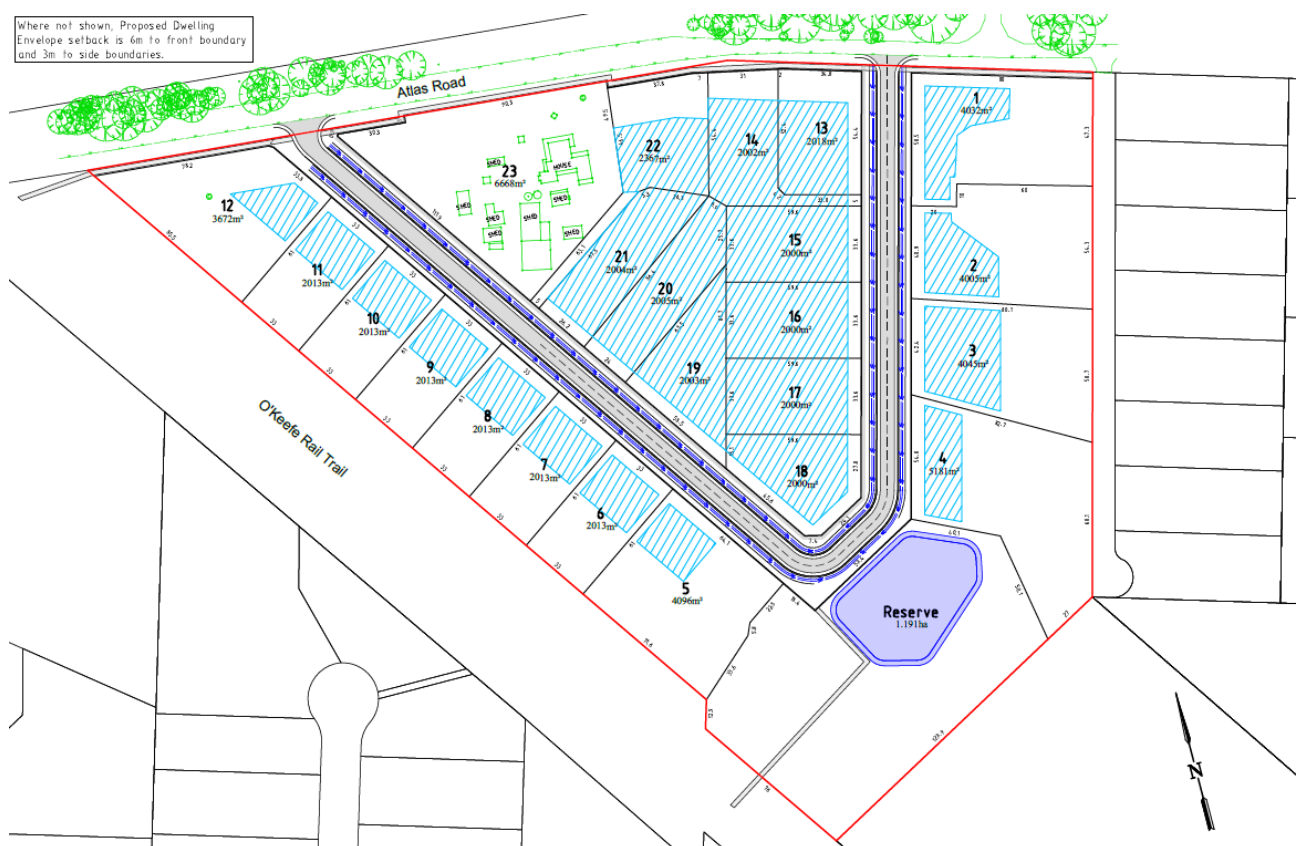


Figure 2: Submitted Development Plan

Planning Controls - Greater Bendigo Planning Scheme

Why is a permit needed?

Approval from Council as the responsible authority is required for two distinct processes in relation to these applications. This requires that a development plan is approved first, prior to any planning permit being issued to subdivide the land.

Development Plan

Clause 42.04-2 requires that a development plan be prepared to the satisfaction of the responsible authority prior to a permit being issued to use or subdivide the land, construct a building or construct or carry out works.

Planning Permit

Following the approval of a development plan, the proposal triggers the following requirements for a planning permit.

Clause	Permit Trigger
Clause 32.03-3 Low Density Residential Zone	<ul style="list-style-type: none">• Subdivide land.
Clause 42.02-2 Vegetation Protection Overlay	<ul style="list-style-type: none">• Remove, destroy or lop any vegetation.
Clause 44.06-2 Bushfire Management Overlay	<ul style="list-style-type: none">• Subdivide land.
Clause 52.02 Easements, restrictions and reserves	<ul style="list-style-type: none">• Creation of a reserve.
Clause 52.17-1 Native Vegetation	<ul style="list-style-type: none">• Remove, destroy or lop native vegetation

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

Municipal Planning Strategy

- 02.03-1: Settlement
- 02.03-2: Environment and landscape values
- 02.03-3: Environmental risks and amenity
- 02.03-5: Built environment and heritage
- 02.03-6: Housing
- 02.03-9: Infrastructure

Planning Policy Framework

- 11.01-1S: Settlement
 - 11.01-1R: Settlement – Loddon Mallee South
 - 11.01-1L-01: Settlement – Greater Bendigo
 - 12.01-1S: Protection of biodiversity
 - 12.01-1L: Protection of biodiversity – Greater Bendigo
 - 12.01-2S: Native vegetation management
 - 12.05-2L: Urban forest interface – Greater Bendigo
-

13.02-1S:	Bushfire planning
14.02-2S:	Water quality
15.01-1L-01:	Landscaping – Greater Bendigo
15.01-3S:	Subdivision design
15.01-4S:	Healthy neighbourhoods
16.01-1S:	Housing supply
18.01-1S:	Land use and transport planning
18.01-1L:	Land use and transport planning – Greater Bendigo
19.02-6S:	Open space
19.03-2S:	Infrastructure design and provision
19.03-2L:	Infrastructure planning, design and provision – Greater Bendigo
19.03-3S:	Integrated water management
19.03-3L:	Integrated water management – Greater Bendigo

Other Provisions

32.03:	Low Density Residential Zone
42.02:	Vegetation Protection Overlay
43.04:	Development Plan Overlay
44.06:	Bushfire Management Overlay
52.02:	Easements, restrictions and reserves
52.17:	Native vegetation
53.01:	Public open space contributions and subdivision
53.02:	Bushfire planning
56.07:	Residential subdivision – Integrated water management

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
CFA (External referral)	No objection – subject to conditions relating to the following:

Referral	Comment
	<ul style="list-style-type: none"> • Inclusion of mandatory subdivision conditions under Clause 44.06 • Endorsement of Bushfire Management Plan • Preparation of Section 173 agreement to exclude lot 23 (existing dwelling) from mandatory conditions. • Requirements for hydrants • Requirements for roads
Coliban Water	No objection – Subject to conditions relation to the delivery of potable water and reticulated sewer to the site.
Powercor	No objection – Subject to conditions relating to the delivery of electricity to the site.
Department of Environment, Land, Water and Planning ¹	<p>No objection – subject to conditions relating to the following:</p> <ul style="list-style-type: none"> • Endorsement of an Environmental Management Plan • Protection requirements for vegetation to be retained • Native vegetation offset requirements • Offset evidence
Engineering - Drainage	<p>No objection – subject to conditions relating to the following:</p> <ul style="list-style-type: none"> • Standard subdivision conditions • Paved path connection to O’Keefe rail trail • Preparation of a Construction Management Plan
Engineering - Traffic	<p>No objection – subject to conditions relating to the following:</p> <ul style="list-style-type: none"> • Standard subdivision conditions • Road intersection treatments for both access points to the subject site from Atlas Road
Arboriculture and Environment	<p>No objection – subject to the following:</p> <ul style="list-style-type: none"> • Preparation of a Vegetation (Environmental) Management Plan. • Note on permit that the applicant must ensure the requirements of the Flora and Fauna Guarantee Act are met for any impacts within the road reserve.

Note: No conditions can be imposed on a Development Plan. All conditions referred to above will form conditions on any planning permit that may be issued for the subdivision.

Public Notification

The planning permit application is exempt from notice and third-party (objector) review pursuant to Clause 43.04-3 of the Development Plan Overlay, which applies once a development plan has been prepared.

¹ Department of Environment, Land, Water and Planning has been replaced by Department of Energy, Environment and Climate Action

The City's standard process is to give informal notice of a development plan application inviting interested parties to make a submission, noting that a subsequent planning permit application is exempt from public notice. These submissions have no legal standing, and the submitters do not have the ability to be parties to any VCAT proceeding in relation to these applications.

As a result of advertising, 5 submissions were received, with the concerns relating to:

- Amenity impacts associated with additional dwellings in the area.
- Retention of native vegetation across the site.
- Management of stormwater across the site and surrounding area.
- Fencing to site boundaries (O'Keefe Rail Trail and 108 Atlas Road).
- Impacts to fauna.
- Traffic impacts to Atlas Road.

A consultation meeting was held on 23 June 2022 to discuss the issues raised in submissions with the applicant.

Immediately following completion of the consultation meeting, one objection was withdrawn.

After the consultation meeting and the subsequent submission of additional information by the applicant, a further 5 submissions were received. These submissions came from other landowners within the body corporate to the east of the site (108 Atlas Road). These submissions were consistent with the concerns raised previously. At present, nine submissions remain under consideration in relation to the Development Plan.

The issues raised by residents are discussed in the planning assessment section below.

Planning Assessment

The planning assessment for an application of this nature requires consideration of a broad range of matters. The key matters for consideration are:

- Is the proposed Development Plan consistent with the requirements of the Overlay?
- Is there high level support for a subdivision in this location?
- Is the proposed subdivision layout appropriate?
- Is the extent of vegetation removal consistent with policy?
- Is stormwater able to be appropriately managed by the development?
- Are the site's interfaces with adjoining land uses appropriately considered?
- Has access to the site been appropriately considered?
- Submitter concerns.

Is the proposed Development Plan consistent with the requirements of the Overlay?

The first consideration for Council in relation to these applications is whether the proposed Development Plan has been prepared to the satisfaction of the responsible authority. In making this determination, assessment must be limited to the requirements of the Development Plan Overlay – Schedule 4.

Schedule 4 provides control around subdivision of land in identified density management areas. Specifically, the Overlay is seeking to minimise development impacts to areas of remnant native vegetation whilst directing development to areas that are appropriately serviced. The subject site is mapped as having a 1 hectare lot size requirement, which is able to be reduced if it is demonstrated that appropriate protections to native vegetation have been achieved. This reduction should only occur in instances where full servicing of lots is achievable.

Information submitted with the application details that all proposed lots will be serviced with reticulated water and sewer, connected to electricity and provided with telecommunication services.

The subject site contains areas of remnant vegetation along the southwest and eastern boundaries of the site. The applicant has proposed a layout that seeks to retain the vast majority of this native vegetation. This protection is to be afforded through the designation of building envelopes, required under the Bushfire Management Overlay, that constrain how the land can be developed. The building envelopes have been sized so that any defensible space requirements from these envelopes will not result in removal of vegetation identified for retention.

To provide for usable building envelopes along the eastern side of the site, the applicant has proposed larger lots to accommodate the extent of vegetation.

To satisfy the other requirements for a Development Plan under this schedule, connectivity around the site will be provided for through the provision of a connection to the O’Keefe Rail Trail to the southwest. This is to be provided through the proposed reserve. Footpaths are to be provided along the internal road and across the Atlas Road frontage. Fire hydrants will be provided throughout the site, as required by CFA conditions, with each site to also have 10,000 litres of onsite water storage for fire fighting use.

The officer assessment is that the submitted Development Plan meets the requirements detailed at Schedule 4 to the Development Plan Overlay, and it is recommended that the submitted Development Plan be approved.

Is there high level support for a subdivision in this location?

Under the provisions of the Low Density Residential Zone, a permit is required to subdivide the land. The Zone stipulates a minimum lot size for lots based on whether the

site will be serviced by sewer or not. As the site is to be serviced by sewer, the minimum lot size is 2,000 square metres.

Clause 02.03-1: Settlement directs that most of Greater Bendigo's growth be contained within the urban growth boundary. The site is located outside the growth boundary as shown in the Urban Strategic Framework plan at Clause 02.04 of the Planning Scheme. However, the site sits just outside the urban growth boundary with it running along the O'Keefe Rail Trail. This location outside the urban growth boundary is realised by the zoning of the land for Low Density residential uses. This outcome is further supported by the established low density residential subdivisions located further to the east of the site, which have an average lot size of approximately 2,000 square metres (consistent with this proposal). Overall, there is considered to be high level policy support for a subdivision in this location. The specifics of the application are discussed in greater detail below.

Is the proposed subdivision layout appropriate?

In determining if a subdivision layout is appropriate for a site, a broad range of considerations must be taken into account. In relation to this application, they can be generally characterised as follows.

- Does the layout appropriately respond to the context of the site and surrounding area?
- Does the layout address bushfire risk?
- Does the layout minimise vegetation removal?
- Does the layout appropriately manage stormwater impacts?
- Is the layout appropriately connected to the surrounding area?

In designing the layout for the site, the applicant has first demonstrated consistency with the surrounding subdivision pattern. Land to the east and south has been subdivided into lots approximately 2,000 square metres in size. These lots are largely developed with large single storey dwellings with associated outbuildings. These building typologies require large building envelopes, which have been adopted by the applicant for this proposal.

Clause 13.02-1S: Bushfire Planning and Clause 71.02-3: Integrated decision making requires that a responsible authority must prioritise the protection of human life over all other policy considerations. The subject site is affected by the Bushfire Management Overlay. Clause 53.02: Bushfire Planning details the considerations that must be taken into account when considering a subdivision application.

The purpose of Clause 53.02: Bushfire Planning is as follows:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
- *To ensure that the location, design and construction of development appropriately responds to the bushfire hazard.*

- *To ensure development is only permitted where the risk to life, property and community infrastructure from bushfire can be reduced to an acceptable level.*
- *To specify location, design and construction measures for a single dwelling that reduces the bushfire risk to life and property to an acceptable level.*

In addition to these purposes, a subdivision application must also ‘*specify at the subdivision stage bushfire protection measures to develop a lot with a single dwelling on land zoned for residential or rural residential purposes*’. To satisfy these requirements, the applicant prepared a Bushfire Management Statement and associated Bushfire Management Plan. These documents have been provided to the CFA for review. The CFA has not objected to the proposal, subject to the inclusion of a number of conditions as summarised above. As such, officer assessment is that the subdivision has demonstrated that the layout is appropriate to prioritise the protection of human life and that bushfire risk has been reduced to an acceptable level.

In addition to the primary consideration of bushfire risk, the design of the subdivision has been considered against the relevant planning policies of Clause 11.01-1L-01: Settlement – Greater Bendigo, Clause 12.05-2L: Urban forest interface – Greater Bendigo, Clause 15.01-3S: Subdivision design and Clause 15.01-4S: Healthy neighbourhoods.

Of particular note, the design of the subdivision has provided for a north-south link through the site, connecting Atlas Road to the O’Keefe Rail Trail for pedestrian and bicycle uses. Discussions with submitters has shown a desire for this link, as the current arrangement results in pedestrians and bicycles using Atlas Road.

Officer assessment is that the layout of the site has been appropriately designed to address bushfire risk, whilst also providing a permeable layout that will further enhance the community that is developing within this section of Atlas Road.

Is the extent of vegetation removal consistent with policy?

Policy within the Greater Bendigo Planning Scheme places a high value on the native vegetation within the subject site. This is provided for by the whole site being located within the Vegetation Protection Overlay – Schedule 2.

The vegetation protections to be achieved by this schedule are as follows:

- *To protect remnant native vegetation and habitat, including understorey, and facilitate natural revegetation.*
- *To promote the maintenance of ecological processes and genetic diversity.*
- *To encourage maintenance and development of linkages between existing remnant vegetation.*
- *To recognise the catchment-wide land and water management benefits resulting from vegetation retention.*
- *To maintain and enhance Bendigo’s scenic and recreational landscape assets.*

Figure 3 below shows the extent of vegetation removal proposed under the subdivision permit application.

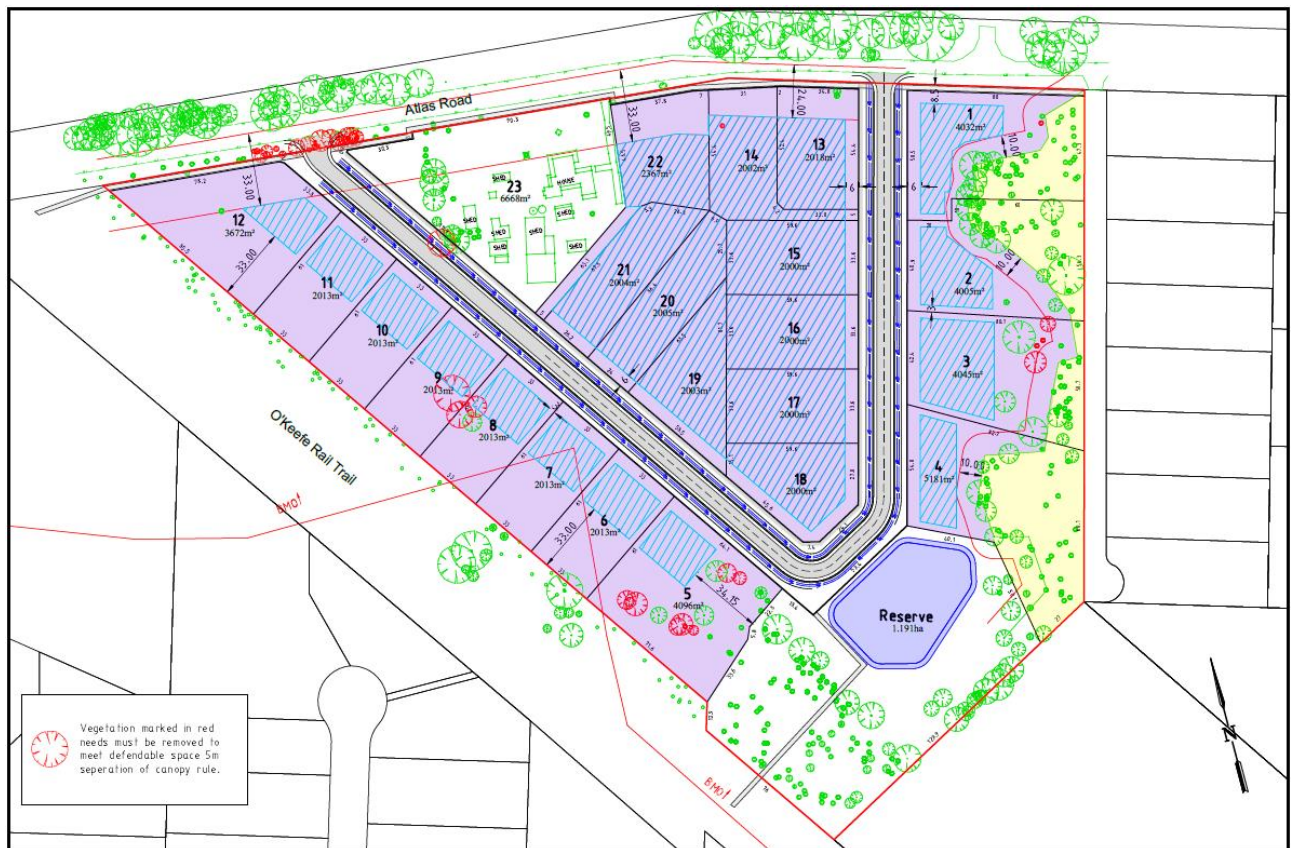


Figure 3: Tree removal plan (Terraco, Sep 2022)

The vegetation removal proposed under the application is the result of the requirements for defendable space under the provisions of the Bushfire Management Overlay. Further removal is required to provide the western entry to the site from Atlas Road.

In determining removal across the site, the applicant, supported by their engaged ecologist, has been careful to select the trees with the least biodiversity value in order to achieve the required defendable space. This has resulted in larger, older trees being retained while younger, less established trees identified for removal. Further, isolated trees have been identified for removal over trees that form a better habitat structure to support fauna in the area. This approach is consistent with policy requirements contained within Clause 12.01-1S: Protection of biodiversity, Clause 12.01-1L: Protection of biodiversity – Greater Bendigo, and Clause 12.01-2S: Native vegetation management.

Officer assessment is that the measures taken by the applicant are appropriate in relation to the requirements of the Vegetation Protection Overlay – Schedule 2.

The application was referred externally to the Department of Energy, Environment and Climate Action² (DEECA) for review of the extent of vegetation removal and its associated impacts to the biodiversity values of the site. Ultimately, DEECA did not object to the proposal, subject to conditions. DEECA's assessment was that the avoid and minimise actions taken for the site by the applicant were appropriate for a subdivision of this scale. Conditions from DEECA will require that appropriate offsets for the limited native vegetation removal is sought prior to any works commencing on site.

Submissions raised concerns about the extent of vegetation impacts that may result from the proposal. These concerns related to existing vegetation along the O'Keefe Rail Trail and along the eastern boundary of the site. Following informal advertising and a consultation meeting with submitters, the applicant further refined their application to avoid additional vegetation removal than what had been originally proposed. This was largely achieved through seeking dispensation from the CFA to waive some defensible space requirements within the eastern portion of the site (due to the isolation of this vegetation from the national park to the north). This amendment resulted in the proposal as shown within figure 3 above. These areas of focus from submissions now remain largely intact by the proposal, and as such it is assessed that the applicant has adequately addressed these concerns.

Officer assessment, supported by referral response from DEECA, is that the scale of native vegetation removal has been minimised to the greatest extent possible in accordance with the strategic intent of the site and that the proposal will not result in any unreasonable impacts on vegetation or biodiversity.

Is stormwater able to be appropriately managed by the development?

The topography of the subject site is characterised by a shallow depression that runs roughly from north to south through the centre of the site. This depression carries overland flow of water from the Greater Bendigo National Park to the north through to the defined waterways located to the south in the vicinity of the McIvor Highway. As such, engineering design for the site must account for these flows.

The proposed road network will form a key component in directing stormwater flows through the site. These roads will collect and funnel flows from the north through to the south of the site. Where the two arms of the road network meet, a drainage basin has been proposed. Subject to detailed design, this basin will collect and store stormwater flows across the site and direct its discharge to a 'legal point of discharge' located in the vicinity of the southern point of the site. Flows through this legal point of discharge will be required to meet pre-development flows for the site to ensure that there is no increase to stormwater impacts from the development of the land.

² Formerly Department of Environment, Land, Water and Planning (DELWP)

This design approach is informed by the policy requirements of Clause 14.02-2S: Water quality, Clause 19.03-2S: Infrastructure design and provision, Clause 19.03-2L: Infrastructure planning, design and provision – Greater Bendigo, Clause 19.03-3S: Integrated water management, and Clause 19.03-3L: Integrated water management – Greater Bendigo. These policy considerations are enacted through the objective and standards of Clause 56.07: Residential subdivision – Integrated water management.

Adjoining landowners to the east of the site have expressed concern about the development of the site and the potential that it might have on increasing stormwater issues that they are already experiencing within their private common property driveway (not a Council road). The concern expressed related to any additional stormwater in the downstream catchment further limiting their own stormwater system from discharging, pushing stormwater into their properties. To discuss this issue, a site visit was undertaken with the City's Development Engineer to meet with the submitters to talk through their concerns and to inspect the existing infrastructure within their site. The design process was discussed, including how the City would seek to ensure that the proposed development achieves its requirement to maintain pre-development flows.

Officer assessment, informed by discussions with the City's Development Engineer, is that stormwater is able to be adequately managed across the subject site, subject to standard engineering conditions.

Are the site's interfaces with adjoining land uses appropriately considered?

The site has three key interfaces that must be addressed in designing the layout for the site. The main frontage comprises Atlas Road, the second frontage is located along the O'Keefe Rail Trail and the final frontage is located along the common property boundary to 108 Atlas Road.

The Atlas Road frontage is characterised by a sealed two-way rural style road. It is provided with gravel shoulders and no footpaths. The road primarily provides access to the Commonwealth land to the north, with local use increasing in recent years as residential subdivisions occur along the southern frontage of the road. The subdivision has been designed so that future dwellings will front onto Atlas Road. However, access will be restricted to the internal road network. Footpaths have been conditioned to be provided by the applicant along this frontage. Fencing along this frontage, if provided at all, must be rural style post and wire fencing. These design responses will ensure that the development within the site remains responsive to the main access corridor servicing the area, providing a sound urban design outcome.

The O'Keefe Rail Trail provides a key active transport connection between Bendigo and Heathcote. The Rail Trail has a rural style character which comprises the crushed granite surface for the track, flanked by native vegetation to either side. In this location, further vegetation exists within the adjoining properties, providing a rural character to the trail.

This character should be retained. As such, the layout of the subdivision has sought to protect existing vegetation within the subject site along this boundary, protected by designated building envelopes within these lots excluding works in the areas of vegetation.

A number of concerns were raised by submitters as to what fencing treatment would be provided along this frontage, with varying views that this should be post and wire (to retain viewlines) or Colorbond fencing (to obscure view lines to private property). As the rural character of the area is sought to be retained, the City has advised that fencing should be provided in a rural post and wire style. The applicant submitted fencing plans showing that rural style post and wire fencing will be retained along this frontage. This fencing will be required to be maintained through a restriction placed on title.

The final frontage that the site shares is with the common property driveway servicing the 8 dwellings at 108 Atlas Road. This common property driveway is managed by the body corporate for the site and is not a Council road. Concerns were raised with the fencing proposed along this frontage, with the body corporate position being that this should be 1.8 metre high Colorbond fencing. The fencing plan submitted by the applicant shows that Colorbond fencing will be provided along this frontage. This fencing will be required to be maintained in a consistent style along its full length along the common property driveway through a restriction placed on title.

Officer assessment is that the proposed treatments to the three frontages of the site are appropriate for the rural character of the area, subject to conditions on any permit that issues and restrictions placed on title for any lots created as a result of the subdivision of the site.

Has access to the site been appropriately considered?

Concerns raised by submitters indicated that only one access point should be provided to the site in a cul-de-sac arrangement. This approach would allow for the vegetation shown as being removed at the western intersection being retained, with potential improvements to the safe operation of Atlas Road past the site.

As indicated above, there are a range of considerations that must be taken into account when designing a subdivision. In relation to the road network for this site, these primarily relate to drainage and bushfire risk mitigation. In respect of bushfire, by providing two directions to egress the site, future landowners will have choice to be able to travel in a safe direction. This is in accordance with the access requirements contained in Clause 53.02-4.3L Water supply and access objectives.

Further, as discussed above, the proposed road network forms a key component of the infrastructure required to manage stormwater flows across the site. By providing two flow paths for stormwater to utilise in reaching the proposed basin, substantial reductions in required infrastructure is achieved. As the City will acquire this infrastructure at the

completion of works on site, this will result in a reduced maintenance burden being placed on the City.

In assessing the adequacy of the road network design for the proposal, referral has been made to the City's Traffic Engineers. Correspondence between the applicant and Traffic Engineers occurred through the process and has resulted in the road arrangement as currently proposed. The City's Traffic Engineers concur with this design, subject to standard conditions being imposed.

Officer assessment is that the proposed road network is suitable for the site to create a permeable movement network in conjunction with the paths required through and around the site. In short, the access and internal road arrangements allow for vehicles to enter, exit and move around the site in a safe and efficient manner.

Submitter concerns

The majority of submitter concerns have been addressed throughout the planning assessment above. The one remaining concern to be addressed relates to amenity impacts as a result of additional dwellings within the area.

It should be noted that the site is zoned for Low Density Residential uses. The proposed subdivision has articulated that each lot will be used for residential purposes in accordance with the purpose of the zone. Lots proposed are all at or above the minimum lot size available for a site with access to reticulated sewer (noting that some proposed lots are well in excess of this size). While it is acknowledged that some additional impacts will result from additional dwellings in the area, these impacts are to be expected for a site that is being developed in accordance with the intention of the zone and are not considered to be unreasonable. The City's Traffic Engineers have reviewed the proposal and determined that the road network is able to support any additional traffic (subject to implementation of conditions). Additional demand for services will also be adequately controlled through conditions imposed by the relevant service authorities.

Officer assessment is that the proposal is consistent with the purpose of the Low Density Residential zone. The proposed uses of the lots created by this subdivision will be consistent with the uses envisaged for this land in the City's determination to zone this land for low density residential uses.

Conclusion

The two applications under consideration are assessed as according with the requirements of the Greater Bendigo Planning Scheme. The Development Plan has been prepared to satisfy the requirements of the Development Plan Overlay – Schedule 4. The subsequent Planning Permit application to subdivide the land into 23 lots, to create a drainage reserve and to remove native vegetation is consistent with relevant policy within the Municipal Planning Strategy and Planning Policy Framework. Further, the proposed

subdivision accords with the purposes of the Low Density Residential Zone, Bushfire Management Overlay and Vegetation Protection Overlay.

Of key consideration in respect of this application:

- The layout will result in an orderly planning outcome that responds appropriately to the existing interfaces of the site. Environmental constraints have been appropriately managed through consideration of site topography, existing vegetation, surrounding land uses and movement corridors.
- The proposal has been designed to adequately mitigate risks to human life posed by bushfire risks from the remnant native vegetation that exists in the surrounding area.
- Stormwater impacts have been shown to be able to be adequately managed within the subject site to ensure that adverse impacts do not result within and surrounding the site.
- Access to the site, both from the road network and nearby active transport routes, is appropriate and further improves connectivity throughout the wider area. Not only benefiting future landowners within the site but also existing residents in the surrounding area.
- Vegetation impacts to native vegetation have been minimised to the greatest extent possible in relation to the strategic intent for the site. Minor removal is required to ensure bushfire risk can be appropriately managed.

The proposed Development Plan and concurrent Planning Permit application are consistent with the Greater Bendigo Planning Scheme and worthy of Council support.

Options

With regard to the development plan, Council, acting as the responsible authority for administering the Planning Scheme, may approve the submitted Development Plan as to its satisfaction, or advise the proponent that the Development Plan is not to its satisfaction.

With regard to the application for a planning permit 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 Permit Conditions

1. AMENDED PLANS REQUIRED

Before the plan of subdivision is certified, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority.

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

The plans must be generally in accordance with the plans submitted with the application but modified to show:

- (a) Fence Plan. Amended to show 1.8m high Colorbond fencing with 125mm bevelled top posts in the colour tea-tree (consistent with fence style to the north boundary of 108A Atlas Road) along the rear of lots 1-4 as it abuts with the common property driveway to 108 Atlas Road.
- (b) Fence Plan. Amended to show Pine Rails & Posts with chicken wire along the Atlas Road boundaries to lot 1, 12 and 23.
- (c) Environmental Management Plan. Prepared in accordance with the requirements of Conditions 11 and 26.

2. LAYOUT PLANS

The subdivision, as shown on the endorsed plans, must not be altered without the prior written consent of the responsible authority.

3. LANDSCAPE PLAN REQUIRED – STREET TREE PLANTING AND RESERVE

Before a statement of compliance is issued for the subdivision, a landscape plan must be submitted to the Satisfaction of the Responsible Authority. When approved, the plan will be endorsed and then form part of the permit.

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) Street tree planting.
- (e) Planting of the landscape reserve.

The plan must be prepared in accordance with the City of Greater Bendigo Landscape Design Guidelines for Subdivisions (June 2022).

4. COMPLETION OF LANDSCAPING

Before a statement of compliance is issued for each stage of the subdivision the landscaping works shown on the endorsed must be carried out and completed for that stage to the satisfaction of the responsible authority.

5. LANDSCAPING MAINTENANCE

The landscaping works shown on the endorsed plans must be maintained to the satisfaction of the responsible authority for 24 months after the works are completed, including that any dead, diseased or damaged plants are to be replaced.

6. COMPLETION OF WORKS

Before a statement of compliance is issued the applicant must provide all fencing of the site as shown on the endorsed plans to the satisfaction of the responsible authority.

7. FILLING OF DAMS

Before a statement of compliance is issued for the subdivision

- (a) Earthworks must be carried out to fill-in the existing dam on the site in compliance with Australian Standard AS 3798-2007 Guidelines on earthworks for commercial and residential developments.
- (b) A geotechnical report must be submitted to the Responsible Authority confirming the standard of the earthworks.

8. RESTRICTIONS TO BE PLACED ON TITLE

The plan of subdivision must include the following restrictions in accordance with the endorsed plan.

The restriction must include the following wording:

- Building envelopes. No building may be constructed outside the building envelopes shown on the endorsed plan.
- Fencing to O'Keefe Rail Trail is to be maintained as Pine Rails & Posts with Chicken Wire.
- Fencing to the rear of lots 1-4, as it abuts with the common property driveway to 108 Atlas Road, is to be maintained as 1.8m high Colorbond fencing. Fencing Style must be retained in a consistent form as viewed from the adjoining common property driveway to 108 Atlas Road.
- No fencing is to be provided to the Atlas Road boundary of Lots 13, 14 and 22.
- Boundary fencing to Atlas Road for Lots 1, 12 and 23, is to be maintained as Pine Rails & Posts with chicken wire.
- All vegetation located outside designated building envelopes for lots 1-12 must be retained

9. SECTION 173 AGREEMENT

Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987. The agreement must:

- State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Greater Bendigo Planning Scheme.
- Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.
- State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.

The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.

10. ENVIRONMENTAL MANAGEMENT PLAN

Prior to the Plan of Subdivision being certified, the applicant must prepare to the satisfaction of the Responsible Authority an Environmental Management Plan to be endorsed under this permit.

This plan should clearly outline and demonstrate how the native vegetation to be retained will be protected during all stages of the subdivision construction, this includes:

- Road construction
- Construction of the water retention reserve
- Construction of fences
- When vegetation is removed for defensible space

The plan should clearly indicate the location of where vegetation protection fencing will be located which can be interpreted by contractors carrying out the works and can be used by City compliance officers to monitor over the construction phases.

ENGINEERING CONDITIONS:

11. DETAILED DRAINAGE

Prior to the certification of the plan of subdivision under the Subdivision Act 1988, 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) Direction of stormwater run off.
- (b) A point of discharge for each lot.
- (c) Independent drainage for each lot.
- (d) Stormwater detention;
 - Allowable Discharge
 - $Q_{20\%} = 27 \text{ l/s per Ha}$
 - $Q_{1\%} = 65 \text{ l/s per Ha}$
- (e) Stormwater quality.
- (f) Drainage easements.

12. DRAINAGE WORKS

Prior to the issue of the statement of compliance for the subdivision, drainage works must be constructed in accordance with plans approved by the responsible authority.

13. CONSTRUCTION OF WORKS

Road works, drainage and other civil works must be constructed in accordance with the Infrastructure Design Manual and plans and specifications approved by the responsible authority and must include:

- (a) Fully sealed pavement with kerb and channel;

- (b) Paved footpaths, including Atlas Road frontage;
- (c) Paved path connection to the O'Keefe Rail Trail on Atlas Road;
- (d) Underground drainage;
- (e) Underground conduits for water, gas, electricity and telephone;
- (f) Appropriate intersection and traffic measures, including:
 - i. Type BAR right turn treatment must be provided in Atlas Road at the western intersection in accordance with Clause 7.5.1, Austroads Guide to Road Design Part 4A.
 - ii. The No Right Turn sign shown on the plans at the eastern intersection is not required and must be removed.
- (g) Appropriate street lighting and signage;

14. SECTION 173 AGREEMENT

Should the permit holder opt to install an on-site stormwater detention system or water quality treatment system then, prior to the issue of statement of compliance, the permit holder must enter into an Agreement under section 173 of the Planning and Environment Act 1987. Such Agreement must covenant that:

- (a) The system shall be designed by a qualified engineer and must be approved by the responsible authority prior to construction.
- (b) Each system must be constructed either prior to, or currently with, the construction of any building on the specified lots.
- (c) The system must be completed prior to connection to the responsible authority's drainage system.
- (d) The owner will maintain each system and not modify without prior written approval from the responsible authority.
- (e) The owner shall allow duly authorised officers of the responsible authority to inspect the system at mutually agreed times.
- (f) The Owner will pay for all costs associated with the construction and maintenance of the system.

15. PUBLIC 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 and 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.

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) Litter control
- (d) Techniques to prevent mud and dirt being transported from the site to adjacent streets.
- (e) The protection measures taken to preserve any vegetation identified for retention.
- (f) Staging of water quality works

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

REFERRAL AUTHORITY CONDITIONS:

17. 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) Where Full Lot Control of either lot cannot be provided during the sewer mains extension process, Coliban Water requires a Restriction on the titles to ensure that any future landowners of these lots are aware, that the gravity sewer mains that have been extended for the provision of sewerage services do not provide full lot control.

The description of the Restriction for example "The registered proprietor of Lots 1-22 on this plan shall not construct any sewer buildings that require a gravity sewer property service drain connection point, located within each lot, requiring an invert level of less than ? Metres A.H.D".

The Metres AHD is yet to be determined for the titles of Lots 1-22 as this will depend on the invert level of the required property service drain connection point which is yet to be designed and constructed into the boundary of each of the Lots. The invert depth at the point of connection which is required to be constructed into the boundary of each lot, may vary during the construction process, and it's this individual point where the Metres AHD is required to be recorded and then registered on that title by the surveyor. 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) If sewer servicing of each of the lots created is to be by pressure sewer rather than provision of traditional gravity sewer then; New Customer Contributions (NCC's) for pressure sewer will apply to each lot being connected to the reticulated infrastructure required. This NCC is to provide developer funding for the supply, installation and ongoing maintenance requirements by Coliban Water for the property assets on each lot including tank, pump and control box. The supply and installation will be completed by our approved contractors after an application to connect is received.

- (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.

18. POWERCOR

- (a) This letter shall be supplied to the applicant in its entirety.
- (b) 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.
- (c) The applicant shall provide an electricity supply to all lots in the subdivision in accordance with the Distributor's requirements and standards.
- (d) **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.*
- (e) 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).
- (f) **Notes:** *Where electrical works are required to achieve VSIR compliance, a registered electrical contractor must be engaged to undertake such works.*
- (g) The applicant shall, when required by the Distributor, set aside areas within the subdivision for the purposes of establishing a substation or substations.
- (h) **Notes:** *Areas set aside for substations will be formalised to the Distributor's requirements under one of the following arrangements:*
- *RESERVES established by the applicant in favour of the Distributor.*
 - *SUBSTATION LEASE at nominal rental for a period of 30 years with rights to extend the lease for a further 30 years.*
 - *The Distributor will register such leases on title by way of a caveat prior to the registration of the plan of subdivision.*
- (i) The applicant shall establish easements on the subdivision, for all existing Distributor electric lines where easements have not been otherwise provided on the land and for any new powerlines to service the lots or adjust the positioning existing easements.
- (j) **Notes:**
- *Existing easements may need to be amended to meet the Distributor's requirements*
 - *Easements required by the Distributor shall be specified on the subdivision and show the Purpose, Origin and the In Favour of party as follows:*

Easement reference	Purpose	Width (metres)	Origin	Land benefited / In Favour of
	Power Line		Section 88 – Electricity Industry Act 2000	Powercor Australia Ltd

19. 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; and
- A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

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

- A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

20. AUSNET SERVICES (GAS)

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

21. COUNTRY FIRE AUTHORITY

Endorsement of Bushfire Management Plan

The Bushfire Management Plan prepared by Kevin Hazell Bushfire Planning (Attachment 1 (2 pages - Version 1.2), dated 20 December 2022) must be endorsed by the Responsible Authority, be included as an annexure to the Section 173 Agreement and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.

Matters to be set out in Section 173 Agreement

In addition to the requirements of Clause 44.06-5 of the Greater Bendigo Planning Scheme the Section 173 Agreement prepared in accordance with that clause must also specify:

- Explicitly exclude Lot 23 from the following exemption under Clause 44.06-2 of the City of Greater Bendigo Planning Scheme:
 - A building or works consistent with an agreement under Section 173 of the Act prepared in accordance with a condition of permit issued under the requirements of clause 44.06-5.

Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 the following requirements must be met to the satisfaction of the CFA:

(a) Hydrants

- Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
- The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

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

(b) Roads

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

- Proposed roads must have a suitable trafficable width to allow the unimpeded access of emergency fire fighting vehicles (notwithstanding any parking restrictions that Council may apply) to the satisfaction of CFA
- Dead-end roads and cul-de-sacs more than 60mts in length from the nearest intersection must have a turning circle with a minimum radius of 8mts (including roll-over kerbs if provided); T or Y heads of dimensions specified by CFA may be used as alternatives
- The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50mts. Dips must have no more than a 1 in 8 (12%0 (7.1 degrees) entry and exit angle
- Curves must have a minimum inner radius of 10mts

22. DEPARTMENT OF ENERGY, ENVIRONMENT AND CLIMATE ACTION

Notification of permit conditions

Before works start, the permit holder must advise all persons undertaking the vegetation removal works on site of all permit conditions pertaining to native vegetation protection.

Endorsed plans

Before on-ground works commence, an environmental management plan for the construction of the development which is to the satisfaction of the Department of Energy, Environment and Climate Action, must be submitted to and approved by the Responsible Authority. When approved, the plan is to be endorsed and will then form part of the permit. The development must be conducted in accordance with the

endorsed plan. The environmental management plan is to include but is not limited to:

(a) Overview of construction methods including management zones and construction zones, site preparation, access, construction activities, schedule and timing of works, and contractor briefing.

Protection of native vegetation to be retained

- (a) Before works start, a native vegetation protection fence must be erected around all native vegetation to be retained within 15 metres of the works area. This fence must be erected at:
- i. A radius of 12 times the diameter of the tree trunk at a height of 1.4 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the tree; and
 - ii. Around the patch(es) of native vegetation at a minimum distance of 2 metres from retained native vegetation.

The fence must be constructed of star pickets and paraweb or similar, to the satisfaction of the Responsible Authority and the Department of Energy, Environment and Climate Action. The protection fence must remain in place until all works are completed to the satisfaction of the department.

- (b) Except with the written consent of the department, within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and/or development, the following is prohibited:
- Vehicular or pedestrian access;
 - Trenching or soil excavation;
 - Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products;
 - Construction of entry and exit pits for underground services; or
 - Any other actions or activities that may result in adverse impacts to retained native vegetation.

Native vegetation offsets

The total area of native vegetation permitted to be removed is 0.821 hectares, as identified in Native Vegetation Removal Report CUM_2022_089, comprised of:

- 11 patches of native vegetation with a total area of 0.821 hectares (containing 0 large canopy trees);
- 0 large scattered trees; and
- 0 small scattered trees.

- (a) To offset the removal of 0.821 hectares of native vegetation the permit holder must secure a native vegetation offset(s) that meets all the following:
- A general offset of 0.561 general habitat units located within the North Central Catchment Management Authority boundary or Greater Bendigo municipal district;
 - have a Strategic Biodiversity Value score of at least 0.499;
 - must be in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP, 2017).

Offset evidence

- (a) 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 an established first party offset site. This must include:
- i. a security agreement signed by both parties, and
 - ii. a management plan detailing the 10-year management actions and ongoing management of the site
- to the satisfaction of the Department of Energy, Environment and Climate Action and approved by the responsible authority.

Every year, for ten years, after the responsible authority has approved the offset management plan, the applicant must provide notification of the management actions undertaken towards implementing the offset management plan, to the department. An offset site condition statement, including photographs must be included in this notification;

and/or

- iii. credit extract(s) allocated to meet the requirements of the permit from the Native Vegetation Credit Register.

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

- (b) Within 30 days of endorsement of the offset evidence by the responsible authority, the permit holder must provide a copy of the endorsed offset evidence to the Department of Energy, Environment and Climate Action at p&a.north@delwp.vic.gov.au.

EXPIRY CONDITION

23. EXPIRY OF THE PERMIT

- (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.

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.

CFA Note:

CFA supports the variation to the vegetation management requirements of Table 6 to Clause 53.02 of the Greater Bendigo Planning Scheme to allow the trees (shown as T1 to T15 on the BMP) to remain. All other trees within the defendable space are to comply with the vegetation management requirements of Table 6 to Clause 53.02 of the Greater

Bendigo Planning Scheme.

Department of Energy, Environment and Climate Action Notes:

- The department advises that works or other activities on public land, which may affect protected native plants, will require a Protected Flora Licence or Permit under the Flora and Fauna Guarantee Act 1988 (FFG). All native vegetation likely to be affected should be checked against the Protected Flora List (DELWP 2017) to determine whether FFG approvals are required.
Protected Flora Permits can be obtained from the regional DELWP office (loddonmallee.environment@delwp.vic.gov.au).
- Offset requirements are determined in accordance with DELWP (2017) Guidelines for the removal, destruction or lopping of native vegetation. Proposed offset sites must meet eligibility requirements including land use, bushfire risk, quality of vegetation and size of revegetation site.
Please visit <https://www.environment.vic.gov.au/native-vegetation/native-vegetation> for further information.

City of Greater Bendigo Engineering notes:

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.
- (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

Nil

17.3. Development Plan and Planning Permit Application for a 3 Lot Subdivision and Removal of Native Vegetation - 1200D Mclvor Highway JUNORTOUN 3551

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

Summary/Purpose

Application No:	DEV/227/2022 and DS/158/2022
Applicant:	H J Nicholas and M V Nicholas
Land:	1200D Mclvor Highway, JUNORTOUN 3551
Zoning:	Low Density Residential Zone
Overlays:	Development Plan Overlay 4 Environmental Significance Overlay 1 Land Subject to Inundation Overlay 1 Land Subject to Inundation Overlay 2 Vegetation Protection Overlay 2
No. of objections:	External – 0, the application did not proceed to public notice Internal – 1, Environmental Health
Consultation meeting:	No
Key considerations:	<ul style="list-style-type: none"> • Whether the Development Plan is consistent with the requirements of the Development Plan Overlay. • Whether the proposed subdivision is in accordance with planning policy regarding subdivision, infill residential development and the Low Density Residential Zone. • Whether the proposed subdivision appropriately addresses flood risk and impacts on the waterway. • Whether the impacts on the natural environment are acceptable when considering native vegetation and biodiversity.
Conclusion:	The proposal seeks to create new lots that are highly constrained by the presence of significant native vegetation, a waterway and a power easement. The access to lots 1 and 2 would be through a floodway and the proposal would necessitate inappropriate vegetation removal. It is recommended that the development plan not be approved and that the permit be refused on the grounds outlined in this report.

Recommended Motion

Pursuant to section 61 of the Planning and Environment Act (1987), Council:

1. Not approve the Development Plan for 1200D Mclvor Highway, JUNORTOUN 3551;
and

2. Issue a Notice of Refusal to Grant a Permit for a 3 lot subdivision and removal of native vegetation at 1200D McIvor Highway, JUNORTOUN 3551 on the following grounds:
 - a. The proposal is not in accordance with the approved development plan which is contrary to the requirements of Clause 43.04-2.
 - b. The proposal does not present as a site responsive design and fails to give appropriate consideration to the environmental sensitivities and constraints of the site.
 - c. The extent of vegetation removal required to facilitate the subdivision is unacceptable and inconsistent with planning policy that seeks to protect native vegetation and biodiversity, in particular Clause 52.17, the Environmental Significance Overlay and Vegetation Protection Overlay.
 - d. The subdivision would result in a disorderly and undesirable planning outcome with access to two lots through a floodway.

RESOLUTION - Resolution No. 2023-71

Moved: Cr Alden

Seconded: Cr Evans

That the recommended motion be adopted.

CARRIED

Background Information

The City is in receipt of two applications relating to the proposal, being DEV/227/2022 and DS/158/2022.

The first application is for the approval of a Development Plan. A Development Plan has been submitted in accordance with the requirements of the Development Plan Overlay (Schedule 4) that states that a permit may not be granted to subdivide land before a development plan has been prepared to the satisfaction of the responsible authority.

An approved Development Plan applies to the site and was approved in 2010.

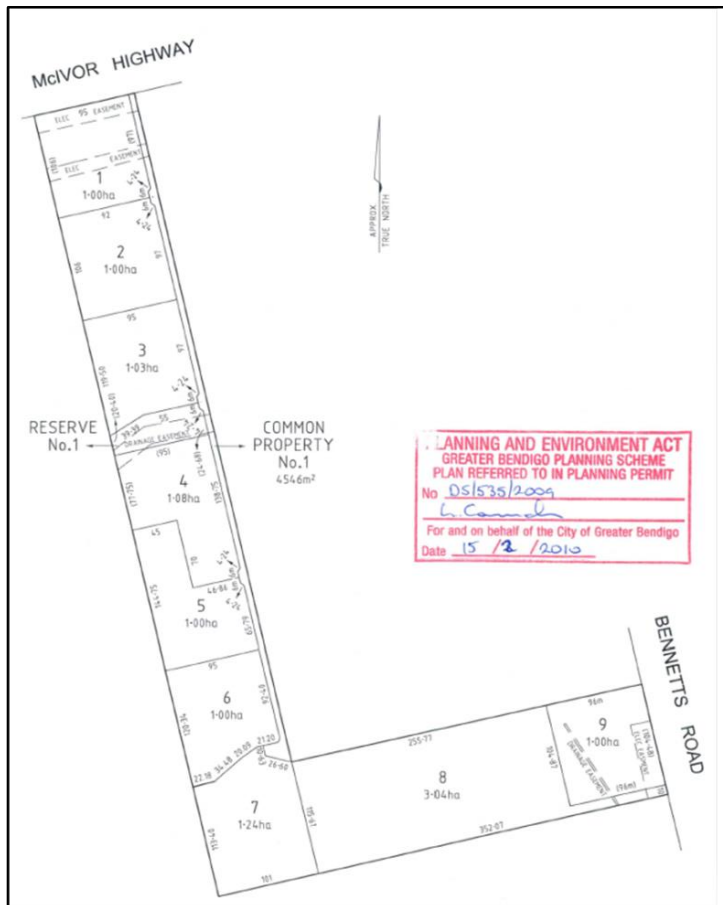


Figure 1: Plan of Subdivision endorsed under previously approved Development Plan

The second application is a planning permit application for subdivision of Lot 8, PS636417T into 3 lots and the removal of native vegetation.

Both applications have been assessed concurrently.

Concerns were raised with the applicant throughout the course of the assessment of both applications, relating to the size of the proposed lots, the constraints of the site, the extent of vegetation removal and the proposed access to Lots 2 and 3 through a floodway. Whilst it is acknowledged that the applicant has made some attempt to address these issues through a number of changes to the application plans and associated documentation, the changes have not been sufficient in addressing the issues.

Report

Subject Site and Surrounds

The subject site is a battle-axe shaped allotment located on the western side of Bennetts Road in Junortoun. The site was created via subdivision in 2011 in accordance with a Development Plan approved in 2010 (referred to above). The site has an area of 3.044 hectares with an eastern frontage of 10 metres to Bennetts Road. The site contains several outbuildings associated with an existing dwelling located on the adjoining allotment

to the west (Lot 4 on PS636417, a 4.895 hectare lot). The current address of 1200D Mclvor Highway reflects that association with land to the west.

The site contains two centrally-located dams and a waterway (a tributary of Splitters Creek) intersects diagonally through the site. A corridor of native vegetation follows the waterway. A power easement crosses through the northern portion of the site. Reticulated electricity and water are available to the site, however reticulated sewerage is not available.

The site and surrounding area are located within the Low Density Residential Zone and the surrounding use of land reflects this with dwellings on lots of generally over 1 hectare (and sometimes substantially larger). To the south the land adjoins the rear of several properties fronting Kalinda Drive, which are also approximately 1 hectare in size. To the west the land adjoins the aforementioned 4.9 hectare lot, 1200D Mclvor Highway. To the north is 54 Bennetts Road, an 11 hectare property containing a dwelling and outbuilding. To the east is 78 Bennetts Road, an approximately 1 hectare lot containing a dwelling. Further east, across Bennetts Road, the zoning is Rural Living and lot sizes are larger again.



Figure 2: Location map showing subject site.



Figure 3: Existing access off Bennetts Road

Proposal

The applications are seeking approval for a Development Plan for a 3 lot subdivision and removal of native vegetation, and a planning permit application to subdivide the land into 3 lots and to remove native vegetation, with more detail as follows:

- Subdivision of the land into 3 lots, with the subdivision pattern comprising of a modified battle-axe arrangement, with the existing lot converted to three lots sharing a common accessway generally along the south boundary but diverting north between the rear lots 1 and 2.
- Lot 1 would have an area of 9,871 square metres with a 3,400 square metre building envelope, of which 1,664 square metres is set aside as an effluent disposal envelope, leaving 1,500 square metres of developable area, necessitating the removal of several native trees.
- Lot 2 would have an area of 8,534 square metres with a 3,500 square metre building envelope, approximately half of which is shown as set aside for effluent disposal envelope which leaves 1,990 square metres of developable envelope.
- Lot 3 would have an area of 9,043 square metres with a 1,400 square metre building envelope and a 240 square metre effluent disposal envelope.

It is noted that all of these envelopes would be significantly reduced by the conditional requirements from Goulburn Murray Water that has required setbacks from the watercourse of 60 metres for the effluent disposal fields and 30 metres for all buildings. The available developable area is further reduced for Lots 1 and 2 by a power easement which traverses the indicated building envelopes. This is discussed in greater detail below.

The lots would retain the existing access via common property from Bennetts Road, but the extension of the accessway further west would involve the construction of a concrete waterway crossing with two box culverts.

A total of 0.287 hectares of native vegetation is proposed to be removed to facilitate the proposal. The native vegetation to be removed consists of five patches containing four large trees.

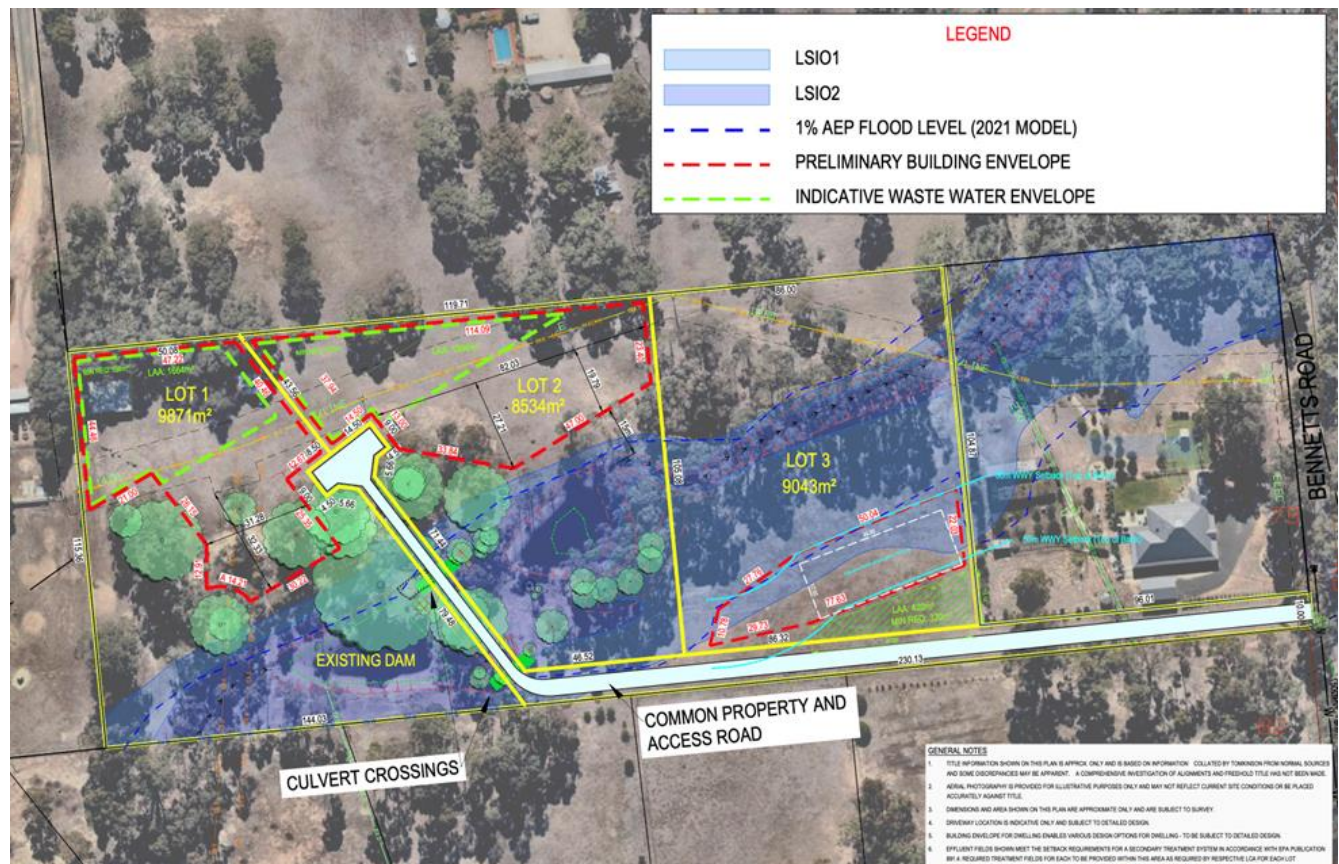


Figure 4: Extract from concept plan for proposed subdivision, indicating lots, building envelopes, and waste disposal fields.

Planning Controls - Greater Bendigo Planning Scheme

Why is a permit needed?

Clause	Permit Trigger
Clause 32.03-3 Low Density Residential Zone	Permit required to subdivide land.
Clause 42.01-2 Environmental Significance Overlay	Permit required to subdivide land and to remove vegetation.
Clause 44.04-2 Land Subject to Inundation Overlay	Permit required to subdivide land.

Clause 42.02-2 Vegetation Protection Overlay	Permit required to remove native vegetation.
Clause 52.17-1 Native Vegetation	Permit required to remove native vegetation.

Clause 43.04-2 of the Development Plan Overlay requires any permit to accord with an approved development plan. The proposed subdivision does not accord with the existing Development Plan, creating the need for the concurrent request to change the Development Plan.

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

Municipal Planning Strategy

Clause 02.03-1	Settlement
Clause 02.03-2	Environment and Landscape Values
Clause 02.03-3	Environmental Risks and Amenity
Clause 02-03-6	Housing

Planning Policy Framework

Clause 11.01-1L-01	Settlement – Greater Bendigo
Clause 11.01-R	Settlement – Loddon Mallee South
Clause 12	Environmental and landscape values
Clause 12.01-1S	Protection of Biodiversity
Clause 12.01-1L	Protection of Biodiversity – Greater Bendigo
Clause 12.01-2S	Native Vegetation Management
Clause 12.03-1S	River corridors, waterways, lakes and wetlands
Clause 13.03-1S	Floodplain Management
Clause 13.03-1L	Floodplain Management – Greater Bendigo
Clause 14.02-1S	Catchment planning and management
Clause 15.01-3S	Subdivision design
Clause 16.01-1S	Housing supply
Clause 19.03-3L	Integrated water management – Greater Bendigo

Other Provisions

Clause 32.03	Low Density Residential Zone
Clause 42.01	Environmental Significance Overlay (Schedule 1)
Clause 42.02	Vegetation Protection Overlay (Schedule 2)
Clause 43.04	Development Plan Overlay (Schedule 4)
Clause 44.04	Land Subject to Inundation Overlay (Schedules 1 and 2)
Clause 52.17	Native Vegetation
Clause 53.01	Public Open Space Contribution and Subdivision

Clause 56.07 Integrated Water Management
 Clause 65 General 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

Other Reference(s)

City of Greater Bendigo Domestic Wastewater Management Strategy 2014-2015

Consultation/Communication

Referrals

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

Referral	Comment
Powercor	No objection subject to conditions.
Coliban Water	No objection subject to conditions.
Goulburn Murray Water	No objection subject to conditions.
North Central Catchment Management Authority	No objection subject to conditions.
SP AusNet	No objection subject to conditions.
Department of Environment Land Water and Planning (now known as the Department of Transport and Planning)	No objection subject to conditions.
Traffic	No objection subject to conditions.
Drainage	No objection subject to conditions.
Environmental Health	Objected

Public Notification

The planning permit application is exempt from notice and third-party (objector) review pursuant to Clause 43.04-3 of the Development Plan Overlay, which applies once a development plan has been prepared.

The City's standard process is to give informal notice of a development plan application inviting interested parties to make a submission, noting that a subsequent planning permit application is exempt from public notice. These submissions have no legal standing, and the submitters do not have the ability to be parties to a VCAT proceeding.

In this instance, no notice of the proposed development plan was given as the Delegated Panel (comprised of senior staff from the Statutory Planning Unit) unanimously determined that the plan was inappropriate and should not be approved.

Planning Assessment

Whether the Development Plan is consistent with the requirements of the Development Plan Overlay.

A Development Plan Overlay (DPO) is often applied to land likely to undergo significant change where there is a need to ensure that development applications from individual property owners consistently respond to specific issues. Schedule 4 to the DPO applies to parts of the Low Density Residential Zone which have an identified need for density management. In this case, a planning permit for subdivision cannot be issued without an approved development plan which has been assessed as compliant with the overlay.

Schedule 4 to the Development Plan Overlay outlines various requirements to a development plan, discussed in more detail below. A development plan must be prepared to the satisfaction of the responsible authority and as such the City can either approve a development plan, or decline to do so.

As outlined above, a development plan has already been approved for this land and the adjacent lots to east and west (originally an-L shaped parcel connecting to both Mclvor Highway and Bennetts Road). This was approved on 15 February 2010 and supported a staged nine lot subdivision that created four lots with access off Mclvor Highway and two lots (this land and 78 Bennetts Road) with access off Bennetts Road. The permission granted was not fully acted upon, and ultimately only 6 of the 9 permitted lots were created. The current proposed Development Plan would replace that approved plan for this lot only.

The Development Plan has been assessed against the requirements of Schedule 4 to the Development Plan Overlay as follows:

Requirement	Comment
A description of the relationship of proposed uses on the land to existing and proposed uses on adjoining land and proposed buffer areas separating land uses.	This has been provided and is satisfactory.
The identification of any sites of conservation, heritage or archaeological significance and the means by which they will be managed.	<p>The land is outside of identified land of potential Aboriginal Cultural Heritage sensitivity as mapped by the State Government. No other heritage or archaeological significance has been identified.</p> <p>With regards to conservation significance, the land is within an Environmental Significance Overlay. The proposal would lead to degraded conservation outcomes by requiring the removal of an unacceptable extent of native vegetation and through placing development in close proximity to the waterway. This is further discussed later in this report, however the three layers of protection afforded to the vegetation on this site by State policy and two environmental overlays must be acknowledged. The vegetation on the site is important, not only as a contributor to biodiversity but also as habitat, for the protection of water quality and in the prevention of erosion.</p>
The provision of appropriate arrangements for the provision and funding of necessary physical and community infrastructure.	Power, water and telecommunications connections could be accommodated via conditions of a subdivision permit, however sewer is presently unavailable to the site. Wastewater treatment is discussed below.
The staging and anticipated timing of development.	The subdivision is not proposed to be staged.
The provision of appropriate arrangements for the preservation or regeneration of existing vegetation.	<p>The proposal would require removal of 2,870 square metres of native vegetation in a vulnerable ecological vegetation class. This vegetation would be retained under the existing approved development plan.</p> <p>The removal includes four large (i.e. larger than the ecological vegetation class benchmark) trees. Impacts of such a removal extend not just to the species using these trees as habitat, but to water quality,</p>

Requirement	Comment
	<p>erosion and biodiversity, and reduces the ability of this habitat to naturally regenerate.</p> <p>The reduction in lot sizes (compared to both the existing development plan and the lot size requirement in the schedule, discussed below) is directly contributing to the need to remove vegetation. It is therefore considered that the Development Plan cannot be considered to appropriately preserve vegetation, let alone contribute to its regeneration.</p> <p>This is unsatisfactory.</p>
<p>The provision of suitable linkages between the site and road, public, bicycle and pedestrian transport facilities to urban areas.</p>	<p>The proposed vehicle connection for lots 1 and 2 is through a flood plain, which is not considered appropriate nor desirable. This issue is discussed in more detail below, however it must be acknowledged that this arrangement directly contradicts the Local Floodplain Development Plan and would create risk both to users of the access and to the environment.</p> <p>Due to none of the lots enjoying direct abuttal to the road, the implication is that any pedestrian and bicycle activity from Lots 1 and 2 would also be obligated to access Bennetts Road through the floodway.</p>
<p>The provision of a soil and water report with all applications to demonstrate the capacity of infrastructure to service the development, treat and retard stormwater and reduce any soil and water impacts downstream of the development.</p>	<p>A soil and water report was provided in the form of a Land Capability Assessment (LCA). While it would be possible to provide effluent disposal fields on the land, these will be constrained in size and undesirably close to the waterway. Specifically, the layout does not provide for any reserve effluent disposal fields; Lot 3 is expressly restricted to a maximum of 3 bedrooms and all lots are likely to be further restricted as a result of the Goulburn Murray Water requirement to set back all effluent disposal fields a minimum of 60 metres from the watercourse.</p> <p>The imposition of these requirements indicate that the Development Plan is trying to achieve too much on the site and the requirements cannot be achieved in a practical or orderly fashion.</p>

Requirement	Comment
The identification of proposed water supplies, storages and systems required for fire-fighting purposes.	The proposal would be subject to normal requirements under the Building Code of Australia for bushfire prone areas. As the site is not within a Bushfire Management Overlay, there is no requirement for fire-truck access or water storage. The extent of detail shown on the plan is therefore acceptable.
The identification of appropriate lot sizes in subdivisions, based on strategic criteria including land capability, environmental impacts and the impact on consolidating urban centres.	<p>The proposed lots are less than the 1 hectare identified in the schedule as the minimum lot size for this area. Smaller lots can be indicated if it can be demonstrated that the lots can be appropriately serviced, remnant vegetation can be retained and the proposed lot size is compatible with the general character of the area.</p> <p>The proposed Development Plan fails to demonstrate that the reduced lot size can be appropriately serviced (refer discussion of effluent disposal fields above), nor that remnant vegetation can be retained (refer discussion around vegetation removal above).</p> <p>The Development Plan also fails to adequately show how the proposed lot sizes relate to strategic criteria for appropriate consolidation, in particular as the site falls outside of the Urban Growth Boundary.</p>
An indication of lots of at least 1 hectare in the following Low Density Residential Zone areas as shown on Maps 2-6 attached to this schedule [including this site, which is within Map 6 – Junortoun area]	The proposed lots are all less than 1 hectare. The Development Plan does not adequately demonstrate that these lots can appropriately retain native vegetation, nor provide the necessary services for future development (specifically access and effluent disposal), therefore the reduced lot size does not achieve an appropriate outcome in accordance with schedule 4 to the overlay.

The reduced lot sizes proposed in the Development Plan are contributing to a flawed outcome for the lots, having regard to the various factors noted above. The lodgement of the subdivision application allows the opportunity for greater clarity about outcomes and

specific issues with regards to native vegetation, effluent disposal, impact on the waterway and flood risk are discussed below in the context of the proposed subdivision.

The subject site is substantially constrained, most notably by the waterway that runs through the centre but also by a power easement that runs along the north side of the land. This complicates an appropriate subdivision response and reduces the capacity for development on these lots without inappropriate impact on vegetation and the waterway. A lot with such significant constraints is not considered appropriate for further subdivision less than the minimum size contemplated in DPO4. On the contrary, significant encumbrances suggest a lot size larger than the minimum would be needed to achieve an appropriate outcome.

The Development Plan approved in 2010 appropriately recognised the constraints of the land and remains acceptable. The planning permit application under consideration is not generally consistent with the current approved Development Plan.

The proposed Development Plan is not in accordance with the requirements of Schedule 4 to the Development Plan Overlay and should not be approved. As such, the planning permit application under consideration would not be generally in accordance with the development plan as required by Clause 43.02-4 of the Planning Scheme and a planning permit cannot be issued. In order for the planning permit to be issued, the Development Plan would need to be approved which is contrary to officer recommendations.

Whether the proposed subdivision is in accordance with planning policy regarding subdivision, infill residential development and the Low Density Residential Zone.

The proposed subdivision is located on a site that theoretically could be further subdivided by virtue of its zoning, however the specific constraints of the site, coupled with the proposed layout renders the proposal an unacceptable outcome.

At the very highest level, planning objectives seek to provide for orderly and sustainable use and development of land, to protect and maintain ecological processes and to secure a pleasant, efficient and safe living environment. The proposed development fails to demonstrate compliance with these fundamental principles. The extent of vegetation removal required to provide access to two of the lots does not maintain ecological processes, and the requirement for access to two lots to pass through a floodway is neither pleasant, efficient nor safe.

State planning policy through Clause 16.01-3S directs that rural-residential development avoids or significantly reduces adverse economic and environmental impacts by *protecting environmental qualities such as water quality, native vegetation, biodiversity and habitat*.

The proposal is not site responsive for the reasons described above. Additionally, the proposal is inconsistent with both the purpose and decision guidelines of the Low Density

Residential Zone, in particular in relation to the retention, treatment and management of wastewater. Subdivisions are obliged to adequately demonstrate they can manage effluent in an environmentally friendly manner, which includes demonstrating consistency with any Domestic Wastewater Management Plan adopted by the relevant council. The adopted Domestic Wastewater Management Strategy states that “*any land capability assessment for a new residential subdivision... must designate suitable reserve areas.*” While the land capability assessment provided as part of the application identified reserve areas, the effect of the Goulburn Murray Water condition (that effluent disposal areas must be setback a minimum of 60 metres from waterways, including the two dams) would result in a dramatic reduction of the available area for Lots 1 and 2, and would remove the ability of these lots to provide a reserve field.

The Goulburn Murray Water response also seeks to prohibit any buildings within 30 metres of the waterway (and dams). Despite Goulburn Murray Water, as a determining referral authority, having provided conditional consent to the application, the issues raised in its initial objection to the application remain relevant to the assessment of the application as a whole, by Council as the responsible authority. For these reasons, the City’s Environmental Health team has objected to the proposed subdivision.

Specific issues relating to flood risk, impacts on the waterway, native vegetation and biodiversity will be discussed in detail below.

Whether the proposed subdivision appropriately addresses flood risk and impacts on the waterway.

State planning policy through Clause 12.03-1S seeks to protect the environmental values of all waterway systems in Victoria through the protection of vegetation sensitive design of development.

State planning policy through Clauses 12.03-1S and 14.02-1S requires that both earthworks and development be setback a minimum of 30 metres from the banks of waterways to protect water quality. The proposed subdivision seeks to remove a significant quantity of vegetation including four large trees and construct a 50 metre long concrete crossing to provide access to Lots 1 and 2, involving substantial earthworks and redirection of the watercourse. This neither protects the existing ecosystem, nor demonstrates sensitive, site-responsive design and would result in an unacceptable impact to the watercourse.

State planning policy through Clause 13.01-1S also seeks to protect life and property from inundation and the flood carrying capacity and storage function of floodplains and waterways. Strategies for achieving this include avoiding the intensification of flooding as a result of cumulative use and development.

Local planning policy at Clause 13.03-1L relates to floodplain management and provides specific direction to minimise development in medium risk locations, such as this site. The proposed works in the watercourse and the intensification of development that would result from the proposed subdivision constitute an unacceptable risk to both potential future inhabitants of the site and to the floodplain and associated ecosystem.

A large portion of the site is affected by the Land Subject to Inundation Overlay (LSIO), with two different schedules applying within the site (Schedules 1 and 2). Schedule 1 refers to Flooding from Waterways (depths up to and including 350 millimetres) and Schedule 2 refers to Flooding from Waterways (depths greater than 350 millimetres).

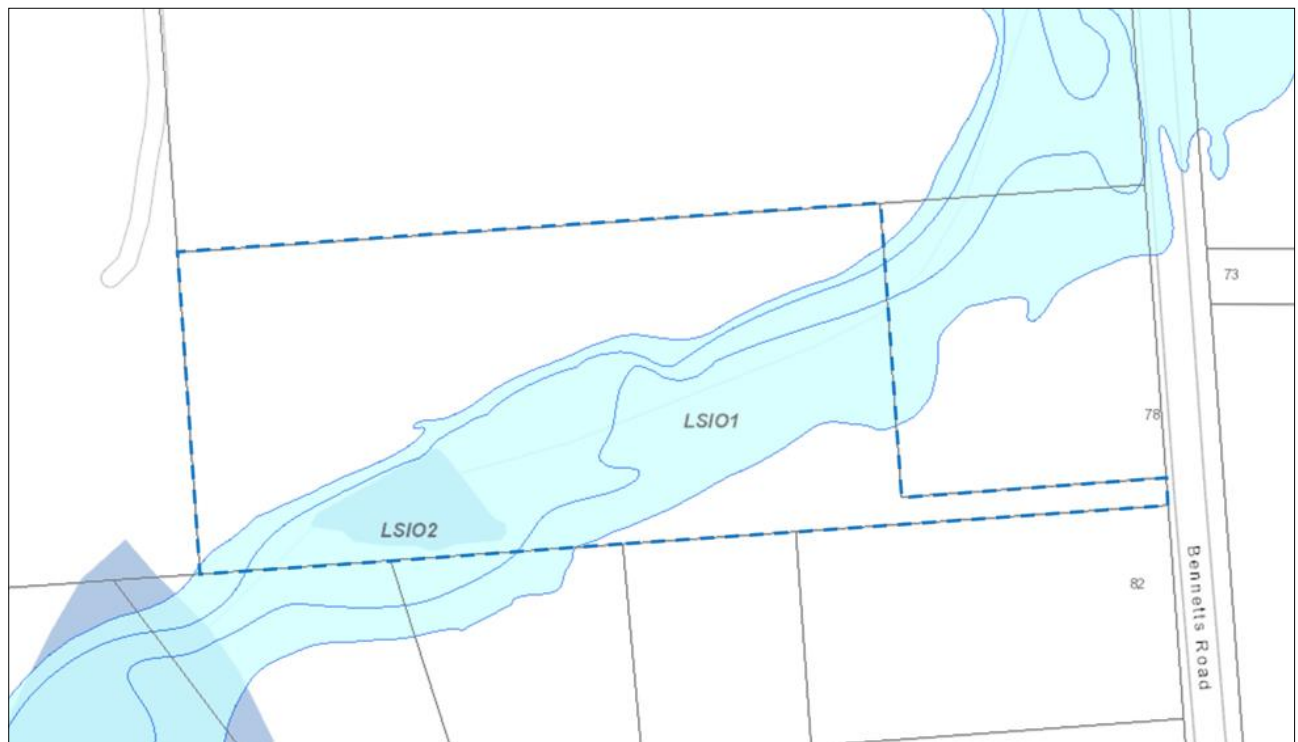


Figure 5: Extent of the Land Subject to Inundation Overlay across the site

The purposes of the Land Subject to Inundation Overlay include minimising the potential flood risk to life, health and safety associated with development; and maintaining water quality and waterways as natural resources.

The site is also affected by an Environmental Significance Overlay which also supports the environmental element of these objectives, with one environmental objective being:

- To ensure development does not occur on land liable to flooding and minimise the potential for damage to human life, buildings and property caused by flood events.

Both applicable schedules refer in their decision guidelines to the *Bendigo Local Floodplain Development Plan, February 2018*. This has performance criteria for subdivisions within the Low Density Residential Zone at section 6.1.4 as follows:

- An adequately sized building envelope must be provided on each lot, which:

- Must not exceed 1,000 square metres; and
- Must have a finished surface level of 300 millimetres above the 1 per cent AEP flood level. Access to the building envelope must not traverse land where the 1 per cent AEP flood depth exceeds 350 millimetres.
- Each lot must demonstrate it is capable of containing an appropriate effluent disposal field, unless the lots will be connected to reticulated sewerage.
- All new lots and new road reserves must be set back a minimum of 30 metres from any waterway.

The proposed arrangement presents several concerns with regards to the above guidance:

- The access to lots 1 and 2 traverses land where the 1 per cent AEP flood depth exceeds 350 millimetres (being the area covered by LSIO2).
- The building envelope for lots 1 and 2 will force development to locate less than 30 metres from the waterway, as the northern portion of the designated building envelopes is required for wastewater disposal and is encumbered by the easement for power lines.
- The indicated, the building envelope for lot 3 includes a substantial portion within the LSIO and a small portion within the 1% AEP flood level.

While the application was accompanied by flood modelling that argued that the flow across the accessway did not create a significant risk, the overall zoning and contextual response does not warrant an increase in density in this location. In this situation, there is no reason to depart from the Local Floodplain Development Plan's guidance that new lots dependent on access across the floodway should not be created. The Local Floodplain Development Plan describes Bendigo's history of damage from floods and highlights that the risk posed to the life, health and wellbeing of residents and emergency services personnel, including through the loss of access/egress for residents and property isolation, is significant. In this instance there is an opportunity to avoid these risks by preventing the creation of two new properties accessible only via a floodway.

Goulburn-Murray Water initially objected due to what they considered an insufficient setback for the wastewater disposal field of lot 3, being less than the default minimum distance of 60 metres required by the *EP Code of Practice On-site Wastewater Management (EPA Publication 891.4, July 2016)*. Goulburn-Murray Water then revised their position subject to the imposition of a Section 173 agreement limiting the size of the dwelling on this land to 3 bedrooms.

Notwithstanding the revised Goulburn-Murray Water position, the proposed Lot 3 is considered excessively constrained with regards to wastewater disposal. The decision guidelines of the Low Density Residential Zone require consideration of the capability and suitability of the lot to dispose of wastewater and the setback of less than 60 metres from the waterway is not considered appropriate. The proposed approach of limiting the number of bedrooms of a future dwelling would be impractical to enforce, as internal conversions

of a dwelling over its life could create non-compliance that would lead to inappropriate impacts upon the waterway.

Whether the impacts on the natural environment are acceptable when considering native vegetation and biodiversity.

Planning policy at both the State and local level seeks to protect the natural environment. The three step approach to the removal of native vegetation, and in particular the objectives to avoid and minimise the removal of native vegetation, is specified at Clause 12.01-2S. Local planning policy at Clause 12.01-1L cites the protection of large native trees as a means of enhancing biodiversity and biolinks.

These general policies are supported by Clause 52.17, which triggers a planning permit for the removal, destruction or lopping of native vegetation and requires applications to demonstrate that the three-step approach has been applied. The Ecological Assessment provided with the application states that *“the land is zoned for low density residential development and as such it is not viable for **this proposal** to completely avoid impacts on native vegetation...”* [emphasis added]. The ‘minimise’ statement concludes that *“no feasible opportunities exist to further avoid removal or minimise impacts without compromising the proposed subdivision.”* The proposal therefore fails to demonstrate the avoidance and minimisation of vegetation loss.

A total of 0.287 hectares of native vegetation is proposed to be removed to facilitate the proposal. This would consist of five patches of native vegetation that contain four large trees. The proposed removal falls within the intermediate assessment pathway, which requires additional assessment in relation to the impacts of the removal on biodiversity.

The vegetation is within Ecological Vegetation Class - Low Rises Grassy Woodland, which is described as being a variable open eucalypt woodland to 15 metres tall over a diverse ground layer of grasses and herbs. The shrub component is usually diverse but sparse in cover. This class of vegetation is listed as vulnerable in our bioregion.

The overstorey species on the site consists of Yellow Gum *Eucalyptus leucoxylon* and Grey Box *Eucalyptus microcarpa*. The large tree benchmark for the EVC is ≥70cm Diameter at Breast Height (DBH). There are four large trees that would be impacted by the proposed development (Trees 7, 9, 13 and 14). This is significant as large trees are usually the oldest part of an ecological system and are difficult to replace in the short term.

It is important to highlight that the significance of the vegetation on this site is such that it has threefold protection. Vegetation removal from this site requires approval not just under the Statewide Native Vegetation provisions at Clause 52.17, but also under the Environmental Significance Overlay Schedule 1 (ESO1) – that stresses the importance of vegetation around watercourses – and Vegetation Protection Overlay Schedule 2 (VPO2) – that seeks to protect significant vegetation.

Under the Environmental Significance Overlay Schedule 1, particularly relevant environmental objectives to be achieved are:

- To protect and encourage the long term future of flora and fauna habitat in and along watercourses.
- To conserve existing wildlife habitats close to natural watercourses and, where appropriate, to allow for generation and regeneration of habitats.

Under the Vegetation Protection Overlay Schedule 2, identified vegetation protection objectives include:

- To protect remnant native vegetation and habitat, including understorey, and facilitate natural revegetation.
- To promote the maintenance of ecological processes and genetic diversity.
- To encourage maintenance and development of linkages between existing remnant vegetation.
- To recognise the catchment-wide land and water management benefits resulting from vegetation retention.
- To maintain and enhance Bendigo's scenic and recreational landscape assets.

It is evident that the relevant planning policy framework seeks to preserve the environmental qualities of the area. The proposed vegetation removal does not align with the outcomes under these provisions. The existing Development Plan has failed to provide for adequately sized lots capable of achieving these objectives and the proposed subdivision would compromise these outcomes. This is not a preferred location for housing consolidation, so there is not a strong policy imperative to support development that outweighs the environmental and landscape outcomes sought to be achieved by these overlays.

Conclusion

Not every site that could be conceivably developed is suitable for further development. Indeed, the planning scheme clearly states at Clause 65 that just because a permit can be granted, does not imply that a permit should or will be granted.

The existing Development Plan, that allowed the subject site to be created, already contemplated a low density that was consistent with the physical constraints of the site and the policy context.

The proposed Development Plan fails to demonstrate compliance with the specific issues laid out in Schedule 4 to the Development Plan Overlay. Approval of the proposed Development Plan would be contrary to the policy contained in the overlay.

The development proposal seeks to create new lots that are highly constrained given the presence of significant native vegetation, a waterway and a power easement. The access

to Lots 1 and 2 would be through a floodway and the proposal would necessitate inappropriate vegetation removal and works within a waterway.

It is recommended that the Development Plan not be approved and that the permit be refused on the grounds outlined at the commencement of this report.

Options

With regard to the development plan, Council, acting as the responsible authority for administering the Planning Scheme, may approve the submitted development plan or advise the proponent that the development plan is not to its satisfaction.

With regard to the application for a planning permit, 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. The planning permit application cannot be approved in the absence of an approved development plan consistent with the proposed layout and for the reasons outlined above.

Conflict of Interest

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

Attachments

Nil

17.4. Use And Development Of The Land For Residential Apartments, Development Of A Medical Centre, Reduction In Car Parking Requirements And Alteration Of Access To A Road In A Transport Zone 2 at 32 Myers Street, Bendigo 3550

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

Summary/Purpose

Application No:	DC/604/2022
Applicant:	32 Myers Street Pty Ltd
Land:	32 Myers Street, BENDIGO 3550
Zoning:	Mixed Use Zone – Schedule 1
Overlays:	Design and Development Overlay – Schedule 5 Parking Overlay – Schedule 1
No. of objections:	6
Consultation meeting:	7 March 2023
Key considerations:	<ul style="list-style-type: none"> • Is the use of the land for accommodation (residential apartments) appropriate in this location? • Does the proposal present an acceptable site layout and built form outcome? • Is the proposed reduction in car parking requirements acceptable? • Are the proposed access arrangement and impacts on the road network acceptable? • Objector concerns.
Conclusion:	The application is recommended for approval on the basis that it, on balance, represents an acceptable outcome with regards to the relevant policy contained within the Greater Bendigo Planning Scheme.

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 residential apartments, development of a medical centre, reduction in car parking requirements and alteration of access to a road in a Transport Zone 2 at 32 Myers Street, Bendigo 3550, subject to the conditions at the end of this report.

RESOLUTION - Resolution No. 2023-72

Moved: Cr Fagg
Seconded: Cr Sloan

That the recommended motion be adopted.

CARRIED

Report

Subject Site and Surrounds

The subject site is located at 32 Myers Street, Bendigo and is legally described as Crown Allotment 8, Section 8C, at Bendigo Parish of Sandhurst. The site is rectangular in shape with an overall area of 1,018 square metres. The site has a north-western frontage onto Myers Street of 20.08 metres and a depth of 50.74 metres.

The site is currently vacant and cleared of vegetation. Fencing is found around the perimeter of the site with a chain mesh fence along the front boundary and metal sheet fencing along the side and rear boundaries.

The topography of the site is relatively flat. Vehicle access is provided via an existing vehicle crossover on to Myers Street. A plane tree and parallel car parking space are located at the front of the site within the Myers Street road reserve.

The surrounding context is as follows:

- The site is adjoined to the north-east by three lots. Two of the lots have frontage onto Mundy Street with the eastern lot containing a heritage building used for an office with car parking at the rear, and the western lot is currently vacant. The third lot adjoining the north-west of the site contains a single dwelling with frontage and vehicle access provided onto Myers Street.
- The site is adjoined to the south-east by a lot containing a large, three-storey medical centre building which fronts onto Mollison Street.
- The site is adjoined to the south-west by a vacant lot, which previously contained an office building. The building has recently been demolished and planning approval has been granted on this site for the construction of a new office building.
- The site is adjoined to the north-west by Myers Street. Myers Street is identified as a road within the Transport Zone 2 and is managed by the Department of Transport and Planning. On the opposite side of Myers Street is a parcel of land owned by the City of Greater Bendigo that is used for a car park.

Below is an aerial image of the subject site and surrounds and a view of the site from the Myers Street frontage.

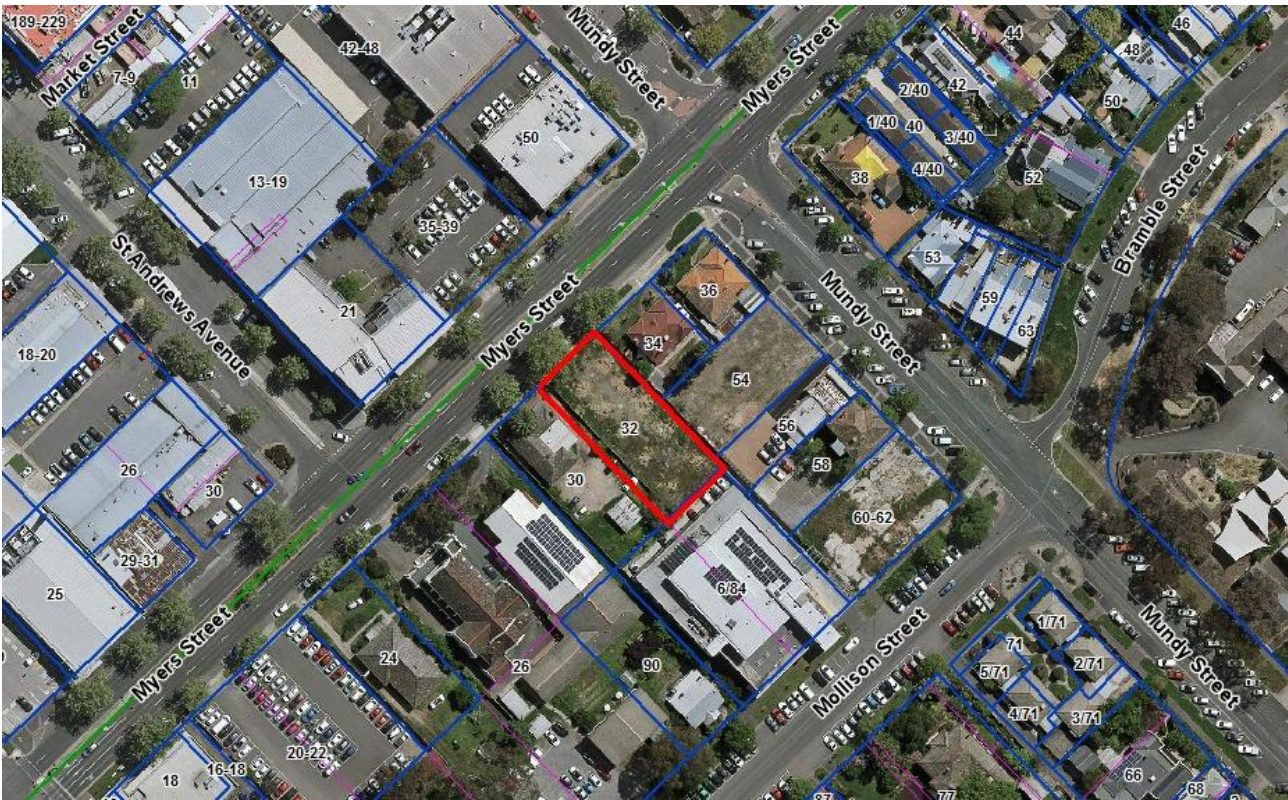


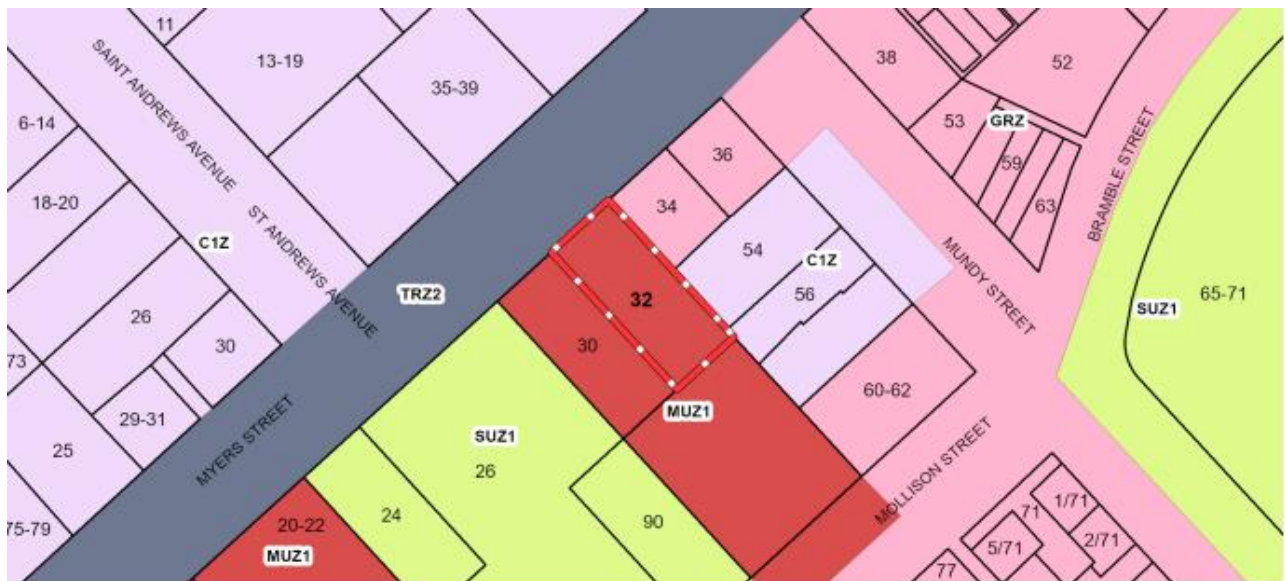
Figure 1: Aerial image of the site and surrounds



Figure 2: View of the site from the Myers Street frontage

The site is located in an area in which there are a number of different land zonings. The subject site and land directly to the south-east and south-west is located within the Mixed Use Zone. Land to the north-east is located within the General Residential Zone and the Commercial 1 Zone. Land on the opposite side of Myers Street is located within the Commercial 1 Zone. Figure 3 below shows the zoning within the surrounding context.

The site is affected by the Design and Development Overlay – Schedule 5 which relates to the Bendigo Central Business District (CBD) Area and the Parking Overlay – Schedule 1.

**Figure 3:** Zoning map of the subject site and surrounds

Proposal

The application proposes the use and development of the land for residential apartments, the development of a medical centre, reduction in car parking requirements and alteration of access to a road in a Transport Zone 2.

The application seeks to construct a four storey, mixed-use development containing ten apartments, a medical centre and associated car parking. The applicant has advised that the apartments have been designed to meet the High Physical Support requirements of the NDIS as Specialist Disability Accommodation.

The building will have an overall height of 14.3 metres and will be clad in concrete panels that will be red in colour.

The building will be built to the front boundary with a canopy that extends over the footpath to provide weather protection to both entrances.

Ground Floor

The ground floor will be provided with pedestrian and vehicle access from Myers Street. The internal vehicle accessway will be located along the north-eastern boundary with 15 undercover car parking spaces provided at the rear of the medical centre. This area will also provide storage for the apartments, bin enclosures and bicycle storage.

The medical centre will have a floor area of 130 square metres and will be accessed from both the parking area and the front of the building.

A separate residential lobby area to the north of the medical centre will be provided with a lift and stair access to the upper floor apartments.

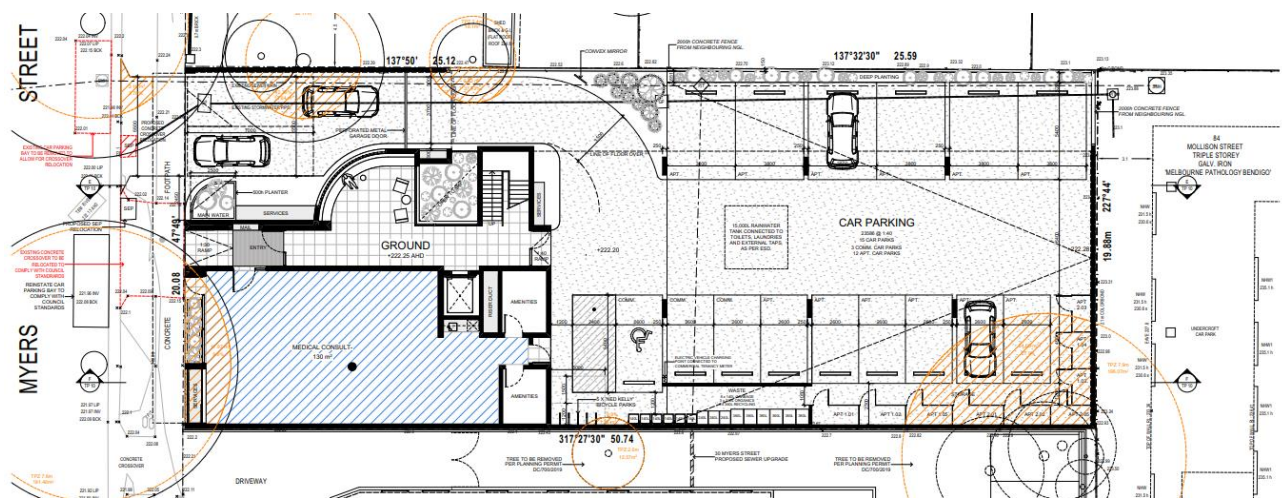


Figure 4: Proposed Ground Floor Plan

First Floor

The first floor will contain five apartments including 1 one bedroom apartment, 3 two bedroom apartments and 1 three bedroom apartment.

Two of the apartments have been designed to front onto Myers Street and the other three apartments designed to have a northern aspect. Each apartment will be provided with a balcony and four of the apartments provided with a courtyard area.

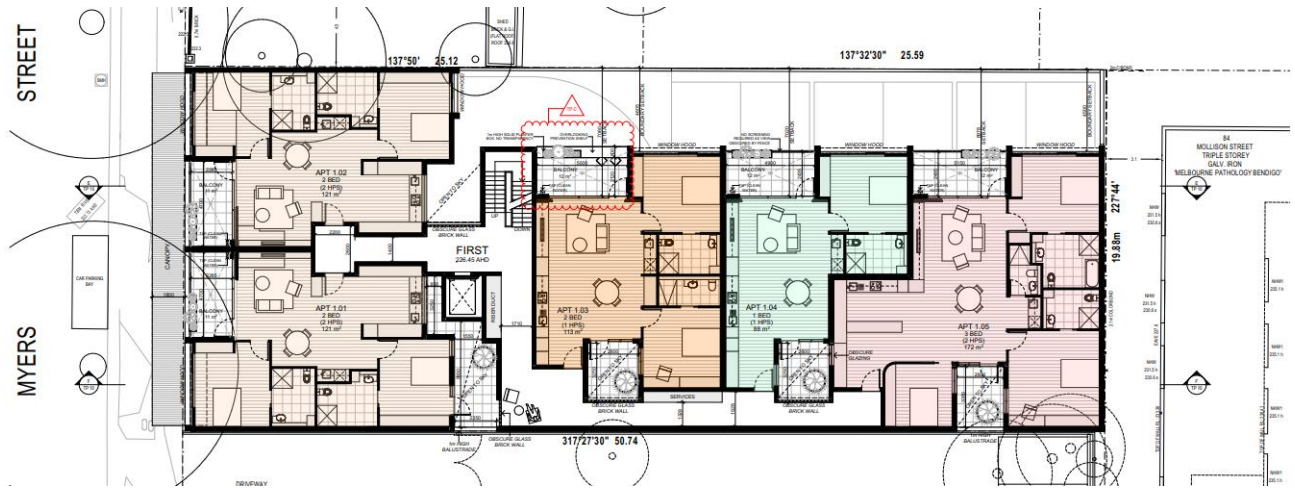


Figure 5: Proposed First Floor Plan

Second Floor

The second floor will contain five apartments including 1 one bedroom apartment, 3 two bedroom apartments and 1 three bedroom apartment.

Two of the apartments have been designed to front onto Myers Street and the other three apartments designed to have a northern aspect. The applicant has advised that one apartment (Apt 2.04) has been allocated for carer accommodation for onsite, overnight assistance.

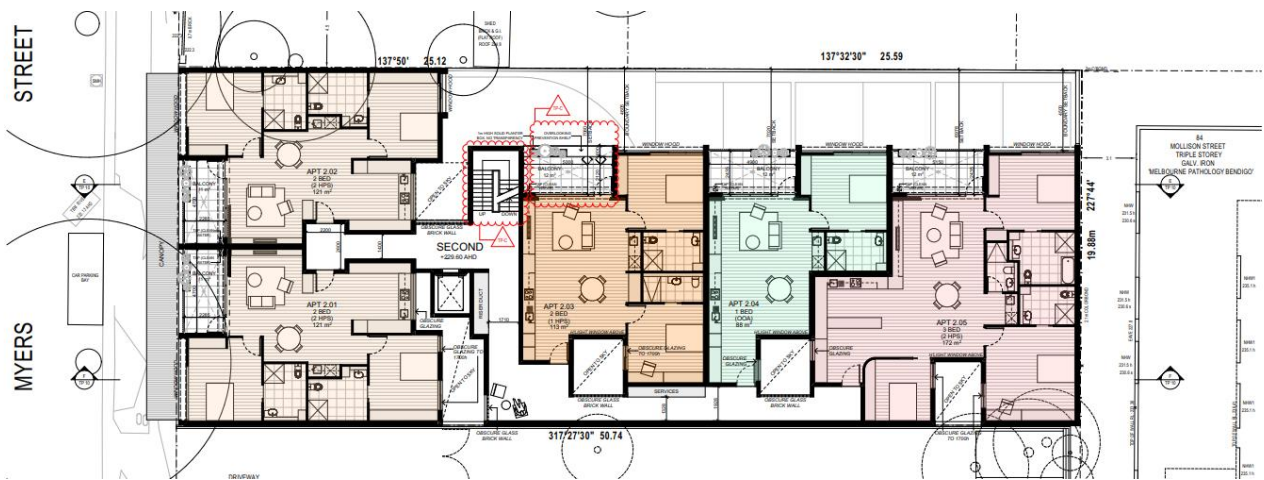


Figure 6: Proposed Second Floor Plan

Third Floor (Rooftop)

The third floor will contain a 30 square metre communal courtyard that will be setback from all boundaries. The courtyard will be accessed via the lift and stair well. A room will also be constructed to the rear of the lift which will include servicing.

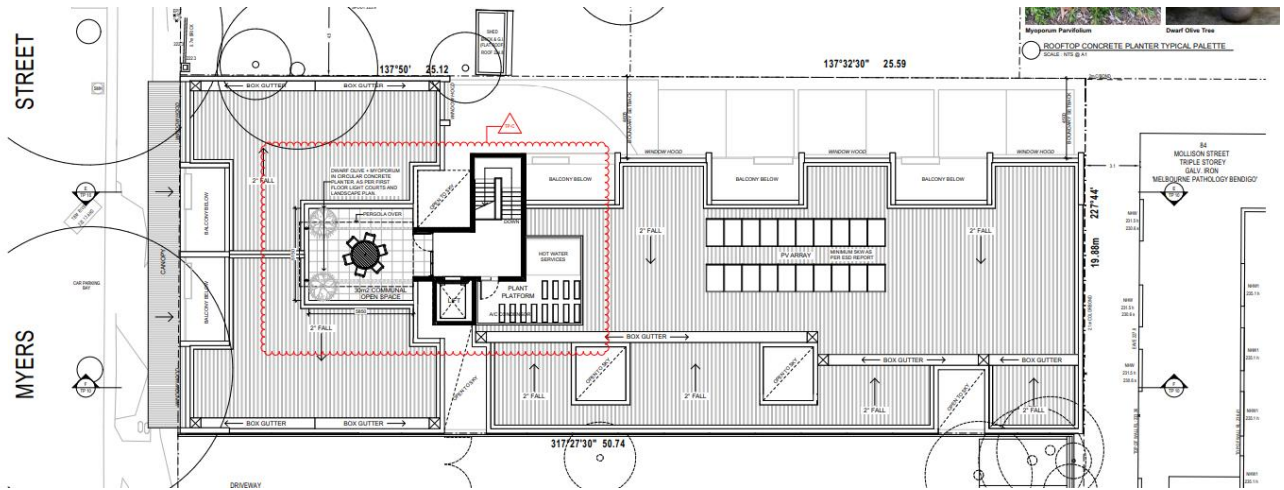


Figure 7: Proposed Roof Plan

The elevation plans are shown below in figures 8-11.



Figure 8: Proposed north-western (front) elevation

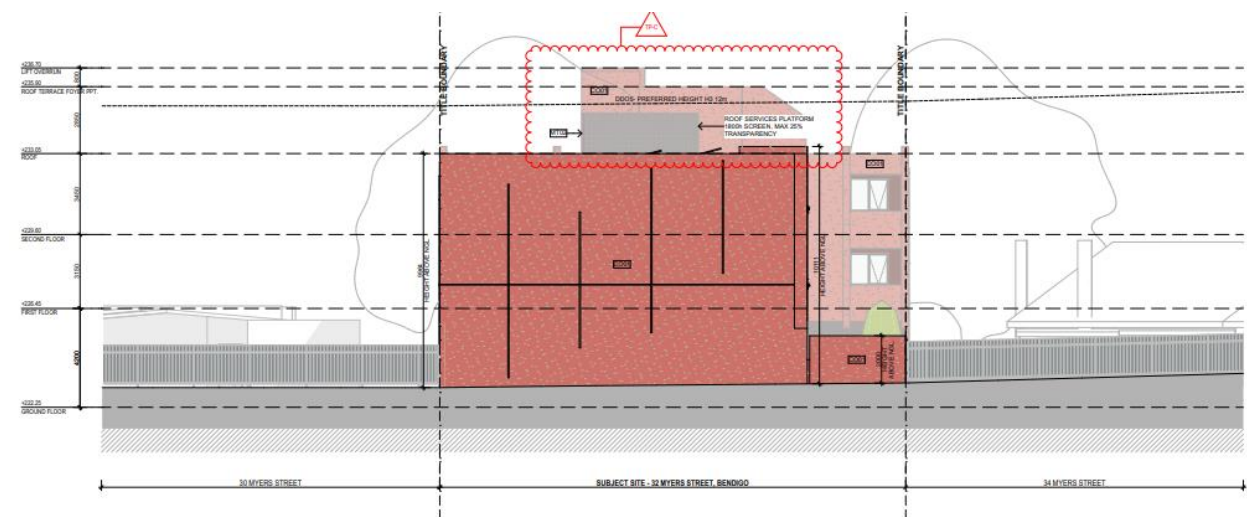


Figure 9: Proposed south-eastern (rear) elevation

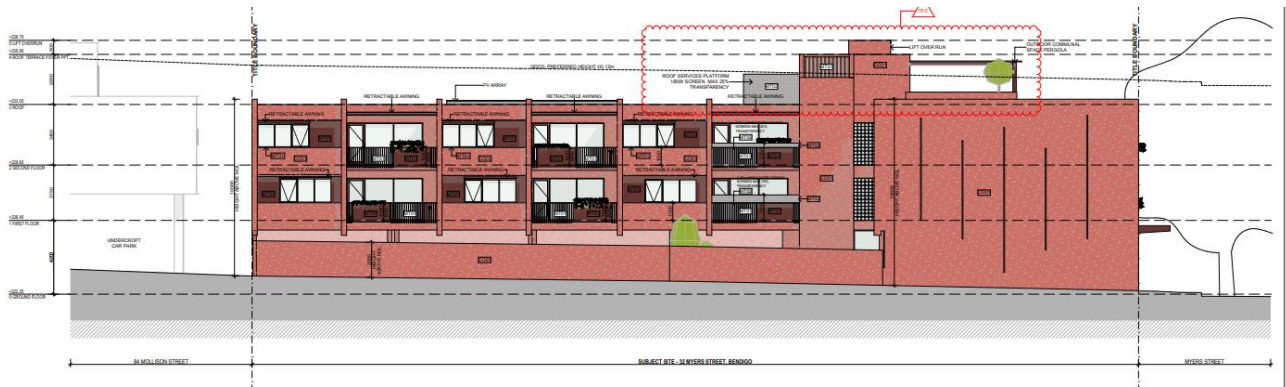


Figure 10: Proposed north-eastern (side) elevation

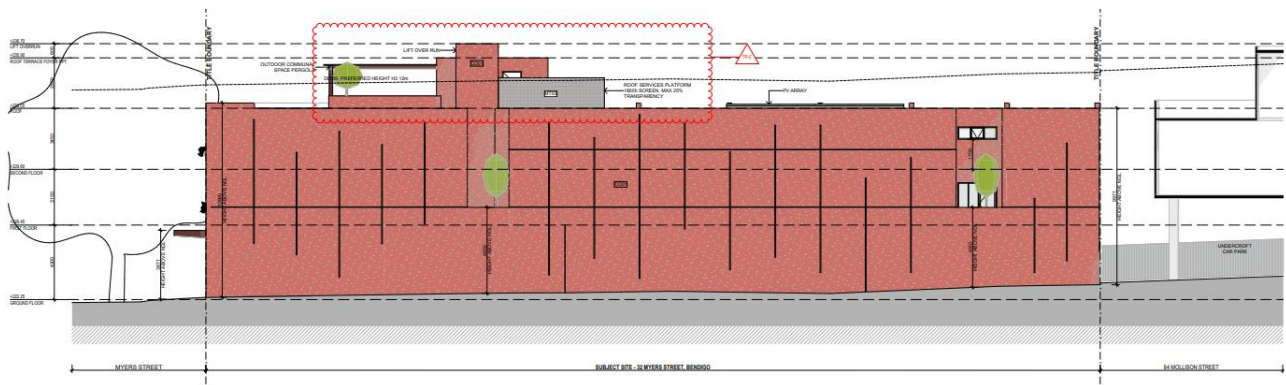


Figure 11: Proposed south-western (side) elevation

Car Parking Reduction

15 car spaces are to be provided on site, with the proposal seeking a reduction of 1 car space.

Planning Controls - Greater Bendigo Planning Scheme

Why is a permit needed?

Clause	Permit Trigger
Clause 32.04-2 Mixed Use Zone	<p>A permit is required to use the land for accommodation (residential apartments).</p> <p>A permit is <u>not</u> required to use the land for a medical centre as the gross floor area of the medical centre does not exceed 250 square metres.</p>
Clause 32.04-9 Mixed Use Zone	A permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.04-2.
Clause 43.02-2 Design and Development Overlay – Schedule 5	A permit is required to construct a building or construct or carry out works.

Clause 52.06-3 Car parking	A permit is required to reduce the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.
Clause 52.29-2 Land Adjacent to the Principal Road Network	A permit is required to create or alter access to a road in a Transport Zone 2.

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

Municipal Planning Strategy

- Clause 02.01 Context
- Clause 02.02 Vision
- Clause 02.03-1 Settlement
- Clause 02.03-5 Built environment and heritage
- Clause 02.03-6 Housing
- Clause 02.03-7 Economic development
- Clause 02.04 Strategic framework plans

Planning Policy Framework

- Clause 11.01-1S Settlement
- Clause 11.01-1R Settlement – Loddon Mallee South
- Clause 11.01-1L-01 Settlement – Greater Bendigo
- Clause 11.01-1L-02 10 minute neighbourhoods – Greater Bendigo
- Clause 11.03-1S Activity centres
- Clause 11.03-1L Activity centres – Greater Bendigo
- Clause 11.03-6L-01 Bendigo City Centre
- Clause 13.07-1S Land use compatibility
- 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 15.01-4S Healthy neighbourhoods
- Clause 15.01-5S Neighbourhood character
- Clause 15.01-5L-01 Neighbourhood character – Greater Bendigo
- Clause 15.01-5L-02 Central Bendigo neighbourhood character
- Clause 16.01-1S Housing supply
- Clause 16.01-2S Housing affordability
- Clause 17.01-1S Diversified economy
- Clause 17.01-1L Diversified economy – Greater Bendigo
- Clause 18.01-1S Land use and transport integration
- Clause 18.01-3S Sustainable and safe transport

- Clause 18.01-4L-03 Car parking – Greater Bendigo

Other Provisions

- Clause 32.04 Mixed Use Zone
- Clause 43.02 Design and Development Overlay
- Clause 45.09 Parking Overlay
- Clause 52.06 Car parking
- Clause 52.29 Land Adjacent to the Principal Road Network
- Clause 52.34 Bicycle facilities
- Clause 53.18 Stormwater management in urban development
- Clause 55 Two or more Dwellings on a lot and Residential Buildings

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

Goal 7 – Sustainable population growth is planned for

Consultation/Communication

Referrals

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

Referral	Comment
Department of Transport and Planning	No objection subject to conditions being included on the permit.
Engineering – Drainage	No objection subject to conditions being included on the permit.
Engineering – Traffic	No objection subject to conditions being included on the permit.
Environmentally Sustainable Design	No objection to the proposal.
Strategic Planning	No objection to the proposal.
Urban Design	No objection to the proposal.
Waste – Resource Recovery and Education	No objection to the proposal.

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, 6 objections were received, with the grounds of objection being:

- The application material incorrectly refers to the adjoining property at 34 Myers Street as a medical centre rather than a dwelling.
- The lack of on-site car parking and access issues.
- Waste collection issues.
- Construction impacts including noise, impacts to vegetation on adjoining properties, potential to affect adjoining structures and impact to a sewer main.
- The excessive height, scale and bulk of the built form proposed.
- Failure to comply with ResCode standards relating to side and rear setbacks, daylight to existing windows, overlooking and safety.
- Adverse amenity impacts including increased noise, vehicle movements and pedestrian traffic.
- Incompatible use and development for the site.

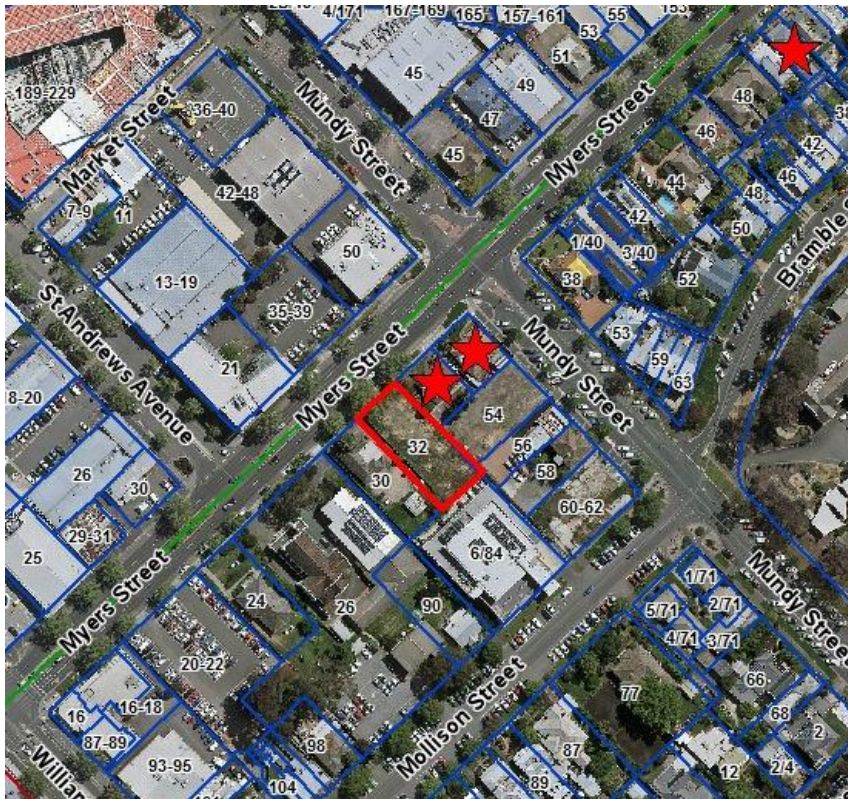


Figure 12: Aerial image showing the location of objectors' properties within proximity to the site

Two of the objections received are from the residents of 34 Myers Street. The other two objections received are from family members of the property at 34 Myers Street that do not reside at the property.

Planning Assessment

Is the use of the land for accommodation (residential apartments) appropriate in this location?

The site is located within the Bendigo City Centre. It is well served by public transport and is highly accessible on foot. The site forms part of a commercial precinct where the Planning Scheme encourages enhanced commercial activity and residential land uses.

The Municipal Planning Strategy at Clause 02.03-1 Settlement outlines that the population is projected to increase by over 2,000 people per year over the next 20 years. An additional 1,000 new dwellings per year will be required to accommodate this growth. About 85 per cent of the population lives within the Bendigo Urban Growth Boundary, which is about 5 per cent of the total municipal area. Land within the Urban Growth Boundary is where the majority of the growth and development should occur.

The key housing issues for Greater Bendigo relevant to the proposal as outlined in Clause 02.03-6 Housing are the location of residential development, housing diversity and housing affordability. The strategic directions for housing relevant to the proposal are:

- *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.*
- *To increase the residential population of Bendigo City Centre and its immediate surrounds to create a more dynamic area, maximise the use of existing infrastructure and provide different housing choices for people.*

The Housing policy and Clause 02.03-6 outlines that there is currently a mismatch between household structure and the type of dwellings available and being built. The Australian Bureau of Statistics Census indicates that one and two person households make up more than half of all households, however, the current stock of housing is dominated by large family houses and in recent years almost all new houses have had three or more bedrooms. This is contributing to both housing affordability issues and unnecessary use of resources by limiting the offer of small dwellings.

The proposed development is consistent with the housing policy as it will contribute to dwelling diversity by providing a variety of apartment types including 2 one bedroom dwellings, 6 two bedroom dwellings and 2 three bedroom dwellings. Additionally, the dwellings are proposed to accommodate residents with disabilities.

The objective of Clause 11.01-1S Settlement is to facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements. A relevant strategy of this policy is to focus investment and growth in places of State significance including Bendigo, which the proposal achieves.

Planning policy through 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 strategies.

Clause 11.01-1L-01 Settlement – Greater Bendigo aims to manage Greater Bendigo's outward growth and avoid further sprawl by directing growth to identified locations. Strategies include:

- *Directing growth to areas within the Bendigo Urban Growth Boundary, the Bendigo City Centre and other major activity centres, and along main transit corridors.*
- *Directing new residential development into identified residential growth areas within the Bendigo Urban Growth Boundary shown on the Bendigo urban area residential framework plan.*

Planning 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, which the proposal achieves.

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.*

The subject site is located within the Mixed Use Zone which is a residential zone containing the following purpose:

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

The site is appropriately zoned for residential development and as outlined above, is consistent with policy objectives relating to the location of residential development, infill development and housing diversity. There is a clear desire for residential development to be provided on sites such as this which are strategically located within proximity to facilities, services and public transport, and to provide a more diverse form of housing (in the form of apartments), which is lacking within the City Centre.

It is noted that a number of objectors raised concerns that the proposal is incompatible with surrounding uses. However, the area is experiencing a level of change and it is expected that this change will occur in accordance with planning policy objectives for residential development and commercial intensification within the city centre. The proposed mixed use development is considered to be consistent and compatible with the surrounding commercial area along with the zoning of the land.

Does the proposal present an acceptable site layout and built form outcome?

The proposal represents an appropriate increase in residential density in a suitable location. The proposed development has been sited to adjoin all title boundaries and will be of a scale that is consistent with the pattern of surrounding development.

The site is located within a unique area where the site and adjoining parcels to the south-east and south-west are found within the Mixed Use Zone, land to the north-east within the General Residential Zone and Commercial 1 Zone, land to the north-west within the Commercial 1 Zone and land with the Special Use Zone – Schedule 1 further to the south-west of the site. As such, the existing built form within the immediate surrounding area is somewhat varied.

The key built environment and heritage issues for Greater Bendigo as outlined in Clause 02.03-5 Built environment and heritage are:

- *Creating healthy environments.*
- *Protecting neighbourhood character and heritage assets while encouraging infill development.*
- *Supporting environmentally sustainable development.*

Balancing the creation of a healthier city through more dense development with the desire to protect existing neighbourhood character is a key challenge. The strategic directions for built environment include:

- *Balancing the protection of neighbourhood character with the development of a more environmentally sustainable urban area based upon the principles of 10 minute neighbourhoods.*
- *Facilitating a built environment that allows for active transport and healthy lifestyle choices.*
- *Facilitating environmentally sustainable development to create a compact and sustainable urban form at the planning stage.*

- *Facilitating a safe, pleasant, comfortable and visually appealing urban environment.*

The objective of Clause 15.01-1S Urban Design is to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity. The proposal has been designed to respond to the surrounding mixed-use neighbourhood character and the surrounding context by providing a measured design response. The layout and scale of the development has considered the adjoining residential properties and the built form has been separated from the adjoining boundary where possible. Suitable cladding materials and colours have been selected to ensure that the building fits in comfortably with the surrounding context.

The development provides for a functional layout for future residents and exemplifies a high density, compact, mixed-use development that facilitates economic activity and contributes positively to the future character of Myers Street.

The building has been designed to promote good urban design as passive surveillance will be provided due to the interface between the private and public realm that protects and enhances personal safety with balconies overlooking the transport corridor.

Planning policy at Clause 15.01-2S Building design aims to achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development. Relevant strategies of this policy include:

- *Ensuring a comprehensive site analysis forms the starting point of the design process and provides the basis for the consideration of height, scale, massing and energy performance of new development.*
- *Ensuring development responds and contributes to the strategic and cultural context of its location.*
- *Minimising the detrimental impact of development on neighbouring properties, the public realm and the natural environment.*
- *Ensuring the form, scale, and appearance of development enhances the function and amenity of the public realm.*
- *Ensuring buildings and their interface with the public realm support personal safety, perceptions of safety and property security.*

Planning policy through Clause 15.01-2L Environmentally sustainable development – Greater Bendigo aims to achieve best practice in environmentally sustainable development (ESD) from the design stage through to construction and operation. The application was accompanied by a Sustainable Management Plan and Green Travel Plan. The accompanying documentation demonstrates that the proposal can successfully achieve the relevant ESD requirements subject to standard conditions. The application was referred to the City's Environmentally Sustainable Design Officer who supported the proposal.

Clause 15.01-5L-01 Neighbourhood character – Greater Bendigo seeks to ensure new buildings and extensions do not dominate the streetscape by matching their height and roof form with the predominant height and roof form in the street and to design buildings with materials and finishes that complement the dominant pattern of the streetscape. The building will be clad in red concrete panelling to match the building cladding materials and colours found within the streetscape. As noted below the height of the building is proposed to be 14.3 metres.

Design and Development Overlay

The site is affected by the Design and Development Overlay – Schedule 5 which relates to the Bendigo Central Business District (CBD) Area. The design objectives to be achieved include:

- *To allow for increased development densities while ensuring that the heights of new buildings fit reasonably with Bendigo's character and protect the amenity of public spaces.*
- *To ensure the heights of new buildings are generally consistent with the 'low rise' character of the CBD while responding to substantial heritage buildings in some locations.*
- *To protect streets and other public spaces from overshadowing by new development.*
- *To ensure that the built form of new development contributes to the CBD's physical environment by controlling building front and side set backs.*
- *To promote active frontages to streets, walkways and public spaces.*
- *To ensure street spaces are safe, welcoming and provide weather protection for footpaths in the areas of highest pedestrian activity.*

The Design and Development Overlay specifies a preferred maximum building height of 12 metres for the site as shown in Figure 13 below. The proposed building has a height of 14.3 metres which exceeds the preferred height. This exceedance is considered acceptable in this instance because the portion of the building above the preferred height is setback into the central portion of the building and only covers a small area.

The proposal will facilitate an increased density development whilst ensuring that the height of the new building fits reasonably with the built form character in the city centre.

Table 1 - Building heights		
Area	Maximum height	Purpose
H3 Medium scale	12 metres	Any building above 3 storeys should set back upper levels to avoid overshadowing of public streets, laneways, parks or other open spaces at winter solstice.

Figure 13: Extract from the Design and Development Overlay – Schedule 5

The City Centre Plan outlines that due to the current low level of development, new buildings are expected to project above existing buildings for some time and as such, their external appearance will need to be well designed. The external appearance of the proposed building has been well designed.

The proposal will cause minimal overshadowing to Myers Street, with the majority of shadowing to occur to the south of the site. The application has been accompanied by shadow diagrams that are compliant with the relevant ResCode provision.

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 built form has been designed to provide an active frontage to Myers Street to encourage pedestrian activity and an awning will be provided over the footpath to offer weather protection.

The proposal implements sustainable development principles through a range of ESD initiatives including water sensitive urban design, passive design, a renewable energy system and electronic vehicle charging.

The proposal contributes a new built form that has a strong sense of definition and place, consistent with the architectural outcomes sought by DDO5. The proposal will result in a positive urban design outcome for Myers Street which will enhance the amenity of future residents and the Myers Street streetscape.

Clause 55 Two or more Dwellings on a Lot and Residential Buildings

A key consideration is whether the proposal achieves a residential 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 Clause 55 (Two or more dwellings on a lot and residential buildings) that a development must meet all of the objectives of the clause and should also meet the standards.

Objections were received in relation to the proposal not meeting ResCode standards and in particular the height of the building, the footprint of the development, the failure to comply with side and rear setback requirements, the loss of daylight to existing windows, overlooking impacts and safety.

A number of the standards are sought to be varied and appropriate justification has been provided by the applicant to support the variations. An assessment of the key objectives and standards of Clause 55, where further discussion is required, is provided below.

Development Density and Height

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

Standard B7 states that a building should not exceed the maximum height specified in the zone or an overlay applying to the site. As outlined above, the Design and Development Overlay – Schedule 5 identifies a preferred maximum height of 12 metres.

The application seeks to vary this standard with an overall height of 14.3 metres. The amount of the building that goes above the 12 metre height is marginal and recessed into the building.

Only the communal open space courtyard area to be constructed on the roof top will exceed the maximum building height. The courtyard is only a small area which has been designed to be recessed in the central portion of the building. The increased height provides the opportunity to hide rooftop service elements. The building will appear to be below this height from the streetscape and will not result in any adverse visual impacts from the streetscape or adjoining properties. The variation is supported.

- Clause 55.02-3 Site coverage objective (Standard B8)

Standard B8 outlines that the site area covered by buildings should not exceed 60 per cent of the site. The built form proposed will have an overall area of 840.9 square metres which equates to 82.6 per cent of the site area.

The increased site coverage is considered to be appropriate in this circumstance as the proposal is located within the Mixed Use Zone and is consistent with the Bendigo City Centre Plan which needs a larger and more diverse population living within the city centre area and to achieve this more mixed use buildings are required. Due to the site being relatively narrow, the building footprint being over the majority of the site is considered an acceptable outcome in this context.

- Clause 55.03-4 Permeability and stormwater management objectives (Standard B9)

The proposal includes only 50.7 square metres of permeable area throughout the site which equates to 4.98 per cent of the site. In order to achieve compliance with this standard 20 per cent of the site is required to be covered by pervious surfaces.

Due to the density of development proposed and the majority of the site being imperviable surfaces, the 20 per cent requirement is unable to be met. The subject site is strategically located and there is ample policy within the Planning Scheme seeking a higher density of development. As such, a variation to the standard is considered appropriate in this circumstance.

The proposed development will be required to be drained appropriately and stormwater managed to maximise retention and reuse. An underground 15,000L water tank will be provided to capture stormwater runoff which will be reused within the development.

Setbacks

- Clause 55.03-1 Street setback objective (Standard B6)

In order to comply with Standard B6 the development is required to have a minimum front setback which is the average of the two adjoining buildings. The adjoining property to the north-east of the site at 34 Myers Street has a front setback of 6.1 metres and the adjoining property at 30 Myers Street is currently vacant. The approved development at 30 Myers Street will contain a building used for an office that will be constructed on the front title boundary. In order to comply with Standard B6 the proposed development would require a front setback of 3.05 metres.

The applicant in their submission has sought a variation to this standard with a proposed front setback being the front title boundary and provided appropriate justification for the building to be constructed on the front title boundary.

As outlined above, the site is affected by the Design and Development Overlay – Schedule 5 that seeks to achieve no front or side setbacks. As the proposal is consistent with the setback specified in the Design and Development Overlay a variation to Standard B6 Street Setback Objective is appropriate.

- Clause 55.04-1 Side and rear setbacks objective (Standard B17)

The proposed development will be constructed with three storey built form on both sides and the rear boundary, and as such a variation to the standard is required. However, the objective of this provision is to protect the amenity of existing dwellings.

The north-eastern boundary directly adjoins a residential property at 34 Myers Street. Although the proposed wall height exceeds that specified in the standard, a variation to the standard is appropriate as the impact to the amenity of the adjoining residential property

has been reduced to an acceptable level due to the length of wall being to the minimum extent necessary and the existing dwelling being offset from the boundary by 4.5 metres.

The proposal is consistent with the Design and Development Overlay design objectives which requires development to comply with the setbacks specified in Map 2 (Building frontages, setbacks and weather protection). The site is identified as being located within S1—which seeks for buildings to have no side setbacks.

As the proposal is consistent with the setback specified in the Design and Development Overlay a variation to the side and rear setback standard is considered appropriate in this circumstance.

- Clause 55.04-2 Walls on boundaries objective (Standard B18)

Standard B18 applies to a new wall constructed on or within 200mm of a side or rear boundary. The length of wall should not abut a boundary for a length of more than 10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot.

The height of a new wall constructed on or within 200mm of a side or rear boundary should not exceed an average of 3.2 metres with no part higher than 3.6 metres.

The properties to the south-east and south-west are located within the Mixed Use Zone, whereas the property to the north-east at 34 Myers Street is located within the General Residential Zone.

It is noted that the length of the wall on the north-eastern boundary adjoining 34 Myers Street is compliant with the length section of standard B18. The length of wall on the boundary proposed is 14.6 metres and the maximum allowable length is 20.18 metres. Therefore it is only the height component of this standard that is non-compliant as the wall has a height exceeding 3.6 metres and an average height exceeding 3.2 metres.

The design response will see the wall constructed to the minimum extent necessary for a length consistent with the existing building on the adjoining property at 34 Myers Street. No wall will be constructed on the boundary past the extent of the existing building on the adjoining property to minimise adverse amenity impact.

Walls on boundaries are part of the neighbourhood character and the building will be constructed predominantly along both the south-eastern and south-western property boundaries. As discussed above, this is consistent with the Design and Development Overlay which seeks for development to be constructed to front and site boundaries.

Overlooking and Overshadowing

- Clause 55.04-6 Overlooking objective (Standard B22)

Standard B22 seeks to limit views into existing secluded private open space and habitable room windows. A habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9 metres.

Currently the bedroom windows for apartment 1.02 and apartment 2.02 overlook into the rear yard of the adjoining property at 34 Myers Street. In order for the proposal to comply with this standard a condition will be included on the permit requiring amended plans to be submitted to either obscure these windows or increase the window sill height to ensure the design is compliant with overlooking requirements.

It should also be noted that since the application was received the adjoining landowner at 34 Myers Street has constructed a new outbuilding in the south-western corner of the site. The inclusion of this outbuilding acts as a barrier and assists in preventing the proposed development from perceived looking into the rear yard of the adjoining property.

Overlooking was raised as a concern by the objectors, and it is noted that when the application was lodged the proposal was non-compliant with the overlooking standard as the balconies for apartment 1.03 and apartment 2.03 overlooked into the secluded private open space of the adjoining property at 34 Myers Street.

The applicant amended the proposal to provide an overlooking plan that includes an additional screen (overlooking device) on the balconies of apartments 1.03 and 2.03. The proposal is now compliant with standard B22 Overlooking and the extent of overlooking into the adjoining secluded private open space has been reduced to an acceptable level.

- *Clause 55.04-5 Overshadowing open space objective*

The design response has considered potential impacts to the amenity of the adjoining dwelling and includes shadow diagrams. The extent of overshadowing as a result of the proposed development will be predominantly to the adjoining properties to the south-east and south-west of the site which are not used for residential purposes. As a result, the proposal is able to comply with the overshadowing standard of B21.

Active Frontages to Streets, Walkways and the Public Realm

- *Clause 55.07-4 Landscaping objective (Standard B38)*

The application seeks a variation to Standard B38 which relates to landscaping objectives. The clause specifies canopy cover and deep soil requirements.

In order to comply with the standard, the proposed development would need to provide 50 square metres plus 20% of the site for canopy cover, 7.5% of the site area for deep soil

and a tree with a minimum canopy diameter and height at maturity of 8 metres. The current design response does not achieve this.

Due to the higher density of the proposed development the landscaping standard cannot be met. However, the proposal is still considered to be consistent with the landscaping objective which is to provide landscaping that supports the existing or preferred urban context of the area and reduces the visual impact of buildings on the streetscape and to ensure landscaping is climate responsive, supports biodiversity, wellbeing and amenity and reduces urban heat.

The site plan provided indicates that landscaping will be provided at the front of the building, in a small garden next to the lobby, along the north-eastern boundary adjoining the car parking area and plantings in the rooftop open space which will be covered by a pergola.

The proposed development has been sited and laid out to provide an active frontage to Myers Street. The proposal will provide pedestrian walkways and a suitable interface with the public realm.

Overall, the proposal provides an acceptable site layout and built form outcome that is consistent with the relevant planning policy, is consistent with the Design and Development Overlay and the provisions of Clause 55 of the Scheme. The extent of landscaping proposed is consistent with what it desired within a mixed use setting. Where the proposal has sought a variation to Clause 55 standards the variations have been appropriately justified and the proposal is considered to meet the required objective.

Is the proposed reduction in car parking requirements acceptable?

There is clear policy direction through Clause 15.01-2L Environmentally sustainable design – Greater Bendigo, Clause 18.01-3S Sustainable and safe transport and Clause 18.01-4L-03 Car parking – Greater Bendigo to reduce the reliance of cars and to encourage active forms of transport.

The site is affected by the Parking Overlay – Schedule 1 that has the purpose to facilitate an appropriate provision of car parking spaces in an area, identify areas and uses where local car parking rates apply and to identify areas where financial contributions are to be made for the provision of shared car parking.

The parking objectives to be achieved include:

- Providing car parking in the Bendigo City Centre that promotes a vibrant and efficient use of urban space, encourages sustainable transport options and reflects the conditions, opportunities and needs of the area.
- Providing future parking through a combination of on-site and off-site parking, with preference for the provision of off-site public parking facilities in strategic locations.
- Providing for the collection of financial contributions to contribute to the construction of public car parking facilities.

- Implementing sustainable transport initiatives which reduce demand for parking within the precinct.

The Parking Overlay outlines the following car parking requirements:

Use	Car parking requirement
Dwelling	1 space to each one or two bedroom dwelling, plus
	2 spaces to each three or more bedroom dwelling (with studies or studios that are separate rooms counted as a bedrooms)
Medical centre	3.5 spaces to each 100 sq m of leasable floor area

The proposal includes 2 one bedroom apartments, 6 two bedroom apartments and 2 three bedroom apartments. Therefore, a total of 12 car parking spaces are required to be provided for the dwellings. The Parking Overlay does not require visitor car parking to be provided.

The medical centre has a leasable floor area of 130 square metres and therefore, 4 car parking spaces are required to be provided to comply with Table 1. Only 3 car parking spaces are proposed to be provided for the medical centre and approval for the reduction in one car parking space is sought.

A total of 15 car parking spaces are to be provided, with the proposal seeking a reduction of 1 space.

Clause 52.06 Car parking 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.

Planning approval is required to reduce the number of car parking spaces required under the Planning Scheme. In determining the appropriateness of a car parking reduction, the Planning Scheme directs a Car Parking Demand Assessment must be provided which addresses the following:

- *The likelihood of multi-purpose trips within the locality which are likely to be combined with a trip to the land in connection with the proposed use.*
- *The variation of car parking demand likely to be generated by the proposed use over time.*
- *The short-stay and long-stay car parking demand likely to be generated by the proposed use.*
- *The availability of public transport in the locality of the land.*
- *The convenience of pedestrian and cyclist access to the land.*
- *The provision of bicycle parking and end of trip facilities for cyclists in the locality of the land.*
- *The anticipated car ownership rates of likely or proposed visitors to or occupants (residents or employees) of the land.*
- *Any empirical assessment or case study.*

The proposed car parking reduction and lack of available on-street car parking was raised as a concern by the objectors.

The application has been accompanied by a Traffic Impact Assessment Report (TIAR) prepared by a suitably qualified consultant (One Mile Grid), 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 the availability of on-street parking in the locality. Figure 14 below shows the public parking areas assessed in the TIAR.



Figure 14: Extract from the TIAR showing the Public Parking Areas Assessed

The TIAR concluded that there is sufficient off site car parking availability within the immediate area to support the proposal, stating that a maximum occupancy of 88% occurred for both on and off-street parking during weekdays, leaving no fewer than 26 spaces available. As such, the one space shortfall can sufficiently be accommodated. This is identified in Figure 15 below which shows the parking availability.

Date	Day	Time	Vehicles Present	Utilisation (%)
12 th March 2021	Saturday	11:33am	69	31%
20 th January 2022	Thursday	10:14am	164	74%
3 rd December 2021	Friday	11:59am	192	86%
5 th May 2021	Wednesday	2:51pm	197	88%
Average			138	62%

Figure 15: Extract from the TIAR outlining the car parking availability.

In assessing the adequacy of parking provision for the proposed development, it is noted that some staff and patrons of the medical centre may use alternative modes of transport to access the site. The proposal makes provision for cyclists with a total of 5 bicycle spaces provided on the site and a bus stop is located at the front of the adjoining property at 34 Myers Street. The site is also within walking distance of the Bendigo Railway Station and bus interchange.

On-street parking exists throughout the city centre and there is typically higher demand for unrestricted, long stay parking during normal business hours. Surveys conducted as part of the City's Parking Futures Action Plan (2020) showed that occupancy in paid parking areas across the city centre vary between 49 and 66 per cent. It is likely that the parking provided on the site will be used by residents and staff of the medical centre. Patrons of the medical centre will likely use street parking. There is generally sufficient on-street parking within the vicinity of the site to cater for the demand generated by a medical centre during peak periods.

Taking into account the above considerations, the proposed provision of 15 spaces on the site, in conjunction with the proposed bicycle facilities, is satisfactory. A Green Travel Plan has been provided with the application that demonstrates the availability of alternative transport modes, other than private cars.

The Parking Overlay – Schedule 1 outlines a financial contribution requirement. However, a financial contribution is not considered necessary in this circumstance as the application has only sought a reduction of one car parking space. The car parking demand assessment submitted with the application demonstrates that there will be ample on-street car parking available to cater for any overflow generated from the medical centre use.

Overall, the proposal will provide adequate car parking on site and will facilitate a safe and functional access arrangement for both vehicles and pedestrians.

Are the proposed access arrangements and impacts on the road network acceptable?

Myers Street is identified as being a road within the Transport Zone 2 which is a Department of Transport and Planning road. The site will be provided vehicle access onto Myer Street via a new vehicle crossover.

Planning policy through Clause 18.02-4S Roads aims to facilitate an efficient and safe road network that integrates all movement networks and makes best use of existing infrastructure.

Clause 52.29 Land Adjacent to the Principal Road Network has the purpose to ensure appropriate access to the Principal Road Network or land planned to form part of the Principal Road Network.

The access and car parking layout has been designed to allow for vehicles to enter and exit the site in a forward direction and manoeuvre the site (including in and out of car spaces), in a safe and efficient manner. The application has been supported by both the City's Traffic Engineering team and the Department of Transport and Planning, subject to conditions.

Overall, the proposed access arrangement is safe and efficient, and will not result in any adverse impacts on traffic or pedestrian safety, or the operation of the roadway.

Objector concerns

Objector concerns that have not been discussed previously are addressed below.

- The application material incorrectly referred to the adjoining property at 34 Myers Street as a medical centre rather than a dwelling.

A planning permit was previously issued on the adjoining site at 34 Myers Street for a medical centre and the application material initially referred to this site as being used as a medical centre.

It was determined throughout the assessment of the application that the property at 34 Myers Street is currently being used as a dwelling and as a result the proposed development was required to consider the amenity impacts as a result of directly adjoining a residential building. This initial inaccuracy has now been addressed.

- Waste management impacts.

One objection was received relating to a concern with the collection of waste. A Waste Management Plan (WMP) was submitted with the application, outlining that bins will be stored in a conveniently located bin store to the south of the car park and can be easily wheeled out to the kerb for collection. All medical waste will be collected privately. Due to the relatively low vehicle movements it is submitted that the path to and from the kerbside collection is appropriate.

The application was referred to the City's Waste, Resource Recovery Unit who reviewed the Waste Management Plan and in turn supported the proposal.

- Construction impacts including noise, impacts to vegetation on adjoining properties, potential to affect adjoining structures and impact to a sewer main.

In order for new development to occur, construction works will be required to be undertaken. The City, however, can put measures in place to ensure that such activity does not result in any unreasonable amenity impacts. A Construction Management Plan will be requested as a permit condition to ensure that adverse impacts from the construction such as noise, dust and vibrations are minimised to an acceptable level. This is standard practice for a development of this scale.

The application has been accompanied by an Arboricultural Report, prepared by a suitably qualified consultant, that identifies significant encroachment into the Tree Protection Zones of two trees on the adjoining property at 34 Myers Street. The trees are a Feijoa Tree and an English Elm as shown below in Figure 16.



Figure 16: Trees located on the adjoining property at 34 Myers Street

The Arboricultural Report recommends that the portion of the building to be constructed within the Tree Protection Zones of Tree 5 and Tree 6 will need to be constructed using tree sensitive footings, as well as avoiding tree roots greater than 25mm for Tree 5 and 40mm for Tree 6. Floor levels will also need to be increased to enable construction above current soil levels. The report recommends that a Tree Management Report be prepared to direct works around trees to be retained. In order to address this issue the permit will be conditioned accordingly.

There are unlikely to be any impacts to the sewer main as a result of construction. This will be managed by any building permit applications.

- Adverse amenity impacts including increased noise, vehicle movements and pedestrian traffic.

The proposal is unlikely to result in any significant increase to noise as the site will be predominantly used for a residential purpose.

The volume of increased vehicle and pedestrian movements is considered to be relatively minor given the context of the site and surrounds.

Conclusion

The site is well located to take advantage of existing infrastructure, facilities, services and transport options. The proposal is consistent with the design objectives outlined in the Design and Development Overlay and Planning Scheme policy regarding mixed use and residential development.

The site layout and built form provide an acceptable planning outcome for infill development and are consistent with the objectives of Clause 55. Appropriate justification has been provided where variations to the standards are proposed.

The proposed development contributes to the provision of a compact, high-density, walkable neighbourhood and the site is an identified strategic redevelopment site. The proposal will also make efficient use of land within the Bendigo City Centre, whilst presenting a built form that is respectful of its context, of an appropriate density without any unreasonable impacts on adjacent properties.

Overall, the proposal will result in a net community benefit and positive economic and social impacts for the city. There is sufficient availability within the surrounding streets to cater for the shortfall in car parking, with the site well located for patrons and staff of the medical centre to also utilise alternative transport modes such as cycling and public transport.

It is therefore recommended that Council support 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 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 bedroom windows for apartment 1.02 and apartment 2.02 on the south-eastern elevation designed to comply with Clause 55.04-6 Overlooking objective.
- (b) A Landscape Plan in accordance with the requirements of Condition 3.
- (c) A Tree Management Plan in accordance with the requirements of Condition 6.

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

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 landscaping shown on the site plan dated 2 November 2022 prepared by Taylor Reynolds Architects.

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) Planting within the front setback of the building, adjacent to the lobby, within the car parking and courtyard areas.

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

4. 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.

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. PROTECTION OF VEGETATION

Before works start, a tree management plan to the satisfaction of the responsible authority must be provided. The tree management plan must identify all vegetation on the adjoining properties where a major encroachment into the Tree Protection Zone has been identified in the accompanying arboricultural report. The tree management plan must describe the measures to be used to protect the identified vegetation during construction, must be prepared and submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will form part of this permit. All works constructed or carried out must be in accordance with the endorsed plan.

7. PRACTITIONER NUMBERS

Except with the prior written consent of the responsible authority, no more than 2 practitioners may operate from the medical centre at any one time.

8. CONCRETE BUILDINGS

All tilt slab or pre-cast concrete buildings must be painted, treated, textured and maintained thereafter to the satisfaction of the responsible authority.

9. REFRIGERATION & 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.

10. 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.

11. 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.

12. CONTROL OF LIGHT SPILL

External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority.

13. SUSTAINABLE DESIGN ASSESSMENT AND SUSTAINABILITY MANAGEMENT PLAN

(a) All works must be undertaken in accordance with the endorsed SDA (including BESS and STORM report etc) to the satisfaction of the responsible authority. No alterations to the SDA or associated documents may occur without the prior written consent of that authority.

(b) Prior to the commencement of occupation or issue of Statement of Compliance, a post construction 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.

14. BICYCLE STORAGE

Provision must be made for the parking five bicycles on the subject land to the satisfaction of the responsible authority.

15. NUMBER OF CAR SPACES

No fewer than 15 car spaces must be provided on the land for the use and development.

16. 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).
- (d) 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.
- (e) The crossover between the property boundary and the kerb must be constructed in accordance with the Infrastructure Design Manual.
- (f) All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of the responsible authority.
- (g) A sign/signs to the satisfaction of the responsible authority must be provided directing drivers to the area(s) set aside for car parking and must be located and maintained to the satisfaction of the responsible authority. The area of each sign must not exceed 0.3 square metres.

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.

ENGINEERING CONDITIONS:

17. 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.
- (e) Describe the measures to be used to protect the street trees during construction.
- (f) An Environmental Management Plan prepared by a qualified Environmental Consultant providing a suitable framework and methodology for the appointed Principal Contractor/Builder to manage potential human health and environmental hazards as part of the construction process.

During construction of works, 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.

18. 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.

19. 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:

- (a) Underground drainage;
- (b) Stormwater quality;
- (c) A point of discharge;
- (d) Stormwater detention;
- (e) Drainage easements.

20. 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.

21. PUBLIC 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 and 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.

REFERRAL AUTHORITY CONDITIONS:

22. DEPARTMENT OF TRANSPORT AND PLANNING

- (a) Prior to commencement of the use, the following roadworks on Myers Street must be completed at no cost to and to the satisfaction of the Head, Transport for Victoria and be constructed in accordance with the amended plan by Taylor Reynolds Architects (TP 01, REV TP-C dated 28/11/2022) appended to the application:
 - i. The line marking designating existing parking areas on Myers Street must be adjusted.
 - ii. All disused or redundant vehicle crossings made redundant by this permit must be removed, and the area reinstated to kerb and channel.
 - iii. The new access driveway, crossover and associated works must be provided and available for use and be:
 - Formed to such levels and drained so that they can be used in accordance with the endorsed plans.
 - Treated with an all-weather seal or some other durable surface.
- (b) 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).
- (c) Vehicles must enter and exit the site in a forward direction.

EXPIRY CONDITION:

23. EXPIRY

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 4 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 and Planning Note

The proposed development requires the removal and installation of line marking along Myers Street, reinstatement of disused crossovers to kerb and channel and construction of new crossovers. 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.

Please contact the Department of Transport prior to commencing any works on nr.admin@roads.vic.gov.au.

For more information regarding working within the road reserve please visit the VicRoads website:

- <https://www.vicroads.vic.gov.au/traffic-and-road-use/road-access-permits-portal>
- <https://www.vicroads.vic.gov.au/business-and-industry/design-andmanagement/working-within-the-road-reserve>

Consent for Work on Road Reserves Note

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.

Attachments

Nil

17.5. Use and Development of the Land for a Dwelling and Outbuilding (Shed) - CA1A Sec 22, 214 Floods Road, SHELBOURNE 3515

Author:	Michael St Clair, Statutory Planner
Responsible Director:	Steve Hamilton, Director Strategy and Growth

Summary/Purpose

Application No:	DR/574/2021
Applicant:	Tom Harrington C/O Navy Blue Planning
Land:	CA1A Sec 22, 214 Floods Road, SHELBOURNE 3515
Zoning:	Clause 35.07 - Farming Zone
Overlays:	Clause 42.01 - Environmental Significance Overlay – Schedule 1 (partially) Clause 42.02 - Vegetation Protection Overlay – Schedule 2 (partially) Clause 44.04 - Land Subject to Inundation Overlay – Schedule 3 (partially)
No. of Objections:	Nil
Key considerations:	<ul style="list-style-type: none"> Whether the amendment to the application currently before VCAT warrants an amended position from Council. Confirmation that the use and development of the land for a dwelling no longer requires a planning permit under the provisions of the Farming Zone. Whether the location of the driveway has appropriately considered any potential environmental impacts.
Conclusion:	<p>The applicant has appealed to the Victorian Civil and Administrative Tribunal (VCAT) against Council's refusal to grant a planning permit. As part of the VCAT proceedings, the applicant has formally amended the application which has resulted in substantial changes to the proposal.</p> <p>This report recommends that Council establish a new position of supporting the proposal at the VCAT Hearing as the proposal is now in accordance with the relevant policy contained within the Greater Bendigo Planning Scheme.</p> <p>It is recommended that Council notify the Victorian Civil and Administrative Tribunal that it now conditionally supports the application in its amended form.</p>

Recommended Motion

That Council advise the Victorian Civil and Administrative Tribunal that it does support the grant of a permit for the “*construction of a driveway*” at CA1A Sec 22, 214 Floods Road, SHELBOURNE subject to the draft conditions at the end of this report.

RESOLUTION - Resolution No. 2023-73

Moved: Cr Fagg

Seconded: Cr Fyffe

That the recommended motion be adopted.

CARRIED

Background Information

Planning Application DR/574/2021 was presented to Council for decision at the Ordinary Meeting held on 22 August 2022. Council resolved to issue a Notice of Decision to Refuse to Grant a Permit for the use *and development of the land for a dwelling and outbuilding (shed)* at CA1A Sec 22, 214 Floods Road, SHELBOURNE 3515 on the following grounds:

1. The proposal is inconsistent with the policy for agriculture and rural dwellings at Clause 14.01-1S and the purpose and decision guidelines of the Farming Zone, in the following manner:
 - a. The dwelling does not support or enhance agriculture; and
 - b. The dwelling would cause the fragmentation of agricultural land by limiting the ability of the parcel to remain or become consolidated with adjoining or nearby land.

This resolution was in accordance with the officer recommendation.

Following the above Council resolution, the City issued a Notice of Decision to Refuse to Grant a Permit for the use *and development of the land for a dwelling and outbuilding (shed)* on 1 September 2022. The grounds of refusal were as resolved by Council.

On 27 October 2022, the applicant appealed Council's decision to refuse to grant a permit to the Victorian Civil and Administrative Tribunal (VCAT) under Section 77 of the *Planning and Environment Act 1987*.

The initiating Order issued by VCAT on 8 November 2022 listed the hearing date for this matter as 12 May 2023.

On 27 March 2023, the applicant lodged an application with VCAT to formally amend the application. This amendment centres around the consolidation of three parcels of land to result in a single parcel in excess of 40 hectares in size. This amendment results in the grounds of refusal no longer being applicable to the matter before VCAT, as the use of the land for a dwelling would now be 'as of right' and not require planning approval. The development of the land for a dwelling would also no longer require approval due to lot size and appropriate setbacks.

On 28 March 2023, the City applied to VCAT seeking an urgent Practice Day Hearing to discuss the nature of the changes. The City sought this hearing to seek an adjournment of the hearing date to provide adequate time to present amendments of the application to Council. This Practice Day Hearing was held on 28 April 2023.

Following the Practice Day Hearing, VCAT formally advised that the Hearing for 12 May 2023 has been vacated. No new date has been set. An Administrative Mention has been scheduled for 9 June 2023, by which time the City must advise all parties to this matter the outcome of Council's resolution in regard to this report. Following the Administrative Mention, VCAT will determine all subsequent processes to resolve this matter.

In order for Council to continue to participate in the VCAT proceedings, it is important for Council to form a new position based on the amended application. This amended position will then form the position the City takes to a future VCAT hearing, should VCAT determine a new Hearing date following the June Administrative Mention.

Report

Subject Site and Surrounds

The subject site and surrounds are detailed extensively in the 22 August 2022 Council Report (included as Attachment 1 to this report).

In summary, the site and the larger land holding comprises cleared agricultural land. These parcels have historically been used for light agricultural purposes related to the grazing of livestock. Surrounding lots are used for various forms of agriculture, primarily cropping, grazing and stock keeping. Whilst there are some dwellings present within the surrounding area, the majority of lots remain free of dwellings. The locality presents as open farming land. Within the broader surrounding area are similar agricultural activities including stock grazing, stock feed production, cropping and the like.

The only change of note for consideration is the amendment of the application to consolidate three existing parcels into one parcel. This is important as it will increase the overall lot size to greater than 40 hectares, which is of consequence when considering the use and development of the land for a dwelling within the Farming Zone. The previous and new subject sites are shown in Figure 1 below (previous in blue, new in red).

The affected lots are as follows:

- Crown allotment 17, Section 5, Parish of Shelbourne
- Crown allotment 1A, Section 22, Parish of Shelbourne
- Crown allotment 3C, Section 17, Parish of Shelbourne

The draft Plan of Consolidation, PC381198K, is included at Attachment 2.

Under the *Planning and Environment Act 1987* and the Greater Bendigo Planning Scheme, there is no requirement for a planning permit to be sought to consolidate parcels of land. This process is wholly undertaken under the provisions of the *Subdivision Act 1988*. As such, this process is of consequence and highly relevant to the consideration of the planning permit application but does not form part of the approval itself.



Figure 1: Subject site (original site in Blue, amended site in Red)

The resultant land parcel has an overall size of 47.86 hectares, split over three parts (corresponding to the previous land parcels). Two of these former parcels were part of the tenement described within the previous report to Council. These two parcels are used for grazing purposes and have minimal development to support this use.

The third parcel included in the tenement described in the original report to Council does not form part of the consolidated land holding, now the subject of this application. This excluded parcel contains the original farm dwelling and supporting agricultural shedding that made up the agricultural land use undertaken at 214 Floods Road. This remaining parcel is a 21.44 hectare parcel, which is now to be fully surrounding by landholdings in different ownership. The planning merits for this outcome are not able to be considered as part of this application.

The additional parcel to be consolidated forms part of a different tenement, under the same ownership.

Proposal

As a result of this change, the application now seeks planning approval to '*construct a driveway*'. This is based on the following.

Both the use and development of the land for a dwelling no longer requires planning approval as the subject site is now in excess of 40 hectares and the recommended setback requirements can be met.

Under the provisions of the Farming Zone, use of land for a dwelling is as of right (meaning it does not require planning approval) if the lot is greater than 40 hectares in size. As such, planning approval is no longer required and this aspect of the proposal can no longer be considered.

The development of a dwelling also no longer requires planning approval. The development component originally only required planning approval due to the lot being less than 40 hectares which meant that the dwelling was considered to be a Section 2 use. As such, this aspect of the proposal can no longer be considered.

With these aspects of the proposal no longer requiring planning approval and thus being removed from the scope of consideration, planning approval is now only required for the site in relation to the construction of works associated with the formalisation of a driveway to the proposed dwelling. The proposed driveway location falls within the Land Subject to Inundation Overlay, Environmental Significance Overlay and Vegetation Protection Overlay extents. Under these provisions, a permit is required to construct a driveway under the Land Subject to Inundation Overlay and Environmental Significance Overlay.

The construction of the driveway does not require the removal of any vegetation. As such, there is no permit trigger under the Vegetation Protection Overlay.

Figure 2 (below) shows the submitted site plan as part of the original application, showing the location of proposed dwelling, outbuilding and driveway (none of these aspects have been changed as a result of the amendment, though they no longer require planning approval). Figure 3 (below) shows the rough alignment of the driveway as it interacts with the Land Subject to Inundation Overlay and Environmental Significance Overlay.

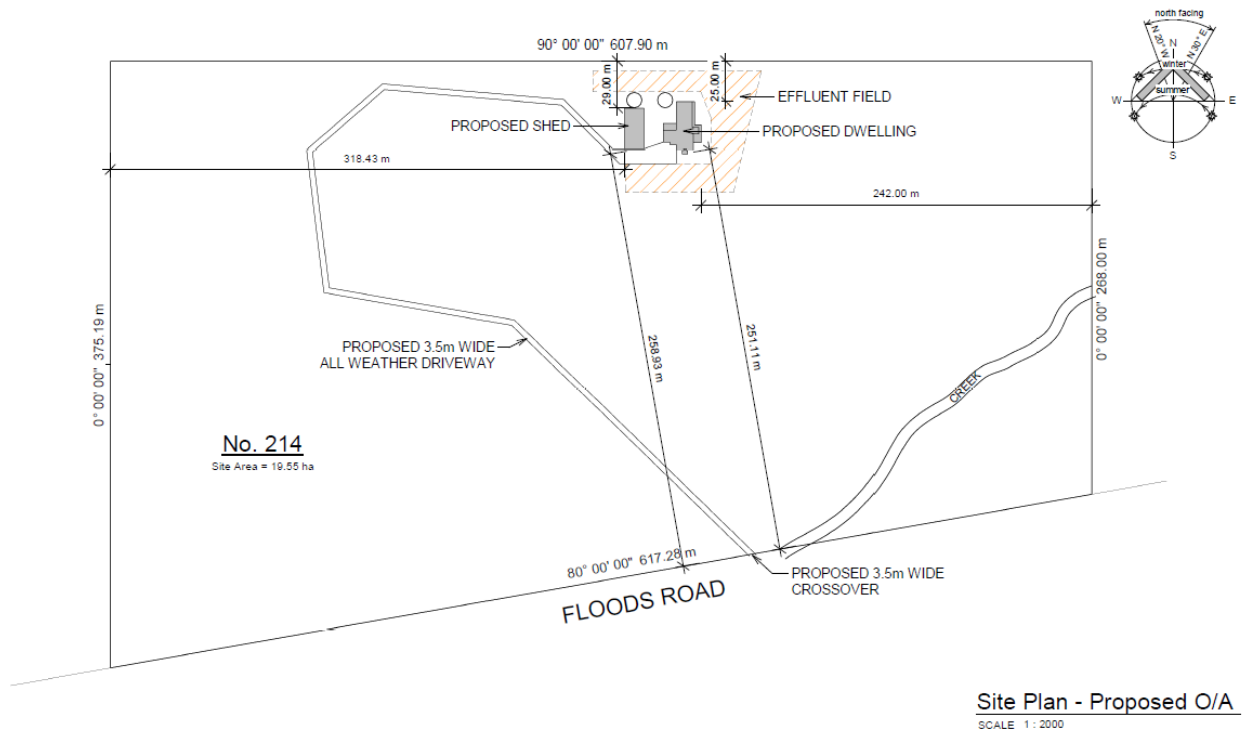


Figure 2: Site plan (note that this only shows a portion of the overall site now subject to this amendment)

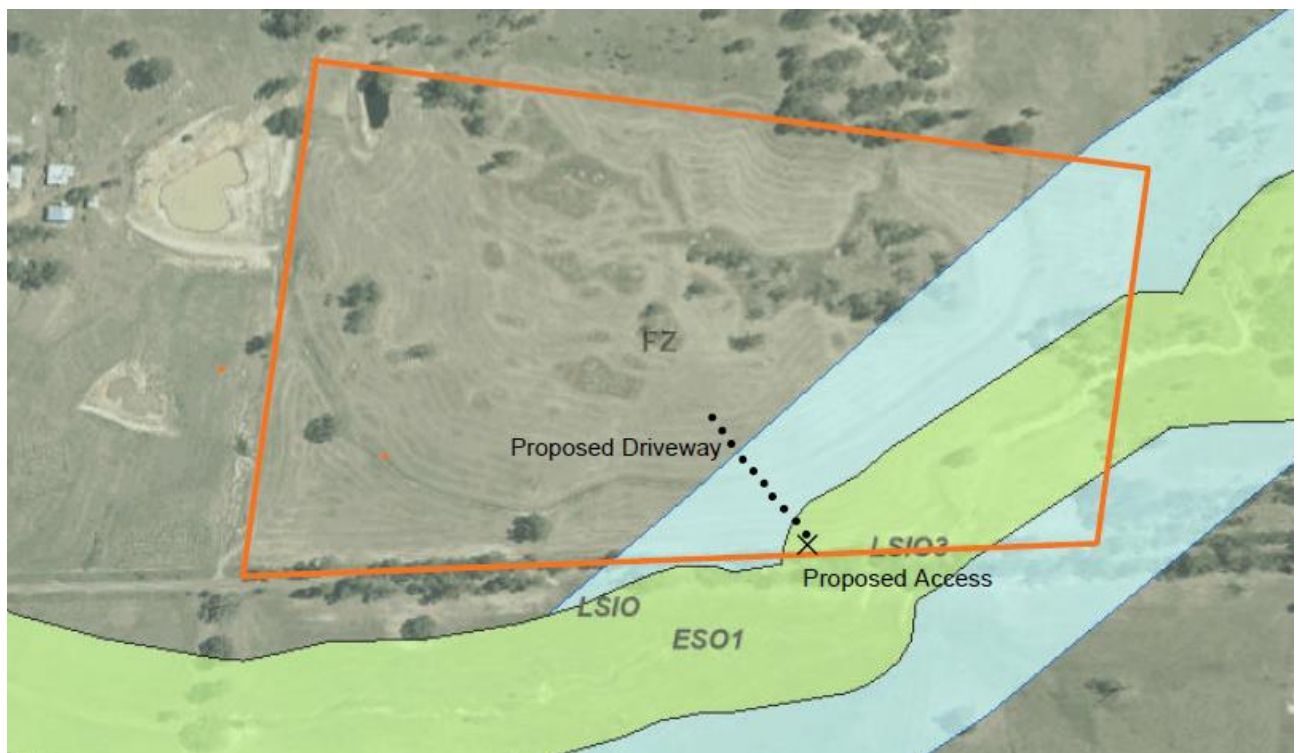


Figure 3: Plan showing driveway location in relation to planning overlays.

Planning Controls - Greater Bendigo Planning Scheme

Why is a permit needed?

The following table lists all the relevant planning permit triggers that apply to this application.

Clause	Permit Trigger
Clause 42.01-2 Environmental Significance Overlay (Schedule 1)	<ul style="list-style-type: none"> Construct a building or construct or carry out works (driveway construction works)
Clause 44.04-2 Land Subject to Inundation Overlay (Schedule 3)	<ul style="list-style-type: none"> Construct a building or construct or carry out works (driveway construction works).

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

Municipal Planning Strategy

Clause 02.03-4 Natural Resource Management

Planning Policy Framework

Clause 12.01-2S Native vegetation management

Clause 12.03-1S River and riparian corridors, waterways, lakes wetlands and billabongs

Clause 13.03-1S Floodplain management

Clause 13.03-1L Floodplain management – Greater Bendigo

Clause 14.02-2S Water quality

Other Provisions

Clause 35.07 Farming Zone

Clause 42.01 Environmental Significance Overlay – Schedule 1

Clause 42.02 Vegetation Protection Overlay – Schedule 2

Clause 44.04 Land Subject to Inundation Overlay – Schedule 3

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

Initial internal referrals were discussed in the previous report to Council. The previous comments from the Agribusiness Officer and Environmental Health team are no longer relevant to the amended application as these relate to the use and development of the land for a dwelling. Comments from the City's Engineering Unit (Traffic) continue to form part of the required considerations for this application as these related to access. No additional internal referrals have been undertaken or required.

The following additional referral authorities have been consulted on the proposal:

Referral	Comment
Department of Energy, Environment and Climate Action (External referral)	No objection – subject to conditions relating to the following: <ul style="list-style-type: none">• Protection of trees to be retained in proximity to works.
Goulburn-Murray Water (External referral)	No objection – subject to conditions relating to the following: <ul style="list-style-type: none">• Construction works to not result in erosion or sediment impacts to the nearby waterway.• Management of wastewater.
North Central Catchment Management Authority (External referral)	No objection – subject to no conditions, with a note to be placed on any permit regarding flood levels having not been determined accurately for this area.

Public Notification

No additional public notification has been undertaken as a result of this amendment. There are no physical changes to the application as was previously advertised.

Planning Assessment

The amendment to the application, submitted through the VCAT process, has substantially altered the proposal when considering the relevant planning policy framework, and has significantly reduced the scope of considerations in making a decision on this proposal. The Planning Assessment in the previous Council report focused on planning considerations relating to the use and development of the land for a dwelling. These considerations no longer apply to this application.

The assessment of this application now must only consider the impacts of the proposed driveway located within the extent of the Land Subject to Inundation Overlay and Environmental Significance Overlay. This impact relates to the first 80 metres of the

driveway as it enters the site from an existing gate to Floods Road. The crossover is located in an area that does not impact on roadside vegetation, with the internal driveway alignment crossing cleared grazing land. No vegetation will be impacted as a result of the proposal.

The amended application (driveway alignment) was referred to the Department of Energy, Environment and Climate Action (DEECA), Goulburn-Murray Water (GMW), and the North Central Catchment Management Authority (NCCMA), as required by the Greater Bendigo Planning Scheme. All external referral authorities have consented to the proposal, subject to vegetation protection requirements from DEECA. No concerns were raised as to the proposed alignment.

Officer assessment is that the proposal now meets the objectives and decision guidelines of the Land Subject to Inundation Overlay and Environmental Significance Overlay. The proposal also accords with the strategies of Clause 12.01-2S: Native vegetation management, Clause 12.03-1S: River and riparian corridors, waterways, lakes wetlands and billabongs, Clause 13.03-1S: Floodplain management, Clause 13.03-1L: Floodplain management – Greater Bendigo, and Clause 14.02-2S: Water quality.

In summary, the application in its amended form is now recommended for support. The proposed driveway alignment does not pose a risk to the environment, is appropriately located and will be conditioned to ensure that adjacent remnant vegetation is protected through works to formalise the existing crossover to provide access to the proposed 'as of right' dwelling on the subject site.

Conclusion

The applicant has appealed to the Victorian Civil and Administrative Tribunal (VCAT) against Council's refusal to grant a planning permit.

As part of the VCAT proceedings, the applicant has formally amended the application which has resulted in substantial changes to the proposal. The application has been significantly amended by consolidating parcels of land to result in the use and development of the land for a dwelling to be 'as of right'.

The remaining consideration of the driveway alignment within the Land Subject to Inundation Overlay and Environmental Significance Overlay is minor in nature and not contentious. This position is supported through external referral responses from the Department of Energy, Environment and Climate Action, Goulburn-Murray Water and the North Central Catchment Management Authority.

As such, officer assessment is that the amended application is supportable as the proposal is now consistent with the provisions of the Greater Bendigo Planning Scheme, subject to conditions that protect existing remnant roadside vegetation.

This report recommends that Council establish a new position of supporting the proposal at the VCAT Hearing as the proposal is now in accordance with the relevant policy contained within the Greater Bendigo Planning Scheme.

It is recommended that Council notify the Victorian Civil and Administrative Tribunal that it now conditionally supports the application in its amended form.

Options

Council, acting as the responsible authority for administering the Planning Scheme, may resolve to advise VCAT and the permit applicant that, had it been making the decision on the amended application, that it would have: granted a permit, granted a permit with conditions, or refused 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 Without Prejudice Draft Permit Conditions

1. NO LAYOUT ALTERATION

The 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.

2. NO WORKS UNTIL LOTS CONSOLIDATED

Prior to the commencement of any works within the site, the following parcels must all be consolidated into one allotment:

- Crown allotment 17, Section 5, Parish of Shelbourne
- Crown allotment 1A, Section 22, Parish of Shelbourne
- Crown allotment 3C, Section 17, Parish of Shelbourne

The resultant area must exceed 40 hectares.

3. RURAL VEHICLE CROSSOVER

Prior to the commencement of any works within the site, the owner must undertake the following:

- (a) The existing crossover to the subject land from the road shall be reconstructed to a standard satisfactory to the responsible authority. The vehicle crossing must be constructed at the applicant's expense to provide ingress and egress to the site to the satisfaction of the responsible authority.
- (b) The crossover must be no less than 4.9m in length and include a pipe of a

diameter suitable to accommodate the actual volume/flow (having a minimum diameter of 300mm). Culverts located in the clear zone shall be installed with trafficable end walls (refer VicRoads standard drawing SD 1991). The final location of the crossing is to be approved by the responsible authority via a 'Consent for Works on Road Reserves'.

4. **CONSTRUCT A SEALED CROSSOVER AND ALL-WEATHER DRIVEWAY**

Prior to the commencement of works for the dwelling, the driveway between the property boundary and the edge of the sealed road must be constructed as follows:

- (a) An all-weather (gravel) driveway with a minimum trafficable width of 3.5 metres with 500mm horizontal clearance and 4 metre vertical clearance to trees to accommodate emergency vehicles.
- (b) In accordance with the Infrastructure Design Manual SD 255 Rural Driveway.
- (c) The first 5 metres of the driveway from the edge of the sealed road must be sealed.
- (d) A table drain is required on the high side.
- (e) Passing areas must be provided every 200 metres, if applicable, and a turnaround area at the residence.

REFERRAL AUTHORITY CONDITIONS:

5. **DEPARTMENT OF ENERGY, ENVIRONMENT AND CLIMATE ACTION**

Protection of native vegetation to be retained

- (a) Before works start, a native vegetation protection fence must be erected around all native vegetation to be retained within 15 metres of the works area. This fence must be erected at:
 - i. A radius of 12 times the diameter of the tree trunk at a height of 1.4 metres to a maximum of 15 metres but no less than 2 metres from the base of the trunk of the tree; and
 - ii. Around the patch(es) of native vegetation at a minimum distance of 2 metres from retained native vegetation.

The fence must be constructed of star pickets and paraweb or similar, to the satisfaction of the responsible authority and the Department of Energy, Environment and Climate Action. The protection fence must remain in place until all works are completed to the satisfaction of the department.

- (b) All earthworks are to be designed and constructed to avoid soil erosion. All fill is to be compacted, and batters are to be topsoiled and revegetated. All drainage is to be diverted around the disturbed areas. Drainage from benched areas, batters and access tracks is to be diverted on non-scouring grades to stable vegetated areas. Several drainage points are to be used to avoid concentration of drainage water.

6. **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) All wastewater from the dwelling must be treated and disposed of using an approved system. The system must have a certificate of conformity issued by the Conformity Assessment Body (or equivalent approval) and be installed, operated and maintained in accordance with the relevant Australian Standard and EPA Code of Practice.
- (c) The wastewater disposal area must be located at least: 60m from any waterways (including dams on a waterway), 40m from any drainage lines, 60m from any dams, and 20m from any bores. *Where wastewater is treated to at least a secondary standard, the distance may be reduced in accordance with the current EPA Code of Practice – Onsite Wastewater Management. However where possible setback distances must be maximised.
- (d) The wastewater disposal area must be kept free of stock, buildings, driveways, car parking and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. Unless wastewater disposal is by subsurface irrigation methods, 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.
- (e) No buildings are to be located within 30m of any waterways or dams on waterways.

EXPIRY CONDITION

7. EXPIRY – DEVELOPMENT

This permit will expire if the development permitted by the this permit is not completed within 2 years from the date hereof. The time within which the development must be completed may be extended, on written request to the responsible authority, before or within 6 months after the expiry of this permit where the development has not yet started or 12 months where the development has commenced.

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;

- 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 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.

NORTH CENTRAL CATCHMENT MANAGEMENT AUTHORITY NOTE

Flood levels for the 1% AEP probability (100 year ARI) have not been determined for this area under the Water Act 1989. Information available at North Central CMA indicates that in the event of a 1% AEP flood event it is likely that the property may be subject to inundation. However, the location of the proposed development is highly unlikely to be subject to flooding from a designated waterway.

Attachments

Nil

18. STRONG, INCLUSIVE AND SUSTAINABLE ECONOMY

Nil

19. ABORIGINAL RECONCILIATION

Nil

20. A CLIMATE-RESILIENT BUILT AND NATURAL ENVIRONMENT

Nil

21. A VIBRANT, CREATIVE COMMUNITY

Nil

22. A SAFE, WELCOMING AND FAIR COMMUNITY

Nil

23. URGENT BUSINESS

Nil

24. NOTICES OF MOTION

Nil

25. MAYOR'S REPORT

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

- Laid wreath at the Woodvale and Elmore ANZAC Day Commemorative Services.
- Laid wreath and participated in official proceedings for the Bendigo ANZAC Day Commemorative Service held at the Soldiers Memorial Institute, Pall Mall Bendigo.
- Chaired the Regional Cities Victoria Executive Management Group online meeting.
- Meet online with The Hon. Harriet Shing, Minister for Regional Development.
- North Bendigo Recreation Reserve Meeting.
- Met with Simon McKenzie, Public Transport Ombudsman.
- Chaired the Regional Cities Victoria meeting.
- Spoke at the Bendigo Easter Festival Thank You Function.
- Strategy and Growth Strategic Workshop.
- Guest speaker at Vision Australia Social Support Friday Men's Group.
- Strathfieldsaye Fire Brigade 25th Anniversary.
- Spoke at the Australian Badminton Championships.
- Musical afternoon with the German Friendship Society held at Caradon House.
- Equity Impact Assessment Training.
- MAV Loddon Campaspe Mallee Regional Meeting.
- Integrated Municipal Emergency Management Planning Committee - Tier 1 meeting.
- Spoke at the BUPA Partnership Event with Women CAN.
- Representatives from the Loddon Campaspe Group of Councils met online with Australian Energy Market Operator (AEMO).
- Met with representatives from Bendigo Historical Society to discuss the Red Ribbon Rebellion.
- Spoke at the Bendigo Writers Festival Gala Event *Dream On*.
- Statewide Stampede Roller Derby Tournament, feature game Chiko Rollers V South Sea Roller Derby's Banshees.
- Officially opened the Paul Harrington Exhibition Opening *The Mystery Unfolds* at The Living Arts Space – Bendigo Visitor Centre.
- Long Gully Neighbourhood House Week Morning Tea - announcing our Good Neighbour Competition winners.
- Planning application consultation meeting for 38 Myers Street, Bendigo.
- Chaired the Eaglehawk Table Tennis and Badminton Meeting.
- As Chair of Regional Cities Victoria, interviewed by The Age.
- Chaired Community Presentations held at the Bendigo Town Hall.
- Participated in filming for the Aboriginal Place Naming video.
- Officially opened the exhibition *Listening to Our Elders*, an exhibition celebrating contributions made by Elders and their connection to community and Country at Djaa Djuwima.
- Spoke at the Opening for the Spring Gully Soccer Club Pitch Lighting.
- Official Opening of djimbaya Kindergarten Bendigo District Aboriginal Co-operative.
- Foundation Day Service - Girton Grammar held at Sacred Heart Cathedral.
- Participated in official proceedings at the Mothers Day Classic held at Strathdale Park.
- Eaglehawk Landfill Rehabilitation site tour.

- Launch of Discovery Science and Technology Centre's New Planetarium.
- Greater Bendigo Climate Collaboration Governance Group.
- Chaired the Regional Cities Victoria Executive Management Group online meeting.
- Spoke at the National Volunteer Week: City of Greater Bendigo morning tea for its Volunteers.
- Centre for Excellence in Child and Family Welfare: Opportunity to engage on local issues relating to child and family services.
- Participated in official proceedings at the IDAHOBIT Pride Flag Raising held in the Bendigo Library Gardens.
- Huntly Structure Plan - Community Reference Group.
- Virtual Information Session for Naming rules for places in Victoria 2022.
- Online MAV Members Briefing - Council safety and security.
- Gastronomy Sub-Committee meeting.
- As part of National Volunteer Week, the City has been working with the Department of Energy, Environment and Climate Action to hold a “thank you” breakfast for the City’s environmental volunteers.
- Meet with Wendy Lovell MP and John Pesutto MP Leader of the Liberal Party.
- Met with representatives from Victoria Police.
- Photo opportunity for the MMM Blanket Drive held at the QEO.
- Met with The Hon. Sonia Kirkenny, Minister for Planning to discuss the Central Victorian Goldfields World Heritage Bid.

26. CHIEF EXECUTIVE OFFICER'S REPORT

I firstly want to thank the Councillors for the preparation they put into Council meetings. There is a lot of reading for tonight, five planning reports, visiting sites, preparing debates, having a good think about what is the right and best thing to do for the greater good of our community. Thank you for the work and effort you put into that.

I would also like to mention ANZAC day. I think it is getting bigger and bigger every year and the dawn service particularly is very much standing room only and lots and lots of people in Pall Mall each year to attend that service and then the mid-morning service is always important to do.

Thank you for adopting the budget tonight. As you all know, that is a big piece of work and probably our most significant piece of work that we do collectively throughout the year, so thank you for the time and effort, the meetings, the contemplation, the submissions and listening to the community that you put into that.

Thanks for the contributions of staff and thank you for thanking the staff, the Executive Team, the Finance Team that were here earlier tonight, all the Managers and their Coordinators contribute to that process as well, as does the Communications Team who write it all up and prepare the press releases and prepare the actual budget document which is all done in house. It is a great piece of work and thank you for adopting it.

As we have talked about it, it is budget month, the Federal budget was last week where importantly the Local Roads and Community Infrastructure Fund is included again, Financial Assistance Grants, Roads to Recovery, Black Spot Funding and the new Growing the Regions program, so some significant opportunity there as well as some very important dollars that come from Federal Government to Local Government to help us provide day-to-day services.

Last week I had an opportunity to represent the Loddon Mallee Region of Regional Development Australia (RDA) at an RDA Chairs' meeting in Melbourne. Our Chair was away so as Deputy Chair I was able to attend. The Honourable Kristy McBain, the Federal Minister for Regional Development and Local Government was in attendance for about one hour, so it was good to get an hour of her time. Typically, the main topics were renewable energy, childcare in rural settings, housing of all sorts, particularly co-worker housing and connectivity digital mobile roaming, which were all topics that we deal with every other day but certainly deal with across the State and it was good to have an opportunity to progress them with Minister McBain.

Mayor, you and Councillors have talked a lot about Volunteers Week last week. I too, want to thank all the volunteers in our organisation. There are a couple of hundred or more that contribute in many different parts of our business and we couldn't provide the services we do without those volunteers, so I very much want to thank them but thank all volunteers who make our day-to-day work easier. Things wouldn't happen without them and we encourage people to contribute, to continue to volunteer, whether it is a small amount or a big amount, some are more able to commit time than others, but certainly if everyone can help out a little bit, it makes the program of delivering service to our Community even easier. Thanks to all the volunteers out there.

27. CONFIDENTIAL (SECTION 66) REPORTS

RECOMMENDED MOTION

That Council close the meeting to members of the public pursuant to Section 66(2) of the Local Government Act 2020, to consider a report relating to;

(g) private commercial information, being information provided by a business, commercial or financial undertaking that -(i) relates to trade secrets; or(ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

RESOLUTION - Resolution No. 2023-76

Moved: Cr Fyffe

Seconded: Cr O'Rourke

That the recommended motion be adopted.

CARRIED

28. CLOSE OF MEETING

There being no further business, this Council Meeting closed at 8:11pm.